

HIPSSA Project

Support for Harmonization of the ICT Policies
in Sub-Sahara Africa

TRANSPOSITION OF SADC CYBERSECURITY MODEL LAWS INTO
NATIONAL LAWS FOR NAMIBIA, 2013

Overview of the Electronic Transactions Bill

Presentation Two: 22nd of July 2013



Electronic Transactions

Consumer protection

Online Marketing

E-Government Services

Cryptography Providers

ISPs

PART III

ELECTRONIC TRANSACTIONS

- S 29 Enabling provision – functional equivalence
- S 30 variation by agreement
- S 29 (2) Generally accessible to parties
 - is to be 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
- S 29(3) no validity to listed exceptions



Time of sending

- S 31 DISPATCHED:
 - Data message enters info system out of control of originator/
 - Same info system: capable of being retrieved



S 31(3) Time of receipt

- Designated information system
 - enters
- Non-designated
 - when the data message is capable of being retrieved by the addressee at that address and the addressee becomes aware that the data message has been sent to that address.
- Data message is capable of being retrieved reaches the electronic address

S 31(6) Place of receipt

- Dispatched place where originator has place of business
 - Foreign; remote; irrespective device.
- More than one place of business:
 - closest relationship to underlying transaction
 - no underlying transaction: principle place of business
- No place of business:
 - habitual residence



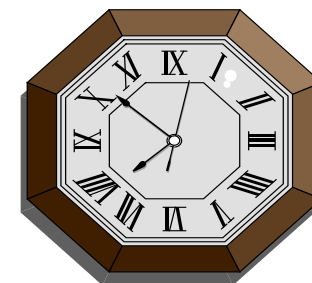
Theories

- Theories:
 - Information theory
 - Mailbox/ Postal theory

- S 32 ADOPTION OF RECEPTION THEORY = RECEIVED



S 32 TIME OF CONTRACT FORMATION



- Time and place acceptance becomes effective
- Offer – effective received offeree
- Acceptance – effective time acceptance is received by offeror

ATTRIBUTION

- S 33 Data message
 - Sent by originator; person authorit to act; information system
- S 34 Advanced electronic signatures
 - Applied by holder unless contrary is proved

S 35 E-shopper keystroke error

Natural person interacts directly with the automated message system and has made an **input error**—

- (i) the automated message system did not provide that person with an opportunity to **correct** that error;

Right to withdraw data message/
cancel

- Return or destroy the consideration in accordance with instructions – benefit materially
- Full refund 30 days of date of cancellation

E-GOVERNMENT SERVICES

- *S 36-37 Recognize and promote e-government services-functional equivalence*
- E-Gov Strategy
- Acceptance of e-filing, issuing of documents provides for a manner of payment
- Requirements may be specified
- Namibian Post = preferred authentication service provider

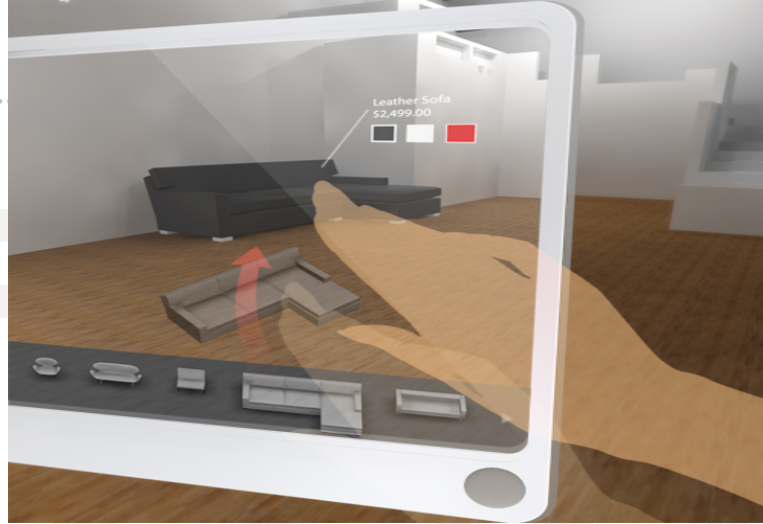


Consumer protection

Obligations of on-line traders

- Applies to electronic transactions





- Consumer = any natural **person**
ELECTRONIC TRANSACTION
with SUPPLIER as end-user

