

# JUST ONE CLICK: THE REALITY OF INTERNET RETAIL CONTRACTING

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## ABSTRACT

*This Essay explores the enforceability and presence of pro-seller contract terms in internet retail contracts. Analyzing case law on internet contract enforceability and a survey of 500 firms' websites, it demonstrates that even the enforceability of many internet contracts is questionable. It then presents new data that suggest that the prevalence of pro-seller contract terms is far less than usually assumed. It suggests that the benefit of making these terms enforceable is outweighed by the loss of user friendliness required for the necessary interface changes. Finally, it uses fresh statistical analyses to determine what relationship, if any, exists between enforceability, pro-seller contract terms, business size, product channel, or product type. Generally, it concludes that the contract literature has likely overestimated the benefit of the pro-seller contract terms and underestimated the role internet contract terms play in informal enforcement; unenforceable terms may still serve as guideposts to dispute resolution.*