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# **SAFEGUARDING CONSUMERS IN THE DIGITAL AGE: THE ROLE OF ONLINE DISPUTE RESOLUTION IN RAPIDLY ADVANCING TECHNOLOGY**

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## **ABSTRACT**

The short article delves into the critical topic of consumer protection in today's digital world, with a focus on how Online Dispute Resolution (ODR) plays a central role in the fast-paced technological landscape. It explains how the rapid integration of technology into our daily lives has created the need for new ways to protect consumer rights. By exploring the evolution, key features, and global adoption of ODR, the article emphasizes its vital role in tackling the unique challenges of digital transactions. The article further sheds light on India's emerging journey in adopting ODR within its consumer protection system, showcasing noteworthy initiatives and progress. It highlights how ODR and consumer protection laws work hand in hand, offering consumers accessible, efficient, and transparent pathways to resolve disputes in today's world. Ultimately, the article portrays ODR as a forward-thinking solution that fosters trust, transparency, and fairness in online transactions, empowering consumers to confidently protect their rights. By easing the burden on traditional legal systems and promoting fair resolutions, ODR stands as a key pillar of consumer protection in the digital age.

**Keywords:** Consumer Protection, Digital World, Online Dispute Resolution, Consumer Rights

## I. INTRODUCTION.

In today's world, technology has become deeply integrated into every aspect of life. Back in 2000's, only a small fraction (less than 7%) of the global population was online, but today, more than half of the world is connected to the digital world<sup>1</sup>. From communication to commerce, everything unfolds with the tap of a virtual button. However, with this ease, new challenges have emerged, such as data breaches, fraudulent activities, and misleading advertisements. Moreover, instances of consumer protection violations have become increasingly prevalent, burdening traditional avenues for dispute resolution such as the judiciary and tribunals. As of September 15, 2021, over 4.5 crore cases were pending across all courts in India. Of these, 87.6% cases were pending in subordinate courts and 12.3% in High Courts.<sup>2</sup> To address this, online dispute resolution (ODR) has emerged as a crucial solution. ODR provides a digital platform where consumers can efficiently resolve disputes arising from online transactions, bypassing the complexities and delays of traditional legal processes. By leveraging technology to facilitate mediation, arbitration, and negotiation, ODR provides a faster and more accessible means of resolving disputes. It helps alleviate the burden on overloaded judicial systems. Furthermore, ODR platforms promote transparency and fairness in dispute resolution. As technology continues to shape the landscape of commerce, use of ODR represents a progressive step towards ensuring effective consumer protection in the digital age.

## II. ONLINE DISPUTE RESOLUTION AND ITS EVOLUTION.

Online Dispute Resolution (ODR) is the procedure of resolving disputes using digital technology and alternative dispute resolution (ADR) techniques such as arbitration, mediation, and negotiation. It involves the use of online platforms and tools to facilitate communication, evidence exchange, and resolution between parties without the need for traditional in-person proceedings.

As per the research paper titled, "*Online dispute resolution: The future of justice*" by *Karolina Mania*, Online Dispute Resolution (ODR) has gone through four phases of

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<sup>1</sup> Madeleine Hillyer, *How Has Technology Changed -And Changed Us – In The Past 20 Years?*, WORLD ECONOMIC FORUM (Nov. 18, 2020), <https://www.weforum.org/agenda/2020/11/heres-how-technology-has-changed-and-changed-us-over-the-past-20-years/>.

<sup>2</sup> PRS LEGISLATIVE RESEARCH, <https://prsindia.org/policy/vital-stats/pendency-and-vacancies-in-the-judiciary> (last visited Apr. 5, 2024).

