

A Brief Study on Offer and Acceptance

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ABSTRACT:

Offer and acceptance are essential components of contract creation and are key in establishing the parties' legal duties. An offer is a declaration of intent to engage into a contract on certain conditions made by one party to another. Contrarily, acceptance is the unconditional acceptance of the conditions of the offer. Offer and acceptance together result in a meeting of the minds and a legally enforceable agreement. The main tenets of offer and acceptance in contract law are examined in this abstract. It examines the prerequisites for an offer to be considered legitimate, including the purpose to forge a legal relationship, the clarity of the conditions, and disclosure of the offer to the offeree. Additionally, it explores the idea of acceptance and emphasises the need of unconditional acceptance of all of the parameters of the offer. This abstract also looks at behaviour, written correspondence, technological means, and face-to-face contact as forms of offer and acceptance communication. It concerns the idea of the "postal rule," which argues that if an offer is made by mail, acceptance takes effect when it is posted.

KEYWORDS:

Acceptance, Offer, Offer Cancellation, Revocation.

I. INTRODUCTION

A contract is formed by the exchange of an offer and acceptance. They stand for the procedure by which parties declare their desire to be bound by the terms of a contract. Offer and acceptance establish a shared understanding between the parties and serve as the foundation for the development of legally binding obligations. When one party makes an offer to another, they are expressing their readiness to engage into a contract with certain terms and circumstances. It presents specified conditions and extends an invitation to the other party to accept them in a clear and unmistakable declaration of purpose. Depending on the situation, an offer may be made orally, in writing, or even inferred by behaviour [1], [2].

Contrarily, acceptance is the unequivocal and absolute consent to the conditions of the offer. It represents the offeree's agreement to be bound by the conditions put out by the offeror. The terms of the acceptance must be notified to the Offeror and shall be consistent with the terms of the Offer. Any effort to include additional terms or conditions may be regarded as a counteroffer, which has the power to revoke the first offer. There must be a genuine offer and a valid acceptance for a contract to be created. Without making any significant changes or modifying the conditions, the acceptance must be a straight response to the offer. Once acceptance is acknowledged, a binding contract is formed, and the parties are required by law to carry out the responsibilities set out in the agreement. It is important to remember that, in certain cases, offers and acceptances may be withdrawn or cancelled. If an offer is transmitted before being accepted, it may be withdrawn, thus ending the offer. Similar to that, if an acceptance is notified before the offeror gets it, it may be rescinded. The creation of a contract is based on an offer and an acceptance. An offer is a suggestion given by one party, while an acceptance is a sign that the other side accepts the parameters of the offer. Together, they establish a shared understanding and open the door to the development of a contract that is enforceable under law. In order to form enforceable agreements, provide clear communication, and facilitate efficient commercial transactions, it is crucial to comprehend the fundamentals of offer and acceptance [3], [4].

II. DISCUSSION

An agreement between two parties that imposes rights and duties that may be upheld by the law is referred to as a contract. The courts seek for external evidence of this agreement using the standard of a reasonable person since

they need some kind of proof of it. It is often broken down into two elements, offer and acceptance, to aid discover indications of agreement (as shown in Figure 1).



Figure 1: Two aspects offer and acceptance.

Offer

In terms of contract law, an offer is a proposition or declaration of intent to engage into a legally enforceable agreement made by one party (the offeror) to another party (the offeree). A contract must have an offer because it outlines the terms and circumstances on which the offeror is ready to be bound [5], [6]. Key information concerning offers in contract law is provided below:

