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Legal Issues for an E-Commerce Venture.

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[PowerPoint Presentation]

Introduction

Key legal issues for e-commerce venture

- * Relationship with web developer and ISP
- * Intellectual Property
- * Collecting customer information
- * Trading on-line
- * Marketing web site

Web Developers and ISPs

- * Choosing a web developer
- * Briefing the developer
- * Managing the project
- * Liability and risk

Design of Site

- * Structure and navigation
- * Third party consents
- * Look and feel?
- * Ability to add features?
- * Updating content?

- * Systems integration

Contract with Web Developer

- * Project plan

Milestones

- o Long stop dates

- * IPR

- * Testing

- * Termination

- o What happens to IPR?

- o Payment?

Hosting Agreement

- * Service levels

- o Down time and back-up

- o Maintenance

- o Disaster recovery plan

- * Security

- * Warranties and liability

- o Loss of data

- o Lawfulness of material on site

- * Suspension of services

Intellectual Property

- * Domain names and trade marks

- * Branding

- * Content

Domain Names and Trade Marks

- * Availability

- * "first come, first served"

- Cyber-squatting
- Trade mark infringement
- * Transfer or consider new name

Branding

- * Reputation
- * Recognition
- * Remember

Content

- * IPR
- * Web site content - use copyright notice
- * Code
- * Graphics
- * Databases
- * Technology

Collecting Customer Information

- * New Law affects collection of customer information
- * 80% of web sites do not comply with data protection obligations
- * Failure to comply is a criminal offence - directors and employees

Customer Information

Number of ways new law affects the activities of e-commerce business

- * Offering a personalised shopping experience
- * Selling or sharing customer/contact lists
- * Valuing and selling dot coms

Customer Information continued

- * Active e-commerce sites collect transactional data (profiles built on users)
- * Cookies are used to collect customer details
- * Restrictions on collecting and using customer details

- * Must have legal justification for all processing of personal information
 - o necessary for the performance of a contract; or
 - customer has given consent
- * Notices must be given to customers
- * Consent obtained using notice
- * Notice must be on mandatory screen of web site before customer inputs details.
- * If worded correctly, web site owner can do anything with customer database.
- * Customer databases of boo.com and boxman.com were valueless as no consent of customers to share their information with third parties.

Trading On-Line

- * New regulations came into force 31st October 2000
- * Contain provisions for goods and services sold to customers over the internet
- * Certain information must be provided in writing to customers e.g. price, supplier's details and delivery costs
- * Customers have 7 days cooling-off period in which they can cancel a distance contract
- * If the specified information is not given to customers then this cancellation period is extended by a further three months!
- * If customer acquires goods and then cancels contract, customer must return goods
- * Supplier must refund money within 30 days of notice of cancellation
- * Customer has 21 days to return goods to supplier at his own cost if this obligation is enshrined in terms of trading
- * If not, supplier must arrange to collect from customer

Other issues

- * Advertising
- * Placing of terms of trading on web site
- * Jurisdiction

Marketing a web site

- * Several hundred million web pages on internet
- * 93% of all traffic on the internet comes from top eight search engines or directories

- Alta Vista - Yahoo

- Excite - Yell

- Hot Bot - Scoot

- Lycos - Snap

* Only 15% of web sites listed with search engines

Marketing a web site continued

* Index web site with search engines

* Site description should encourage visitors

* Framed sites will not be indexed

* Flash sites difficult to index

* Look to US sites for examples

Off-line web promotion

* Stationery and marketing material should list web address once site launched

* "site under construction" kills traffic

* Train staff

* Invite feedback

* Keep site up-to-date

Conclusion

* Legal issues to consider

* Trader must be pro-active in minimising exposure to legal liability

* Compliance with data protection law and proper marketing increases value.