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# RISE OF CONSUMER DISPUTES AT DIGITAL MARKETPLACE: AN ALTERNATIVE PATH TO JUSTICE

AUTHORED BY - ADITYA PRATAP SINGH

## INTRODUCTION

If there was one thing the digital age had brought about, it was a revolution in commerce. At a pace that beat previous records for shaping the global economy, it has already altered the face of the market, and suddenly companies like Amazon, Alibaba, and Etsy, among others, have come to flourish more freely in their working domains. They can now buy literally everything—from a rare vintage book to the newest smartphone gadget with just a few clicks, which may be done by a person thousands of miles away. This development has drastically transformed shopping convenience for customers, who can choose and find precisely what they want with equal, often superior, rates. But behind this comfort of online shopping lies growing ripples of consumer complaints that, left unchecked, stand to compromise the trust that fuels the online market.

From problems with defective products to false advertising, the digital marketplace leaves the majority of consumers battling dissatisfaction at every turn, and it doesn't seem fair; after all, they are often overpowered by any conflict. Traditional mechanisms of dispute resolution, such as litigation in courts of law, cannot address the challenges of this fast-moving market. Litigation is costly and time-consuming and has jurisdictional drawbacks to boot, which can be quite intimidating to the average consumer who spent comparatively only a paltry sum on that online purchase. Cases are now more crucial than ever to win, certainly at that level of customer service, and so should be decided quickly.

Enter **Alternative Dispute Resolution (ADR)**, which was seemingly designed to provide a smoother, cheaper way of settling disputes. ADR incorporates Mediation, Arbitration, and Online Dispute Resolution (ODR); these are fast emerging as the de-facto method through which to deal with the myriad complaints emanating from consumers pertaining to e-commerce. Such massive platforms in e-commerce have recognized this shift in the tide and

now implement ADR processes into their business policies for enhancing the living history of consumer trust and loyalty.<sup>1</sup>

This requires more than a practical necessity; it requires a fundamental shift wherein the way consumer interests and business operations come to terms with each other. If a marketplace is based on convenience and convenience is transacted rapidly, ADR has resolved to its practical ideal. Thus, one of the most important moments for the reconceptualization of justice to suit a digital economy may be integrating ADR mechanisms into channels offered by platforms such as Amazon, Alibaba, and Etsy. This new landscape empowers consumers but also determines how global commerce might resolve conflict in the future.<sup>2</sup>

## **KEY MECHANISMS OF ALTERNATIVE DISPUTE RESOLUTION IN E-COMMERCE**

As e-commerce continues to spread around the globe, mechanisms for the settlement of disputes between buyers and sellers must evolve to be in line with electronic marketplace norms. The sheer scope of transactions within those E-Marketplaces - Amazon, Alibaba, and Etsy, among others a flexible, efficient, and cost-effective means of dispute resolution. It has now become impossible for everyday consumer disputes over faulty goods, misleading advertisements, or contract breaches to be taken care of by the classic litigation machinery when traditional litigation is often replete with complex jurisdictional issues, long-drawn processes, and high costs. As such, mediation, arbitration, and ODRs assume an increasingly important role in consumer dispute resolution in the world of Electronic Commerce.

All these ADR mechanisms offer vast advantages: they are faster, cheaper, and accessible to more customers and businesses. This phenomenon of a shift from old modes of judicial litigations to electronic or alternative ones is part of an even greater development: a change of commerce from physical space to virtual one. In the following pages, we focus on the most prominent e-commerce platforms and the application of ADR in consumer dispute resolution.

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<sup>1</sup> Centre VM, "Alternative Dispute Resolving Mechanism in E-Commerce " (VIA Mediation Centre) <<https://viamediationcentre.org/readnews/MTUyMg==/Alternative-Dispute-Resolving-Mechanism-in-E-Commerce>> accessed October 2, 2024

<sup>2</sup> Ballesteros T, "International Perspectives on Online Dispute Resolution in the E-Commerce Landscape · International Journal of Online Dispute Resolution· Eleven Journals" 8 International Journal of Online Dispute Resolution 85

## 1. Mediation: Assisting in an Agreement

Mediation is one of the most frequently employed ADR processes in commercial disputes, especially in E-Commerce disputes. It involves a neutral third-party mediator who may represent participants and seek to deal with a disputing issue by facilitating communication between the disputing parties usually a buyer and a seller to reach a solution amicable to the parties involved. Whereas litigation is adversarial, mediation is seen as non-adversarial.