1. **Intention to be Bound:** In order for an offer to be accepted, the offeror must really want to establish a legal relationship. This indicates that the offeror wants their offer to be accepted and become legally enforceable. Social invites, declarations of opinion, and simple expressions of interest often do not qualify as offers since they do not include the necessary purpose to create a binding contract [7], [8].
2. **Offering:** The offeree must be informed of the offer. It is not effective unless it is known to or brought to the offeree's notice. Depending on the situation and the nature of the contract, communication may take the form of behaviour, verbal communication, or written communication.
3. **Clarity:** An offer's terms must be specific, distinct, and certain. It must be detailed enough for the offeree to know exactly what is being provided and what is necessary for them to accept it. The offer must include all necessary details, including the price, quantity, subject matter, and any additional requirements, in a manner that is adequately apparent [9], [10].
4. **Offer Cancellation:** There are various methods to withdraw from an offer:
 - a. **Revocation:** The offeror has the right to revoke or withdraw their offer at any moment before it is accepted, as long as they adequately notify the offeree of their decision. The offer cannot be accepted once it has been withdrawn.
 - b. **Rejection:** The offeree has the option to reject the offer verbally or by acting in a way that is inconsistent with acceptance. The offer is terminated upon rejection, and the offeree is not permitted to accept the same offer again. Offeree making a counteroffer results in a rejection of the first offer and the creation of a new offer. The counteroffer might subsequently be accepted or rejected by the original offeror.
 - c. **Time Lapse:** An offer may be subject to a deadline by which it must be accepted. The offer expires and cannot be accepted again if the offeree doesn't accept it within the allotted period. Before the offer is accepted, the offer is automatically cancelled in the event of the death or incapacity of either the offeror or the offeree.
 - d. **Invitation to Treat:** It's crucial to differentiate between an invitation to treat and an offer. An invitation to treat is a request for others to make an offer rather than a legally binding one. Advertisements, catalogues, price lists, and displays of products for sale are a few examples of invitations to treat. The seller has the option to accept or reject the offer made by the prospective bidder.

Contract formation is based on offers since they specify the conditions under which parties are prepared to engage into a contract. For assessing the enforceability and formulation of commercial agreements, it is essential to comprehend the components and criteria of a legitimate offer.

'Offers' and 'non-offers'

When a court is tasked with determining whether or not there is a contract between two parties, it often begins by examining the statements and discussions between the parties to see if a legally binding offer has been made. In legal terms, an apparent offer may really be an invitation to treat or to make an offer to others. Although many given circumstances may first seem to be up for debate, enough cases have been heard by the courts over the years for some "rules" to be established. Initial discussions thus might consist of:

- a. a proposition that can be accepted, or
- b. an invitation to treat, which is a request for others to make or discuss an offer and is not subject to acceptance.

Displays in storefront windows often serve as invites to treat rather than actual offers. This was established in the *Timothy v. Simpson* case, but was later reaffirmed in a more recent case. A similar issue involving offensive publications in a store window emerged soon after in *Mella v. Monahan* (1961), and this time the court determined that the window display was an invitation to treat rather than an offer. Therefore, the decision to accept or reject the offer made by the buyer in this circumstance rests with the seller. This implies that the seller has the power to refuse to sell an item to a specific consumer and follows through on the notion of contract freedom. This can happen, for instance, if a consumer believed erroneously that a display item was for sale, if someone asked a landlord for wine who was already highly inebriated, or simply if a vendor did not like the customer. Winfield said as follows in 1939: "A shop is a place for bargaining and not forced sales." The shopkeeper may be obliged to enter into a deal with his fiercest adversary, his largest commercial competitor, a reeling alcoholic, or a scruffy and verminous vagabond if the presentation of such items constituted an offer (Figure 1).

