

ONLINE DISPUTE RESOLUTION: ITS SCOPE AND EFFECTIVENESS IN E-COMMERCE

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ABSTRACT

In current times the majority of transactions take place in digital spaces. These days, everything can be bought online, from books to apartments. Nevertheless, there would inevitably be a rise in e-commerce conflicts as e-commerce transactions expand. However, the absence of an effective dispute resolution process in cyberspace would hinder the growth of electronic commerce. Therefore, it is important to recognize that several difficulties, including jurisdictional issues, choice of law issues, and high costs of cross-jurisdictional litigation issues, might relate to a variety of dispute types. According to the traditional definition of jurisdiction, a court must determine whether it has territorial, financial, or subject matter jurisdiction before it may hear a case.

Bearing this in mind this paper argues that online activities, notably e-commerce, have given prospective disputes and dispute resolution methods a new dimension. Since the internet makes it simple to conduct modest transactions across jurisdictional boundaries, out-of-court settlements are becoming increasingly significant. This paper fervently argues that alternative dispute resolution mechanisms play a crucial role in the context of e-commerce and jurisdiction in cyberspace, primarily by enabling users to settle conflicts more effectively even when the parties are from different jurisdictions.

Keywords: E-commerce, Transaction, Dispute Resolution, Cyberspace, Jurisdiction

INTRODUCTION

The growth of electronic commerce and the internet has been immense and has hitherto provided unheard opportunities to its users. The wide applicability of the internet makes it easier for different businesses in expanding their markets and offer their service to a larger public in the category of e-commerce. However, with the growth of such activity, there has also been a growth in the e-disputes which however also arises in offline transactions. To put it another way, e-commerce transactions may occasionally bring forth digital conflicts. To ensure that everyone involved in the field of e-commerce feels safe doing so to engage in online transactions, e-disputes must be settled appropriately, as ambiguity over the legal system may prevent both consumers from making online purchases of goods or services, and businesses from making an entry into the electronic sector. The problem becomes more disruptive when it has a cross-border origin. Currently, the global marketplace draws a lot of interest from millions of people. This market is supported by e-commerce facilities, which occasionally may show to be risky owing to the failure of business agreements that support conflicts. Online transactions give rise to the need for an arbitration clause. Several disputes are happening around the world involving online trade and such are approaching the courts to be adjudicated. However, the question that revolves around is which particular court shall have the jurisdiction to settle the dispute when there is the involvement of cross-border transactions. The legal framework has most certainly taken up this question and has tried to have its answer by considering the physical location of the parties and where the party conducts the trade. Such a party can then be physically sued for the dispute if at all any arises and thereby allowing the other party to sue at the place where the person was physically present and such party would then be governed by the principles of the legal framework present in that place.ⁱ

The utilization of international out-of-court dispute resolution processes could be an appropriate and well-liked response to these arising problems. This process would come in very handy by eliminating the expense of time-consuming lawsuits in a legal environment that is fragmented and unpredictable and such systems are most likely to be advantageous to consumers, SMEs and businesses. ⁱⁱSimilarly, when we talk about cross-border disputes they also include another ancillary issue for instance the law and the forum to be applied in that scenario along with that the course of language that is needed for the translation when cross-border disputes occur in addition to that there are various cultural differences along with

physical distance that is there between the parties. In this regard when the matter is potentially of a lower value the time along with the cost involved in resolving such a dispute is slow and expensive. In very essence, Private International Law is used where the customer is handled with the domestic law of where he is resident. Nevertheless, there is still certain inappropriateness of judicial enforcement while dealing with these low-value disputes which have become discernible. In this stand, the United Nations International Trade Law consented on “a working group should be established to undertake work in the field of online dispute resolution (ODR) relating to cross border electronic commerce transaction including business-to-business (B2B) and business-to-consumer (B2C) transactions.ⁱⁱⁱ The objective of this directive is to concede that the customary legal route is meager for resolving these kinds of disputes.

