

Digital Business Global Guide Country Q&A

Digital Business Global Guide

Digital business in Mexico: Overview

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**Regulatory overview**

What are the relevant regulations for doing business online (for business-to-business and business-to-customer)?

Please insert answer. Please include relevant regulations for the jurisdiction. International regulations can also be mentioned, but in a summary form.]

The relevant regulations in Mexico for doing business online, either business-to-business or business-to customer are:

The Mexican Commerce Code.

The Federal Civil Code.

The Federal Telecommunications Law and its Regulations.

The Federal Law for Consumer's Protection.

The Federal Tax Code and its Regulations.

The Federal Law for the Protection of Personal Information in Possession of Private Entities, and its Regulations.

The Mexican Law of Industrial Property and its Regulations.

The Mexican Copyright Law and its Regulations.

These last two bodies of law are applicable only in the sense that in the course of any online business, entrepreneurs have to be mindful as to not infringing any third party's copyrights when developing their websites and displaying their advertisement through social media, as well as avoiding any deceitful practices in e-commerce that can be deemed as unfair competition activities, related to intellectual property rights.

Also, if the business model implies the use of the image of third parties, it becomes relevant to comply with the rules that in this regard are set forth in the Mexican Copyright Law.

What legislative bodies are responsible for passing legislation in this area? What regulatory and industry bodies are responsible for passing regulations and codes in this area?

In Mexico only the Federal Congress is entitled to pass legislation in connection with electronic commerce. Federal agencies as well as regulatory and industry bodies are not empowered to pass any sort of legislation.

#### **Setting up a business online**

What are the common steps a company must take to set up an existing/new business online?

[Please insert answer. Please briefly consider both legal and practical steps.]

From the practical point of view if a company is to set up a business online, it has to decide whether it is willing to have presence on the Internet, through a domain name registered in Mexico, either under .com.mx; .mx; or both of them, or whether it will conduct its online business through a website linked to a domain name registered in a country different to Mexico.

If the company is willing to set up its online business using a domain name under .com.mx; .mx, or both of them, then it becomes necessary to verify that the desired domain name or domain names, as well as the corresponding

trademarks are available in Mexico, in order to make sure that it is not infringing any third party's rights.

It must also verify that there are no import restrictions into Mexico, for the products that it is willing to commercialize, since some regulations per industry may obstacle the shipment of some products into Mexico, as in the case of pharmaceutical products and dietary supplements, for instance.

From the legal point of view, if a company is to set up a business online, depending on the specific nature of the business, it may have the need of incorporating a subsidiary in Mexico or a representation office.

Likewise, it must comply with all obligations set forth by the Federal Law for the Protection of Personal Information in Possession of Private Entities, and its Regulations, such as preparing a suitable Privacy Notice and Terms and Conditions for its website, in Spanish language.

It must also verify that all advertisement carried out in the course of its business is accurate, verifiable and free from all texts, images, sounds or any other elements that may be deemed as misleading.

What are the relevant types of parties that an online business can expect to contract with?

[Please insert answer. Are there any particular issues for dealing with web developers, or other parties (for example, inventory or supply chain management)?]

Electronic commerce in Mexico is not an activity regulated by any special legislation. However, the supplier-client chain has certain peculiarities, as it relates to professionals in web development and digital platforms, as well as administrators of sites and social networks and hosts.

Typically an e-commerce business that already has a digital platform (URL) developed and collection centres, will have contact with financial institutions and / or Fintech companies for everything related to their collection management.

On the other hand, another important part of the chain are the shipping and parcel service providers.

Additionally, marketing agencies are involved, in connection with media advertising campaigns. Also, the big providers of digital apps (Android, Google Store and Apple Store) are also an important part of the chain. .

What are the procedures for developing and distributing an app?

[Please insert answer. Please describe what issues must be considered upfront.]

The protection of apps in Mexico is a currently a very complex issue, since there is no legal figure available that protects business models or software-related inventions.

A company can protect its software through copyright in Mexico, but said protection is limited, since it covers only the source code of the software, but not the specific functions carried out by it.