In E-Commerce, Mediation is the platform where consumers voice their grievances while the merchants find a resolution in a flexible and informal setting. Many e-commerce giants have embraced mediation due to their efficiency as well as friendliness toward the customers:

In the case of Amazon, it provides mediation in its services resolving conflicts involving third-party sellers and buyers in particular over such issues as defective products or delayed deliveries.

E-Bay also has a resolution centre where the two parties are allowed to converse before engaging the issue.<sup>3</sup>

One of the first advantages of mediation is that it maintains the business relationship between the consumer and the seller. Instead of making it a win-lose scenario, mediation aims to make it a win-win situation, which has to be highly significant as it maintains the trust that a customer has in an E-Commerce site.<sup>4</sup>

## 2. Arbitration: A binding Agreement

Arbitration is another ADR mechanism whereby e-commerce companies resolve disputes if the disputes are not amenable to resolution through mediation or negotiation. Compared with mediation, an arbitration process culminates in a binding decree that the arbitrator or panel of arbitrators can render. The process is somewhat similar to court litigation, though, because evidence and arguments are put forth, it is often more efficient, private, and less formal.

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<sup>3</sup>“ Alternative Dispute Resolution for E-Commerce” (Daniel W. Uhlfelder, P.A., June 6, 2019) <<https://www.dwulaw.com/news/alternative-dispute-resolution-for-e-commerce/>> accessed October 4, 2024

<sup>4</sup> Centre VM, “Alternative Dispute Resolving Mechanism in E-Commerce ” (VIA Mediation Centre) <<https://viamediationcentre.org/readnews/MTUyMg==/Alternative-Dispute-Resolving-Mechanism-in-E-Commerce>> accessed October 4, 2024

E-commerce sites often include arbitration clauses in terms of conditions, so there are usually few consumers who accept arbitration as the final step for settlement at the time of purchase. Companies like Amazon even use arbitration provisions, which allow third-party arbitration instead of necessarily going to the courts.<sup>5</sup>

There are several advantages to arbitration in e-commerce disputes:

It is faster, as arbitration usually takes less time than in litigation cases, which gets derailed by the complexities of procedures.

- Confidentiality: Arbitration is private as opposed to courts, where all proceedings are published. Businesses should thus protect their reputation and other sensitive information from public exposure.
- Expertise: the arbitrators have specialized knowledge of e-commerce or the type of dispute or controversy they are judging on, hence the decision is more suitable.

However, arbitration has its inherent criticisms. Consumers are often at an unfair disadvantage, especially where companies have a lot of control over who will select arbitrators, and, by and large, the form that arbitration procedures take. Still, arbitration remains one of the most important pillars of ADR in e-commerce because it affords finality and comparative speed.<sup>6</sup>

### 3. Online Dispute Resolution (ODR): ADR Goes Digital

Indeed, the electronic counterpart of the traditional mechanisms of ADR would be Online Dispute Resolution (ODR) which was introduced to meet the distinct challenges emerging from e-commerce disputes. ODR uses technology as a platform to facilitate a low-cost, easily accessible way to settle disputes, sometimes without the need for personal presence or even direct interaction between conflicting parties.<sup>7</sup>

ODR can handle cross-border disputes that are normally associated with e-commerce. For example, a client in one country buys a product from a seller in another. The question of the

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<sup>5</sup> Student MKI year BALLB (Hons), "Jurisdiction and Enforcement of E-Commerce Contracts"

<sup>6</sup> "Conditions of Use" (Amazon Customer Service) <<https://www.amazon.com/gp/help/customer/display.html?nodeId=508088>> accessed October 3, 2024

