

USE OF TECHNOLOGY IN ONLINE DISPUTE RESOLUTION

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ABSTRACT

Since quite some time, there has been a significant digital transition taking place, and technology is now part of our daily life. It has also infiltrated the area of consumer policy, where it is promoted to utilise technology to settle consumer disputes. A significant portion of consumer transactions now occur online as technology takes over. This has led to a rapid increase in disagreements and disputes, which cannot be avoided even if all parties behave with good faith. Since the majority of these are for low-value goods and services, consumers have little motivation to spend time and money on court cases or other frequently time- and money-consuming out-of-court settlement processes. In order for consumers to actively use their rights, the usage of online forums to settle such issues is being promoted. Online Dispute Resolution Mechanisms are those processes that use software and technology to settle conflicts. In the West, national authorities are creating open Online Dispute Resolution forums to settle minor conflicts, and it is getting more and more popular. Nevertheless, while growing in popularity, the mechanism faces a number of dangers and difficulties. These include a lack of understanding of the function of online platforms that offer such mechanisms and a lack of consumer awareness and trust. Therefore, it is crucial to address these difficulties before online conflict resolution techniques replace or take over traditional dispute resolution mechanisms in order to increase the system's dependability and accessibility for users.

INTRODUCTION

It is impossible to ignore the current growth of digital transformation. Every day, new technology, business models, and methods of doing business are being created. The extent of this shift today has grown to the point that it is having an effect on communities and economies alike and altering how people interact. Consumer policy is one of the areas where digital revolution is having a significant impact. In the field of consumer policy, problems like knowledge asymmetries, inadequate disclosures, and deceptive or unfair business activities have long existed. However, they are now more crucial than ever. Consumers are now more susceptible as a result of digital transformation, so it is vital to take action that will increase their trust in this new era of transition while also offering them necessary safety. The Organization for Economic Cooperation and Development (OECD) has therefore advised that fair and user-friendly out-of-court mechanisms, particularly Alternate Dispute Resolution (hereinafter "ADR") and Online Dispute Resolution mechanisms, be developed by merchants and payment providers jointly and made available to consumers without undue expense or burden.

CONSUMER ADDRESS AND DISPUTE RESOLUTION ARE VERY IMPORTANT

Conflicts and complaints from customers are unavoidable. Even when all parties are acting in good faith, there will inevitably be some arguments, whether they are between buyers and sellers, contractors and service providers, or both. Therefore, a significant amount of money needs to be invested in processes of complaint redress and dispute settlement in addition to assuring the quality of the goods and services made available to consumers. Consumers should

not require a lot of additional knowledge or assistance in order to use these tools. Thus, an effective dispute resolution method would give a customer clear, understandable, and accurate information about the entire process, including anticipated costs and length.

With the growing digital revolution and the prospect of more complaints as a result of purchases made without physical inspections, investing in these processes becomes even more crucial. Some estimates state that 1 to 3% of online transactions result in some sort of dispute because of things like delayed delivery or subpar goods. Furthermore, 16% of EU consumers indicated they avoided online shopping because they were concerned about not getting or being able to return their purchases in a 2017 EU-wide study. Another consumer poll from 2016 found that consumers' opinions on the efficacy of the current dispute resolution mechanisms were divided among the six G20 economies.

MECHANISMS FOR ONLINE DISPUTE RESOLUTION

An online private mediation of legal problems and disagreements without resorting to court litigation, which is public in nature, is referred to as an online dispute resolution (hence "ODR" mechanism). It makes use of software, information and communications technology, and standardised communications to facilitate negotiations, conflict resolution, and settlement. In order to discover patterns of customer behaviour and recommend settlements, these platforms use algorithms built on data from previous instances and complaints. Despite the fact that it was initially primarily designed to settle disputes in online purchases, it is now also utilised for offline transactions.

ODRs are quick and adaptable, and they do away with the requirement that all parties be present in person at a meeting or hearing. According to research done by the European Parliament, court cases in the UK often take 20 to 35 months to resolve, but ODR procedures can be finished in a matter of hours or days. A big consumer base can also afford the majority of ODR systems because they are typically offered for free or at a low cost. As a result of the growing digital transformation, both governments and consumers are interested in using ODRs for dispute resolution.

EXAMPLES OF EFFICULT ODR APPROACHES

With the introduction of its Resolution Center in 2004, eBay created the first ODR that was utilised widely. According to eBay, the Center has settled "more disputes over a longer period of time than any other ODR procedure in the world" since its founding. Through direct dialogue, the Centre helps parties resolve disagreements amicably. Users who went through the ODR process to resolve complaints were shown to have increased their usage of the platform, regardless of the ODR's conclusion, according to a study of consumer behaviour. PayPal, Alibaba, and other peer platforms like Airbnb soon followed eBay.

Public ODR systems have also been created in many G20 economies. Following is a list of a few of these:

The National Directorate on Consumer Protection of Argentina developed a portal in 2019 where consumer complaints can be submitted and handled online, making it the most recent.

Another illustration is a Canadian internet platform that helps consumers and businesses resolve disputes in return for a nominal charge.

Brazil's National Consumer Secretariat established an ODR portal in 2014. By enabling direct communications between customers and service providers, this portal supports online dispute resolution. This method now has a startling 80% resolution rate, and it takes an average of seven days to finish the procedure. Companies must explicitly register for the system, and use is voluntary. By May 2018, the system had 1.2 million complaints completed and 900,000 registered users from 442 companies.