Therefore, any other company developing its own software may launch an app for a similar business model.

In light of the above, in the case of the apps it is very relevant to properly protect its distinctive signs and graphic designs, in order to rely on the protection granted by the Mexican Law of Industrial Property, which may deter passing-off activities, though the business model cannot be protected per se.

### **Running a business online**

#### **Electronic contracts**

Is it possible to form a contract electronically? If so, what are the requirements

for electronic contract formation? Please comment on the enforceability of click-wrap, browse-wrap and shrink-wrap contracts.

Yes it is possible. In accordance with Mexican law, contracts become effective if the individuals or entities entering the contract express their consent and the contract purpose may be subject to a contract.

Mexican law does not distinguish nor has any specific requirements for the formation of electronic contracts. An electronic contract has to comply with the general contract provisions in accordance with Mexican law.

The Mexican Commerce Code in its Article 80 mentions that, commercial Agreements that may be celebrated by mail, telegraphs, electronic media, or optical or any other technological media, will become enforceable once the proposed offer is received or since the conditions of it will be modify.

What laws govern contracting on the internet?

Mexican Federal Civil Code, Mexican Commerce Code, Federal Civil Procedures Code, the Tax Code, the Criminal Code, the Industrial Property Law, the Federal Consumer Protection Law, the Federal Law on Copyright, the Telecommunications Law and the Geography and Statistics Information Law.

Are there any limitations in relation to electronic contracts?

In accordance with Mexican law, there is no limitation related to electronic contracts.

In order for an electronic contract to be valid, they must comply with the existence and validity requirements that the Mexican Federal Civil Code establishes.

Are there any data retention requirements in relation to personal data collected and processed via electronic contracting?

Data controllers can keep personal information only for complying with any liability derived from the processing of personal data. Personal data can be kept

by data controllers for a period of time equivalent to that of the statute of limitations corresponding to the legal action that would be taken for addressing any issue related to the legal relationship that serves as basis for the data processing. After said period transpires, the personal information must be cancelled.

Are there any trusted site accreditations available?

In Mexico the main trusted accreditation site for digital business is the one operated by the Association de Internet.mx (formerly known as AMIPCI). Its official website is located at [www.asociaciondeinternet.mx](http://www.asociaciondeinternet.mx)

Another trusted accreditation site is the one operated by NYCE, S.C., located at [www.nyce.org.mx](http://www.nyce.org.mx)

What remedies are available for breach of an electronic contract?

Remedies available for business to business electronic contracts would be the same than those available for non-electronic contracts, mainly civil actions. The difference would reside on the way in which evidence is perfected, submitted and weighed when dealing with electronic contracts, for instance, in order to validate e-signatures or confirm the source and delivery of electronic communications.

### **E-signatures**

Does the law recognise e-signatures? To what extent and when are e-signatures used in electronic contracting? Are they required in most transactions, or very few?

[Please insert answer. What is the applicable legislation, how are e-signatures defined, and do they have to appear in any specific format?]

Since 2003 e-signatures are regulated by Mexican Commerce Code, and since 2004 the Federal Tax Code also regulates the use of an e-signature, but only for

tax purposes.

As for the formats of electronic signatures, there are various software developers that provide such mechanism to online stores, the vast majority are apps from the financial institutions themselves that provide the service of collection to the store.

#### **Applicable legislation**

Mexican Commerce Code.

Federal Tax Code.

Law on Advanced Electronic Signature

#### **Definition of e-signatures**

Article 89 of Mexican Commerce Code defines e-signature as “Data in electronic format included in a message, or attached, or logically associated to the message through any technology, used to identify the signatory in connection with a data message, and to indicate that the signatory approves the information contained in the data message. It produces the same legal effects than the autograph signature, thus being admissible in trial”.