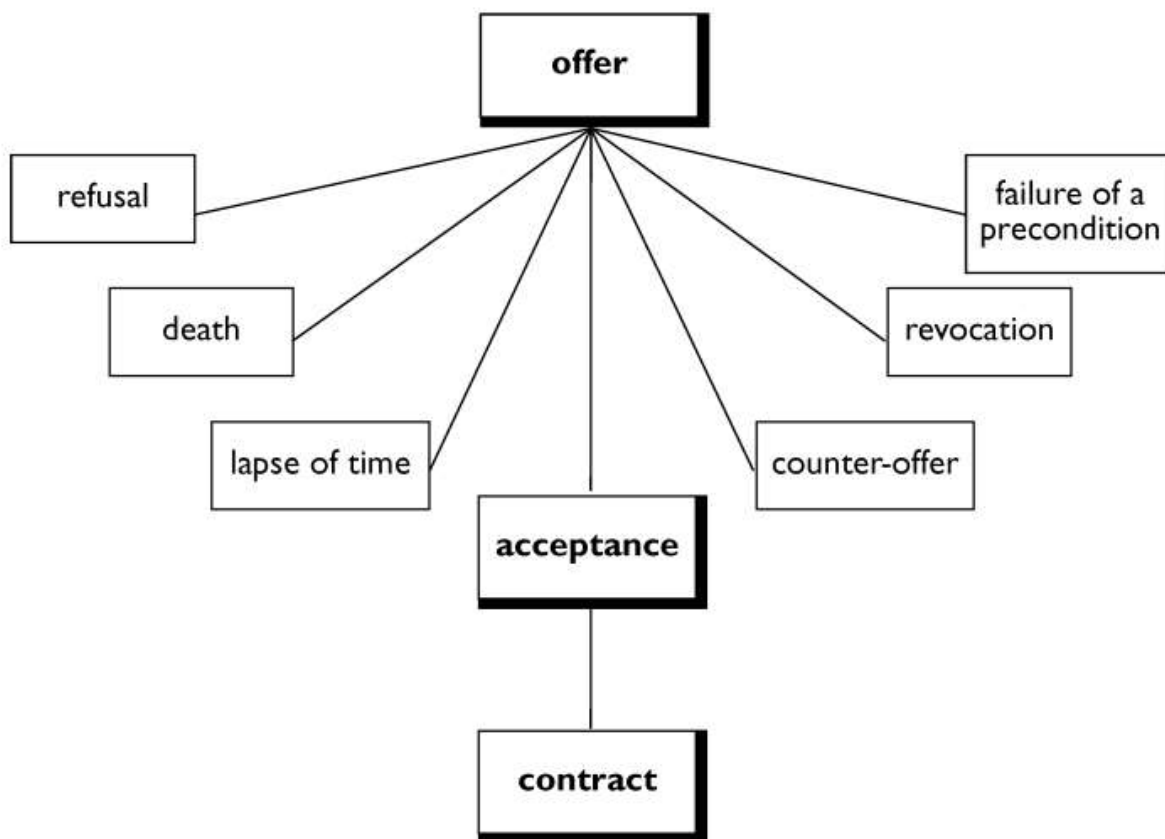


Figure 1: Illustrate the Offer constituents.

Termination of an offer

An offer may be withdrawn or cancelled under contract law in a number of ways. An offer that has been terminated is no longer valid and cannot be accepted since the offeror's desire to be bound by its conditions has expired. Here are a few typical methods for withdrawing from an offer:

Revocation by the Offeror: Before the Offer is Accepted, the Offeror may withdraw or revoke the Offer at any moment. When revocation is declared to the offeree, it takes effect. The communication may be direct by phone or email, for example or indirect by a trustworthy third party or by actions that are inconsistent with the offer's continuation.

Offeree rejection: The offer is cancelled if the offeree rejects it, whether formally or tacitly, by acting in a way that is inconsistent with acceptance. The offer is terminated upon rejection, and the offeree is not permitted to accept the same offer again. It is essential to remember that a simple query or request for further information about the conditions of the offer is not a rejection.

Counter-Offer: A counter-offer by the offeree functions as a rejection of the first offer and creates a new offer. A counter-offer modifies the first offer by introducing new terms or conditions. The offeree cannot accept the original offer after the original offer has been accepted or rejected by the original offeror.

Time Lapse: An offer may be subject to a deadline by which it must be accepted. The offer expires and cannot be accepted again if the offeree doesn't accept it within the allotted period. It is crucial to remember that even when a general time restriction has passed, if the offer specifies a manner of acceptance, it is still valid until that time.

Death or Incapacity: Before the offer is accepted, the offer is automatically cancelled in the event of the death or incapacity of either the offeror or the offeree. The right of any party to accept or reject the offer will terminate with the death or disability of such party.

It is important to keep in mind that an offer may only be withdrawn before being accepted. An offer becomes a legally enforceable contract as soon as it is accepted, making its conditions enforceable. To guarantee clarity and prevent any misunderstandings about the offer's status, the termination of an offer must be adequately conveyed to the offeree.

Counter-offer

An offeree may respond by making a fresh proposal in response, which is known as a counter-offer. It might just be that the offeree modifies the conditions because they don't agree with one or more of them. This is referred to as a counter-offer since it does not constitute acceptance of the whole conditions of the offer. It is really a fresh offer that may be accepted or rejected in another fashion. A counteroffer has the effect of nullifying the initial offer. Example: Even if Jack and Jill may be very near to an agreement, there would be no contract if Jack offered to sell Jill a bicycle for £70 and Jill responded, "I'll give you £68 for it." Jill also could not insist on getting the bicycle for the original price of £0 if Jack refused to accept £68 since her counter-offer nullified Jack's first offer. The following instance included a negotiation about purchasing a farm.

