

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



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Peer Reviewed

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# **THE DOCTRINE OF FREE CONSENT IN ONLINE CLICK-WRAP AGREEMENTS IN INDIA**

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## **ABSTRACT:**

The significant increase in digital commerce has dramatically changed the way in which contracts are formed and executed. With the emergence of the online environment, the formation of contracts has become common through click-wrap agreements. Under click-wrap agreements, the parties agree by clicking the “I Agree” button before accessing the service. Though click-wrap agreements are efficient for the execution of contracts, they also raise pertinent issues regarding the existence of consent under the principles established by the Indian Contract Act of 1872.

The doctrine of free consent, as provided under sections 13 and 14 of the Indian Contract Act, requires that any agreement be entered into voluntarily and without coercion, undue influence, fraud, misrepresentation, or mistake. However, in the case of click-wrap agreements, users are required to consent by a single act without understanding or bargaining over the terms and conditions. This has led to a query regarding whether such acceptance is actually considered to be free and informed consent.

This research is aimed at exploring the legal validity and enforceability of click-wrap agreements in India, particularly in relation to the doctrine of free consent. The research has analysed how contract law principles are intertwined with the Information Technology Act, 2000, which provides legal recognition to electronic contracts. The research has also examined the problems arising from the bargaining power between online service providers and individual users, as well as those related to consumer protection in standard online contracts.

While Indian law has accepted the validity of electronic agreements, the existing legal framework does not adequately address the intricacies of electronic contract formation. Hence, the present study has highlighted the need for clearer regulatory measures and greater

transparency in electronic agreements to ensure fairness in electronic commerce without compromising efficiency.

**Keywords:** such as free consent, click-wrap agreements, online contracts, the Indian Contract Act, e-commerce, and digital consent come up frequently in this.

## INTRODUCTION

The rapid growth of electronic commerce in India has led to significant changes in traditional contract formation. With the emergence of digital platforms and the use of the internet for various commercial activities, the commercial environment has become more conducive to electronic contracts rather than direct negotiations between parties.

In the new digital environment of commercial activities, click-wrap agreements have become the most common way to obtain the parties' free consent. Under click-wrap agreements, users are forced to click on the acceptance button before they can access any service or complete any transaction. Although the use of click-wrap agreements simplifies contract formation and enhances the efficiency of commercial activities, it also raises important legal questions.

The Indian Contract Act of 1872 highlights the importance of free consent as an essential element of any valid contract. However, the use of click-wrap agreements in the digital environment of Indian commercial activities creates complexities regarding users' free consent. With the emergence of digital contracts and the use of the internet for various commercial activities, the concept of free consent requires examination in the Indian legal context.

## RESEARCH PROBLEM

The main issue of concern in the research is whether the validity of click-wrap agreements in the virtual environment meets the test of free consent under the Indian Contract Act of 1872. While the validity of electronic agreements in the virtual environment is recognised under law, the nature of click-wrap agreements raises serious concerns about the validity of user consent in these agreements.

In the virtual environment, the terms of the agreement are presented in a standard format, so users cannot bargain or vary them. Users must agree to the terms to use the services provided in the virtual environment. This raises a serious concern about the validity of user consent under

these agreements.

The research aims to determine whether the law provides sufficient protection to users against unfair terms in virtual agreements and whether additional provisions are needed to ensure fairness in such agreements.

### **OBJECTIVES OF THE STUDY**

1. The study discusses the concept of free consent under the Indian Contract Act of 1872.
2. The study explores how India treats the concept of click-wrap agreements through the legal system.
3. The study evaluates the genuine and free consent of people who engage in online contracts.
4. The study evaluates the concept of digital contract regulation based on the gaps and challenges identified.
5. The study provides recommendations on how to improve the situation through reforms.

### **RESEARCH METHODOLOGY**

The study reveals that click-wrap agreements have been recognised for their legal validity in India. However, the effective use of these agreements has raised concerns with regard to the satisfaction of the doctrine of free consent in the digital sphere. This is mainly because users enter into contracts without properly reviewing the agreements.