#### **Format of e-signatures**

The Tax Administration System (SAT) is in charge of regulating and granting e-signatures to individuals and entities. To obtain an e-signature one must present all of the requirements that are as follows: original or certified copy of ID, CURP (Unique Population Register Key), RFC (Federal Taxpayer Registry Number), original domicile ratification document, USB, email address and to schedule an appointment in the SAT website. In the case of an entity requesting its e-signature, its legal representative must have its own e-signature and submit

his/her general power for acts of domain or administration and original or certified copy of the incorporation document of the company. E-signatures don't have to appear in any specific format, once granted and revised by the SAT.

The request format for e-signatures is provided on the Tax Administration System (SAT) website.

Are there any limitations on the use of e-signatures?

Mexican Law does not limit the use of e-signatures. E-signatures will produce the same legal effects than an autograph signature, except otherwise provided in the Law.

It is worth mentioning that in Mexico every State has its own regulations and laws for e-signatures (i.e. in Mexico City the Electronic Signatures Law for Mexico City on its article 7 establishes that the use of e-signatures produces the same legal effects than the use of an autograph signature.

#### **Implications of running a business online**

#### **Cyber security/privacy protection/data protection**

Are there any laws that regulate the collection or use of personal data? To whom do the data protection laws apply?

The collection of personal data in Mexico is regulated by the Federal Law for the Protection of Personal Information in Possession of Private Entities, and its Regulations.

This law regulates the collection and processing of any personal information by any private entity acting as a data controller or data processor.

The collection of personal information by government entities is regulated by the Federal Law for the Protection of Personal Information in Possession of Obligated Subjects.

[For further information on data protection laws in [jurisdiction], see *Data Protection in [Jurisdiction]: overview.*]

What data is regulated?

[Please insert answer. Is business data (that is, non-personal data) subject to any or different regulation?]

Only the collection and processing of personal data is regulated by the above-mentioned laws. Non-personal data is excluded from its scope of protection.

Are there any limitations on collecting or using personal data? Are there any specific limitations on storage of personal data in the cloud?

The principles of collection limitation, data quality, purpose specification, use limitation and openness principles are recognized by Mexican Law. Therefore, the data collected must be the minimum for complying with the purpose of the collection, it must be informed and obtained by lawful and fair means, and where appropriate, with the consent of the data subject.

In Mexico there are no limitations for the storage of personal data in the cloud. However, data subjects must be informed in the privacy notice as to how their personal information will be stored in the cloud.

Is the use of cookies allowed? If so, what conditions apply to their use that impact system design?

The use of cookies is allowed in Mexico, and the only restriction for their use is that the consent of the user is previously obtained through an opt-in method.

What measures must be taken by contracting companies or the internet providers to guarantee the security of internet transactions?

The adoption of one or various authentication methods such as Personal Identification Numbers (PIN) or Transaction Authentication Numbers (TAN) are required to guarantee the security of Internet transactions.

TAN generator devices, biometric devices and QR codes are also commonly used in order to guarantee the security of Internet transactions in Mexico.

Public Key Infrastructure (PKI) is also currently used in Mexico to guarantee the security of Internet transactions.

Communications encryption through Secure Socket Layer protocol is also a current common practice in Mexico.

Is the use of encryption required or prohibited in any circumstances?

[Please insert answer. Specify any encryption-level requirements]

Encryption is not prohibited in Mexico.

In the case of telecommunications it is required to encrypt data when transmitted through telecommunication networks.

Can government bodies access or compel disclosure of personal data in certain circumstances?

[Please insert answer. Please briefly describe the circumstances in which government bodies can access or compel disclosure, if applicable.]

Mexican government bodies and judicial authorities are empowered to access or compel the disclosure of personal data under many circumstances, provided that the access or disclosure is required to the Data Controller or Data Processor, through an official communication duly justified and grounded on well-specified provisions of Mexican law.

This access or disclosure of personal information may be ordered when any Mexican government body is investigating any illicit activities presumably linked to the data subject, or when verifying the compliance of the data subject to any

legal provision.

Are there any regulations in relation to electronic payments?