There is a progression in technological advancements in the current world, especially in artificial intelligence. Humanity is constantly exploring innumerable ways to make things easier and more approachable.

Keeping aside that, saving time and money is the most crucial objective for everyone around the world. ODR, or online dispute resolution, is a word that encompasses a variety of ADR-based online dispute resolution techniques. ODR is an addition to the current ADR processes based on the idea that several disputes, especially those that arise online, could also be resolved rapidly and productively in a digital setting.

On that note, this paper focuses and aims to explain the importance of Online Dispute Resolution and the impact that it will bring about mainly in e-commerce activities resolving genuine concerns and understanding consumer behaviour at large.

IS ODR A SOLUTION TO ARISING E-DISPUTES?

ODR or Online Dispute Resolution is a well-known method offering rapid and affordable dispute resolution. ODR is based on alternative dispute resolution (ADR) techniques, such as negotiation, mediation, and arbitration, and uses technology to expedite the process. When compared to ADR, technology is an extra element in ODR amounting to an easier way of fastening the resolution process. Technology is sometimes referred to as ODR's third partner,

joining the disputing parties and the conflict resolution expert. ODR, which is still in its early stages, allows for very simple and flexible communication between the parties without requiring their physical presence by using basic technologies like SMS, e-mails, and video conferencing capabilities, which indeed helps in minimizing the cost of the parties and also solves the problem of the jurisdiction as to the place of suing that arises. When ODR is at a more advanced stage, it can develop tools that use artificial intelligence and machine learning to help parties better plan their course of action and reduce disagreements among them. Every e-commerce business must create a suitable grievance redressal system and appoint a grievance officer under the rules to run a smooth business. The grievance officer designated by an e-commerce firm is required under the requirements to acknowledge the receipt of a complaint within 48 hours and to resolve it within one month of receipt from the aggrieved party. However, the provision leaves up the possibility of integrating ODR, it does not provide specifics of what such a grievance redressal system should include.^{iv}

When it comes down to understanding the internet's cross-border characteristics from a technological perspective because how technology facilitates connection and communication will eventually affect how the law is applied. Thus, it must be acknowledged and accepted that the Internet is not a hierarchical system. In the internet space when one is entering into a certain regime there appears a hyperlink that connects the user to the particular legal regime, nonetheless, the process becomes complicated because there are consents that are to be given to several legal systems. copies of frequently used sites are routinely cached; this method is typically used by Internet service providers (ISP).^v

A cache is a high-speed data storage layer used in computing that keeps a subset of data, often of a temporary nature, to respond to requests for that data more quickly than it would be able to do so by accessing the data's primary storage location.^{vi}

A user's browser must download data when they visit a new website so that it can load and show the content. Browsers cache the page's content and save a duplicate of it on the user's device's hard drive to fasten up this procedure for subsequent visits from the user. As a result, the content will already be saved on the user's device the next time they visit that website, thereby making the page load quicker.^{vii}

There is no unified control of the bundle steering of the internet. Every server in the organization surveys, whether to hold parcels for a brief time or on the other hand send them on, so that the greatest use is made of the accessible conveying limit at any given time. This technique implies that the expense and speed of message transmission on the web are autonomous of the actual area, and, in particular, the online users are uninformed where the actual information is got and retrieved are as a matter of fact where such information is truly found. On that note where the data is being sent from or to is of undeniably less importance than what is being sent.

As a result of ADR's greater legislative pliability than litigation, electronic cross-border issues can be handled without the need to compromise between different legal systems, even though it is primarily allowed to use a national law that has been ratified by the national legislation. An arbitration agreement substitutes the court's authority constructively and definitively, which as a result turns out to be one of the benefits of arbitration as an ADR method. ODR is instead viewed as a significant new instrument, in general, a new system, and a contemporary way of conducting business that is more efficacious than conventional methods in terms of efficiency, cost, and flexibility^{viii}. The effectiveness of alternative conflict resolution is combined with the strength of the internet to take the edge of money, time and exasperation of the users.

