

E Commerce Consumer Disputes in India Evaluating the Effectiveness of Online Mediation Mechanisms in Consumer Protection.

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ABSTRACT

The e-commerce industry has grown immensely in India and has taken a huge turn in consumer markets and business transactions. Digital marketplaces like Amazon, Flipkart, Myntra, Meesho, and others have made shopping easier and convenient for consumers and also created a lot of consumer disputes regarding faulty products, non-returnable items, misleading ads, delayed deliveries, and unfair trade practices. The traditional consumer dispute resolution provisions of Consumer Protection Act, 2019 are frequently proving to be ineffective in resolving these disputes due to lack of quickness, cost of litigation and accessibility. In this context, Online Dispute Resolution (ODR), particularly online mediation, has emerged as an important mechanism for providing accessible and efficient consumer justice.

This paper analyzes the effectiveness of the online mediation mechanisms as a means for solving consumer disputes in e-commerce transactions in India critically. It examines the legal and institutional landscape for online mediation, such as the Consumer Protection Act, 2019, the Consumer Protection (E-Commerce) Rules, 2020, the Mediation Act, 2023, the Information Technology Act, 2000 and the Digital Personal Data Protection Act, 2023. The paper then assesses the practical merits and challenges of online mediation in India, including the issues of digital inequality, consumer awareness, the enforceability of mediation settlements, regulatory gaps and confidentiality concerns.

The study also compares ODR systems across the European Union, the United States, the United Kingdom and Singapore to find out about international best practices applicable in India. The paper contends that online mediation has significant promise to advance consumer protection and access to justice but is underdeveloped in India due to institutional fragmentation, voluntary participation models and infrastructural disparities. The paper makes recommendations for the creation of a centralized consumer ODR portal, compulsory obligations for e-commerce companies to participate, statutory accreditation requirements for ODR providers, assisted digital mediation centres, and national consumer awareness campaign.

I. INTRODUCTION

India has become one of the fastest-growing digital economies of the world. The growing digitisation of commercial transactions in the country has been revolutionised by the growing internet, the availability of smartphones and digital payment systems and the marketplaces. The use of e-commerce platforms for buying goods and services has grown in popularity among consumers for their convenience, competitive

pricing, and accessibility.¹ The growth of ecommerce has also resulted in a huge number of consumer complaints. Most of these disputes are low value, high volume, complaints about defective products, counterfeiting, refusal to reimburse, failures on delivery schedule, misleading advertising, concealed and unacknowledged costs, and warranty issues.² However, for ordinary consumers, it is often not feasible to go to traditional courts or consumer commissions for small-value cases due to complex procedures, delays, and expenses of litigation. The Consumer Protection Act, 2019, also made several positive changes in consumer law by explicitly acknowledging e-commerce transactions and enhancing consumer's rights in e-commerce platforms.³ The Act also introduced mediation as a non-litigation dispute resolution mechanism in the consumer dispute resolution framework. Even with these reforms, the traditional system of consumer adjudication still has immense problems with pendency, delay in proceedings and lack of access.

In this regard, Online Dispute Resolution (ODR) has become a promising tool for the e-commerce consumer dispute resolution. Online mediation has become especially relevant as a form of dispute resolution that is flexible, cost-effective, and informal and can resolve disputes without the need for physical hearings.⁴

The NITI Aayog's report, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India 2021*, highlighted the potential of technology-based solutions to promote access to justice for high volume transactions like consumer complaints in e-commerce, thus increasing the importance of ODR in India.⁵ Moreover, the Mediation Act, 2023 was enacted to officially acknowledge the use of online mediation and enhance the enforceability of mediation settlements.⁶

However, there are still a number of substantial issues unresolved. This paper aims to critically analyse as to whether the online mediation mechanisms are truly effective to safeguard the consumer of e-commerce in India.