[Please insert answer. Are there any system design requirements relating to the conclusion of electronic contracts or the processing of personal data, including any privacy by design (for example, statutory notification, anti-money laundering or trade sanctions) requirements? If the system takes decisions that affect individuals through automatic processing of their personal data, what are the implications? Are there any document retention requirements?]

In Mexico there does not exist a specific legislation related to electronic payments. All payments, including electronic payment, must comply with the general provisions set in the Mexican Commerce Code, the Federal Tax Code and the ones in the Law of Payment Systems.

However, it is worth mentioning that before any electronic transaction is processed, the customer has to give his consent on matters such as: processing of personal data, authorization for the payment processing, origin of the monetary resources and understanding of the terms and conditions of use of the website.

If the site is aimed at children, are there any specific rules or guidance that apply?

When dealing with the collection of personal data of children, Mexican laws regulating personal information refer back to the general rules of Civil law, thus ordering data controllers and/or data processors to obtain the consent of the parents of the children.

### **Linking**

Are there any limitations on linking to a third party website and other practices such as framing, caching, spidering and the use of metatags?

People or companies doing digital business in Mexico must be careful when incurring in practices such as linking.

Though there is no specific regulation under Mexican law prohibiting the above practices, under certain scenarios they may constitute an administrative infringement or even a felony.

For instance, the linking to websites that allow the unauthorized download or communication of copyrighted works, may constitute an administrative infringement or even a felony. If the linking is only to the home page of a website that allows the communication or download of a copyrighted work, it will be deemed as a “surface linking”, which is allowed under Mexican law.

However, if the linking is to a specific part, of the site where the copyrighted work can be exploited in any manner, it can be construed that there is a deep linking which should be deemed as making available the copyrighted works, without the authorization of its holder, which can be pursued either as an administrative infringement or a felony.

Likewise, the linking to third party’s websites under certain circumstances could be considered as an unfair competition activity, sanctioned by the Law of Industrial Property, if there is anything that may deceive consumers making them believe that there is a relationship between the products or the services offered by the operator of the website and those offered at the website that is being linked.

On the other hand, Mexico does not count on a regulation addressing practices such as metatagging, spidering, framing or caching; hence they are not expressly prohibited in Mexico.

#### **Domain names**

What regulations are there in relation to licensing of domain names?

[Please insert answer. Is it possible to register a country-specific domain name

without being a resident in the jurisdiction?]

There are no restrictions under the licensing of domain names in Mexico. It is possible to register a domain name either under .com.mx, .org.mx, .net.mx, .edu.mx, or directly under .mx) without being a resident in the jurisdiction.

Do domain names confer any additional rights (in relation to trade marks or passing off) beyond the rights that are vested in domain names?

[Please insert answer. Can domain names constitute property rights? Are domain names capable of protection as a registered trade mark?]

Domain names do not confer any additional rights under Mexican law. Mexico is aligned to the international rules set forth by the World Intellectual Property Organization, thus being clear that domain name do not constitute a property right.

Whenever there is a conflict between a trademark and a domain name it has to be decided through the Local Dispute Resolution Policy (LDRP), which is a variation of the UDRP rules, applicable to domain names under .mx

Domain names can certainly be registered as trademarks. However, the Mexican Trademark Office considers that the suffix of the domain names such as .mx lacks distinctiveness and therefore, said elements will not be considered in any trademark analysis.

What restrictions apply to the selection of a business name, and what is the procedure for obtaining one?

In accordance with the Regulations for the authorization of use of a business name, we can find as restrictions in the selection of a business name that i) it must be different of another one previously authorized by the Ministry of Economy; ii) it is confusingly similar to a trademark that is registered in the 45 international classes recognized by the Nice Agreement; iii) it is confusingly similar to a famous or well-known trademark; iv) it contains words prohibited by any legal provision or regulation in Mexico; v) it contains words that can be deemed as obscene, humiliating, offensive, discriminatory or violent, pursuant

the list published by the Ministry of Economy in the Official Gazette, and vi) it is comprised only of the name of a geographic place, or the name of an organization or government body, pursuant the list published by the Ministry of Economy in the Official Gazette.