There are mainly two distinct characteristics of a dispute that should be evaluated in defining the scope of ODR proceedings that is its origin (either online or offline), and secondly its domestic or international nature. First off, ODR is ideal for online claims since it takes place in the same setting where the relationship was first established. However, claims from the offline world can also be successfully resolved using ODR processes. In the second scenario, online mediation is used to settle an offline conflict once the parties reach an agreement. Furthermore, ODR is beneficial for both domestic and foreign claims together. However, ODR can use its full potential in the international setting, particularly if the party's residential place is far apart and also the inclusion of travel cost which would come along with this along with the legal succour that would be amounting to a much higher cost than the actual amount asserted for.^{ix}

For instance, if we talk about a case where a party is considering seeking divorce and such party's husband or wife stays in another country, however, instead of litigating for this matter

the couple can rather assist with an online dispute resolution method and thereby minimize the cost of such legal succour and other additional costs. If we particularly think about the online platform where e-disputes are a very common thing, there are scenarios where customers may receive defective products or used products for which they might not be able to return and even after complaining about it to the said trader they might not end up in a very pleasing solution. In such situations, an online dispute redressal system comes very handy, where the appointed authority takes charge of it and helps in providing aid to the party. Therefore, it can be contended that with the rapid increase of e-commerce trading in the global online market it is imperative to consider that when a such dispute arises online dispute resolution platforms help it resolve at a fast pace and also minimize the cost that comes along with it.

HOW ODR IS REQUISITE IN RESOLVING E-DISPUTES IN THE CURRENT MARKETPLACE

- ***Effectiveness of Online Dispute Resolution***

E-commerce allows transactions to take place across many nations. The transnational aspect of e-commerce complicates the arbitration of these transactions.

Unlike traditional dispute resolution processes, ODR provides a quick, efficient, flexible, and low-cost approach for resolving e-commerce conflicts both locally and across borders. The ODR procedure offers businesses and consumers an easy and dependable way to resolve disputes originating from online transactions. Disputes emerging in the internet context vary significantly and are frequently exceedingly difficult for courts to handle for a variety of reasons, including the high value of claims, the disparity between the low value of the case and the high cost of litigation, and the question of relevant legislation.^x

The very basic goal of ODR is to allow parties to resolve their disputes using electronic technology. It may take place "instantaneously" or sequentially, depending on the rules that would be given by the ODR Provider and also according to the requests of the parties. This technique is frequently more commodious and certainly more economical than face-to-face discussions to negotiate and mediate, apart from that address current conflicts.

The exact parameters of the agreement reached by the parties could either be as comprehensive or as narrow as the parties would desire to choose, especially if the dispute is resolved through negotiation or mediation. The enforcement of the legal settlement may be dependent on the ODR Provider's regulations and jurisdiction, exceptionally if the variance is of a cross-border nature.

Even in those cases when there are vulnerabilities between the parties that may be increased by being in the same room such as in certain matrimonial disputes ODR comes out to be very beneficial.

ODR also enables those parties who would otherwise be incapable to reach out in a face-to-face meeting due to a serious impairment to participate. In other cases

Where the federal government is a party to the dispute, the ODR opted is kept confidential (except if the parties agree otherwise), according to be applied for the Ingress to Information Act and the Privacy Act. Any such method becomes pertinent when confidentiality is regarded crucial for the parties, however, which is often the case in any dispute resolution process. Parties who resort to dispute resolution procedures by default do so with the assumption that their personal information will not be divulged in the open public or to a court.

With the use of ODR, It is feasible to circumvent intricate jurisdictional concerns. One of the most obvious challenges of territorial limitation can be avoided with the assistance of ODR. It also transforms the system of conflict resolution from justice given in a courtroom to a service that can be benefitted everywhere.

