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Law on E-Commerce

(Zakon o elektronskoj trgovini, Službeni Glasnik RS no. 41/2009)

The new Law on Electronic Commerce (**Law**), in force as of 10 June 2009, represents a much-needed upgrade of Serbian legislation towards demands of a modern market economy, which increasingly relies on e-commerce.

The Law is a brief piece of legislation spanning across 23 articles, which sets the stage for more advanced and detailed regulation of this area surely to follow in the future.

The Law first defines *information technology (IT) service* as any service rendered over distance, for compensation, and by way of electronic equipment for processing and storage of data, upon personal request by the service user.

The *provider of IT services* is defined as either a registered legal entity or a registered entrepreneur in the business of providing IT services. A foreign entity can also be an IT service provider.

On the demand side, the Law distinguishes between *service users* and *customers*. A *service user* is defined as any person or legal entity engaging in electronic trade for business-related or professional purposes. A *customer* is defined as any person engaging in electronic trade for non-professional and non-business related purposes.

Another important definition provided by the Law is that of *electronic contract* – this is a contract “entered into, sent, received, terminated, cancelled, acceded to, and being displayed via electronic means.” An electronic contract is considered concluded when the offeror receives the electronic message, which contains a statement of acceptance, by the offerree. Offer and acceptance, as well as any other statements of will dispatched via electronic means, are considered received when the party to whom they have been addressed is able to access them.

The Law prescribes certain disclosure requirements on IT service providers, such as the obligation to clearly and unequivocally indicate all information related to price, including the inclusion/exclusion of any applicable taxes, shipping and handling costs, etc.

The Law explicitly prohibits sending of unsolicited commercial messages without the consent of the receiving party.

Electronic contracts are not permitted for, *inter alia*, the following types of transactions and legal relationships: real estate, inheritance, spousal relations, gifts, and any other transactions which require by law personal signature on or notarization of the relevant documentation.

The electronic contract must at all times remain electronically accessible to the service users and customers who are parties to it.

The Law also regulates storage, processing, and forwarding of data by the IT services providers and prescribes fines and other penalties to providers in case of failure to notify the appropriate authority and/or disclose data related to its service users/customers in certain cases.

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