#### **Jurisdiction and governing law**

What rules do the courts apply to determine the jurisdiction for internet transactions (or disputes)?

[Please insert answer. Please consider whether there are any special considerations for consumer contracts.]

When dealing with Internet transactions or disputes, Mexican Courts follow the rules set forth in the Federal Code of Civil Procedures, in virtue of which the applicable jurisdiction can be determined, among others, based either on: i) the place appointed by the parties to be legally summoned; ii) the place appointed by the parties to comply with an obligation.

Based on the above, in the case of internet transactions, either occurring business to business or business to consumer, Mexico follows the principle that the will of the parties will govern the agreement. Therefore, if any of the parties have accepted to submit to a specific jurisdiction in virtue of the e-agreement that has been executed, that will be the applicable jurisdiction, though the agreement may have effects in a different jurisdiction.

What rules do the courts apply to determine the governing law for internet transactions (or disputes)?

[Please insert answer. Please consider whether there are any special considerations for consumer contracts.]

The same rules described above for determining the applicable jurisdiction, would be applied as well by Mexican courts for determining the governing law for Internet transactions.

Are there any alternative dispute resolution / online dispute resolution (ADR/ODR) options available to online traders and their customers? What remedies are available from the ADR/ODR methods? Are there any requirements to notify customers of the availability of these methods?

Since 2003 Mexican Courts created a Mediation Center which is operated by the Courts themselves, but provide ADR services.

Likewise, there are some other commercial arbitration and mediation centers, such as Centro de Arbitraje México (CAM) and CANACO.

The ruling obtained from any of these ADR centers has the same validity than a decision issued by a Mexican Court and it can be enforced either in Mexico or abroad.

However, in Mexico there are no suppliers of ODR services, focused specifically in the solution of B2C conflicts of high volume e-commerce. Though the Federal Bureau of Consumer's Protection (PROFECO) renders an ODR services known as CONCILIANET, it is necessary that the suppliers of goods and services execute an agreement with PROFECO, so that consumers may use the Concilianet service, being the case that only a limited number of companies have executed the said agreement with PROFECO.

So far the only widespread ODR service in Mexico, is the UDRP proceeding prosecuted before WIPO, for the resolution of conflicts between domain names and trademarks.

It also has to be mentioned that Mexico still lacks a legal frame for ODR services. Therefore, so far there is no requirement to notify customers about the availability of ODR methods.

#### **Advertising/marketing**

What are the relevant rules on advertising goods/services online/via social

media?

[Please insert answer. Please include any special considerations that advertisers must be aware of when running online sales promotions.]

So far the only relevant regulation in Mexico comprising rules on advertising goods/services online/ via social media, is the Federal Law for Consumer's Protection.

Article 32 of the above-cited law sets forth the general rule for all sort of advertising by providing that: ***“Any information or advertisement related to goods or services disseminated by any means or forms, shall be truthful, verifiable and free of any texts, dialogs, sounds, images, trademarks, origin denominations and any other description that leads or may lead to error, for being deceptive or abusive.*”**

***For the effects of this law it shall be understood as deceitful or abusive advertisement, that which refers to characteristics or information related to any commodity or service, and whether or not true, leads consumers to error or confusion because of the inexact, false, exaggerated, partial, artificial or tendentious manner in which it is presented”.***

In addition to the above, Article 76 Bis of the same law regulates the rights of the consumers, in transactions effected through the use of electronic or optic means, or through the use of any other technology, by providing that in the execution of the said transactions the following rules shall be complied:

1. The provider shall use the information provided by the consumer in a confidential manner, so it cannot disseminate it or transmit it to suppliers unconnected to the transaction, unless expressly authorized by the consumer, or as a consequence of a judicial subpoena.

2. The supplier shall use one of the available technical elements in order to provide security and confidentiality to the information provided by the consumer, and prior to the execution of the transaction, the supplier shall inform consumer about the general characteristics of said elements.

