



# **Legal Issues Arising from the Use of Mobile Devices in Electronic Commerce**

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# **Legal Issues Arising from the Use of Mobile Devices in Electronic Commerce**

**I . Introduction**

**II. Development of Mobile Finance**

**III. Legal Issues Arising from Mobile Finance**

**IV. Conclusion**



# I. Introduction

- Development of mobile devices and electronic commerce
- Constantly increasing rate of mobile subscription worldwide
- Legal framework for mobile finance

## **II. Development of Mobile Finance**

### **A. Technologies for Mobile Finance**

#### **1. SMS-based Application**

- Short Message Service
- Information about the status of bank account
- Push message and pull message



## **II. Development of Mobile Finance**

### **A. Technologies for Mobile Finance**

#### **2. WAP Browser-based Application**

- Wireless Application Protocol
- Conversational data exchange
- Both information-based service and transaction-based service

## **II. Development of Mobile Finance**

### **A. Technologies for Mobile Finance**

#### **3. IC Chip-based Application**

- Miniaturized electronic circuit
- Collaborate bank or credit card company
- Changing IC Chips from different issuers

## **II. Development of Mobile Finance**

### **A. Technologies for Mobile Finance**

#### **4. USIM-based Application**

- Universal Subscriber Identity Module
- Stores information about subscriber and authentication and provides storage space
- Download over the air various mobile finance applications

## **II. Development of Mobile Finance**

### **A. Technologies for Mobile Finance**

#### **5. NFC-based Application**

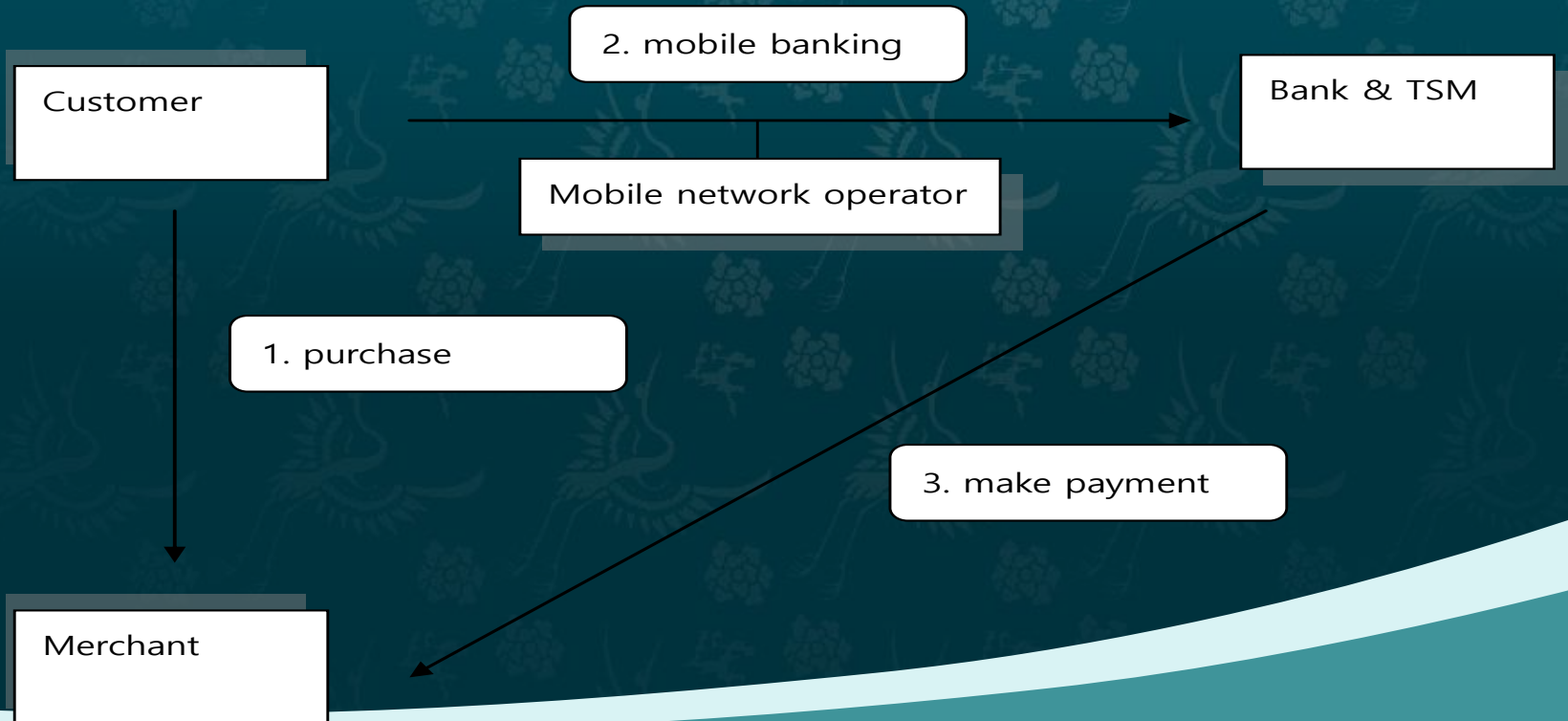
- Exchange of data between devices over about 10cm distance
- Standardization by GSMA and Mobey Forum
- Trusted Service Manager