Information made available

- S 39 11 pieces of info, e.g
 - Full contact details place of the business; e-mail address and telefax number;
 - Full information re goods or services, quality and characteristics – informed decision;
 - The full price, additional costs such as transport and taxes;
 - Payment systems **Mobile guidelines**;
 - Terms of agreement & manner access & full record

[Us](#) | [Contact Us](#) | [Price List](#) | [Terms and conditions](#)



S 40 Consumer rights

- Cancellation right- A consumer has a right to cancel without reason and without penalty any transaction and any related credit agreement for the supply
 - review the entire electronic transaction
 - withdraw from the transaction, before finally placing any order
- The only charge that may be levied on the consumer is the direct cost of returning the goods.
- COOLING OFF S exclusions s 38(2) **on-line**



Part VI

Online Marketing

- S41 Marketing – contact details; opt-out & where obtained
- Give info
- No contract –
- Offense



OPT-IN

- a) The e-mail & personal information was collected “in the course of a sale or negotiations for a sale”;
- b) the originator only sends promotional messages relating to its “similar products and services” to the addressee
- c) the opportunity to opt out is provided by the originator to the addressee with every subsequent message
- d) Offenses



Other provisions

- 42 Performance
- Applicability of foreign law
- Non exclusion
- Complaints



CRYPTOGRAPHY AND AUTHENTICATION SERVICE PROVIDERS

- Register of cryptographic products and services
- Two-tier approach to be adopted
 - Governance - Ministry
 - Licensing – CRAN
 - Capacity and systems



Cryptography

- ❑ Purpose of Cryptography:
 - ❑ That such data or a DATA MESSAGE can be accessed or put into an intelligible form only by certain persons.
 - ❑ That the authenticity or integrity of such is capable of being ascertained,
 - ❑ The integrity of the data of data message;
 - ❑ That the source of the data or data message can be correctly ascertained.



Encryption methods

SIMPLE ENCRYPTION METHODS

NAME	METHOD	PLAINTEXT	CIPHERTEXT	EXPLANATION
Transposition	Switch the order of characters	WIRELESS	IWERELSS	Adjacent characters swapped
Substitution	Replace characters with other characters	LAPTOP	XDQORQ	Each letter replaced with another
Expansion	Insert characters between existing characters	MOUSE	MDODUDSDED	Letter D inserted after each character
Compaction	Remove characters and store elsewhere	COMMUNICATION	COMUICTIN	Every third letter removed (M, N, A, O)

Figure 12.18 This table shows four simple methods of encryption, the process of translating plaintext into ciphertext. Most encryption programs use a combination of these four methods.

cleartext

hello, world

this is cleartext that anybody can easily read without the key used by encryption. It's also bigger than the box of text above.

This is some really long text that we mean to encrypt, and to keep these pearls of wisdom out of the reach of the bad guy.

We don't really know how anybody could ever break our rot13 encryption, but if the NSA puts its mind to it, perhaps they will manage.

It's not an easy job making up random text for examples.

encrypt

decrypt

encrypt

decrypt

encrypt

decrypt

output same size as input

ciphertext

uryyb, jbeyq

gufv vf pyrnegrkg gung nalobql pna rnfyl ernq jvgubhg gur xrl hfrq ol rapelcgvba. Vg'f nyfb ovttre guna gur obk bs grkg nobir.

Gufv vf fbzr ernyyl ybat grkg gung jr zna gb rapelcg, naq gb xrrc gurfr crneyf bs jvfqbz bhg bs gur ernpu bs gur onq thl.

Jr qba'g ernyyl xabj ubj nalobql pbhyq rir eornx bhe ebg13 rapelcgvba, ohg vs gur AFN chgf vgf zvaq gb vg, creuncf gurl jvyy znantr.