<sup>7</sup> mappingadr, "Online Dispute Resolution: The Future of Dispute Resolution in India" (Mapping ADR, April 17, 2024) <<https://jgu.edu.in/mappingADR/online-dispute-resolution-the-future-of-dispute-resolution-in-india/>> accessed October 5, 2024

application of whose legal system will complicate the case. ODR eliminates all this because it gives both parties a neutral online platform where either party accesses it from any location.<sup>8</sup>

Several prominent e-commerce sites have embraced ODR as their primary dispute resolution method:

Alibaba makes use of an ODR system that allows consumers and vendors to settle disputes through the very platform itself, especially international transactions. Such a process involves an automatic flow of disputed matters upwards to a human mediator or arbitrator. A similar ODR process is available on eBay's Resolution Center, which allows customers to lodge complaints, upload proofs, and negotiate with sellers using an all-online interface.

The advantages of ODR are rather obvious:

- **Accessibility:** The dispute resolution process is accessible from the consumer's home without legal representation or technical know-how.
- **Cost-effectiveness:** In most cases, the ODR platform is cheaper than traditional litigation, which saves both buyers and sellers large sums of money.
- **Speed:** Automated processes in the ODR system accelerate the resolution of simple disputes, and more complex cases can be handled by human mediators or arbitrators.

ODR, therefore, is a very possible future of ADR in an e-commerce environment where it proffers a scalable solution that can easily be applied towards the mushrooming number of disputes engendered by online transactions.<sup>9</sup>

## **CASE STUDIES ON ADR IN E-COMMERCE DISPUTE RESOLUTION**

ADR is an integral part of e-commerce. There are always disputes over defective goods, delayed deliveries, and misleading advertising. The three giant online shop vendors, Amazon, Alibaba, and eBay, created ADR systems for these disputes that need to be handled as effectively as possible to entice consumers to trust the system. The cases below will detail how ODR, mediation, and arbitration operate in actual conflict cases of e-commerce.

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<sup>8</sup>“ THE EVOLUTION AND EFFECTIVENESS OF ONLINE DISPUTE RESOLUTION (ODR) PLATFORMS: A COMPREHENSIVE ANALYSIS OF ADR IN THE DIGITAL AGE”

<sup>9</sup>“ Alternative Dispute Resolution for E-Commerce” (Daniel W. Uhlfelder, P.A., June 6, 2019) <<https://www.dwulaw.com/news/alternative-dispute-resolution-for-e-commerce/>> accessed October 4, 2024

## 1. Amazon's A-to-Z Guarantee: Streamlining ODR

The A-to-Z Guarantee by Amazon is among the most successful examples of an ODR system used to settle consumer disputes. The mechanism is specifically designed for the protection of consumers who purchase third-party sales on Amazon. The process allows consumers to claim whenever sold and delivered items are defective, misrepresented, not delivered, or received late after some delay.<sup>10</sup>

**Case Study: Defective Product Dispute** A customer had bought a costly smartphone from a third-party vendor on Amazon, who received the shipment and found at that time the product was defective when he opened the package. Without proper resolution, the buyer filed an A-to-Z Guarantee claim. In this case, Amazon started the process of ODR and sought proof from both sides, including the images of defects and proof of shipment. The ODR platform reviewed the evidence and, on failing the seller to find a solution, Amazon intervened and issued a refund to the customer.

This case portrays how the use of an ODR would be effective in settling disputes without trial litigation. Here, through an automated system that escalates situations if need be, Amazon is able to satisfy the demands of the customer with little burden to both parties.<sup>11</sup>

## 2. Alibaba's Buyer Protection: Cross Border Arbitration

As millions of cross-border transactions take place through its e-commerce platform, Alibaba's dispute resolution issues are largely complicated as legal systems and languages vary from place to place. For its ODR and arbitration with international buyers and sellers, Alibaba offers the Buyer Protection Program. The arbitration process typically is the last resort where mediation fails as it usually binds both parties by its decision.<sup>1213</sup>

**Case Study: Cross-Border Transaction Dispute** A buyer in Europe had ordered wholesale electronics from a supplier in China. The shipment had arrived, but the buyer was unsatisfied concerning the agreed-upon specifications. The buyer filed a case under the Buyer Protection

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<sup>10</sup> Hugh Collins, 'The Role of ODR in Resolving Consumer Disputes on E-Commerce Platforms: Amazon's A-to-Z Guarantee' (2016) 39 *Journal of Consumer Policy* 503.