Another concern is the significant power imbalance between digital platforms and users, which affects the negotiation of contractual agreements. This forces users to sign contracts to use digital platforms' services.

The research has also revealed gaps in the regulatory framework, as the regulations fail to address certain issues related to standard contracts in the digital sphere. This has raised concerns with regard to the need for stronger regulations in the digital sphere.

### **KEY FINDINGS**

However, research indicates that click-wrap agreements are legally valid in India. The enforcement of click-wrap agreements is hindered by operational difficulties arising from the

requirement for free consent. There is a problem arising from users consenting to agreements without reading or understanding them. The power imbalance between digital giants and individual users prevents users from giving their free consent. There is a lack of a proper regulatory environment, characterised by insufficient legal protection for common online contract terms.

## 1. INTRODUCTION;

The digital economy has led to a series of changes worldwide in how people engage in contractual agreements. E-commerce platforms and service providers have grown significantly in India. Consequently, a major shift in the manner in which people engage in contractual agreements occurred. Currently, the primary way people engage in contracts is through electronic platforms. Traditionally, people used face-to-face interactions in the process of contract negotiation. Currently, people engage in contracts through electronic platforms. Among the most common methods of obtaining user consent in online transactions is the click-wrap agreement. Click-wrap agreements represent a form of electronic contract.

Click-wrap agreements require a user to click an “I agree” button to access a website or application. The user agrees to the service provider's terms and conditions by clicking the button. Consequently, the user enters into a binding contract with the service provider by executing the agreement. It serves as the user's consent. Click-wrap agreements offer digital businesses an opportunity to develop effective operational processes.

The parties must give their free consent to form a valid contract under the Indian Contract Act of 1872. The Act has provided definitions for consent and free consent under its sections 13 and 14, which assert that “any person does not make an agreement if it is induced by any undue influence or fraudulent representations or mistaken views as to any fact material to the agreement.” The doctrine of free consent is an underlying principle in protecting contractual agreements. The application of this doctrine has made it more challenging for organisations to grasp, especially as digital agreements are replacing traditional “paper contracts.”

Corporations draw clickwrap agreements as one-sided contracts that users must either accept or reject. The user cannot change the agreement or discuss any of its parts. The agreement also includes long, complex content using legal terminology that most consumers will find hard to comprehend. Most users of clickwrap agreements have not read the online terms and conditions

before agreeing to them. The analysis of the clickwrap agreement phenomenon raises the question of whether people can truly give free consent when they lack complete knowledge and the power to negotiate.

The Information Technology Act of 2000 facilitates the legal recognition of Indian electronic contracts by establishing the validity of electronic records and digital signatures. This act enables electronic commerce by enforcing all contracts in electronic form. Although legislation provides the framework for the recognition of electronic contracts, there is no clear guidance on the issues that arise from digital contracts, including those that require informed consent and equitable principles. There is an urgent need to apply traditional contract principles to interpret new contract elements in light of technological advancements.

The power imbalance between large technology companies and individual users is another area of concern, resulting in disadvantages for users who lack bargaining power. These technology companies operate in a market where users have few alternatives, and basic services such as communication, financial transactions, and identification are being integrated with technology. In such a case, the aspect of voluntariness is questionable. People may think that they are voluntarily agreeing to the terms, but the results show that users are denied access to services due to non-negotiable terms, which require users to accept all the terms of digital services. The contractual relationship, grounded in classical liberal principles, rests on the idea that both parties can negotiate on equal terms.

The clauses of click-wrap agreements establish conditions that define the boundaries of liability, set out methods for arbitration, determine how data should be handled, create privacy policies, and enable one party to change terms without the other party's agreement. The operational elements of these clauses make it impossible to establish users' rights and remedies. The enforceability of such provisions depends largely on whether valid and free consent can be established. The doctrine of free consent loses its protective function when people click buttons without understanding the choices they make.