- Prior to the execution of the transaction, the supplier shall provide the consumer with its physical address, telephone number, as well as any other means available for the consumer to file any claims or to request clarifications.

1. The consumer shall have the right to know all information concerning the terms, conditions, costs, additional charges, if any, payment methods, and services offered by the supplier.

2. The supplier shall respect consumer's decision as to the quality and quantity of the products that it wishes to acquire, as well as its decision of not receiving any commercial or marketing messages.

3. The supplier shall abstain from using sales or marketing strategies, which do not provide the consumer with clear and sufficient information concerning the offered services. The supplier shall specially abstain from any marketing practices addressed to vulnerable sectors of the population, like children, elders and sick people, by incorporating mechanisms that warn people when the information is not apt for that population.

These would be the only rules addressing the online advertising of goods, being the case that currently there is no express provision expressly addressing social media.

Are there any types of services or products that are specifically regulated when advertised/sold online (for example, financial services or medications)?

[Please insert answer. Please specify how they are regulated, by which regulatory authority, and how they can be legally sold.]

Though there are some sectoral regulations per industry, the rules contained in said regulations apply to the marketing or sale of the specific goods or services of each industry, regardless of whether or not they are being marketed or rendered online.

In other words, the special rules obey to the nature of the product themselves, and not to the manner in which they are offered, sold or advertised.

Are there any rules or limitations in relation to text messages/spam emails?

[Please insert answer.]

Mexico does not have any specific regulation dealing with unsolicited text messages or spam emails.

Currently, the Federal Bureau for Consumer's Protection only operates a "Do not call" registry, called REPEP (Public Registry in order to Avoid Publicity). Once that a consumer registers its telephone or mobile phone number with REPEP, suppliers have a 30 days terms to stop making any marketing calls or sending any marketing messages to that consumer's telephone or mobile phone.

However, nothing has been regulated yet in connection with spam emails.

Are there any language requirements in your jurisdiction for a website that targets your particular jurisdiction or whose target market includes your

jurisdiction?

[Please insert answer.]

The Federal Law for Consumer's Protection also requires all advertisement made through a website targeted to Mexico or whose target market includes Mexico, to display all information in Spanish language.

However, the Federal Bureau for Consumer's Protection (PROFECO) is an administrative agency with authority to enforce this provision only within the Mexican territory. Therefore, if the server where the website is hosted is located out of Mexican territory, PROFECO will not be entitled to enforce this provision.

#### **Tax**

Are sales concluded online subject to taxation?

There is a regulation for sales on the Federal Law for Consumer's Protection that provides a relationship Supplier- Customer about online sales, which protect customers of any kind of abuse of the Supplier.

Therefore, every Supplier that sales and issue an electronic or physical invoice has to pay the Valued Added Tax (IVA) which is 16 per cent of the sale.

Where and when must online companies register for VAT and other taxes?  
Which country's VAT rate will apply?

When a company is established in Mexico, it must be registered before the Ministry of Treasury and Public Credit (SHCP) for the performance of any payment of Rights, Entitlements and Products (REP's) at the e5cinco site.

The Country's VAT rate that will apply will be the one where the final consumer pays for the purchased product.

## **Protecting an online business**

### **Liability for content online**

What laws govern liability for website content?

[Please insert answer.]

In Mexico there is no regulation governing liability for website content, and therefore the general rules of the Mexican Civil Code will apply, which means that the person or company displayed as the responsible of the website, will be liable for its content, unless express disclaimers are included and correctly displayed where appropriate.

What legal information must a website operator provide?

[Please insert answer. Please consider whether there are additional requirements for consumer-facing websites. Are there any requirements about where the information should appear?]

The only rule set forth in Mexican law addressing the information that a website operator must provide, is the one comprised in Article 76 of the Federal Law of Consumer's Protection to which we have referred to above in question number 30.

Likewise, as we have also noted above, the Federal Law for the Protection of Personal Information in Possession of Private Entities obliges any data controller or processor, in this case the website operator, to provide the data subject, in this case the consumer, with a Privacy Notice, which is almost always included in the Terms and Conditions of the website.