Global e-commerce platforms have spearheaded the usage of ODR solutions for effective dispute settlement. Every year more than 60 million disputes are resolved using eBay's ODR platform for consumer grievance redressal. Over the recent decade, governments such as Europe and Brazil have made ODR necessary for resolving e-commerce complaints.^{xi}

- ***Understanding Consumer Behaviour***

Likewise, there are certain consumer concerns about which knowledge must be kept while addressing disputes. Their major concerns include a lack of trust in Internet financial transactions, non-delivery or late delivery of goods, a general inability to protect consumers'

privacy, no proper guide to seller's procedures as well as a lack of readily available plain language information. Consumers are mostly worried about being able to conduct business safely online, that is, without the fear of losing or having their personally identifiable details stolen, without the concern of identity theft, or fear of falling prey to Internet fraud.

These kinds of issues are unlikely to be resolved through the usage of ODR. Since ODR necessitates doing so the customer assumes that both the trader or the other party and the customer are prepared to participate in a process to settle a disagreement and perhaps come to a conjugated agreement both being agreed upon. Online scammers are unlikely to take part in ODR, whether they are stealing someone else's card details or delaying the delivery of products and services. Instead, one way to address this worry would be through consumer education, which emphasizes how a consumer can trade harmlessly and with insurance.^{xii}

The capacity to settle disagreements in the ADR community is seen by some as a positive impact on e-commerce while for others, the e-commerce world has given them the occasion to emerge a dispute resolution model from scratch where no other such method previously existed has given them the chance to unambiguously broaden their current tools and arrangements to wider intended customers and client base. Whatever the situation, in both cases successful dispute resolution and its headway in cyberspace are dependable on the ODR community's continuing growth, progress, and competence.^{xiii}

THE CURRENT SCENARIO OF ODR IN EUROPE, INDIA AND AMERICA

Europe

Europe has been a pioneer in emerging with the development of ODR and a major hub for ODR research on the subject since 2004. Currently, the state of the art of ODR in Europe provides a chance to inject some reality into the optimistic predictions while still making great strides toward making ODR services the standard methods for resolving online disputes and populating offline realms. One notable instance of such a platform is "The Mediation Room," which completed a 25-case pilot funded by the Ministry of Justice in England.^{xiv} Two court-employed mediators used a specialized online mediation platform while cases were pending

in a Small Claims Court for the final hearing. By offering discussion sections for both public debates between all parties to the dispute and also a private discussion between each party and the appointed mediator, the platform clones the face-to-face mediation process. The Dutch Legal Aid Board and Juripax, another platform that provides ODR services worked together to develop an online divorce mediation programme. The research project's objective was to determine whether divorce cases are successfully resolved through Internet mediation. In the United Kingdom, the Civil Resolution Tribunal Act (Bill 44) was enacted into law. It is basically for those minor claim cases, it establishes a Civil Resolution Dispute Tribunal as well as an online dispute resolution element. In recent times, the UK's Mediate BC organization undertook 50 online mediations for family issues. With all the changes and amendments brought out in the dispute resolution procedure by Europe, it has made a substantial contribution in the past to ODR but, with the new developments in distributed ODR, it will continue to do so at an increasing pace in the future.^{xv}

India

India has very reverently shown early potential in the ODR integration, despite being in the budding stage of ODR advancement at all three levels that are the government, the private sector, and the judiciary. During the COVID-19-induced lockdown, when the operation of traditional courts and conflict resolution bodies was severely constrained, some of the early developments proved to be quite valuable. For instance, only 357 cases, or 2.48 percent of the total number of cases submitted before the Supreme Court in April 2019, were able to be listed for hearing by the Supreme Court in April 2020. (14381 cases). As a result, even while courts and ADR facilities have been eager to adopt ICT tools, much more must be done to guarantee that the systems are effective and don't become demolished. The first official move toward the establishment of ODR in India was the report of the high-level committee on the deepening of the digital payment method. Many relevant laws address the ADR and technological aspects of ODR. The 1996 Arbitration and Conciliation Act regulates the ADR fields. The Code of Civil Procedure, published in 1908, is the primary piece of legislation that acts as the umbrella upholding further legislation. Under Section 89 of the Code, the court has the authority to subject the parties to all ADR procedures, not simply those that are under the purview of arbitration, such as conciliation, judicial settlement, mediation, or Lok Adalat. The Consumer