<sup>11</sup> Colin Rule and Shreyas Friedberg, 'Amazon's A-to-Z Guarantee and the Impact of ODR on E-Commerce Dispute Resolution' (2019) 23 *Journal of Internet Law* 12.

<sup>12</sup> Yi Cheng and Wei Fang, 'Resolving Cross-Border Disputes in E-Commerce: Alibaba's Arbitration Process' (2017) 34 *Journal of International Arbitration* 221.

<sup>13</sup> Pablo Cortes, *The Law of Online Dispute Resolution* (Cambridge University Press 2015).

Program by Alibaba, which then entered into the ODR process. The parties attended several mediation rounds, but still could not agree on the matter. This case was arbitrated, and it was decided by the arbitrator, who knows international trade and contract laws to award a partial refund to the buyer.

This is how cross-border e-commerce disputes may actually be resolved efficiently through ODR and arbitration that bypass complex jurisdictional issues arising in regular litigation.<sup>14</sup>

### **3. eBay's Resolution Centre: Mediation in Action**

The Resolution Center in eBay is a tool that uses ADR to mediate disputes about transactions in the electronic commerce world. The buyers and sellers should directly settle disagreements with each other by exchange of communication. The website however comes in with mediation if both parties fail to agree.<sup>15</sup>

Case Study: A buyer purchased a vintage watch on eBay which described its condition as "mint." However, what he received had seen better days. The buyer complained through eBay's Resolution Center, which initiated the mediating process. He argued that his seller had inaccurately described the condition in which the watch was sent. The seller responded with photos taken when the watch originally was posted on sale. The parties submitted their proofs, and the mediator assisted them in negotiating this compromise. The seller accepted a partial refund, and the buyer retained the item.

Mediation in this case allowed both parties to sidestep the rigidity of arbitration or litigation, promoting a flexible solution that would preserve their relationship with each other in business.

### **4. Paypal's Dispute Resolution Process: A Buyer-Seller Agreement**

One of the most commonly used payment services in e-commerce, PayPal has a dispute resolution process for conflicts between buyers and sellers; when transactions made over the service go bad, it acts as a middleman.<sup>16</sup>

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<sup>14</sup> Pablo Cortes, *The Law of Online Dispute Resolution* (Cambridge University Press 2015).

<sup>15</sup> Xiaohua Zhao, 'eBay's Mediation Process in E-Commerce Disputes: A Case Study of Consumer Protection' (2020) 45 *International Journal of Law and Commerce* 75.

<sup>16</sup> Ethan Katsh and Orna Rabinovich-Einy, *Digital Justice: Technology and the Internet of Disputes* (Oxford University Press 2017).

Case Study: Failure to Deliver Product A customer ordered customized furniture from an online store. Several months later the furniture had not arrived, and communication from the seller had ceased. The customer filed a dispute on PayPal's website. PayPal sent a demand to the seller to supply shipping evidence; however, such evidence was never received. After a brief inquiry, PayPal decided in favour of the consumer and refunded the full amount.

This case explains how PayPal's process of dispute resolution, like that of ODR, resolves an issue by confirming facts and the immediate reimbursement of a consumer if the product was not delivered.

## CHALLENGES AND THE FUTURE COURSE

Although ADR has done its work so far, things are not yet smooth sailing. Many consumers just do not know about ADR or feel it is too complicated and intimidating, especially in dealing with big e-commerce companies. Concerns about imbalances in the power between consumer and company also feature prominently, since companies often control the appointment of arbitrators and might bring a bias toward its interests. To redress these disadvantages, regulatory authorities worldwide have been clamouring for more accessible ADR processes that are also in the interest of consumers. A great example of this push is the Online Dispute Resolution platform, instituted by the European Union, providing a harmonized, accessible framework to resolve cross-border, consumer online disputes.<sup>17</sup>

A future direction may be an education program on ADR processes for consumers, transparency during arbitrator appointments, and further reinforcement of oversight to ensure fairness in the verdicts. With additional improvements in laws and practices that cultivate ethical best practices, the ADR environment can be more equitable to consumers while maintaining trust in the developing e-commerce marketplace.<sup>18</sup>