development since the 1990s. In the early years, it was experimental, then it grew rapidly from 1997 to 1998 with the establishment of commercial web portals. The late 1990s to 2000 saw many companies starting ODR projects, but not all survived. By 2001, ODR techniques were being adopted by courts and government agencies. One of the first ODR cases involved disputing parties using email mediation in the United States.<sup>3</sup> This process led to a settlement and laid the groundwork for ODR. “eBay” was among the first companies to offer ODR services through platforms like “SquareTrade”. Since 1999, the online marketplace giant “eBay” has offered an internal system for transaction parties to settle disputes online. Currently, it resolves over 60 million disputes annually, comparable to the total cases filed in US civil courts each year.<sup>4</sup> This showcases the potential of Online Dispute Resolution (ODR) in efficiently handling a large volume of cases and empowering parties to resolve disputes independently. The “CyberSettle”, founded in 1998, was another early ODR portal in the US. It allowed parties to negotiate settlements online, ensuring confidentiality and efficiency. Since then, Online Dispute Resolution has evolved in a broad sense. Today, it stands as a popular and potential way of resolving disputes without having to appear in person across the globe.

### III. KEY FEATURES OF ONLINE DISPUTE RESOLUTION.

Online dispute resolution (ODR) offers several key features that gives it an edge compared to traditional dispute resolution methods:

1. Easy and Efficient: Participants can engage in the resolution process from anywhere with an internet connection. Parties can submit claims, exchange information, and negotiate settlements online, reducing delays.

2. Convenient: 75%-97% of citizens globally are not seeking legal assistance to resolve their justiciable problems due to the complex nature of judiciary.<sup>5</sup> In India, a large proportion of cases are also withdrawn due to delays, cost, or threats of violence. ODR provides a

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<sup>3</sup> Karolina Mania, *Online Dispute Resolution: The Future of Justice*, 1 ICJ, 76, 76-78 (2015) <https://www.sciencedirect.com/science/article/pii/S2351667415000074>

<sup>4</sup> RESOLUTION SYTEMS INSTITUTE, <https://www.aboutrsi.org/special-topics/online-dispute-resolution#:~:text=Since%201999%2C%20the%20online%20marketplace,in%20all%20US%20civil%20courts.> (last visited on Apr. 4, 2024)

<sup>5</sup> Aditi Singh et al., *Accelerating the Adoption of ODR in India Could Transform How Disputes Are Resolved in an Overburdened System*, DALBERG (Apr 08, 2021), <https://dalberg.com/our-ideas/accelerating-the-adoption-of-odr-in-india-could-transform-how-disputes-are-resolved-in-an-overburdened-system/>.

convenient way for parties to resolve disputes without the need for physical presence or extensive paperwork. This flexibility saves time and resources for all involved.

3. Neutrality: ODR platforms maintain neutrality by providing a neutral environment for resolving disputes. This ensures fairness and impartiality in the decision-making process.

4. Cost-effective: ODR typically involves lower costs compared to traditional litigation or arbitration. Parties can avoid expenses such as legal fees, travel, and court fees, making dispute resolution more affordable.

5. Flexible: ODR offers flexibility in the choice of resolution methods, including mediation, arbitration, or negotiation. Parties can select the most suitable approach based on their preferences and the nature of the dispute.

6. Secure: ODR platforms prioritize the security and confidentiality of participants' information. Advanced encryption and data protection measures are employed to safeguard sensitive data exchanged during the resolution process.

7. Eco-friendly: ODR, or Online Dispute Resolution, offers an eco-friendly approach to resolving conflicts by eliminating paper usage, reducing the need for physical travel, conserving resources, and promoting global access to justice. *Production of a single paper requires wood from trees and 10 litres of water. India can save these crucial resources by switching to ODR, saving paper through soft copies of documents.*<sup>6</sup>

Overall, the features of online dispute resolution make it a practical and effective alternative.

#### **IV. ODR: CHALLENGES AND SOLUTION:**

Despite several advancements, there is still a lot of work to do to implement and improve ODR system effectively. ODR also suffers from following challenges:

(1) Limited Human Interaction: ODR reduces face-to-face interaction, which can obstruct

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<sup>6</sup> Ananya Singhal, *How Beneficial is ODR for the Environment?*, PRESOLV360 (Mar. 4, 2023), <https://presolv360.com/resources/how-beneficial-is-odr-for-the-environment/#:~:text=Production%20of%20a%20single%20such,through%20soft%20copies%20of%20documents>.

rapport-building and lead to misunderstandings. Solutions include incorporating video conferencing or real-time chat features for more direct communication.