The regulations of the above law also require the website operator to inform consumers as to the use of cookies, web beacons or any other technology that may track information from the consumers.

Who is liable for the content a website displays (including mistakes)?

[Please insert answer. If the website includes a blog or other facility for uploading any content, is the online business liable for any post or uploaded content, for example if it is defamatory or obscene? To what extent can an online retailer limit its liability to consumers or businesses?]

Once again, since the general rules of Civil law apply regarding the liability of website content, the person or company shown as the responsible for the website, will be held liable, unless express disclaimers are included where appropriate.

In light of the above, it is highly recommendable to include some policies in the Terms and Conditions of the website, providing users with a proceeding or method to submit online any complaints related of the website content, and providing the responsible of the website with a safeguard to determine whether or not any specific content deemed as infringing, offensive or defamatory to be deactivated within a certain period of time.

Can an internet service provider (ISP) shut down a website, remove content, or disable linking due to the website's content and without permission?

[Please insert answer. Please comment on the availability and enforceability of site blocking orders.]

Right now there is ongoing discussion among Mexican administrative and judicial authorities as to whether or not an ISP is entitled to shut down a website, remove content or disable linking due to the website's content and without permission.

Recently some copyright holders filed administrative infringement actions with the Mexican Institute of Industrial Property (IMPI), against some website which allowed the illegal download of musical and audio-visual copyrighted works, requesting as a preliminary injunction, an order against all the ISP's that allowed the access to the accused websites.

Some ISP's voluntarily complied with the injunction, thus shutting down the

website and displaying a legend stating that in compliance with an order from IMPI the access to that website was being suspended.

Some other ISP's refused to implement the injunctions ordered by IMPI and even challenged it. This matter escalated all the way up to the Supreme Court, which has recognized that IMPI is indeed entitled to order an ISP the shutting down of a website with illegal content, being the only restriction for IMPI to make a proportionality exercise, when ordering the total shut down of a website that may contain legal and illegal content.

#### **Liability for products / services supplied online**

Are there any rules that might apply to products or services supplied online?

[Please insert answer. For example, should auction sites consider liability for counterfeit goods sold via their sites? Can comparison websites incur legal risks associated with the use of spiders, bots or crawlers seeking information from other websites?]

There are no specific rules dealing with the liability for counterfeit goods sold online. Once again the general rule contained in Mexican Civil Code is the applicable one, and consequently the website operator will be liable for the products or services offered online, unless it includes the corresponding disclaimers where appropriate.

It has to be mentioned that auction sites such as ebay and Mercado Libre have adopted as best practice, the development of a program for the protection of intellectual property, which provides for an expedite proceeding, so that IP owners notify the auction site, when they detect the presence of any infringing or counterfeited goods, which leads auction site to shut down the section of their websites, where the infringing good was being offered.

Concerning comparison websites, currently there is no legal provision in Mexico prohibiting the use of spiders, bots or crawlers seeking information from other websites. Hence, so far it is only necessary to comply with the general rules

contained in the Federal Law for Consumer's Protection, regarding advertisement, which also apply to comparative advertisement.

### **Insurance**

How should an online business be insured?

It is advisable for online businesses that, aside from having a policy that covers most of the risks that a business of these characteristics may have, in their website they include well drafted Term and Conditions that contain a limitation of liability to the business owners.

Furthermore, it is advisable that the policy to be hired covers, at least:

- Breach to the costumers data;
- Transportation coverage;
- Business interruption;
- Damages on the products/services; and
- Intellectual property;

## Reform

Are there any proposals to reform digital business law in your jurisdiction?

In Mexico, there does not exist a digital business law, however, electronic regulations are contemplated in different legislations.

## Online resources

[Please provide a list of the following websites:

- Official websites where original language text of the legislation/case law/rules (where applicable) referred to in the article can be obtained. If no such websites are available, please provide a link to the government department (for example) where original language versions can be applied for.
- Where the original language is not English, please provide official websites where English-language translations can be obtained. If no official websites are available, please provide links to trusted unofficial sites, if applicable. If it is possible to apply for translations, please provide a relevant link.