## II. Development of Mobile Finance

### B. Solutions of Mobile Finance

#### 1. Mobile Banking

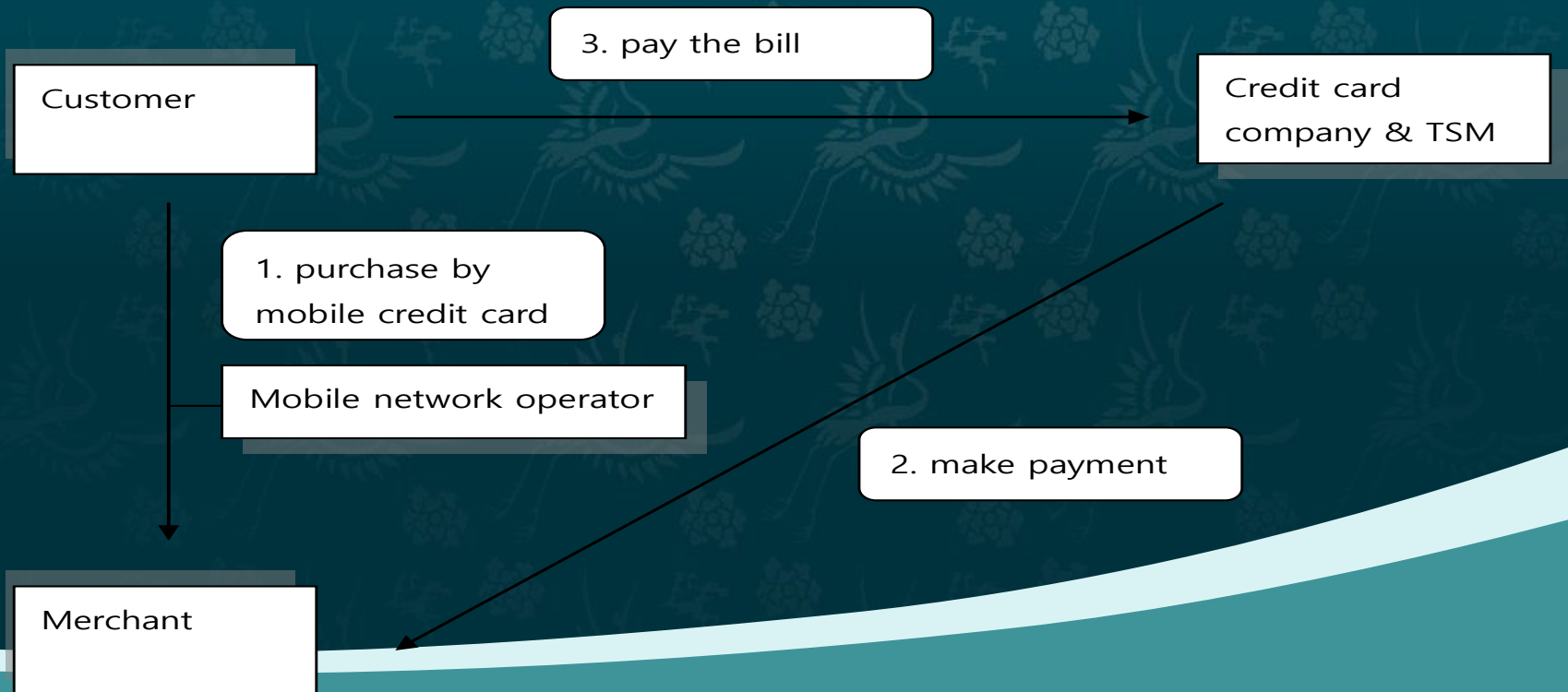


## II. Development of Mobile Finance

### B. Solutions of Mobile Finance

## 2. Mobile Payment

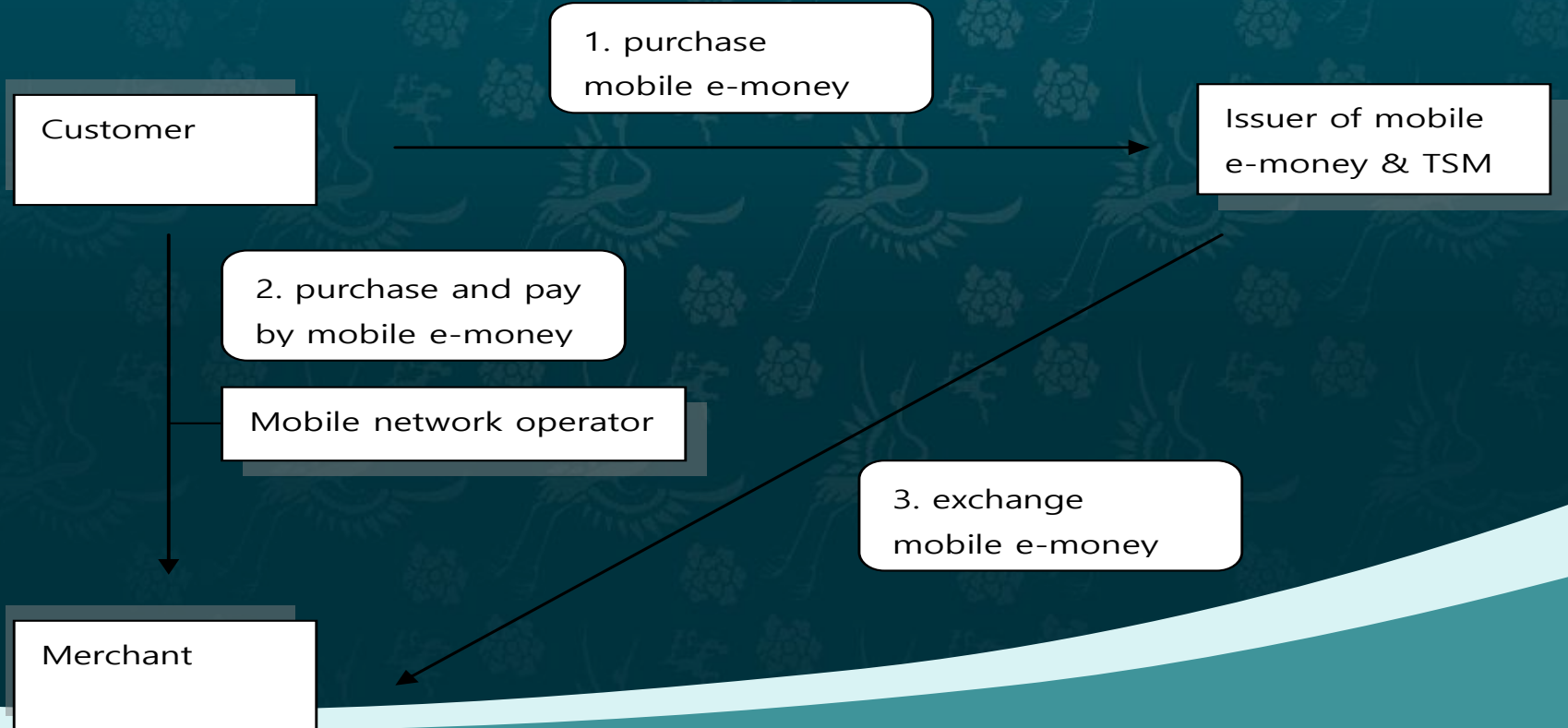
### (1) Mobile Credit Card



## II. Development of Mobile Finance

### B. Solutions of Mobile Finance

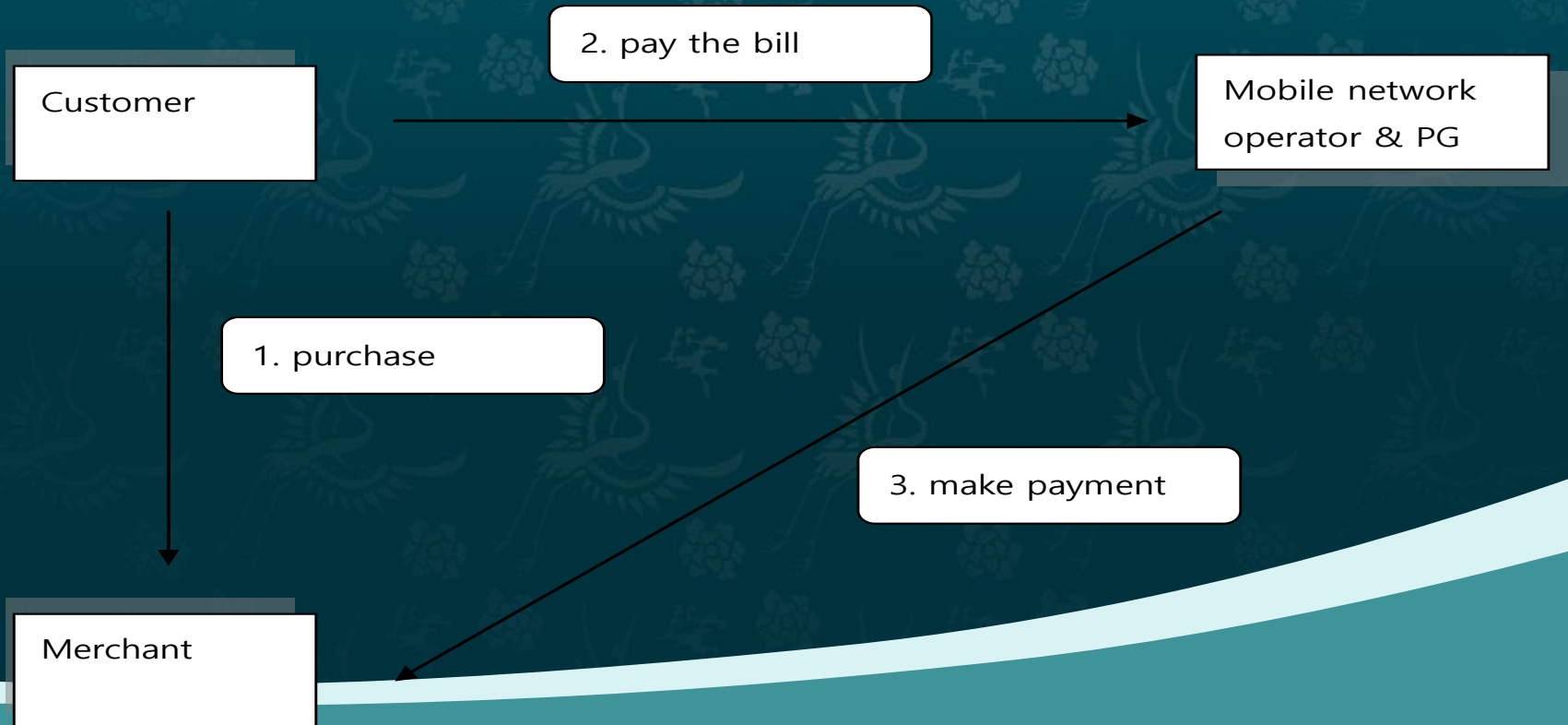
#### (2) Mobile Electronic Money



## II. Development of Mobile Finance

### B. Solutions of Mobile Finance

#### (3) Direct Mobile Billing Service





# III. Legal Issues Arising from Mobile Finance

## A. Participants

- Customers, merchants, mobile network operators, financial institutions, issuers of mobile electronic money, payment gateways and TSMs
- Electronic Financial Transaction Act of South Korea : Financial Institutions, Electronic Financial Business Operator, Subsidiary Electronic Financial Business Operator

# III. Legal Issues Arising from Mobile Finance

## B. Electronic Communication Used for Mobile Finance

- Definition, legal recognition, form, error, time and pace of dispatch and receipt
