E-Commerce Law and Data Privacy Law

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E-Commerce Law (Republic Act 8792)

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E-Commerce Law – Republic Act 8792

- It gives legal recognition of electronic data messages, electronic documents, and electronic signatures. (section 6 to 13)"

E-Commerce Law – Republic Act 8792

- Allows the formation of contracts in electronic form. (section 16)"

E-Commerce Law – Republic Act 8792

- Makes banking transactions done through ATM switching networks absolute once consummated. (section 16)"

E-Commerce Law – Republic Act 8792

- Parties are given the right to choose the type and level of security methods that suit their needs. (section 24)"

E-Commerce Law – Republic Act 8792

- Provides the mandate for the electronic implementation of transport documents to facilitate carriage of goods. This includes documents such as, but not limited to, multi-modal, airport, road, rail, inland waterway, courier, post receipts, transport documents issued by freight forwarders, marine/ocean bill of lading, non-negotiable seaway bill, charter party bill of lading. (section 25 and 26)"

E-Commerce Law – Republic Act 8792

- Mandates the government to have the capability to do e-commerce within 2 years or before June 19, 2002. (section 27)"

E-Commerce Law – Republic Act 8792

- Mandates RPWeb to be implemented. RPWeb is a strategy that intends to connect all government offices to the Internet and provide universal access to the general public. The Department of Transportation and Communications, National Telecommunications Commission, and National Computer Center will come up with policies and rules that shall lead to substantial reduction of costs of telecommunication and Internet facilities to ensure the implementation of RPWeb. (section 28)"

E-Commerce Law – Republic Act 8792

- Made cable, broadcast, and wireless physical infrastructure within the activity of telecommunications. (section 28)"

E-Commerce Law – Republic Act 8792

- Empowers the Department of Trade and Industry to supervise the development of e-commerce in the country. It can also come up with policies and regulations, when needed, to facilitate the growth of e-commerce. (section 29)"

E-Commerce Law – Republic Act 8792

- Provided guidelines as to when a service provider can be liable. (section 30)"

E-Commerce Law – Republic Act 8792

- Authorities and parties with the legal right can only gain access to electronic documents, electronic data messages, and electronic signatures. For confidentiality purposes, it shall not share or convey to any other person. (section 31 and 32)"

Cybercrime Penalties under Electronic Commerce Act
(Republic Act 8792)

HACKING OR CRACKING

UNAUTHORIZED ACCESS INTO OR INTERFERENCE IN A COMPUTER SYSTEM/SERVER OR INFORMATION AND COMMUNICATION SYSTEM; OR ANY ACCESS IN ORDER TO CORRUPT, ALTER, STEAL, OR DESTROY USING A COMPUTER OR OTHER SIMILAR INFORMATION AND COMMUNICATION DEVICES, WITHOUT THE KNOWLEDGE AND CONSENT OF THE OWNER OF THE COMPUTER OR INFORMATION AND COMMUNICATIONS SYSTEM, INCLUDING THE INTRODUCTION OF COMPUTER VIRUSES AND THE LIKE, RESULTING IN THE CORRUPTION, DESTRUCTION, ALTERATION, THEFT OR LOSS OF ELECTRONIC DATA MESSAGES OR ELECTRONIC DOCUMENT

PENALTIES

PUNISHED BY A MINIMUM FINE OF ONE HUNDRED THOUSAND PESOS (P100,000.00) AND A MAXIMUM COMMENSURATE TO THE DAMAGE INCURRED AND A MANDATORY IMPRISONMENT OF SIX (6) MONTHS TO THREE (3) YEARS

PIRACY

THE UNAUTHORIZED COPYING, REPRODUCTION, DISSEMINATION, DISTRIBUTION, IMPORTATION, USE, REMOVAL, ALTERATION, SUBSTITUTION, MODIFICATION, STORAGE, UPLOADING, DOWNLOADING, COMMUNICATION, MAKING AVAILABLE TO THE PUBLIC, OR BROADCASTING OF PROTECTED MATERIAL, ELECTRONIC SIGNATURE OR COPYRIGHTED WORKS INCLUDING LEGALLY PROTECTED SOUND RECORDINGS OR PHONOGRAMS OR INFORMATION MATERIAL ON PROTECTED WORKS, THROUGH THE USE OF TELECOMMUNICATION NETWORKS

PENALTIES

MINIMUM FINE OF ONE HUNDRED THOUSAND PESOS (P100,000.00) AND A MAXIMUM COMMENSURATE TO THE DAMAGE INCURRED AND A MANDATORY IMPRISONMENT OF SIX (6) MONTHS TO THREE (3) YEARS