The word limit for this box is 100 words.]

The information in this box should take the following format:

**W** <http://www.iedf.org.mx/transparencia/art.14/14.f.01/marco.legal/LFEDF.pdf>

**Description.** Law published in 2009 and amended lastly on 2014, regulating

electronic signatures in Mexico City, in Spanish language.

W [http://www.diputados.gob.mx/LeyesBiblio/pdf/3\\_020517.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/3_020517.pdf)

**Description.** Section of Mexican's Congress official website with the text of the Mexican Commerce Code, in Spanish language.

W [http://www.diputados.gob.mx/LeyesBiblio/pdf/2\\_241213.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/2_241213.pdf)

**Description.** Section of Mexican's Congress official website with the text of the Mexican Federal Civil Code, in Spanish language.

W <https://www.profeco.gob.mx/juridico/pdf/ley%20ingles.pdf>

**Description.** Section of PROFECO's official website displaying the Federal Law for Consumer's Protection in English language.

W <http://www.diputados.gob.mx/LeyesBiblio/pdf/LFPDPPP.pdf>

**Description.** Section of Mexican's Congress official website with the text of the Federal Law for the Protection of Personal Information in Possession of Private Entities, in Spanish language.

W [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=265701](http://www.wipo.int/wipolex/en/text.jsp?file_id=265701)

**Description.** Section of WIPO's official website displaying the text of the Mexican Law of Industrial Property in English language.

W [http://www.wipo.int/wipolex/es/text.jsp?file\\_id=128791](http://www.wipo.int/wipolex/es/text.jsp?file_id=128791)

**Description.** Section of WIPO's official website displaying the text of the Mexican Copyright Law in English language.

**E-SIGNATURES TABLE**

**[A table is included with this guide, providing readers with an at-a-glance summary of the position on e-signatures. Please complete the table below (taken from your answer to Questions 12 and 13).]**

Jurisdiction	Are e-signatures recognised?	What is the prescribed format of e-signatures?	Are there any limitations on the use of e-signatures?
Mexico	Yes	There is no prescribed format, only those to register and submit for an e-signature.	Mexican Law does not limit the use of e-signatures. E-signatures will produce the same legal effects than an autograph signature

#### **Contributor profiles**

**If you wish to provide a photo for the contributor, the photo should meet the following minimum specifications:**

- **Colour.**
- **300 dpi.**
- **Tif, jpg format.**
- **Preferably head and shoulders.**
- **Portrait.**
- **At least 5cm wide.**
- **Titled with the author's name.**

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**Professional qualifications.** [Please provide the jurisdiction(s) of qualification, and type of qualification. This should appear as, for example, England and Wales, Solicitor. This section can include the year of qualification, if wished, and can include non-legal professional qualifications (such as accountancy).]

**Areas of practice.** Intellectual Property, corporate and commercial law, privacy law

**Non-professional qualifications.** [Please provide the name of the Qualification, followed by the granting body. This is to enable the contributor to list non-legal qualifications which he or she wishes to highlight. This should appear as, for example, BA in Modern History, Bristol University.]

**Recent transactions**

[Please limit this section to a maximum of 100 words and use bullet points. For example:

- Acting for Shell in relation to a contamination and clean-up issue.
- Advising on greenhouse gas emission targets and carbon trading.

In certain cases, where confidentiality is important, the contributor may prefer not to reveal details of recent transactions. In that case, the contributor can either provide anonymous descriptions of recent transactions or a list of the general sorts of work that the contributor or the firm handle.]

**Languages.** [Please provide the languages spoken by the contributor.]

**Professional associations/memberships.** [Please limit this section to a maximum of 50 words. Please provide the professional associations to which the contributor belongs. This can include relevant legal professional bodies, arbitral associations, and so on.]

**Publications.**

[Please limit this section to a maximum of 50 words. Please provide a list of publications that the contributor has written or contributed to. This can also include the titles of