

**ITU-EC-RWANDA PROJECT FOR THE
HARMONISATION OF POLICIES IN SUB-SAHARA
AFRICA (HIPSSA)**

July 2013

**Training on Some Aspects of Electronic
Transactions Legislation**

By Eric Ntukanyagwe



Part I: Electronic Contract Formation

Reference: art.72 of Law 18/2010; s10(2) and s15 of SADC and s198 and 199 of ICT Bill.

- An offer and the acceptance of an offer may be expressed by means of electronic messages;
- Such offer becomes effective at the time it is received by the offeree, and such acceptance become effective at the time and place it is received by the offeror;
- An offer which is not addressed to one or more specific parties, but is generally accessible to parties making use of information systems is considered as an invitation to make offers, unless it clearly indicates the intention of the party making the proposal to be bound in case of acceptance.



Part II: Limitation of Liability for Information Service Providers (ISPs):

Reference: art.8-14 of Law 18/2010; art.231-237 of ICT Bill and art.31-37 of SADC.

An ISP shall not be subject to civil liability for third-party electronic material:

- Provided it does not initiate the transmission, it does not select the addressee, it performs the functions automatically without selection of data and it does not modify the data contained in the transmission;
- For the automatic, intermediate and temporary storage of data where the purpose of storing such data is their



Part II: Limitation of Liability for Information Service Providers (ISPs) [continuation]

onwards transmission to other recipients, if the ISP does not modify the data and removes or disables access to the data it has stored upon receiving a take-down notice.

- For the storage of data provided by a recipient, if it is unaware that the data are infringing the rights of a third-party and removes or disables access to the data it has stored upon receipt of a take-down notice.



Part II: Limitation of Liability for Information Service Providers (ISPs) [continuation]

These limitations do not apply:

- Unless the ISP has designated an agent (with contact details) to receive notifications of infringement;
- If the recipient of the service is acting under the authority or control of the ISP.

An ISP is not liable for third-party electronic material if it refers or links users to a web page containing an infringing communication or activity by using information location tools such as a directory or hyperlink:



Part II: Limitation of Liability for Information Service Providers (ISPs) [continuation]

- If it is unaware of the infringing nature of the communication or activity;
- If it does not receive financial benefit directly attributable to the infringing activity;
- If it removes or disables access to the reference link to the electronic communication or activity within a reasonable time after notice of infringement.



Part III: Consumer Protection

Reference: art.51-57 of law 18/2010; art.204-210 of ICT Bill and s25-30 of SADC.

- Suppliers are required to make available to consumers information related to their identity, the nature of the transactions, the full price of the goods or services and the modality of payment.
- Consumers are entitled to review the entire electronic transaction, to correct any mistakes and to withdraw from the transaction before placing an order.



Part III: Consumer Protection [continuation]

- When a transaction is cancelled, the consumer must return the performance of the supplier where possible, or cease to use the services performed and the supplier must refund all payments made by the consumer minus the direct costs of returning the goods.
- A consumer is entitled to cancel a transaction for the supply of goods or services within 7 days of the receipt of goods or the conclusion of the agreement.





Part III: Consumer Protection [continuation]

- A person who sends unsolicited commercial communications to consumers must provide the consumer with the option to cancel their subscription to the mailing list of that person and identify particulars of their source upon request of the consumer.