OTHER VIOLATIONS IN E-COMMERCE LAW

CONSUMER ACT AND ALL OTHER LAWS

REPUBLIC ACT NO. 7394 AND OTHER RELEVANT OR PERTINENT LAWS THROUGH TRANSACTIONS COVERED BY OR USING ELECTRONIC DATA MESSAGES OR ELECTRONIC DOCUMENTS

PENALTIES

PENALIZED WITH THE SAME PENALTIES AS PROVIDED IN THOSE LAWS

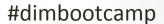# OTHER VIOLATIONS IN E-COMMERCE LAW

OTHER VIOLATIONS OF THE PROVISIONS OF THIS ACT

EX. OBLIGATION OF CONFIDENTIALITY, LAWFUL ACCESS, AMONG OTHERS

PENALTIES

MAXIMUM PENALTY OF ONE MILLION PESOS (P1,000,000.00) OR SIX (6) YEARS IMPRISONMENT

Data Privacy Law (Republic Act 10173)

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Data Privacy Law (Republic Act 10173)

- Data subject refers to an individual whose personal information is processed."

Data Privacy Law (Republic Act 10173)

- Personal information controller refers to a person or organization who controls the collection, holding, processing or use of personal information, including a person or organization who instructs another person or organization to collect, hold, process, use, transfer or disclose personal information on his or her behalf. The term excludes:
  - A person or organization who performs such functions as instructed by another person or organization; and
  - An individual who collects, holds, processes or uses personal information in connection with the individual's personal, family or household affairs.

Data Privacy Law (Republic Act 10173)

- Personal information processor refers to any natural or juridical person qualified to act as such under this Act to whom a personal information controller may outsource the processing of personal data pertaining to a data subject."

Data Privacy Law (Republic Act 10173)

- It applies to processing of personal information (section 3g) and sensitive personal information (Section 3L)."

Data Privacy Law (Republic Act 10173)

- Personal information refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual."

Data Privacy Law (Republic Act 10173)

- Sensitive personal information refers to personal information:
  - Race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;
  - Health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;
  - Issued by government agencies peculiar to an individual. E.g. social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and
  - Specifically established by an executive order or an act of Congress to be kept classified.

Data Privacy Law (Republic Act 10173)

- Created the National Privacy Commission to monitor the implementation of this law. (section 7)

Data Privacy Law (Republic Act 10173)

- Gave parameters on when and on what premise can data processing of personal information be allowed. Its basic premise is when a data subject has given direct consent. (section 12 and 13)

Data Privacy Law (Republic Act 10173)

- Companies who subcontract processing of personal information to 3rd party shall have full liability and can't pass the accountability of such responsibility. (section 14)

Data Privacy Law (Republic Act 10173)

- Data subject has the right to know if their personal information is being processed. The person can demand information such as the source of info, how their personal information is being used, and copy of their information. One has the right to request removal and destruction of one's personal data unless there is a legal obligation that required for it to be kept or processed. (Section 16 and 18)

Data Privacy Law (Republic Act 10173)

- If the data subject has already passed away or became incapacitated (for one reason or another), their legal assignee or lawful heirs may invoke their data privacy rights. (Section 17)

Data Privacy Law (Republic Act 10173)

- Personal information controllers must ensure security measures are in place to protect the personal information they process and be compliant with the requirements of this law. (Section 20 and 21)

Data Privacy Law (Republic Act 10173)

- In case a personal information controller systems or data got compromised, they must notify the affected data subjects and the National Privacy Commission. (Section 20)

Data Privacy Law (Republic Act 10173)

- Heads of government agencies must ensure their system compliance to this law (including security requirements). Personnel can only access sensitive personal information off-site, limited to 1000 records, in government systems with proper authority and in a secured manner. (Section 22)

Data Privacy Law (Republic Act 10173)

- Government contractors who have existing or future deals with the government that involves accessing of 1000 or more records of individuals should register their personal information processing system with the National Privacy Commission. (Section 25)

Data Privacy Law (Republic Act 10173)

- Provided penalties (up to 5 million as per sec. 33) on the processing of personal information and sensitive personal information based on the following acts:
  - Unauthorized processing (sec. 25)
  - Negligence (sec. 26)
  - Improper disposal (sec. 27)
  - Unauthorized purposes (sec. 28)
  - Unauthorized access or intentional breach (sec. 29)
  - Concealment of security breaches (sec. 30)
  - Malicious (sec. 31) and unauthorized disclosure (sec. 32)

Data Privacy Law (Republic Act 10173)

- If at least 100 persons are harmed, the maximum penalty shall apply (section 35).

Data Privacy Law (Republic Act 10173)

- For public officers (working in government), an accessory penalty consisting in the disqualification to occupy public office for a term double the term of criminal penalty imposed shall he applied. (sec. 36)

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