

Client Alert



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Ukraine Adopts E-Commerce Law

Recent developments

On 3 September 2015 the Ukrainian Parliament adopted the Law of Ukraine "On Electronic Commerce" (the "**E-Commerce Law**"). To become effective the E-Commerce Law must still be signed by the President and officially promulgated.

The purpose of the E-Commerce Law is primarily to set the rules to prepare contracts in electronic form in the course of on-line transactions and to confirm the application of Ukrainian consumer protection regulations to such transactions.

What the law says

1. A contract may be prepared in the electronic form by way of exchanging an electronic message with an offer (setting out the required material terms of the contract) and its acceptance, which may be delivered by (i) electronic message, (ii) designed electronic form, or (iii) carrying out certain actions which are regarded as acceptance.
2. An offer to enter into an electronic contract may be made by (i) delivery of an electronic message regarded as commercial, or (ii) placement of such offer on the Internet or other informational or telecommunication networks. Such commercial electronic messages must be delivered to the addressee only with his/her express consent, unless the addressee unsubscribes from receiving such messages.
3. A contract in electronic form may contain certain provisions in addition to those envisaged by the Civil Code of Ukraine, in particular: (i) the procedure for exchanging electronic messages, (ii) the procedure for amending a mistakenly sent message with acceptance of an offer, (iii) the procedure for making amendments and other terms.
4. To enter into a contract in the electronic system of the offering counterparty, the accepting counterparty must log into such system. The respective system must allow the accepting counterparty to change the provided information prior to accepting the offer.
5. A contract in electronic form may be formed by: (i) electronic signature or electronic digital signature, (ii) electronic identification signature (by exchanging of randomly generated codes), and (iii) by application of

analog of personal signature (signature stamp). An electronic contract formed based on one of the above methods is regarded as a contract executed in writing.

6. Settlements may be carried out by applying various payment instruments, electronic money, transfer of funds, provision of cash and by other means.
7. Sellers of goods and providers of services must disclose to consumers via their websites or by other technological means full name, address, e-mail and/or web-site, EDRPOU code (state identification code for legal entities), taxpayers registration code for individuals, VAT tax registration certificate, information about any licenses and other information which is subject to mandatory disclosure.
8. Buyers making purchase by virtue of an electronic contract must provide information necessary to conclude a contract. The list of information to be provided is defined by the applicable laws or agreed by the parties to the transaction.
9. Internet service providers, domain name registrars, hosting providers and operators of payment infrastructure services (the "ISPs") when involved in "mere conduit" activities receive absolute immunity from liability for all third party infringements subject to the following conditions: (i) the ISP does not initiate the transmission, (ii) the ISP does not select the recipient of the information, (iii) the ISP does not modify the information contained in the transmission.

Conclusion

The E-Commerce Law was adopted to establish a consistent legal framework for preparing commercial contracts in electronic form. Its purposes include, inter alia, the following (i) addressing existing legislative uncertainties concerning formation and enforceability of the electronic contracts and (ii) bringing Ukrainian legislation in line with EC Directive 2000/31 on electronic commerce. It is expected that the E-Commerce Law should boost the electronic commerce industry by bringing more certainty into this segment of the economy.

Additional notes

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