Acceptance

According to contract law, acceptance is a key component in the creation of a contract. It alludes to the offeree's unconditional and unambiguous acceptance of the offer's conditions. Acceptance establishes an enforceable contract between the parties and shows the offeree's desire to be bound by its conditions. Following are some crucial ideas about acceptance in contract law:

Communication of Acceptance: The offeror must be informed of your acceptance. It is not effective until it is acknowledged by the offeror or comes to their notice. Oral, written, or behaviour that makes obvious approval are all acceptable methods of communicating acceptance. A trusted third party or an authorised agent may be used in certain situations to convey acceptance instead of the offeror directly.

Mirror Image Rule: The conditions of the acceptance must be identical to those of the offer. It must be a complete and unequivocal acceptance of all the offer's conditions. The acceptance is regarded as a counter-offer and nullifies the first offer if it includes any additional terms, conditions, or adjustments. The offeror's specific conditions must be agreed upon in the acceptance in a clear and unambiguous manner.

Silence as Acceptance: Generally speaking, acceptance cannot be shown by quiet or simple inactivity. The offeree must express their acceptance of the offer in a direct manner. In particular circumstances or contractual arrangements where the parties have established a course of business or where there is an established tradition or industry practise that enables acceptance by silence, there may, nevertheless, be exceptions to this rule.

Acceptance by Post: In general, acceptance is effective upon posting where the offeror states that acceptance may be conveyed by post or when using the postal service is suitable for the offeree. This implies that acceptance is effective as soon as the offeree publishes it in a proper and accurate manner, regardless of whether the offeror ever receives it or not. The acceptance, however, is only valid until the offeror actually receives it, unless the

offeror specifies an alternative method of contact or the offeree neglects to properly address or post the acceptance.

Instantaneous Communication: When acceptance is made by a phone call, fax, or email, it becomes official as soon as the offeror receives it. In contrast to postal communication, acceptance in these situations becomes effective only once the offeror really receives it.

Revocation of Offer: Before the offer is cancelled or revoked, acceptance must be acknowledged. Before the offeree expresses acceptance, the offer may be effectively withdrawn, in which case the acceptance is void and no contract is created.

It's important to remember that acceptance regulations may change depending on the jurisdiction and may be governed by certain contractual clauses or legislative restrictions. To guarantee the development of a legally binding and enforceable contract, it is essential to comprehend the conditions and principles of acceptance. For particular advice on acceptance under contract laws, it is recommended to speak with legal counsel.

Battle of forms

In contemporary corporate talks when both sides use standard form stationery, a scenario analogous to the counter-offer issue develops. Both have specific terms outlined, which are often seen on the reverse of printed quotes, invoices, delivery notes, etc. Whose terms are the parties dealing with if one party's and the other's terms are significantly different? According to the courts' perspective, the conditions are established by the party who sends the final piece of paper containing them before the actual performance (typically the delivery of goods) occurs. The idiom "he who fires the last shot wins" was born out of this. In *Butler Machine Tool Co Ltd V. Ex-Cell-O Corp (England) Ltd (1979)*, this circumstance emerged when it was evident that the buyer and seller of a piece of equipment had their own, quite distinct, standard terms. In this case, Lord Denning made the argument that basing everything on the possibility of being the party to fire the "last shot" in this manner was unsatisfactory and that the courts should instead consider the entire picture painted by the parties' actions when determining whether a contract actually exists and what terms have been agreed upon. His opinions were founded in large part on a strategy advocated in *Gibson v. Manchester City Council (1979)*.

The "last shot" rule still applies since this was not the court's final ruling in *Gibson*, thus his opinions are not actually indicative of the law in this regard, despite how logical they may seem.

A request for further details

It might be difficult to distinguish between a counter-offer and a request for further details. The impact on the first offer makes it significant.

- a. A counter-offer (as shown above) revokes the first offer.
- b. When further information is requested, the first offer is still valid until the offeror withdraws it.

III. CONCLUSION

In conclusion, the basic building blocks of contract creation are offer and acceptance. Offer is the declaration of intent to engage into a contract on a certain set of conditions; acceptance is the unequivocal acceptance of those terms. Together, they establish the parties' mutual consent and produce a binding contract. The offer must be conveyed to the offeree with the goal of forging a legal relationship. It outlines the terms and circumstances under which the offeror is ready to be bound. Depending on the situation and the form of the contract, the offer may be communicated orally, in writing, or even by behaviour. Contrarily, acceptance is the clear and unmistakable declaration of the offeree's consent to the offer, resulting in the formation of a contract. The offer's conditions must be reflected in the acceptance, which must be notified to the offeror. It may be expressed in a variety of ways, such as via spoken words, written letters, or actions that unmistakably show acceptance.

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