- (2) Technical Issues: Connectivity problems or technical glitches can disrupt ODR processes, causing delays and frustration. To tackle this, platforms should prioritize user-friendly interfaces, provide technical support, and ensure robust infrastructure.
- (3) Privacy and Security Concerns: ODR involves sensitive data exchange, raising privacy and security worries. Platforms need to implement strong security measures like encryption and comply with data protection regulations. Clear privacy policies and transparent communication can also build user trust.
- (4) Lack of Legal Enforcement: ODR decisions may lack legal enforceability, especially across borders. Collaboration with legal experts and regulatory bodies can help develop mechanisms for recognizing and enforcing ODR agreements or decisions.
- (5) Digital Divide: As per '*India Inequality Report 2022: Digital Divide*', released by Oxfam, women constitute only one-third of internet users in India. Despite registering a significant (digital) growth rate of 13 percent in a year, only 31 percent of the rural population uses the Internet compared to 67 percent of their urban counterparts, says the report.<sup>7</sup> Only 31 per cent of the rural population uses the internet whereas 67 per cent of India's urban population uses the internet (OXFAM INDIA, 22). Solutions include offering alternative participation methods like phone support or offline document submission. Bridging the digital divide through community outreach and technology literacy programs can also help improve access to ODR services.

## VII. ONLINE DISPUTE RESOLUTION IN PRACTICE AROUND THE GLOBE.

Online Dispute Resolution (ODR) has become increasingly prevalent across the globe, with various countries implementing platforms and systems to facilitate alternative dispute resolution methods. In the European Union, the establishment of the Online Dispute Resolution Platform (ODR Platform) by the European Commission in 2016<sup>8</sup> has provided

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<sup>7</sup> NEXTIAS, <https://www.nextias.com/ca/current-affairs/05-12-2022/india-inequality-report-2022-digital-divide> (last visited on Apr. 5, 2024).

<sup>8</sup> EUROPEAN COMMISSION, <https://ec.europa.eu/consumers/odr/main/?event=main.home.howitworks> (last visited on Apr. 5, 2024)

consumers in EU member states, as well as in Norway, Iceland, and Liechtenstein, with a mechanism to settle disputes with traders out of court. Similarly, in the United States, numerous small claims courts have adopted ODR practices to streamline dispute resolution processes and alleviate court backlogs<sup>9</sup>. Canada has also been proactive in embracing ODR, exemplified by initiatives such as the *British Columbia Civil Resolution Tribunal*<sup>10</sup>, which handles a range of disputes including property claims and motor vehicle injury cases. Additionally, the United Kingdom has integrated ODR into its civil justice system<sup>11</sup>, recognizing its potential to efficiently resolve disputes while reducing costs. Overall, ODR is emerging as a valuable tool worldwide, offering convenience, accessibility, and efficiency in resolving disputes outside of traditional court settings.

## VIII. ONLINE DISPUTE RESOLUTION IN INDIA: PRESENT SCENARIO

In India, the concept of Online Dispute Resolution (ODR) is still in its early stages, but there are significant developments indicating its potential growth. NITI Aayog has released a comprehensive report titled '*Designing the Future of Dispute Resolution: The ODR Policy Plan for India*,<sup>12</sup>' aimed at scaling up online dispute avoidance, containment, and resolution. This initiative stems from a committee formed in 2020, chaired by Supreme Court Justice (Retd) AK Sikri. Moreover, regulatory bodies like the Securities and Exchange Board of India (SEBI) have taken concrete steps to integrate ODR into specific sectors. SEBI recently introduced a circular on online dispute resolution in the Securities Market, establishing an Online Dispute Resolution Portal (ODR Portal) to resolve disputes within the Indian Securities Market.<sup>13</sup> This portal covers disputes between investors and listed companies or specified intermediaries as well as disputes between institutional or corporate clients and specified intermediaries. Additionally, there is explicit recognition of ODR-related terms and digital evidence in relevant legislation such as the Digital Personal

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<sup>9</sup> SLC.GOV, <https://www.slc.gov/courts/2023/12/18/small-claims-online-dispute-resolution-odr-coming-soon/> (last visited on Apr. 5 2024).