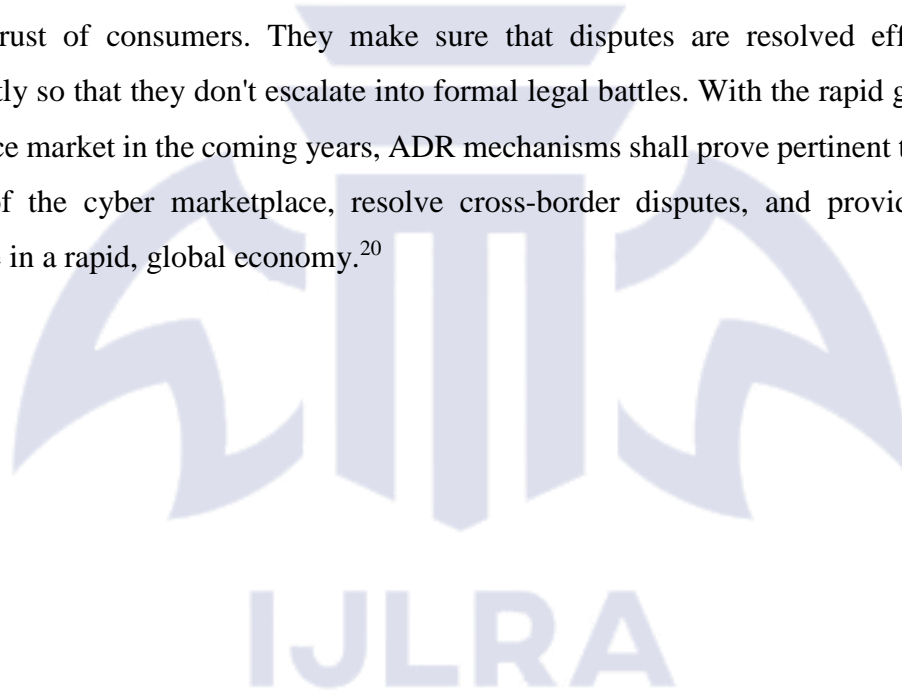
<sup>17</sup> “——” (Organisation for Economic Co-Operation and Development (OECD) 2002) <[https://www.oecd.org/content/dam/oecd/en/publications/reports/2002/05/resolving-e-commerce-disputes-online\\_g17a1bb5/233468177136.pdf](https://www.oecd.org/content/dam/oecd/en/publications/reports/2002/05/resolving-e-commerce-disputes-online_g17a1bb5/233468177136.pdf)> accessed October 8, 2024

<sup>18</sup> ——, “International Perspectives on Online Dispute Resolution in the E-Commerce Landscape · International Journal of Online Dispute Resolution · Eleven Journals” 8 International Journal of Online Dispute Resolution 85

## CONCLUSION

Alternative Dispute Resolution means mediation, arbitration, and Online Dispute Resolution processes, which, finally, change the whole approach to disputes in e-commerce. The nature of the business- convenience and quickness processes actually replace expectations from a consumer of delivering the result fast, cheap, and accessible. The basis of mediation is fostering negotiations, while arbitration makes a binding decision, whereas, by employing technology, ODR involves handling disputes without the necessity of their escalation to litigation.<sup>19</sup>

Platforms such as Amazon and Alibaba, along with eBay, have adopted ADR systems to hold onto the trust of consumers. They make sure that disputes are resolved efficiently and transparently so that they don't escalate into formal legal battles. With the rapid growth of the e-commerce market in the coming years, ADR mechanisms shall prove pertinent to sustain the integrity of the cyber marketplace, resolve cross-border disputes, and provide consumer confidence in a rapid, global economy.<sup>20</sup>



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<sup>19</sup> —, “International Perspectives on Online Dispute Resolution in the E-Commerce Landscape · International Journal of Online Dispute Resolution · Eleven Journals” 8 International Journal of Online Dispute Resolution 85

<sup>20</sup> “An Effective Dispute Resolution System for Electronic Consumer Contracts” 23 Computer Law & Security Review 42