Indian courts have also recognised, in several instances, that electronic contracts are enforceable, provided that all the basic principles of contract formation are satisfied. The process of reasoning that Indian law follows to establish that there is a valid assent is that it is present, but it does not discuss the issue of free will in making a contract. India's legal

framework is a mix of two opposing legal systems that provide business certainty and protect consumers. Free consent is a legal principle that requires interpretation.

The new regulatory requirements that arise from consumer protection laws and data protection standards create additional challenges for managing digital contract agreements. Modern legal frameworks increasingly recognise consumers' vulnerability in mass-market transactions. The legal system has changed its approach to consent requirements, moving from formal consent requirements to assessing how fair and transparent practices lead to just outcomes in business-consumer relationships. Traditional contract principles still need to be integrated with these recent developments.

## 2. LITERATURE REVIEW:

Many scholars have conducted research examining the transformation of traditional contract principles in the digital environment. In this regard, Manav Kothary and Niharika Negi<sup>1</sup> provide a significant contribution in their work titled “*The Evolution of the Offer and Acceptance Doctrine in the Digital Age: A Critical Analysis under the Indian Contract Act and the IT Act.*” The author says that the rapid growth of electronic commerce has changed the traditional way of contracting into an electronic contract, requiring the reinterpretation of classical contract principles. They focus on the fact that, while the Information Technology Act grants legal recognition to electronic contracts and digital signatures, it does not comprehensively address key issues, such as free consent and user assent, in online environments. The study particularly discusses the mechanism of digital consent in agreements such as click-wrap and browse-wrap contracts. From the point of view of the author, click-wrap agreements- where users explicitly indicate acceptance by tapping an ‘I Agree’ button- are generally considered legally enforceable due to the indication of assent. Browse-wrap agreements focus on the informed consent that users may not always be aware of the contractual terms. This article also points out evidentiary challenges relating to electronic records and highlights the evolving judicial approach towards digital contracting in India. The authors conclude that although the current legal framework provides recognition to electronic contracts, further doctrinal clarity and legislative reforms are necessary to ensure fairness and certainty in digital transactions.

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<sup>1</sup> Manav Kothary and Niharika Negi, ‘*The Evolution of the Offer and Acceptance Doctrine in the Digital Age: A Critical Analysis under the Indian Contract Act and the IT Act*’ (2025) SSRN Electronic Journal [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5626890](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5626890) accessed 5 March 2026.

Researchers who discussed on digital contracts have increasingly questioned the validity of consent in standardised online agreements. In this regard, Nishant Kumar<sup>2</sup> examines the nature of consent in standard form contracts in the article “*Click-No-Choice: Standard Form Contracts and the Myth of Consent in Indian Law.*” The author argues that modern digital transactions frequently rely on standardised contractual terms that are presented to users on a non-negotiable basis. In such arrangements, users are required to accept the terms by clicking an “I Agree” button before accessing digital services, which creates what the author describes as a “click-no-choice” situation. This study highlights that although such agreements appear to satisfy the formal requirement of consent under the Indian Contract Act, 1872, the practical reality often undermines the principle of free and informed consent. The article further explains that users typically lack the bargaining power, time, or technical knowledge required to fully understand lengthy online terms and conditions. As a result, consent in these agreements may be more symbolic than substantive. The author also emphasises that the traditional doctrine of freedom of contract assumes equal bargaining power between parties, an assumption that is increasingly unrealistic in the digital economy dominated by large technology platforms. Consequently, the study suggests that the existing legal framework may be insufficient to address the challenges posed by standardised digital agreements, thereby calling for stronger regulatory safeguards and a more nuanced interpretation of consent in the context of online contracting.

### **3. LEGAL FRAMEWORK GOVERNING FREE CONSENT IN INDIA**

The legitimacy of a contract in India, to a great extent, depends on the notion of free consent. In light of the recent trend in electronic trade, it is necessary to maintain the essential principles of the contract amid these changes. Although it is true that electronic contracts, such as click-wrap contracts, are executed through electronic means, it is necessary to maintain the essential principles of electronic contracts in the context of the essential principles of contracts. In the Indian legal system, the principles of contract from the perspective of free consent have been derived from the Indian Contract Act of 1872, and the principles of electronic contracts have been derived from the Data Protection Act of 2000.

