

LEGAL ASPECTS OF ELECTRONIC COMMERCE

(IPSP078)

EXAMINATION 12-19 OCTOBER 2018

Instructions

- Answer all the questions.
- Please upload your answers on myunisa **on or before 19 OCTOBER 2018**
- This is an open book examination.
- Your answers – all together – may not exceed eight (8) typed pages. Students who exceed the said limit will be penalized.

Your answers must be accompanied by the following completed declaration. Answers submitted without this declaration will not be marked and you will receive zero percent.

Declaration

I know that plagiarism is to use someone else's work and pass it off as my own.

I know that plagiarism is wrong.

I confirm that these answers are my own work.

I have acknowledged in the bibliography accompanying the answers all the sources that I have used.

I have not directly copied without acknowledgement anything from the Internet or from any other source.

I have indicated every quotation and citation in a footnote or bracket linked to that quotation.

I have not allowed anyone else to copy my work and to pass it off as their own work.

I understand that if any unacknowledged copying whatsoever appears in my answers I will receive zero per cent.

I am aware of the UNISA policy on plagiarism and understand that disciplinary proceedings can be instituted against me by UNISA if I contravene this policy.

I indicate my understanding and acceptance of this declaration by entering my name hereunder.

Name:

Question 1

Ofentse trades in African bead works. He has a host of clients around the southern hemisphere. He now considers moving his business into cyberspace in order to attract overseas customers. Throughout the years, Ofentse has compiled a database of all his clients. He now wants to inform them about his new venture.

Ofentse approaches you and wants your advice on the following:

- (a) The requirements that databases must meet in order to enjoy copyright protection. (10)
- (b) The provisions of Electronic Communications and Transactions Act 2002 which limits the liability of the Internet service providers (15)

[25]

Question 2

Assuming that you are an employee of the Consumer Affairs Committee: Consumers have lodged complaints against EduCate CC. EduCate CC offers training courses throughout South Africa on subjects such as leadership, project management and presentation skills. These courses are marketed in a number of ways, including by means of newsletters sent by email. EduCate CC gets their prospective consumers' email addresses from public websites. Advise the Committee on the following issues:

- (a) Does EduCate's marketing practice constitute spam according to South African (SA) law? If so, discuss those legislative provisions and state whether they adequately protect consumers? Motivate your answer with sources. (15)
- (b) Choose one country that regulates spam in its jurisdiction and give a detailed discussion on that country's initiatives. Also note what SA can learn from that jurisdiction regarding the issue of spam. (10)

[25]

Question 3

Kate wants to buy software over the Internet from CyberWare. While going through the process of buying the software she reads on the terms and conditions of the website that there are no refunds for anything purchased via the website. The contract is concluded by clicking on an icon saying "Submit Order". Immediately after this step, Kate is directed to another page that states you have successfully purchased the software. Her software package is delivered automatically immediately after confirmation of the order. It transpires that the package is defective and that Kate will not be able to use it. In answering the questions below, you should substantiate your answers with authoritative sources.

Advise Kate on the following:

- (a) Whether the requirements of an electronic signature have been met by clicking on the icon "submit order". (10)
- (b) Does South African law recognise this type of transaction, and what are the legal implications thereof? (10)
- (c) Can she cancel the contract? (5)

[25]

Question 4

Discuss the following questions regarding the term permanent establishment (PE):

1. Describe what the term PE means. (5)
2. Explain whether the following constitutes a PE on the Internet: a website; a server; a dependent agent. Refer to authoritative sources. (20)

[25]

TOTAL MARKS: [100]

END OF PAPER