

Business law assignment

[Business](#), [Management](#)



Rush J and Outlet M (2006) define a contract “ as an agreement between two or more individuals or businesses that is legally binding “. In this case it shows that the seller has merely put an advertisement in which Boris accepted but an advertisement is not a genuine offer, it is an invitation to treat meaning the seller is just inviting offers and can choose to accept or reject them.

Invitation to treat is defined as “ statements or actions that are not sufficient to amount to an offer as they are not made with the intention to create legal relations and are merely intended to draw the customer into negotiations”, by Rush J and Outlet M (2006).

Additionally, there is no proof of Boris contacting the seller before he chose to collect the item in return for the advertised item which gives Boris no right to demand the item. *Harris v Nickering* (1873) is an excellent case to compare with this one as they are both very similar. In the *Harris v Nickering* case an auctioneer advertised to auction office furniture which he withdrew before the sale. The plaintiff had traveled a long distance to purchase the furniture and tried to sue the seller for wasting his time.

The court held that there was not a contract in the case and therefore had no breach of any sort. As stated before an advertisement is merely an invitation to treat and by law the seller will have the right to whether accept the offer or reject it. In the 1873 case even though the plaintiff did pay money and use his time to get to the auction, the seller was not required to sell his items because they were not legally binding. Likewise even if Boris had traveled and had the money to pay the advertiser, the seller can still reject the offer and Boris would not have a case against the seller.

In the Fisher v Bell (1960) case a shop owner displays a knife in his window shop and because of the “ section 1 (1) of the Restriction of Offensive Weapons Act, 1959 the police had filed a case against him for offering to sell the knife. The court dismissed the case because a knife on display on a shop was not a real ‘ offer for sale’ and was merely an invitation to treat. To make a contract binding both parties will have to agree to a contract. This case shows that the seller intended an invitation to treat in which Boris agreed to it but the seller had not fully accepted the deal.

In conclusion it is up to the seller to whether accept the offer or reject. B) On 21st of May, Larry offers to sell his EYE Ford Focus to Charlotte. Charlotte arrive until 29 May. On 28th of May, Larry sells the car to Rain for EYE. Would the position be different if, on 22nd of May, Charlotte had accepted by email? The position would definitely be different if Charlotte had accepted by email on the same day but she did not which makes this case a bit more complex. “ The general rule is that an acceptance must be communicated to the offer.

Until and unless the acceptance is so communicated, no contract comes into existence. ” By this definition of communication of acceptance it shows that Charlotte did not fulfill her end of the al but there is an exception to the Communication Rule which is the Postal Rule. Rush J and Outlet M (2006) defines postal rule as “ When a letter of acceptance that has been properly addressed and posted will be communicated as soon has the letter is posted (rather than when it is received)”.

By this rule Charlotte has a strong case against the seller because due to the postal rule the acceptance is complete as soon as Charlotte dropped off the letter and is required for the seller to sell the Ford Focus to Charlotte. When a contract is binding what Larry has done by selling the car to Rain is a breach of contract. Postal rule was “ developed in response to disputes over what should happen if an acceptance were lost in the post”, as what happens to the letter after it has been posted cannot be controlled by the sender and would not be their fault.

Adams v Lindsey (1818) is a similar case to this one and had the same dispute over delayed post. The defendant offered to sell wool to the claimant and sent the offer by letter which had been delayed and when the claimant received the letter, a letter of acceptance was posted on the same day. However because of the delay the seller assumed that the claimant was no longer interested in the wool and sold it to the third party for breach of contract and therefore was held. As soon as the letter was posted the acceptance was effective and therefore a contract was formed.

However, regarding the original question of whether it would have made a difference if Charlotte had replied by email, the answer would be yes. Postal rule is not applied to emails as they are instantaneous ways of communication than letters. Sending an email properly addressed would not act as a form of acceptance until the other party gets the email and has acknowledged it. Of course, in this digital age if Charlotte had replied by email then there will have been more likelihood of Larry getting the acceptance and selling the car to her before Rain.

In this case Charlotte has the right to claim damages as there has been a breach of contract from Larry. He can either get the car back from Rain and sell it to Charlotte or compensate her in some way. C) A Ltd orders a mechanical digger from B Ltd at an advertised price of OHIO, OHO, with payment to be made within 30 days of delivery of the goods. Both parties enter into a contract of sale but wish for their own terms and conditions to apply. Both parties send each other their own standard terms and condition and when the digger is finally delivered they both dispute over the price of the digger.

Rush J and Outlet M (2006) define battle of forms as “ exchange of correspondence between of the contract”. They usually have 2 main advantages such as saving time that would be used to spend on negotiating and are made in favor of the business offering to use their standard terms as basis of their contract. In this case, it shows that both parties A and B have made their own standard terms and condition in their own favor leading to their dispute in the end on what the price should be for the digger that has been negotiated.

A Ltd believe that A is paying for the digger fairly because he is paying the price that was advertised and offered at whereas B Ltd is charging him on the price of the delivery. Another famous case that is linked with this one is the Butler Machine Tool Co v Ex-cell-o Corp. (1977). Ex-Cell-O and Butler were going to do business in which Butler quoted a price of EYE, 535 for a machine with their standard terms which included a price variation clause

and a term that stated that the seller's term would succeed over any terms made by the buyer.