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<sup>2</sup> Nishant Kumar, ‘*Click-No-Choice: Standard Form Contracts and the Myth of Consent in Indian Law*’ (SSRN Electronic Journal) <https://papers.ssrn.com> accessed 5 March 2026.

### 3.1 Doctrine of Free Consent under the Indian Contract Act, 1872

Free consent is one of the most important concepts related to the formation of valid contracts under Indian contract law. The Indian Contract Act of 1872 clearly states that only those contracts are valid and binding on the parties that are entered into voluntarily and with full knowledge of the terms and conditions of the contract. The Indian Contract Act of 1872 has specifically stated, under Section 10, that agreements are valid and binding as contracts if they are made with free consent, with competent parties, and for valid consideration and a valid object. This shows that the validity of contracts depends on a high degree of consent between the parties.

The concept of consent has also been clearly stated under Indian contract law as stated under Section 13 of the Act, which states that “two or more persons are said to consent when they agree upon the same thing in the same sense.” This shows that there should be a high degree of consensus among the parties regarding the contract, known as *consensus ad idem*.

However, it is not only necessary for the parties to give their consent, but also that it be free of any improper influence. This is clearly stated in section 14 of the Act, which states that “consent is free if it is not given by coercion, undue influence, fraud, misrepresentation, or mistake.” These factors are considered elements that may hamper either party's independent judgment when making a contract. Therefore, if consent is given through any of these means, it may raise questions about the validity of the contract and give the party the option to avoid it.

Coercion is the use of intimidation to force either party to agree to a contract. Undue influence is defined as taking advantage of one party over another to gain more. Fraud and misrepresentation include making false statements and taking undue advantage of another party through deceit. Lastly, there is a mistake involving entering into a contract based on a misconception of the facts.

These provisions are all geared towards ensuring that contractual relationships are fair and free from any form of exploitation by ensuring that decision-making in contractual agreements is voluntary. However, it is worth noting that the application of all these principles is made more complex in digital transactions. This is because, in a digital environment, a user is often prompted to click a button to agree to the terms of a contract without fully reading and

understanding the attached terms and conditions. This, therefore, creates a question of whether such consent can be viewed as free and informed in a contractual sense, particularly in relation to click-wrap agreements.

### **3.2 Electronic Contracts under the Information Technology Act, 2000**

The rapid evolution of internet technology has greatly impacted the formation of contractual relationships. Normally, contractual relationships are made through written agreements or direct communication between parties. However, with the advent of internet technology and electronic commerce, contractual relationships are being made through electronic mediums such as websites, applications, and other electronic interfaces. In response to these technological advancements, the Indian government enacted the Information Technology Act, 2000. The Act aimed to give legal recognition to electronic records and electronic communication in India.

One notable aspect of this Act is its recognition of electronic communication in making contractual relationships. Under Section 10A of the Act, it is stated that “a contract shall not be deemed to be invalid or unenforceable merely because that contract has been concluded through electronic communication.” This means that contractual relationships made through electronic communication, such as emails or websites, are given equal weight to written agreements. As such, contractual relationships made through online interfaces, such as click-wrap agreements, are binding on parties.

The Act has also given recognition to electronic records and digital signatures as means of authentication. By granting legal recognition to these electronic tools, the Act has facilitated electronic transactions in a secure environment and encouraged electronic business activities. This has been quite useful in facilitating the rapid growth of electronic business activities in India.

Although the Act has given legal recognition to electronic contracts, it is more focused on providing formal recognition to electronic transactions rather than addressing the actual content of electronic contracts. In other words, the Act has provided formal recognition of electronic contracts to ensure that such contracts are not denied enforcement on the ground that they are electronic. However, the Act has not addressed the actual content of electronic contracts, such as whether they are entered into with proper understanding on the part of users

or whether that understanding is voluntary.