<sup>10</sup> CIVIL RESOLUTION TRIBUNAL, <https://civilresolutionbc.ca/#:~:text=The%20CRT%20is%20Canada's%20first,collaborative%20approach%20to%20resolving%20disputes.> (last visited on Apr. 5 2024).

<sup>11</sup> Spenser Hilliard, *Integrating ADR Into The Civil Justice System: Is Compulsion Necessary Or Desirable?*, THE BAR COUNCIL, (Apr. 5, 2024, 22:23) <https://www.barcouncil.org.uk/resource/integrating-adr-into-the-civil-justice-system.html>

<sup>12</sup> NITI AAYOG, <https://www.niti.gov.in/sites/default/files/2023-03/Designing-The-Future-of-Dispute-Resolution-The-ODR-Policy-Plan-for-India.pdf> (Lat visited Apr. 5, 2024)

<sup>13</sup> SEBI, [https://www.sebi.gov.in/legal/master-circulars/aug-2023/online-resolution-of-disputes-in-the-indian-securities-market\\_75220.html](https://www.sebi.gov.in/legal/master-circulars/aug-2023/online-resolution-of-disputes-in-the-indian-securities-market_75220.html) (last visited on Apr. 5, 2024)

Data Protection Act, 2023 and the Bharatiya Nagarik Suraksha Sanhita, 2023. Several ODR platforms like SAMA<sup>14</sup>, Centre for Alternative Dispute Resolution Excellence (CADRE)<sup>15</sup>, Centre for Online Dispute Resolution (CODR)<sup>16</sup>, Presolv360, and WeVaad are emerging, with more industry-specific platforms under development. Not-for-profit organizations like AGAMI<sup>17</sup> play a crucial role in promoting ODR innovation, working closely with NITI Aayog to develop frameworks and support ODR initiatives. Justice (Retd) A.K. Sikri has highlighted the advantages of ODR, emphasizing its convenience, accuracy, time-saving, and cost-saving benefits.<sup>18</sup>

## IX. SYNERGY BETWEEN ONLINE DISPUTE RESOLUTION AND CONSUMER PROTECTION

With the rapid growth of e-commerce and digital transactions, ensuring consumer rights and resolving disputes efficiently has become paramount. In fact, India's e-commerce market is expected to reach US\$ 111 billion by 2024 and US\$ 200 billion by 2026.<sup>19</sup> This indicates that consumer related issues might also simultaneously rise. ODR platforms will provide a convenient and accessible means for consumers to address grievances and seek redressal without the need for lengthy and cumbersome legal processes.

By integrating ODR into consumer protection frameworks, countries can enhance the effectiveness of dispute resolution mechanisms while empowering consumers to assert their rights in the digital marketplace. ODR mechanisms can complement traditional avenues of consumer protection, such as consumer courts and regulatory bodies, by providing an additional layer of dispute resolution that is cost-effective and accessible to a wider range of consumers, including those in remote areas. As per the UNCTAD Research Paper on Consumer Trust in The Digital Economy: The Case for Online Dispute Resolution (No. 72)<sup>20</sup>: The case online dispute resolution, ODR is a core consumer protection mechanism that shows great promise for engendering trust if it can be effectively implemented. It has been found that in

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<sup>14</sup> SAMA, <https://www.sama.live/> (last visited on Apr. 5, 2024)

<sup>15</sup> CADRE, <https://cadreodr.com/> (last visited on Apr. 5, 2024)

<sup>16</sup> CODR, <https://resolveoncord.com/> (last visited on Apr. 5, 2024)

<sup>17</sup> AGAMI, <https://agami.in/odr-old/> (last visited on Apr. 5, 2024)

<sup>18</sup> NITI AAYOG, <https://pib.gov.in/PressReleasePage.aspx?PRID=1630080> (last visited on Apr. 5, 2024)

<sup>19</sup> IBEF, <https://www.ibef.org/industry/e-commerce> (last visited on Apr. 5, 2024)

