



ELECTRONIC COMMERCE AND ELECTRONIC AGREEMENTS

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Abstract. This article deals with the concept of electronic commerce and electronic agreements, as well as their legal regulation in the Republic of Uzbekistan. E-commerce is widespread in cyberspace and is widely used by individuals and legal entities. E-commerce has its advantages and disadvantages; this article will analyse them and disclose their content. The statistics given in this article will specify the details of buying and selling in online marketplaces. Methods and stages of concluding electronic contracts will be presented. Entering into electronic contracts is a modern way of drafting and signing contracts. This article will compare paper and electronic contracts.

Keywords: Cyber Law; electronic trading platforms; electronic commerce; challenges and problems of e-commerce; electronic agreement; conclusion of electronic contract.

ELEKTRON TIJORAT VA ELEKTRON SHARTNOMALAR

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Annotatsiya. Ushbu maqolada O'zbekiston Respublikasida elektron tijorat va elektron shartnomalar tushunchalari hamda ularning huquqiy tartibga solinishi muhokama qilinadi. Elektron tijorat kibermakonda keng tarqalgan bo'lib, jismoniy va yuridik shaxslar o'rtasida keng qo'llaniladi. Elektron tijoratning afzalliklari va kamchiliklari bor, mazkur maqola ularni tahlil qiladi va ularning mazmunini ochib beradi. Maqolada keltirilgan statistik ma'lumotlar onlayn savdo maydonchalarida sotib olish va sotish tafsilotlarini aniqlaydi. Elektron shartnomalarni tuzish usullari va bosqichlari taqdim etiladi. Elektron shartnomalar tuzish shartnomalarni tuzish va imzolashning zamonaviy usuli hisoblanadi. Ushbu maqolada qog'oz va elektron formatdagi shartnomalar solishtiriladi.

Kalit so'zlar: Kiberhuquq; elektron savdo maydonchalar; elektron tijorat; elektron tijoratning muammolari; elektron shartnoma; elektron shartnoma tuzish.



ЭЛЕКТРОННАЯ КОММЕРЦИЯ И ЭЛЕКТРОННЫЕ ДОГОВОРЫ

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Аннотация. В данной статье рассмотрены вопросы понятия электронной коммерции и электронных договоров, а также их правовое регулирование в Республике Узбекистан. Электронная коммерция распространена в киберпространстве и пользуется широким применением среди физических и юридических лиц. Электронная коммерция имеет свои преимущества и недостатки, данная статья проанализирует их и раскроет их содержание. Статистические данные, приведённые в данной статье, конкретизируют детали купли-продажи в онлайн торговых площадках. Будут представлены способы и этапы заключения электронных договоров. Заключение электронных договоров является современным способом составления и подписания договоров. Данная статья сравнивает договоры на бумажном носителе и на электронном формате.

Ключевые слова: Киберправо; электронные торговые площадки; электронная коммерция; вызовы и проблемы электронной коммерции; электронный договор; заключение электронного контракта.

Introduction

In the modern world, the emergence of legal relations in cyberspace is rapidly increasing. Specialists face the question of regulating these relations.

Cyber law is a field of legal knowledge focused exclusively on digital technologies.

The subject of cyber law covers legal relations related to software, arising in cyberspace, with elements of private and public law.

According to WebCanape statistics, social media has 4.76 billion users as of early 2023, which is just under 60% of the world's total population. With the expanding influence of the World Wide Web, a new type of commerce has emerged - e-commerce.

Also, for the convenience of users there is an opportunity to sign many contracts in cyberspace in electronic format, these contracts have taken the name - electronic agreements.

This article will analyse the concept of e-commerce, considering the ways of signing electronic agreements, as well as their legal regulation.

Main body

1. Electronic commerce (or e-commerce) is the process of buying and selling goods (works, services) carried out in accordance with a contract concluded using online systems.

This includes online stores, electronic payment systems, online auctions and other forms of online commerce.

E-commerce makes the buying and selling process more accessible and convenient. E-commerce entities have the ability to reach a worldwide audience and wide range of product assortments without physical limitations.

The basic principles of e-commerce implementation are:

- freedom of realization of entrepreneurial activity in the field of electronic commerce;



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- voluntary conclusion of contracts in electronic commerce;
- equality of conditions for participation in e-commerce;
- protection of rights and legitimate interests of subjects of electronic commerce;
- ensuring proper quality of goods (works, services);
- openness and transparency of processes in e-commerce;
- ensuring information security in e-commerce.

Subjects of e-commerce are e-commerce participants and (or) e-commerce operators.

