

Communication of Offer and Acceptance Under Contract Act

Nazia Wahab

Assistant Professor

Department of Law and Human Rights



Offer & Communication

Section 2(a), Contract Act, 1872-

“When one person signifies to another his willingness to do or abstain from doing something, with a view to obtain his assent of that other to such act or abstinence, he is said to make a proposal which is also known as offer.”

Here the word “signifies” becomes important as without communication there can be no offer.

Illustration- A signifies his willingness to sell his car to B for 2 lakhs TK, this is an offer. If A will keep this in his mind only and will not communicate it to B, it will never become an offer.

Types of Offer

Offer is of mainly 3 types, namely general offer, specific offer and invitation to offer. Without communication, there can be no offer.

1. **Invitation to offer-** It denotes an act of inviting others to make an offer to form a contract, the most basic and famous example of invitation to offer is advertisement. An advertisement for tenders is an invitation to offer, when a party submits the tender application to the institution it becomes an offer. In Gibson v Manchester City Council the court held that a policy for selling council houses to tenants was not an offer, it was an invitation to offer and hence no contract can be concluded out of it.

The difference between offer and invitation to offer was also observed in **Harvey v Facey** wherein it was observed that the telegram transaction that was held between plaintiff and defendant was a mere informational exchange. In **Said v Butt** it was held that a shop is a place for bargains and not compulsory sales. Communication of invitation to offer is mainly done through informative posters or advertisements.

2. General Offer- When an offer is made to the public at large it is known as a general offer. In **Carlill v Carbolic Smoke Ball Co.**, the company manufactured a medicine to cure influenza and claimed that it has the capacity to completely cure the influenza; it further put up an advertisement stating that whoever gets influenza after 15 days of continuous medication will be given 100 pounds. The company also deposited 1000 pounds in alliance bank as security. Mrs Carlill consumed it for 15 days and still got infected, so she decided to claim the money that was promised.

Contentions by company-

1. There was a lack of intention and advertisement does not make a legal relationship.
2. It was not an offer as it was not made to a specific person.
3. The acceptance was not communicated.

The Court held the judgment in the favour of the plaintiff as depositing money signified their intention, offer can be made to the world at large known as general offer and general offer does not need communication of the acceptance.

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HOARSENESS



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SORE THROAT
LARYNGITIS
CROUP
WHOOPIING
COUGH
NEURALGIA
HEADACHE

All the ailments mentioned above arise from **ONE CAUSE**, and therefore, treatment by **ONE REMEDY**.

3. Specific offer- When an offer is made to a particular person or specific group of individuals or to a particular institution it is known as a specific offer.

Illustration- Z signifies his willingness to buy Q's car for rupees 4 lakhs; it is a specific offer as it had been made only to Q and not to any other individual (juristic or natural). Here proposal and acceptance must be communicated.

Essentials of Valid Offer

In order for a contract to be legally binding, there must be a valid offer and acceptance between the parties. The Indian Contract Act, 1872, sets out the essential requirements for a valid offer and acceptance in a contract –

Following are the essentials of a valid offer –

- I. **Intention to create legal relations** – The offer must indicate an intention to create legal relations between the parties. If there is no intention to create legal relations, the offer will not be valid.
- II. **Definite and certain terms** – The terms of the offer must be clear, definite, and certain. The offer must be sufficiently definite to enable the other party to accept it and create a binding contract.
- III. **Communication of offer** – The offer must be communicated by the offeror to the offeree, either orally or in writing.
- IV. **Offer must be made with the intention of obtaining acceptance** – The offer must be made with the intention of obtaining acceptance from the offeree.

Communication of offer

Knowledge of a proposal is a must, the proposal must be communicated or the acceptor should have the knowledge of the proposal in order to accept. In **Lalman Shukla v Gauri Datt** the nephew of the defendant was absconded and the defendant had sent his servants to different places to search for his nephew. The plaintiff was one of the servants; meanwhile the search was going on, the defendant made an offer that anyone who would find his nephew would be awarded with money. This was not communicated to the plaintiff or neither did he have the knowledge of such a proposal. Plaintiff found the nephew and tried to claim the money to which he was refused. He filed a case in Allahabad HC wherein the suit was declared in favour of the defendant. The court held that there was never an enforceable agreement as the acceptor never had the knowledge of such an offer and without which he could never give his assent.

Section 4, Contract Act, 1872- “The communication of proposal is complete when it comes to the knowledge of the person to whom it is made.”

Illustration-Y offers Z via post to sell his house for 5 million rupees. When Z will receive the post, communication of offer will be complete.

Express communication of offer- it happens when the offer is directly made.

1. **Cross offer-** it occurs when the concerned parties simultaneously offer each other about the same thing without the knowledge of the other party's proposal.
2. **Counter offer-** when the party to whom the offer is made responds with another offer by changing the terms of initial offer, it is known as counter offer.

Communication plays a very vital role in both the offers and both the offers are invalid. **Hyde v Wrench**. It was a case of sale of property wherein the defendant offered to sell his farm at a certain (1200 pounds) price which was declined by the plaintiff and then the defendant reduced (1000) the price and made another offer which too was declined by the plaintiff and then plaintiff sent his offer (950 pounds) to which the defendant refused. The plaintiff then agreed to buy the farm at the second offer (1000 pounds) made by the defendant to which the defendant refused.

