BLOGS

Learn in a Minute: Difference between Offer and Invitation to Offer

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The Indian Contract Act, 1872, lays the foundation for understanding various concepts crucial to contract formation. Two such concepts are 'offer' and 'invitation to offer.' Distinguishing between these is essential to determine when a legally binding agreement is formed.

An electronics store, TechWorld, displays a variety of laptops in its showroom. Each laptop has a price tag and specifications listed next to it. R, a potential customer, walks into TechWorld to buy a laptop.

Does the display of prices indicate TechWorld's intention to be immediately bound by acceptance?

The answer is no! Displayed prices are not offer but merely an invitation to offer.

The laptops displayed with price tags and specifications are considered an invitation to offer. If R were to select a laptop and take it to the cashier with the intent to buy it, that would constitute an offer.

TechWorld, in this scenario, is not making an offer to sell the laptops at the listed price; instead, it is inviting customers like R to make an offer to purchase the laptop at that price.

Let us learn more about offer and invitation to offer in this post!

Definitions under Indian Contract Act

Offer under Indian Contract Act

An 'offer' or 'proposal' is defined under Section 2(a) of the Indian Contract Act, 1872. It states: "When one person signifies to another his willingness to do or to abstain from doing anything, with a view to obtaining the assent of that other to such act or abstinence, he is said to make a proposal."

The person making the offer (the offeror) must clearly indicate their intention to enter into a contract. This intention must be communicated to the person to whom the offer is made (the offeree).

The offer can pertain to doing something (an act) or refraining from doing something (abstinence). For instance, an offer can be to sell a car (an act) or to refrain from suing someone in exchange for a settlement (abstinence).

The offer must be made with the purpose of obtaining the other party's agreement. The objective is to receive the offeree's acceptance, leading to a mutual agreement or contract.

Offers can either be express or implied. An offer made through explicit words, either spoken or written. For example, "I offer to sell my bike for ₹10,000" is an express offer; whereas, an offer inferred from conduct or circumstances is called an implied offer.

They can also be made either to a specific person or the public at large. A general offer is an offer made to the public at large. Anyone who performs the conditions of the offer can accept it. For example, a reward offer for finding a lost dog is a general offer.

Invitation to Offer

An 'invitation to offer' is not explicitly defined in the Indian Contract Act, 1872. Instead, it is a concept derived from judicial interpretations and common law principles. An invitation to offer is an action or statement inviting others to make an offer. It indicates a willingness to enter into negotiations but does not demonstrate an intention to create a binding contract immediately.

An invitation to offer indicates the inviter's willingness to negotiate terms and conditions. It is a preliminary communication that opens the door for further discussions. Unlike an offer, which when accepted creates a binding contract, an invitation to offer does not create a legal obligation upon acceptance. It merely invites the other party to make an offer.

Display of goods in a store with price tags, advertisements in newspapers or online platforms, auction announcements etc. amount to invitation to offer.

Differences between Offer and Invitation to Offer

Edit OfferInvitation to Offer The offeror intends to be bound by acceptance, creating a legal obligation.There is no intention to be bound; it merely seeks offers from others.

Acceptance of an offer results in a contract.Acceptance of an invitation to offer results in an offer. A person proposes to sell their house for ₹50,00,000. If the other party accepts this proposal, a contract is formed.A shopkeeper displays goods in a window with price tags. This is not an offer but an invitation for customers to make an offer to buy at the displayed prices.

Landmark Cases

Harvey v. Facey: Harvey telegraphed Facey asking for the lowest price Facey would accept for his property. Facey replied with the lowest price but did not indicate a willingness to sell. The court ruled that Facey's reply was not an offer but merely an invitation to offer. Harvey's subsequent acceptance did not form a contract.

Carlill v. Carbolic Smokeball Case: The Carbolic Smoke Ball Company advertised that it would pay £100 to anyone who used its product and still contracted influenza. Mrs. Carlill used the product and contracted influenza. The court held that the advertisement constituted a general offer to the public. Mrs. Carlill's use of the product as directed and subsequent illness constituted acceptance, forming a binding contract.

Read More: Harvey v. Facey