<sup>20</sup> Alex Chung & Ying Yu, *Consumer trust in the digital economy: The case for online dispute resolution*, UNCTD, 1, 7-28, (2021) <https://unctad.org/publication/consumer-trust-digital-economy-case-online-dispute-resolution>.

certain cases, like the Brazil's National Consumer Secretariat (SENACON), more than 90 percent of disputes are successfully resolved through online channels, within 5 days and without the need for direct involvement from SENACON (UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, 2023). In India, the Consumer Protection (Consumer Dispute Redressal Commissions) Rules, 2020 provides for the manner for filing of complaints electronically in National Commissions, State Commission and District Commission. The *e-Daakhil* portal was launched for electronically filing of complaints., e-filing facility has been operationalised in 34 States/UTs. The total number of consumer complaints filed online through *e-Daakhil* portal (as on 24.01.2023) in the country is 35,898.<sup>21</sup> Further, the Department of Consumer Affairs is implementing a scheme titled 'Computerization & Computer Networking of Consumer Commissions' i.e. 'CONFONET<sup>22</sup>'. Under this scheme, important hardware and manpower support is being provided to the Consumer Commissions all across the country to facilitate online filing of consumer complaints, e-hearing, e-affidavit, e-judgment, e-payment, e-notice, etc.

The synergy between ODR and consumer protection initiatives in India fosters a conducive environment for resolving disputes in the digital economy, promoting trust and confidence among consumers and businesses alike while upholding the principles of fairness and justice.

## X. USE OF ODR: WAY FORWARD

The success of Online Dispute Resolution (ODR) across the globe, like in the EU and the US, suggests its potential for extensive adoption in India. In the EU, ODR has resolved disputes 97% faster than the formal legal system, with 70% consumer satisfaction compared to 45% in court resolutions. In the US, the Michigan Health System saw a 67% reduction in case resolution time and a 50% cost reduction through Alternative Dispute Resolution (ADR), mainly providing clarity and reducing case volume.<sup>23</sup> Online Dispute Resolution (ODR) holds significant promise as a way forward in protecting consumers in India. With the exponential growth of digital transactions [increased from a mere 127 crore in 2013-14 to 12,735 crore

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<sup>21</sup> PRESS INFORMATION BUREAU, <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1896003> (last visited on Apr. 5, 2024)

<sup>22</sup> CONFONET, <https://confonet.nic.in/> (last visited on Apr. 5, 2024)

<sup>23</sup> Aditi Singh et al., *Accelerating the Adoption of ODR in India Could Transform How Disputes Are Resolved in an Overburdened System*, DALBERG (Apr 08, 2021), <https://dalberg.com/our-ideas/accelerating-the-adoption-of-odr-in-india-could-transform-how-disputes-are-resolved-in-an-overburdened-system/>.



transactions in 2022-23 (as on Mar 23, 2022)]<sup>24</sup> and e-commerce, ensuring consumer rights and resolving disputes efficiently has become increasingly critical. ODR platforms are easy and cost-effective ways for consumers to solve issues without long legal processes. They make consumer rights stronger in digital markets. ODR can help reduce the burden on the court and efficiently resolve these categories of cases.<sup>25</sup>

In conclusion, use of ODR represents not just a solution, but a proactive approach to safeguarding consumer interests in an ever-evolving digital ecosystem. As technology continues to advance, embracing ODR stands as a progressive step towards ensuring effective consumer protection and upholding the principles of fairness and justice in the digital age.

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<sup>24</sup> PRESS INFORMATION BUREAU, <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2023/may/doc2023521200801.pdf> (last visited on Apr. 5, 2024)

<sup>25</sup> Kaulav Roy Chowdhury, *Online dispute resolution system in India*, PRIME LEGAL (Apr. 5, 2024, 22:35) <https://primelegal.in/2023/11/27/online-dispute-resolution-system-in-india/#:~:text=ODR%20has%20the%20potential%20to%20help%20reduce%20the%20burden%20on,resolve%20several%20categories%20of%20cases.>