The plaintiff then filed a suit of specific performance in the court. The Court held the suit in the favour of the defendant stating that the original offer gets superseded and destroyed when the counter offer is made.

Communication of offer by rendering services- it is an implied offer by rendering the services. But it has been declared to be not acceptable as an offer cannot be accepted in ignorance; it should be communicated to the person to whom it is made. In **Taylor v Laird** the plaintiff who was the captain of the ship worked as a crew member and the defendant, Laird, was not aware about it. Later, the plaintiff claimed the salary of a crew member to which the defendant declined. The Court held that there was no contractual agreement as there was no communication of offer. Without communication there can be no offer and hence no acceptance and agreement. Even the implied contract requires meeting of minds.

Essentials of a Valid Acceptance

Following are the essentials of a valid acceptance –

- a) **Unconditional and unqualified acceptance** – The acceptance must be unconditional and unqualified. Any modification to the terms of the offer will be considered a counter-offer and will not be valid.
- b) **Communication of acceptance** – The acceptance must be communicated to the offeror, either orally or in writing.
- c) **Acceptance must be according to the terms of the offer** – The acceptance must be in accordance with the terms of the offer. If the acceptance is not in conformity with the terms of the offer, it will not be valid.
- d) **Acceptance must be given within a reasonable time** – The acceptance must be given within a reasonable time after the offer has been communicated to the offeree. If the acceptance is not given within a reasonable time, the offer will lapse.

Moreover, a valid offer and acceptance are essential for the formation of a legally binding contract. The offer must be clear, definite, and communicated with the intention of obtaining acceptance. The acceptance must be unconditional, communicated, in accordance with the terms of the offer, and given within a reasonable time.

Communication of acceptance

Section 4, Contract Act, 1872- “the communication of acceptance is complete- as against the proposer, when it is put in course of transmission to him so as to be out of the power of acceptor; as against the acceptor, when it comes to the knowledge of the proposer.”

Illustration- L offers M via post to sell his house for 58 million rupees. When M will receive the post, communication of the offer will be complete. The communication of acceptance will be completed as against L, when the letter will be posted and as against M when the letter is received by L.

AND LET
THERE BE
ACCEPTANCE!



In **Adams v Lindsell**, the defendant had offered to sell wool to the plaintiff via letter; owing to the wrong address of the letter it could arrive at the plaintiff's place before September 5. This also led to a delay in letter of acceptance and the same arrived on September 9 on the defendant's place and meanwhile, on 8th September, the defendant had already sold his wool to some other third party. The issue before the court was about the commencement of the acceptance and, therefore, the contract.

The Court held the suit in favour of the plaintiff stating that the acceptance was complete as against the offeror the time when the letter was put to post and therefore there existed a contract between the plaintiff and the defendant and selling of wool to the third party was a breach of that contract. The court further held that the communication of acceptance was completed as against the acceptor when it comes to the knowledge of the proposer. This is considered to be a landmark judgement for postal rule.

Revocation & Communication

Revocation in literal sense means taking back or calling back and, similarly, in Contract Act it means either taking back a proposal or taking back an acceptance.

Section 4, Indian Contract Act, 1872- “The communication of a revocation is complete- as against the person who makes it, when it is put into a course of transmission to the person whom it is made, so as to be out of the power of the person who makes it and as against the person to whom it is made, when it comes to his knowledge.”

Illustration- D offers E to sell his plot of land for 2 lakhs TK by the medium of post, but then he wishes to revoke his proposal. He sent the message of revocation by telegram; the revocation is completed as against D when the telegram is dispatched and as against E when he receives it. Thumb rule- the revocation must and should reach before the letter of offer reaches.

Similarly, E accepted the offer and dispatched his letter of acceptance and later decided to revoke it and sent a message of revocation via telegram. E's revocation is completed as against him when the telegram is dispatched and as against D when he receives it. Thumb rule- the revocation must and should reach before the letter of acceptance reaches.

An important question of concern here is **what if both the offer and revocation of offer or the acceptance and revocation of acceptance reach at the same time?**

Answer to this is the objective approach, if the person gets both the letters simultaneously, then applying the objective approach, the letter of revocation will prevail!

In **Payne v Cave** the plaintiff organised an auction for the sale of his goods and the defendant made the highest bid, but he withdrew his offer before the hammer was brought down by the auctioneer, the court held that there was no contract as the revocation of offer took place before it could be accepted and the revocation was also communicated properly. Whereas in **Byrne & Co v Leon Van Tien Hoven & Co** the defendant made an offer to the plaintiff for the sale of goods on 1st October which reached on October 11, which was accepted by plaintiff by both the means of letter and telegram. The defendant made another letter of revocation on 8th October which reached later. The issue before the court was whether this revocation was valid or not. The court held its judgement in favour of the plaintiff and stated that the letter of revocation was ineffective as it reached after the proposal was accepted and contract was said to be made. Communication of revocation should reach before the communication of the offer.