

[The Concept of Offer in the Law of Contract](#)

Posted on [March 15, 2016](#)[January 6, 2018](#) Written By [Olanrewaju Olamide](#) Posted in [Law Of Contract](#) Tagged [Invitation to treat](#), [offer](#)

Before the courts can decide to enforce a contract, it has to fulfil some requirements. The first of these requirements is the offer. Without the offer, there won't even be a contract because the offer starts the whole process.

To better understand what an offer is, you should also know the difference between an offer and an invitation to treat.

What is an offer?

You can simply define an offer as the act of presenting something for acceptance. So, if Deji tells Tomi that he wants to buy her shoe, that is an offer from Deji to Tomi. This is because he is presenting his request for acceptance or rejection by Tomi. If she says yes, then they can negotiate the other terms of the contract.

In the case of *Alfotrin vs Attorney General Of The Federation* the Federal Govt of Nigeria employed the services of a company to supply cement. The foreign company then employed the services of the appellant to transfer it from Spain to Nigeria. On getting to Nigeria the port was jam-packed.

The federal government then requested that the appellant should redirect to a port in Ghana, which the appellant did.

Subsequently, the appellant requested for demurrage costs. The respondent denied liability, stating that there was no contract between it and the respondent.

The supreme court decided that the action of the respondent in requesting for redirection to the port in Ghana was the offer. So, the appellant's action in choosing to redirect to the Ghanaian port was the acceptance.

Thus it was held that there was a valid contract between the Nigerian Government and the respondent.

Invitation to treat

For an offer to be valid it must be definite and final.

If it is just preliminary to an offer, the court will regard it as incapable of acceptance. This is usually called an invitation to treat. An invitation to treat is when a free agent makes it known to parties who might be interested that he is ready to enter into a contract.

It is simply a solicitation for one or more offers. For instance, if you go to the market to buy a bag, you will see vendors displaying their bags for sale. This display by the vendors is an invitation to treat. Essentially, they are inviting you to make an offer for the purchase of the bag(s) on display.

In the case of *Berliet Nigeria Ltd vs Francis* the appellant sent a notice to the respondent (who was a worker in the appellant company) that following company policy, workers could buy shares in the company. The respondent applied for shares but the company didn't award the shares to him.

He sued and was successful in the high court. On appeal, the court of appeal held that the first act of notifying the defendant was an invitation treat. Thus, the subsequent application for shares by the respondent was an offer which could be accepted or rejected by the appellant.

Examples of Invitation to treat

To make it clearer, the following are common examples of an invitation to treat.

1. **Auctions:** An auctioneer's request for bids is not an offer but an invitation to treat. The subsequent bids are the offers which the auctioneer accepts by banging his gavel; *Payne vs Cave, 58(2) SOGA*.
2. **Display of Good:** The display of good in a market is not an offer but an invitation to treat. In the case of *Pharmaceutical Society Of Great Britain vs Boots Cash Chemist*, it was decided that goods displayed in a chemist store are an invitation to treat. The offer comes into play when the buyer takes the goods to the cashier. The cashier can then decide to accept or reject the offer.
3. **Invitation To Tender:** An invitation for tenders from interested parties is the invitation to treat. Invitations to tender are used when there is a contract, like road construction. In this instance, the government issues an invitation to tender, asking for offers from contractors. The tenders that contractors submit are the offer. The government is then at liberty to accept the tender that it thinks is reasonable.
4. **Application for Bank loan:** A person who make application for a bank loan is inviting offer from the bank. The bank would reply by offering terms for the loan which the applicant accepts or rejects.