- UNCITRAL Convention on the Use of Electronic Communications in International Contracts, UNCITRAL Model Law on Electronic Commerce, Framework Act on Electronic Commerce of South Korea
- EFTA : confirmation of transaction, correction of errors

# III. Legal Issues Arising from Mobile Finance

## C. Electronic Credit Transfer

- Definition, time to execute credit transfer, revocation and completion of credit transfer
- UNCITRAL Model Law on International Credit Transfers
- EFTA : making payment, time when payment takes effect, withdrawal of transaction request

# III. Legal Issues Arising from Mobile Finance

## D. Unauthorized Financial Transaction

### 1. Liability Issues

- Forgery
- Alteration
- Accident arising in the course of electronically transmitting or processing the conclusion of a transaction



# III. Legal Issues Arising from Mobile Finance

## D. Unauthorized Financial Transaction

### 2. Liability of Financial Institution

- Non-facing and automated manner
- Bearing all the risk of Unauthorized financial transaction
- Except intention or gross negligence of customer

# III. Legal Issues Arising from Mobile Finance

## D. Unauthorized Financial Transaction

### 3. Liability of Mobile Network Operator

- Transaction errors during transmitting or processing
- Duty to indemnify to financial institutions

# III. Legal Issues Arising from Mobile Finance

## D. Unauthorized Financial Transaction

### 4. Liability of TSM

- Subsidiary mobile financial business operator
- Duty to indemnify to financial institution for loss caused by intention or negligence of TSM, duty to ensure safe processing and keep confidentiality

# III. Legal Issues Arising from Mobile Finance

## D. Unauthorized Financial Transaction

### 5. In Case of Mobile Electronic Money and Direct Mobile Billing Service

- Categorize as mobile financial business operator
- Same liability of financial institution
- EFTA : liability of financial institutions and electronic financial business operators and status of subsidiary electronic financial business operator



# III. Legal Issues Arising from Mobile Finance

## D. Unauthorized Financial Transaction

### 6. Loss or Theft

- Receipt of customer's notification
- Notification to TSM
- EFTA : notification to financial institution, electronic financial business operator and subsidiary electronic financial business operator

# III. Legal Issues Arising from Mobile Finance

## E. Exchange of Mobile Electronic Money

- Customer's duty to fulfill the payment is completed
- Issuers of mobile electronic money become bound to exchange mobile electronic money
- EFTA : fulfillment of payment by mobile electronic money and exchange of mobile electronic money

# III. Legal Issues Arising from Mobile Finance

## F. Duty to Secure Safety and Keep Confidentiality

- Ensuring security and reliability of mobile finance
- EFTA : duty to secure safety and keep confidentiality

# III. Legal Issues Arising from Mobile Finance

## G. Qualification and Supervision

- Traditional regulation on financial institutions could not be applied to mobile financial business operator or subsidiary mobile financial business operator
- EFTA : qualification and supervision



## IV. Conclusion

- Immense potential for various financial transactions
- Strengthening liability of financial institution and mobile financial business operator
- Unified Regulation defining the various solutions of mobile finance
- Setting up regulatory framework on qualification and supervision