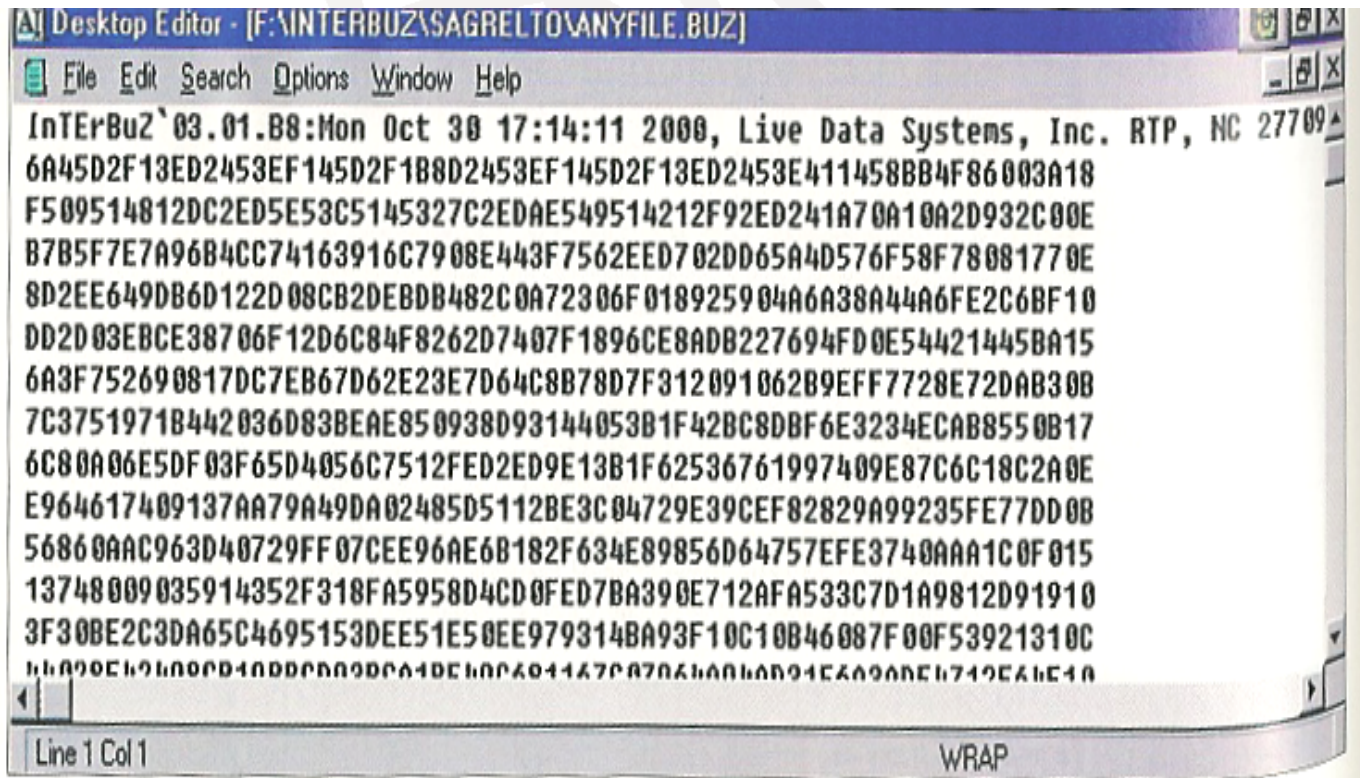
Vg'f abg na rnf l wbo znxvat hc enaqbz grkg sbe rknzcyrf.



Committed to connecting the world



Encrypted text



The screenshot shows a window titled "Desktop Editor - [F:\INTERBUZ\SAGRELTO\ANYFILE.BUZ]". The menu bar includes "File", "Edit", "Search", "Options", "Window", and "Help". The main content area displays the following text:

```
InTErBuZ`03.01.B8:Mon Oct 30 17:14:11 2000, Live Data Systems, Inc. RTP, NC 27709
6A45D2F13ED2453EF145D2F1B8D2453EF145D2F13ED2453E411458BB4F86003A18
F509514812DC2ED5E53C5145327C2EDA549514212F92ED241A70A10A2D932C00E
B7B5F7E7A96B4CC74163916C7908E443F7562EED702DD65A4D576F58F78081770E
8D2EE649DB6D122D08CB2DEBDB482C0A72306F018925904A6A38A44A6FE2C6BF10
DD2D03EBCE38706F12D6C84F8262D7407F1896CE8ADB227694FD0E54421445BA15
6A3F752690817DC7EB67D62E23E7D64C8B78D7F312091062B9EFF7728E72DAB30B
7C37519718442036D83BEAE850938D93144053B1F42BC8DBF6E3234ECAB8550B17
6C80A06E5DF03F65D4056C7512FED2ED9E13B1F62536761997409E87C6C18C2A0E
E964617409137AA79A49DA02485D5112BE3C04729E39CEF82829A99235FE77DD0B
56860AAC963D40729FF07CEE96AE6B182F634E89856D64757EFE3740AAA1C0F015
13748009035914352F318FA5958D4CD0FED7BA390E712AFA533C7D1A9812D91910
3F30BE2C3DA65C4695153DEE51E50EE979314BA93F10C10B46087F00F53921310C
11070E10700D040D00D00D00A40C100A0414470A70A400A000404C0A000E11712E6A1E10
```

At the bottom of the window, the status bar shows "Line 1 Col 1" on the left and "WRAP" on the right.