Thus, it is evident that even in the case of electronic contracts, the basic requirements for a valid contract remain subject to the principles set out in the Indian Contract Act of 1872. Although the Information Technology Act has validated the electronic method of contracting, the determination of free consent, fairness, and enforceability of a contract is still subject to the principles of traditional contract law. Thus, it is evident that while analysing the concept of clickwrap contracts, it is necessary to understand the role of the doctrine of free consent in the modern era.

#### **4. CLICK-WRAP AGREEMENTS: MEANING AND CHARACTERISTICS**

In the wake of the proliferation of online services and digital trade, there is a growing need for standardised electronic contracts to govern the relationship between businesses and their users. Among the most popular forms of online contracts is the click-wrap agreement. These online contracts are often utilised by online websites and software developers to obtain users' acceptance of the terms and conditions before granting access to the services provided by the website. In the online world, click-wrap agreements are a pragmatic means by which a company can obtain users' acceptance of the terms and conditions.

A click-wrap agreement may be defined as an online contract that requires a user's indication of agreement by clicking a button labelled "I Agree," "Accept," or similar. Before clicking the choice, the user is usually given a chance to view the service terms and conditions via a hyperlink or a scrollable box. After clicking the choice, the user is deemed to have consented to the terms of the agreement, thereby creating a contract between the user and the service provider.

Such contracts are legally reinforced in India by the IT Act, 2000, which states that contracts formed through electronic means cannot be denied legal validity merely because they are in digital format. However, the general principles for a contract to be valid, i.e., the lawfulness of the consideration, the capacity of the parties, and consent, are still governed by the Indian Contract Act, 1872. Thus, although the contract is executed via click-wrap, it remains subject to the principles of contract law.

Another significant feature of click-wrap agreements is that they are often standard form contracts. This means that the terms and conditions in these contracts are set out in advance by the service provider and are not open to negotiation. In most cases, the user is left with two options: either accept the terms and conditions and continue using the service, or decline and stop using it. In all these cases, the terms and conditions of these contracts are ultimately decided by the service provider, and hence, there is an imbalance of power between the two parties.

Another significant feature that distinguishes click-wrap agreements from other online contracts is their inclusion of an explicit mechanism for obtaining user consent. This means that, unlike in some other online contracts, there is no room for implied consent in click-wrap agreements. This is because these contracts explicitly obtain user consent, and hence they are viewed more positively than some other online contracts.

However, despite the apparent simplicity of the process, a number of issues have arisen regarding the consent process. For instance, in most cases, the users are likely to agree to the terms and conditions without fully reading them. The terms and conditions are normally lengthy documents written in complex legal terms. This is likely to deter users from fully reading the terms and conditions. These terms may include limitations of liability, dispute resolution procedures, data usage terms, and the service providers' unilateral modification of the services. These terms may have a substantial impact on the users without their full knowledge.

In the online market, clickwrap agreements coexist with other types of online contracts. For example, browse-wrap contracts are those whose terms are made accessible via a hyperlink on a website, and users are deemed to have agreed to the terms by accessing the website. Another example is the shrink-wrap contract, commonly found in software contracts, where the contractual terms are deemed agreed upon by the user once they open the software package. Compared with the above contract types, clickwrap contracts are considered to provide stronger evidence of user assent.

However, the widespread use of standardised digital contracts raises pertinent legal questions regarding the concept of free consent. The absence of negotiations and the unequal bargaining power between digital platforms and users may coerce users into consenting to a contract to

access fundamental services. There are pertinent questions regarding whether the free consent of both parties is genuinely given in a contract.

It is therefore clear that, though click-wrap agreements play an important role in facilitating online transactions and e-commerce more generally, their operation must be analysed in the context of contract law. A proper understanding of the operation of these agreements is essential in assessing whether the principle of free consent is protected in the context of modern online contracting.

