

12. FOUNDATIONS THAT JUSTIFY THE USE OF  
DISTINCTIVE SIGNS TO GENERATE CONFIDENCE  
AND TRANSPARENCY IN ELECTRONIC

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electronic contracting in Peru? And in the international context, what is the role of Member States of the World Trade Organization (WTO) and World Intellectual Property Organization (WIPO) to promote secure and reliable electronic contracting?

Answering these questions is necessary and essential in order to justify the use of distinctive signs to generate trust and transparency in electronic contracting in the context of the COVID-19 pandemic in Peru, since distinctive signs will allow us to identify economic agents in the market.

In this way, we will provide electronic contracting with legal security mechanisms that mitigate the impact of mistrust generated by the use of information and communication technologies (ICT) and overcome clearly evident legal security problems. In this direction, the use of distinctive signs that allow us to identify economic agents in the market is certainly essential.

Finally, we believe that in this effort both the WTO and WIPO should play a very important role in promoting through the Member States the use of distinctive signs that allow us to contract safely and efficiently.

## 2. FOUNDATIONS THAT JUSTIFY THE USE OF DISTINCTIVE SIGNS TO GENERATE CONFIDENCE

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Likewise, it has been established in Article 65 of the Peruvian Constitution that the legal protection of consumers and users constitutes the cornerstone on which the Peruvian consumer protection system has been built. This normative provision has institutionalized this defense and provides that the State protect the rights of consumers and users and guarantee the right to information goods and services available to them on the market and security.

One of the manifestations and materialization of the said protection is found in special legislations. In this particular case, reference is made to the Consumer Protection and Defense Code (CPDC) contained in Law 29571<sup>4</sup> which includes as one of the fundamental





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the service implemented in Real Plaza Go, as detailed by  
the Commerce:

Real Plaza Go "Is the proposal of the firm with  
which it seeks to reach its customers through  
digital channels, thus giving way to electronic  
commerce. Real Plaza Go is much more than a  
marketplace; it is the extension of our  
21 shopping centers.

With this platform, we seek to transfer our purpose of  
happiness to the digital world0 g841.92 rETQq0.000008871 0 595.32 841.92 reW\* nBT/F1 9 Tf1 0 0 1 229.25 649.66 Tm0 g0 G51 2293IC /SpaE

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in an outstanding way to the regulation of electronic commerce in Peru.

It should be noted that these Model texts have been reflected in Law 27269 – Law of Digital Signatures and Certificates of Peru<sup>25</sup>, thanks to the support of the Competent Administrative Authority within the framework of the Official Infrastructure of Electronic Signature for Peru, and the support of the Commission for the Standardization and Inspection of Non-Tariff and Non-Tariff Trade Barriers (CNB), the INDECOPI, in accordance with Article 57 of Supreme Decree 052-2008-PCM Regulation of the Law on Digital Signatures and Certificates<sup>26</sup>. The abovementioned rules





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contracts, it is necessary to incorporate within the contractual forms certain mechanisms that would allow consumers to access the resolution of disputes immediately, easily, free of charge.

In this way, we will guarantee, in terms of legal certainty, sufficient predictability for the parties involved in the contracting of consumption and users. As Hernandez explains:

Predictability can be explained as the situation in which the subjects can know what the current rules of the game are, and, with some certainty, they can trust that these will not be modified between the time of decision making and that of execution. These rules of the game are provided by the law and that predictability is provided by legal certainty.<sup>34</sup>

In this manner, efficiencies are generated within the market to the extent that the consumer knows and knows they have suitable mechanisms allowing them to defend their rights.

A more efficient market in terms of predictability will provide greater economic growth as it will provide us with the necessary platform to generate confidence in the consumer at the time of contracting, since consumers will know how to materialize their





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improving the experience of the final consumer. Even in the face of failures and distortions that may be generated in the field of electronic contracting, the same providers could implement an insurance system that allows money to be reimbursed if the consumer exercises his right of restitution and/or the possible risks and damages that may be generated as a result of contracting the products and services in the market.

- (vii) It is possible can make efforts to harmonize public policies aimed at promoting reliable and secure electronic contracting based on the incorporation into the Model Law on Electronic Commerce of aspects related to the use of distinctive signs for Reliable Electronic Contracting.

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