Figure 12-19 A sample encrypted file.

- Register
 - Information – identify; not trade secrets iro product/service (s 46)
- Compulsory – (s 47)
 - NAMIBIA:
 - premises; person makes use; purpose of business
- S 48 Register confidential exceptions
 - Offences; official request



ACCREDITATION AUTHORITY

- Monitor systems and operations ; obligations
- Accredit authentication products and services
- Publicly accessible database



ACCREDITATION PRODUCTS AND SERVICES

- Accredited products and services
- S 52 Criteria for accreditation in line with generally recognized international technical standards
 - Comply with requirements of advanced electronic signatures
- Explained later ...



Criteria for accreditation

- Uniquely linked; capable of identifying; means under control; link to data message changes detectable; based on face-to-face ID
- Factors to consider (sub-section (2))
 - Hardware and software systems
 - Further requirements to be specified for certification service provider



Revocation; Termination

- S 53 Failed to meet requirements; conditions or restrictions
- S 54 Foreign accreditation products/services
- S 55 Accreditation regulations



LIMITATION OF LIABILITY

- Provide for CODE OF CONDUCT of ISPs
- Protect ISPs from indirect liability
- Delictual principles



Limitation of liability

- 56: Mere conduit;
- 57: Caching;
- 58: Hosting &
- 59: Information location tools
- 60: Take-down notification
- 94-95 No general obligation & other rights not affected

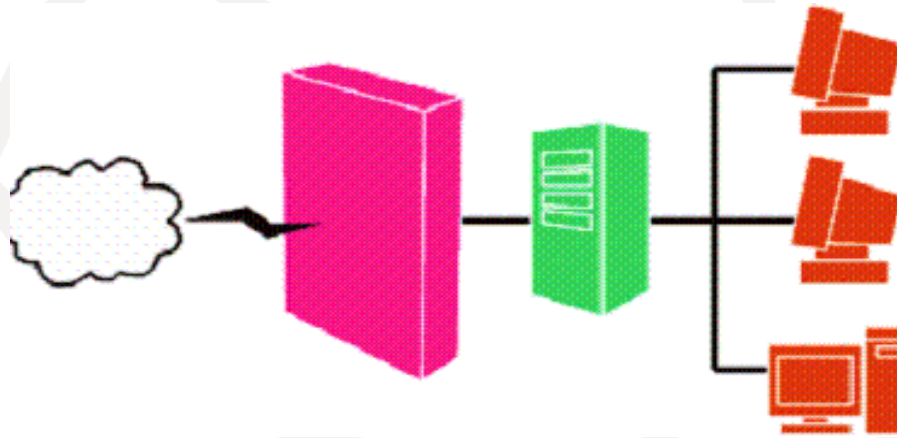
S 56 Mere Conduit

- Mere conduit - Access to for for operating facilities for transmission, routing or storage of e-communications if:
 - Does not initiate
 - Or select recipient;
 - automatic, technical;
 - no modification



S 57 Caching: automatic intermediate storage of data

- Does not modify; conditions of access; rules updating; rights management information; removes or disables access



S 58 Hosting

No knowledge;
no facts or
circumstances;
take-down upon
receipt



Source: <http://jumpdog.us>

S 59 Information location tools



No knowledge; no facts or circumstances;
No financial benefits;
Removes access to link after info

Source: <http://webchannel.ae/>

S 61 No general obligation to monitor

- No obligation to monitor data transmitted; actively seek facts/circumstances – unlawful activity
- Minister – procedures – inform of illegal activities; info enable to identify recipients



S 60 Take down notification

- Written notice
- Notice include – identification right; details of material or activity – infringing
- Material misrepresentation -



S 62 SAVINGS

- Does not affect:
 - Contractual obligations
 - Obligations – licensing/regulatory regime
 - Obligation imposed by court order
 - Additional limitations of liability based on Constitution or common law

Service providers

- Recognition representative body
 - Code of conduct; membership criteria, adherence to adequate standards & monitoring & enforcing
- Limitation only:
 - for members
 - Adopted & implemented code



THANK YOU...

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