

Example of rights and obligations research paper

[Law](#), [Criminal Justice](#)



\n[[toc title="Table of Contents"](#)]\n

\n \t

1. [The objective theory](#) \n \t
2. [How does the objective of contracts apply to these cases?](#) \n \t
3. [Are advertisements generally considered offers?](#) \n \t
4. [Bibliography](#) \n

\n[/toc]\n \n

Contracts can be in different shapes but all are governed by the same basic rules on what makes an enforceable contract. A contract is when two parties enter into an agreement where one party makes an offer to another. However for the contract to be valid certain elements should be present, such as capacity, offer, acceptance, consideration and compliance with the law should be present.

1. Capacity

This means that the persons involved have legal capacity to make a contract, not minors, insane, intoxicated or those not fully understanding what they are doing, otherwise the contract may not be enforceable before a court of law though this issue could face a legal challenge. Businesses or other establishments wishing to enter a contract ought to have capacity that is recognised as such by the laws of the country, which also includes those persons who are involved in signing on behalf of those companies.

2. Offer and Acceptance

This is when one party makes an offer to another who in turn accepts it, and an agreement is reached. Until the offer is accepted there is no contract.

There should be clear intention to make a binding agreement between the

<https://assignbuster.com/example-of-rights-and-obligations-research-paper/>

contracting parties. Where there is a valid and enforceable contract an offer it should be preceded by an acceptance. There is no contract if there is failure to accept an offer. The two parties to the contract should be clear and not ambiguous. An agreement has to be made between two persons with one making an offer and in turn the other accepting it, without this there is no contract. It is a legally enforceable agreement in which two persons or a group of people want to enter into freely.

3. Considerations

Consideration is one of the important requirements in forming a valid contract. Consideration is the cost of the service or object in question. Consideration is a necessary element for the formation of a contract. A contract is said to be legally binding when there is value or cost placed on it. Consideration is when two people in agreement exchange goods or services in return for payment on agreed terms which they intent to be binding legally. In contract of goods or services it usually means that one party promises to pay the other to provide goods or services. The payment for the object or service can be deferred to a later date such as in the case of credit.

4. Compliance with the law and public policy

For parties to form a valid contract it is also important that the object or service subject to the contract is lawful. It must not be fraudulent, prostitution, illicit drugs, immoral, or opposed to public policy, nor must it imply injury to the person.

The objective theory

The objective theory holds that there should be certainty that a contract has been made by taking into consideration series of external acts which gives an aspect consensus. The principle states that for there to be said there is a contract the decision has to be decided upon by the legal significance of the external acts of a party to the intend agreement, not the actual intent of both parties. Under the objective theory, another impartial person other than the parties decides after having considered the surround circumstances whether a contract was formed.

How does the objective of contracts apply to these cases?

The objective theory is based on whether a contract has been created taking into consideration the circumstances surrounding the purported creation. In this case there was need to prove that there was intention to create a legally binding contract for the court to make a decision. The objective theory is based on where a contract has been formed in this case there was no such agreement since there was no intention to create a binding contract and intent is a crucial aspect of a binding contract. Since there was no binding agreement in the advertisement therefore there was no contract in the given case. The claimant and the defendant did not have a contract, the offer for a jet costing around \$23 million dollars was just for fun not to be taken as a legal binding offer. The theory applies to the case for the reasons that, for there to be a valid contract the element of intent has to be present which was not in this case. By the mere fact that an advertisement does not have a specific target but targets everyone it cannot be construed that there was a binding contract between the company and the plaintiff.

The court had to take into consideration the circumstances under which the offer was made, and how it was communicated in order to come to the decision that there was no intention to create a binding contract. The advertisement which was made in jest did not make a binding contract nor where there written documents between the parties to convince the court that there was an agreement. This intent is ascertained by what is called objective theory. The intention being the party's willingness to enter a legal binding contract must be judged by external objective facts as a reasonable person would see it. This can be seen by what they might have said or how the party appeared during the time he entered the contract and the circumstances at the time.

Are advertisements generally considered offers?

Generally an advertisement should be treated as an offer to treat rather than legal binding contract. Advertisements may be considered as valid offers if it has the following elements of contract required. The advertisement sufficiently definite in its terms and the way the object is described, its quality and price, it is communicated to a specific person which is usually two people and surroundings around the publication shows that the advertiser has intention to form a contract. In making a decision that an advertisement is an offer intended to create a contract, the main factor courts will look at is whether the advertisement has intent to assume a legal undertaking of a contract. Most advertisements that are seen daily are not offers they are simply invitation to consider buying the product. In the doctrine of contract an offer should direct hers/his offer at an identifiable being.

In the case specified the offer was treated as a binding contract when in fact it was just an offer made in jest. There was no contract entered into, nor was there ever any intention to form a legally binding contract, unlike in a situation where there is a legally enforceable promise to perform the act.

Where there is a unilateral contract, the contracting party contracts another person to do a specified activity in return for an agreed payment or reward at the time the activity is accomplished.

In a case of a reward situation in which unilateral contract is performed all the requirements of a valid contract such as offer, acceptance, capacity, consideration and compliance with the law ought to be present. The rules that apply to the unilateral contract will affect the outcome of the reward. If the Unilateral contract could not be held to be legally enforceable then there is no reward as the reward was within the unilateral contract, consequently affecting the completion of the requested act. However as the advertisement did not constitute a valid contract, his purported contract could not have been fulfilled. In such a situation in which a unilateral contract is performed, the reward in the contract must be paid at the completion of the requested task under the contract.

Bibliography

Bradgate, R. & White, F. (2004). Commercial Law. Formation of a valid contract pp. 9, 10. Retrieved from <http://www.books.google.co.uk/books?isbn=1099205477>

Davies, R. E (2007) Leonard v. Pepsco 1999 pp21. Retrieved from www.law.gmu.edu/assets/files/2007/Davies_contract-casebook.pdf

Dobson, P., & Stokes, R. (2008). Commercial Law. (7th Ed)Contract law kind <https://assignbuster.com/example-of-rights-and-obligations-research-paper/>

of reasonable expectations . Retrieved from pullconversion. net/reading-list-for-commercial-law

Koffman, L. & McDonald E. (2002) The Law of Contract (6th edition) Chapter 2 Retrieved from fds. oup. com/www. oup. com/pdf/13/978019780199570201. pdf.