## **5. DOCTRINE OF FREE CONSENT IN CLICK-WRAP AGREEMENTS: A CRITICAL ANALYSIS**

The doctrine of free consent is one of the fundamental principles required for a valid contract to arise under the Indian Contract Act of 1872. For a contract to be legally binding, it must be entered into by both parties willingly without any pressure from others or under a misconception due to coercion, fraud, undue influence, or mistake. The doctrine of free consent is important, especially in a digital age where agreements are entered into electronically. In the case of a clickwrap contract, consent is usually expressed by a user clicking a button labelled “agree” to enter into a contract. Although this method is convenient, as it speeds up the process of entering into a contract, it raises concerns about whether it is a user's willing decision.

### **5.1 Nature of Consent in Online Agreements**

In online contracts, it has been observed that users are generally offered a set of pre-drafted terms and conditions while using a particular website or mobile application. To proceed or use the services offered by the particular entity, the user must express their consent by clicking a button. This is considered an expression of consent, ultimately leading to a contractual relationship between the user and the service provider.

The legality of electronic contracts is also supported by the Information Technology Act, 2000, which has recognised electronic communication contracts. However, it has been observed that, despite a change in the medium of contract formation, the fundamental principles necessary for a valid contract remain the same under the Indian Contract Act, 1872.

The first problem with these agreements is that the user may agree to the terms without reading or understanding them. These agreements are lengthy and complicated, which may deter the user from reading or understanding them. Hence, the user may only click the "accept" button to receive the service. These agreements are presented in a standard form and are entirely drafted by the service provider. Users cannot bargain or alter the terms of these agreements. Hence, users have only two options: either agree to the terms or stop using the service.

## **5.2 Unequal Bargaining Power between Parties**

One of the main issues that arises in click-wrap agreements is the power imbalance between the service provider and the consumer. The service provider is always given the power to set the terms and conditions of the agreement, without giving the consumer the power to negotiate any of the clauses. The consumer can either agree to the terms and conditions or cancel the service.

In most circumstances, the public uses digital platforms to carry out their day-to-day activities. Therefore, they feel obliged to agree to the terms and conditions without any questions. This creates a situation in which the agreement the consumer gives is not necessarily voluntary.

Most digital service providers also include clauses that exempt them from liability. Additionally, they include clauses that allow them to use the consumer's personal details. Since the consumer lacks the power to negotiate any of the agreement's clauses, the agreement becomes questionable.

Therefore, the power imbalance between the parties raises serious concerns about whether the doctrine of free consent, as recognised under contract law, is genuinely satisfied in online click-wrap agreements.

## **5.3 Lack of Awareness and Understanding of Terms**

Another important issue associated with clickwrap agreements is users' limited awareness and understanding of the terms and conditions they accept. The fact that these agreements are long and written in complex legal language also poses a challenge, as the average user may find them hard to understand.

It is also worth noting that most users just click "agree" without a proper understanding of the

implications of the agreements. However, the question that comes to mind is, “Is the consent given after proper understanding?” If users are unaware of the rights they are surrendering or the obligations they are taking on, this raises a grey area regarding free consent.

It is therefore worth noting that a lack of proper awareness and understanding among users poses a challenge to consent in clickwrap agreements.

## 6. CASE LAWS

Judicial decisions play an important role in understanding how courts interpret online agreements and the concept of consent in digital contracts. Although Indian courts have not extensively dealt with click-wrap agreements, several cases guide electronic contracts, standard-form contracts, and the principle of free consent.

### 1. Trimex International FZE Ltd. v. Vedanta Aluminium Ltd.<sup>3</sup>

In this case, the Supreme Court of India held that a valid contract can be formed even through electronic communication, such as emails, provided that the essential elements of a contract are present. The Court recognised that modern commercial transactions often occur through electronic means and such agreements can be legally binding. This decision supports the validity of electronic contracts in India.