Participants in e-commerce are:

- Seller of goods, provider of services or performer of works:
 - legal entities and individual entrepreneurs engaged in wholesale and (or) retail sale of goods (works, services) on an electronic trading platform;
 - self-employed persons engaged in retail sale of goods (works, services) on an electronic trading platform.
- Buyer, consumer of goods (works, services) - legal entities or individuals.

E-commerce operator - a legal entity providing services related to the exchange of electronic documents and electronic messages in electronic commerce.

They are:

- providers and operators of telecommunication networks;
- operators of electronic trading platforms;
- payment service providers;
- legal entities providing services related to storage of electronic documents and electronic messages of e-commerce subjects.

Advantages of e-commerce:

1) Global access

E-commerce facilitates the seller's business growth. A seller of goods, service provider, contractor can reach an overseas audience and sell their goods and services anywhere in the world. Thereby expanding the customer base beyond the traditional territory.

2) Convenience for consumers

It is possible to make purchases at any convenient time without leaving home or office. A wide range of products on online trading platforms allows customers to compare prices and characteristics of goods and services quickly and easily.

3) Cost Reduction

E-commerce often reduces the costs associated with renting retail space, paying for staff and infrastructure, which ultimately reduces the price of goods for consumers.

There is a huge number of e-commerce **trading platforms** on the World Wide Web:

• Amazon

The world's leading e-commerce platform offering consumers a wide range of products. It provides sellers with a variety of fulfilment options, advertising tools and access to Amazon's vast customer base.

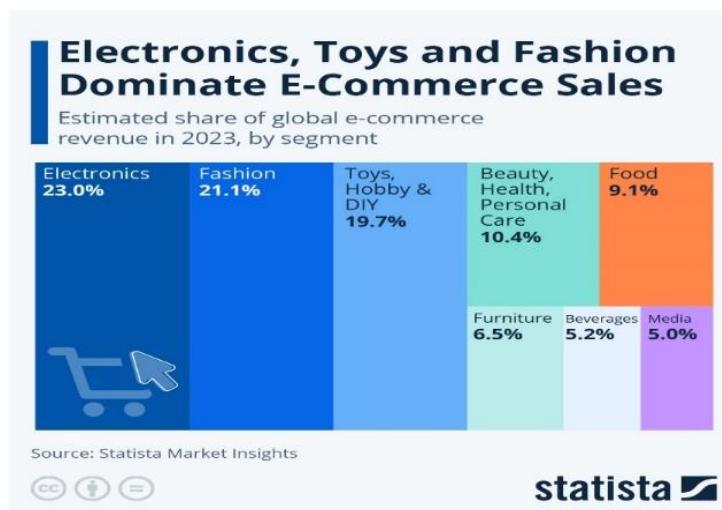
• eBay

An online marketplace that allows individuals and businesses to buy and sell a wide variety of goods. It offers auction and fixed price listings, tools for sellers and a global customer base.

• Wildberries

A universal online marketplace with products from partner companies. The business model involves direct co-operation with official suppliers and manufacturers of clothing and other products.

Statistics on purchases through e-commerce for the year 2023:



This statistic indicates that the dominant product in e-commerce is electronics. The second most popular item is fashion and style related items. This includes clothing, jewelry and other fashion items.

E-commerce Challenges and Issues:

1) Cybersecurity

Threats of hacker attacks and data theft. Online marketplaces need to ensure that their customers' personal and financial information is protected, safeguarded against cyber-attacks and fraud.

2) Logistics and Delivery

Problems with shipping, returns and inventory management. Many customers don't know where to go when returning items, and some online shops do not have the ability to ship items back and refund the customer. The lack of specific guidance and regulation on this issue remains a problem today. However, major marketplaces have already established rules for returns and cancellations.

3) Competition

Competition for buyers' attention and market position. There is a large number of online trading platforms that provide a wide range of goods and services, so sellers, service providers, and contractors need to engage in healthy competition with other business entities and improve their work.

4) Consumer trust

Concerning the security of payments and the quality of goods. Many people prefer the traditional way of shopping because they doubt the reliability of information about the product or service. It is necessary to set up payment systems, as any failure can lead to loss of money of the buyer.

Regulation of E-commerce in the Republic of Uzbekistan

The main directions of state policy in the field of e-commerce are:



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- supporting and stimulating entrepreneurial activity carried out in the field of e-commerce;
- creating conditions for attracting investments, modern technologies and equipment in entrepreneurial activity carried out in the field of e-commerce;
- creating a favourable environment for the development of e-commerce, formation of the necessary technical and logistical infrastructure;
- ensuring the protection of the rights and legitimate interests of subjects of e-commerce;
- creation of necessary conditions for competitive environment in the field of electronic commerce;
- implementation of international co-operation in the field of electronic commerce.