STATEMENT OF PROBLEM

The adoption of technology in the e-commerce sector has made it a very fast growing segment in India, which resulted in a surge in consumer cases of return, warranty, delivery delay, consumer rights violation, etc. While consumer courts offer legal solutions, the traditional system of dispute resolution may be costly, difficult, complex, and time consuming, particularly in common e-commerce disputes involving low value complaints. Online mediation and Online Dispute Resolution (ODR) are becoming popular options that are quicker and cheaper. But their application to consumer protection is still very questionable. The digital divide is one of the biggest challenges, because many customers are not aware of digital awareness or do not understand technology adequately or have internet connectivity, to be able to make full use of online mediation proceedings. Consumer's knowledge about ODR mechanisms is also quite low. Moreover, while the Mediation Act, 2023 further enhances enforcement of mediation settlements, there are many practical issues regarding implementation. India does not also have a unique regulatory structure for ODR platforms, ODR mediator standards and requirements of Cyber security. The actual effectiveness of online

¹ Ministry of Electronics & Information Technology, Government of India, *Digital India Programme*, <https://www.digitalindia.gov.in>.

² National Consumer Disputes Redressal Commission, *Annual Report 2022–2023*

³ Consumer Protection Act, 2019, No. 35 of 2019, S. 2(16), India Code.

⁴ UNCITRAL Technical Notes on Online Dispute Resolution, U.N. Doc. A/CN.9/888 (2016).

⁵ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* (2021)

⁶ Mediation Act, 2023, No. 32 of 2023, India Code.

mediation in solving e-commerce consumer disputes in India however needs careful analysis as it is gaining importance in the field.

RESEARCH QUESTIONS

Whether online mediation mechanisms in India are helpful in offering meaningful safety to e-commerce customers in e-commerce disputes or not?

1. What is the current law and institutional arrangement framework of online mediation in relation to consumer disputes in e-commerce in India and whether it is sufficient?
2. What are its strengths and limitation of online mediation as a Consumer dispute resolution mechanism in the context of India?
3. What are the structural and social issues faced by the effective functioning of Online mediation in India like Digital divide, Lack of consumer awareness, Enforcement gaps etc.?
4. What are the approaches of international models (in particular the EU, the United States and the United Kingdom) to ODR for consumer disputes and how can India learn from them?
5. What measures / reforms are required in India to provide online mediation as a robust tool for consumer protection in India?

LITERATURE REVIEW

The literature relating to Online Dispute Resolution (ODR) and consumer protection in India is gradually developing, especially with the growth of e-commerce and digital transactions. One of the important theoretical works on ODR is Ethan Katsh and Orna Rabinovich-Einy's book *Digital Justice: Technology and the Internet of Disputes* (2017). In the digital era, the authors explain, the 'fourth party' is the technology, which also influences the nature of disputes as well as how disputes are handled. This comes into focus especially when viewing how ODR platforms work in e-commerce consumer disputes.

Richard Susskind, in his 2019 book *Online Courts and the Future of Justice*, argues that this traditional justice approach is progressively being replaced by online, more readily accessible, affordable, and user-friendly courts, particularly in the context of resolving problems with low value, high volume disputes, such as those occurring as part of e-commerce transactions.

Another significant contribution is that of more recently, *Online Dispute Resolution for Business* (2002) by Colin Rule. As these cases show, disputes on a high scale can be resolved using ODR, which are settlement systems of technology.

NITI Aayog's *Designing Online Dispute Resolution Policy Plan* (2021) is another policy document which recommends increased use of ODR in the context of the consumer protection framework in India. The *Strengthening Online Dispute Resolution in India Report* by Vidhi Centre for Legal Policy (2020) presents barriers to the implementation of ODR in India and points out the required legal changes. However, previous literature has essentially centered on the structure, the technology and the institutional dimension of ODR, but not investigated the efficacy of ODR as experienced by the consumer. In India, issues related to enforcement of settlements, lack of digital divide, power imbalance between consumer and token corporations, consumer awareness etc. are comparatively less discussed. This research aims to look into these feasible considerations and assess the efficacy of online mediation in safeguarding e-consumers in India.