### 2. LIC of India v. Consumer Education & Research Centre<sup>4</sup>

Although this case did not involve online agreements, the Supreme Court addressed the issue of unfair terms in standard-form contracts. The Court observed that when contracts are drafted by powerful institutions and offered on a take-it-or-leave-it basis, there is often inequality in bargaining power. This reasoning is relevant to click-wrap agreements, where users usually have no opportunity to negotiate the terms.

### 3. Central Inland Water Transport Corporation Ltd. v. Brojo Nath Ganguly<sup>5</sup>

The Supreme Court held that unfair and unreasonable clauses in standard-form contracts can be struck down if they are contrary to public policy. The case highlighted the problem of unequal bargaining power between parties. This principle is important in analysing online

<sup>3</sup> Trimex International FZE Ltd. v. Vedanta Aluminium Ltd., (2010) 3 SCC 1

<sup>4</sup> Life Insurance Corporation of India v. Consumer Education & Research Centre, (1995) 5 SCC 482.

<sup>5</sup> Central Inland Water Transport Corporation Ltd. v. Brojo Nath Ganguly, (1986) 3 SCC 156.

click-wrap agreements where users are compelled to accept pre-drafted terms.

#### 4. *Specht v. Netscape Communications Corp.*<sup>6</sup>

This U.S. case is frequently cited in discussions on online contracts. The court held that the terms of a contract cannot bind users if the terms are not clearly presented to them before they give their consent. The judgment emphasised that users must have reasonable notice of the terms for the agreement to be enforceable.

These cases collectively demonstrate that while electronic contracts are legally recognised, courts also remain concerned about fairness, transparency, and the presence of genuine consent in contractual relationships.

## 7. SUGGESTIONS AND RECOMMENDATIONS

### **The reality of click-wrap agreements**

Click-wrap agreements have become a normal part of life. Every time you sign up with a new service or download an app, you probably click “I agree” without reading a single word. Well, the problem with free consent is that it isn’t very free at all. It isn’t very free at all because most people do not read or understand what they are getting themselves into.

First of all, the online platforms have to stop using legalese. If the terms and conditions were clear and simple, normal people would be able to understand what they are getting themselves into. Right now, most of these agreements are written in a manner that practically challenges people to ignore them.

Second, the big stuff—like limitation of liability, arbitration clauses, or how your data is shared—shouldn’t be buried in the fine print. Platforms should draw attention to them. Use bold, a summary, or even a pop-up box. People should get a good heads-up before clicking “I accept.”

Third, it’s time for stricter rules. Regulators should step in and set guidelines for digital contracts. Laws like the Information Technology framework can push companies to play fair, keep standard form contracts balanced, and prevent them from exploiting users’ weaker bargaining position.

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<sup>6</sup> *Specht v. Netscape Communications Corp.*, 306 F.3d 17 (2d Cir. 2002).

Fourth, users have to get savvier. At the very least, people should be able to scan the important stuff before agreeing. And that isn't going to happen on its own—there should be educational efforts to help people understand their rights in the digital age and what these contracts are really saying.

Finally, the courts have a role to play here. Judges need to monitor these contracts closely and be ready to throw them out if they are unfair or one-sided. It's the courts that will keep the idea of free consent alive in a world where a contract can be signed with a single click.

## 8. CONCLUSION

The Indian legal system holds that it is permissible for people to enter into electronic contracts. The Indian legal system needs to reconsider the concept of free consent in the context of electronic contracts. Click-wrap contracts are significant for online commerce. The way it is structured makes one think whether people are consenting for real and with full knowledge of the consequences.

The Indian legal system and click-wrap contracts need a makeover to reflect changing ways of people's online interactions. This can be achieved by being aware of the consequences through the language used in contracts and by protecting users. In this way, users can give their consent in one place and with full understanding. However, this also has to strike a balance between allowing technology to advance and upholding the fundamental principles of a contract. If digital contracts are fair and transparent, then the concept of consent will remain relevant in a rapidly changing digital world, and the Indian legal system will remain supportive of clickwrap agreements.