The Law of the Republic of Uzbekistan on Electronic Commerce No. ZRU-792 of 29.09.2022 regulates relations in the field of electronic commerce.

This legal act specifies:

- Rights and obligations of subjects of electronic commerce;
- The procedure for concluding contracts in e-commerce;
- Settlements in the field of electronic commerce;
- Peculiarities of delivery of goods, replacement of goods with defects and (or) elimination of defects of goods, as well as return of paid funds to the buyer in the field of electronic commerce.

The next legal act regulating legal relations in e-commerce is the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan on measures to further improve the procedure for transactions in e-commerce dated 02.06.2016 No. 185.

This Resolution includes:

- Rules for the implementation of e-commerce according to Annex No. 1;
- Regulations on the procedure for application of electronic digital signature in the conclusion of contracts and storage of electronic documents and information contained in electronic messages used in e-commerce.

The scheme of realisation of goods (works, services) in the form of e-commerce contains 4 stages:

1st stage (seller) - placement of an offer containing contractual terms in its information system or electronic trading platform of an information intermediary;

2nd stage (buyer, customer) - acceptance of the offer, conclusion of an electronic contract by accepting the offer;

3rd stage (buyer, customer) - making payment;

4th stage (seller) - delivery of goods, performance of work, provision of services.

Also, the above Resolution indicates the list of goods (works, services) withdrawn from turnover or limited in turnover when sold in e-commerce. For example, sugar (foreign market), meat and edible meat by-products (foreign market), production and sale of X-ray equipment (domestic market).

2. Electronic Agreements

An electronic agreement is an online contract that creates mutual obligations between two parties and is enforceable in accordance with certain legal requirements.



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An electronic agreement has equal legal force with a paper-based contract. This is stated in Article 7 of the Law of the Republic of Uzbekistan on Electronic Document Management of 29.04.2004 No. 611-II.

Advantages of an electronic agreement:

- Convenience

Concluding a contract through an online platform is a simplified and low-cost way. There is no need to set a specific date for the meeting, everything happens through the information system.

- Cost reduction

When signing this contract, there is no need to print out several copies and thus no paper and printing costs, especially when the contract is multilateral.

- Security

An electronic contract is drawn up through an electronic system that properly safeguards the confidential data of the participants and also guarantees the protection and security of the storage of personal data.

The steps in entering into an electronic agreement are:

- 1) Ensure that the other party is able to obtain this contract through the online platform;
- 2) Drafting the electronic contract: preparing the content of the contract, checking its compliance with the law;
- 3) Attach the necessary documents with specific details;
- 4) Send the contract to the party and sign with an electronic signature.

These steps are fundamental, depending on the individual situation - there may be other conditions of conclusion.

Methods of signing an electronic contract:

- Signing a paper version of the contract and sending a scanned version of the contract to the other party;
- signing the contract with an electronic digital signature;
- confirmation of consent by performing actions: ticking the box "I agree", "I accept the terms and conditions".

Legal regulation of electronic contracting in the Republic of Uzbekistan

State policy in the area of electronic document management is aimed at ensuring the widespread use of electronic document management, protecting the rights and legitimate interests of participants in electronic document management, and developing standards, norms and rules for the use of electronic documents.

According to Article 4 of the Law of the Republic of Uzbekistan on Electronic Document Management, **electronic document management** is a set of processes of sending and receiving electronic documents through an information system.

Electronic document turnover can be used for transactions (including conclusion of agreements), settlements, official and unofficial correspondence and transfer of other information.

An electronic document is information recorded in electronic form, confirmed by an electronic digital signature and having other requisites of an electronic document allowing its identification.



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An electronic document is created, processed and stored using technical means and services of information systems and information technologies. It is confirmed by an electronic digital signature.

An electronic digital signature in an electronic document is equivalent to a handwritten signature in a paper document.

It is possible to conclude an electronic contract in the Republic of Uzbekistan through the "Didox.uz" platform. This platform will help to optimise purchases, increase sales, control finances and improve document flow.

Conclusion of an electronic contract is increasingly spread and applied by the subjects of legal relations.

Conclusion

E-commerce plays a special role in the sphere of entrepreneurial activity. This industry connects entities with each other on a global scale. In the modern world a person can find the necessary thing in online trading platforms and order it at his/her location. E-commerce has great prospects of development and new information technologies contribute to the organisation of this process. Electronic contract is also used in the implementation of electronic commerce and is a convenient, modern way of concluding a contract.

The Government of the Republic of Uzbekistan is taking measures to improve information systems and technologies. It is also creating conditions and opportunities for the development of legal relations in cyberspace. Legislators are adopting legal acts regulating these areas, as well as developing strategies for the development of this industry.

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