Protection Act (E-Commerce) Rules, 2020, which require e-commerce businesses to create internal grievance redressal systems, laid the groundwork for ODR.^{xvi}

The Information and Technology Act, of 2000 also applies to ODR's technical components. Sections 4 and 5 of the law recognize electronic records and signatures. The legal acknowledgment of the digitalization of the justice delivery system is urgently needed, and this Act can be used as a support mechanism.^{xvii}

The adoption and implementation of ODR have their own unique set of difficulties like any other dispute resolution method. There is a definite lack of digital literacy in the nation, which is a matter of concern given the size of the population. The gap must be closed if complete ODR implementation is to be accomplished at a larger level. It has become essential that India's regulatory framework upholds end-user rights while also making sure that innovation is not stifled. To accommodate the needs of ODR the present legislation must be changed to adopt a light-touch regulatory model that combines legislative and non-legislative powers.

America

The majority of ODR development took place in Canada and the United States. Some of the most prominent platforms that showed success were People Claim, Virtual Courthouse, and Ars Resolution. One of the few online dispute resolution firms in Northern America that focuses solely on online arbitration is eQuibbly.^{xviii}

Modria has been one of the best-known ODR providers to date in North America. From 2003 until 2011 the founder Colin Rule oversaw the eBay and PayPal ODR systems. A New York arbitration association has used Modria's software to settle medical claims resulting from specific kinds of vehicle accidents, and authorities in Ohio are applying this procedure to resolve disagreements over tax assessments. This platform is also being utilized in the Netherlands to assist people with divorce issues. Another example of a such successful platform that is driven up by a Canadian company is Smartsettle which professes ODR.^{xix}

The Cibertribunal is the first regional organization to provide ODR services for disputes involving domain names and trademarks in Latin America.

The Institute of Educational Communication (ILCE) in Mexico developed the ODR Regional Program for the Digital Economy, which is linked to the eConfianza project, which encourages the use of a trust mark and an automated regulation framework for e-commerce. Since ILCE's goal is to advance Latin America's digital economy's growth. To understand and satisfy the needs of online customers and suppliers at a regional level, this institution has taken on the responsibility of spearheading and aiding the establishment of ODR services relating to conflicts resulting from e- and m-commerce. The institution additionally also hopes to advocate and help with the application of integrated ODR services for a wide range of scenarios and needs by specializing in those areas.^{xx}

CONCLUSION

Over the years, dispute-resolution techniques have advanced significantly in contributing to the process of human civilization. Online dispute resolution (ODR) systems were developed with the basic idea of quick and affordable resolution of conflicts as their main goal. The ODR mechanism needs to be widely known and educated to the public, which can be done through many ways including social media, education, street plays, marketing, conferences, seminars, and campaigns, among other grassroots methods, on account of the massive growth of the online market. The government's involvement is also very important in providing funding for ODR initiatives and aiding in the creation of the administrative and technological infrastructure required for the launch of an ODR process. It is very essential to educate people about the fact that there are online conflict resolution options available around the corner. It is a matter of fact that ODR awareness should be prioritized, and that it be a combined effort of the EU, national governments, and the business community around the world to guarantee that not just awareness alongside the trust will grow between the customer and the business authority with it from the beginning. the most peremptory fact that needs to be seriously considered is data security and privacy of the parties and such must be treated seriously.

All ODR websites should mandate to employ of digital signatures of the parties and end-to-end encryption methods.

The underlying fairness tenets promoted by the American Better Business Bureaus, such as visibility, easy access, promptness, and little or no cost of online dispute resolution, should be taken as the references and must be made prerequisites for a successful ODR procedure.

Taking into consideration the above-stated factors strengthening ODR is a crucial step in promoting world peace and international collaboration in the settlement of cross-border issues.

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