The Office of the Federal Prosecutor for the Consumer, Mexico's consumer protection agency, launched the ODR system Concilianet way back in 2008. (PROFECO). It gives both online and offline customers access to a virtual conciliation platform based on the internet that is devoid of red tape and laborious paperwork.

By 2020, the Russian Federation also hopes to have an AI-powered public ODR platform up and running.

Even though India currently lacks a public ODR method or mode, numerous private ODR platforms have emerged there. The most recent innovation came from a company called NestAway, which specialises in house rentals. NestAway first used email to settle complaints with its tenants before launching CADRE, or the Centre for Alternate Dispute Resolution Excellence. Shalini Saxena and Kanchan Gupta created CADRE, a software that enables online dispute resolution. Indian developers are also working on other systems that are similar. In a

pilot programme for ICICI Bank, Sama, an ODR startup, is assisting with the resolution of approximately 10,000 disputes with monetary amounts up to Rs. 20 lakhs. The Centre for Online Dispute Resolution (CODR), which was established in 2019, promises to handle cases entirely online.

At the regional level, the EU has had an ODR platform for online transactions since February 2016 that makes it easier to resolve consumer disputes online.

The website, which supports consumers and counterparty traders in document submission and connects them with the proper ADR organisation for dispute resolution, is accessible in 23 different languages. More than 24,000 complaints were handled by the platform in its first year alone, and in 85% of those cases, the parties were able to choose an effective ADR body within the allotted 30 days after the complaint's submission. By 2025, the ASEAN intends to develop a comparable platform. Econsumer.gov, a cross-border online complaint tool created by ICPEN, also exists and offers information on alternative dispute resolution.

NEW RISKS AND DIFFICULTIES

Typically, a single consumer may not be particularly aggressive in seeking justice for a complaint involving a cheap product. If ODR is the only means of seeking redress and the system is difficult to use, he may become even more demoralised. The usage of ODR methods raises additional issues like hidden fees and fraud anxiety. The following is a list of additional problems that could result from the use of ODRs:

Ownership of Online Platforms

Despite the fact that many online sites have ODR procedures in place, there is still only limited global access to them. According to a Consumers International poll, more than half of the nations represented by its member organisations lack ODR systems, and online marketplaces are not required by law to offer this service. Even in cases where ODRs are offered, it is unclear how online platforms affect how their users employ these methods. There is no mention of the platform's participation in the resolution of disputes for transactions taking place via its channel, even though it is subject to consumer protection obligations in its interactions with users. The comparison between ODR and more formal forms of self-regulation, which are subject to rules of behaviour and accountability mechanisms, is also not entirely clear.

Not very effective

Any dispute resolution procedure will be deemed effective if it can handle a broad range of disputes relating to various goods and services, regardless of the method of purchase. ODRs, on the other hand, must ensure that their decisions are enforced in addition to having a wide range of capabilities, therefore they must achieve an even higher level. Despite the paucity of available data, it seems that little has been accomplished to make ODR determinations enforceable.

Lack of knowledge

ODRs are not as common as one would like them to be, as was already said. However, this is not the only issue. Even in places where these mechanisms are present, customers are either unaware of them or unsure of how to use them. Customers often struggle to comprehend the processes for filing complaints and how ODRs operate. With increased usage and more such ODRs are in place, it is believed that these issues will be resolved.

Lack of faith

ODR methods analyse customer behaviour patterns to apply algorithms to speed up settlements. However, there hasn't been much growth in confidence in the application of these algorithms. It has been stated that these algorithms can be based on inaccurate data and are unable to accurately represent sophisticated customer behaviour. Since consumers are unaware of the type of data being utilised in an algorithm, trust issues are exacerbated. Also mentioned was the possibility of encouraging unauthorised access to and use of customer data if a large amount of data is used before the algorithm can identify trends. The OECD has also drawn attention to the danger of firms manipulating data to serve customers with customised advertisements.

In favour of Merchants

As soon as an online retailer's sales volume climbs, it begins to frequently engage in the ODR system and there is a chance that it will be able to gather enough evidence to influence the outcome of the dispute in its favour. Such traders gain knowledge of the rules that govern the results and the types of data that lead to different kinds of decisions, which compromises the

process's objectivity. Additionally, over time, these companies acquire stronger financial and legal resources than the consumers, enabling them to persist with protracted resolution actions that a customer is extremely unlikely to be able to support. In other words, merchants are in a stronger position than their counterparties due to the number of data and resources at their disposal.

ODR is a positive development in the wake of digital transformations, but it is important to make sure that the mechanisms are strong enough to be used by the target audience of customers. The OECD and the UN have both offered a framework for an efficient ODR system (UN). In order to promote the growth of ODRs, the United Nations Commission on International Trade Law (UNCITRAL) also published its "Technical Notes on Online Dispute Resolution" in 2016.

CONCLUSION

Through the use of online conflict resolution procedures, the tech revolution has established itself in the field of dispute settlement. These systems help resolve conflicts without the requirement for physical presence by allowing parties to communicate virtually. We can draw the conclusion that ODR is gaining popularity, at least for less complicated cases. The system nevertheless has room for significant advancements to increase its dependability and consumer accessibility. Therefore, it will be a while before ODR can replace more established conflict resolution processes like litigation or arbitration.