RESEARCH METHODOLOGY

This research adopts a doctrinal and analytical research methodology and is primarily based on secondary sources. The study does not involve empirical methods such as surveys, interviews, or questionnaires. Instead, it has concentrated on examining prevailing existing legal framework, policy documents, as well as academia and comparative legal models in relation to online mediation and consumer protection in India. The initial research stage is a doctrinal analysis of the major legal provisions relating to Online Dispute Resolution (ODR), mediation and e-commerce consumer protection in India. The provisions of the statutes like the Consumer Protection (E-Commerce) Rules, 2020, Consumer Protection Act, 2019, Mediation Act, 2023, Arbitration and Conciliation Act, 1996, Information Technology Act 2000 and DPPD Act, 2023 are explored in detail.

The study also involves the analytical review of the secondary literature in the form of books, journal articles, policy reports, institutional publications and international legal sources. Critical questions are posed on the strengths and weaknesses of online mediation systems in India, wherein top sources like National Institution of Technology Informative Action Study (NITI Aayog) ODR Policy Plan for India, Vidhi Centre for Legal Policy reports, UNCITRAL Technical Notes on ODR, and academic articles related to mediation and consumer protection are critically examined.

II. CONCEPTUAL FRAMEWORK OF ONLINE DISPUTE RESOLUTION AND MEDIATION MECHANISM.

Online Dispute Resolution is the process of involving digital technology in dispute resolution. The United Nations Commission on International Trade Law (UNCITRAL) identifies ODR as a process, with the help of electronic communication and information technology, which facilitates dispute resolution.⁷ ODR encompasses online negotiation, online mediation, online conciliation, and online arbitration.

The theoretical foundation of ODR was significantly developed by Ethan Katsh and Orna Rabinovich-Einy, who emphasized that technology could be seen as the “fourth party” in dispute resolution as it structures communication, facilitates information exchange, and enables the generation of settlements.⁸ ODR is also particularly relevant in the context of e-commerce disputes because they are born online and can be effectively solved online.

Understanding ODR mediation mechanism is very important in the present paper. In simple understanding, Online mediation involves mediated proceedings using electronic tools, including video-conference technology, e-mail, messaging, or special online dispute resolution systems, that are voluntary and consensual.⁹ The Mediation Act, 2023 is the new legislation for online mediation in India. Section 3(h) explicitly covers “online mediation” as a part of mediation under the Act and Section. 30 allows mediation proceedings to be done electronically via communication and digital platforms,¹⁰ which is significant in tackling the legal uncertainty about the validity of online mediation proceedings in India. Mediation is not a binding process, unlike litigation or arbitration. Rather, the mediator acts as a facilitator or catalyst for communication and a participant in a voluntary settlement process. This is a more flexible, cooperative and less confrontational approach to mediation.

⁷ UNCITRAL Technical Notes on Online Dispute Resolution, U.N. Doc. A/CN.9/888 (2016).

⁸ Ethan Katsh & Orna Rabinovich-Einy, *Digital Justice: Technology and the Internet of Disputes* 33–35 (Oxford Univ. Press 2017)

⁹ Sriram Panchu, *Mediation Practice and Law* 15–18 (LexisNexis 2015).

¹⁰ Mediation Act, 2023, S. 3(h).

In order to understand the practical significance of the online mediation within the digital market place, it becomes necessary to examine some of the specific characteristics of E-commerce consumer disputes and the challenges associated with their resolution. Consumer complaints in e-commerce have a set of features that make them ideal for online mediation.

The first, is that these conflicts are typically monetary in nature. And for small value claims, consumers may be reluctant to begin formal litigation because expenses of litigation could be higher than the value of the claim.¹¹

Secondly, such conflicts are enormous in numbers due to fast surge in online transactions.

Thirdly, the issues in these types of conflicts typically concern simple facts with respect to refunds, deliveries, warranties, damaged products, or incorrect product description.

These kind of disagreements can often be settled by facilitated communication instead of formal adjudication.

Lastly, there is an imbalance between the individual consumers and big e-commerce companies. The use of mediation online may eliminate procedural obstacles and make the dispute resolution process more consumer-friendly.

III. REGULATORY AND INSTITUTIONAL FRAMEWORK GOVERNING E-COMMERCE CONSUMER DISPUTES IN INDIA.

A. The Consumer Protection Act, 2019.

In India, the Consumer Protection Act, 2019 is the main Act of law which regulates and protects the rights of consumers and consumer disputes. The aim of the Act is to reinforce consumer's protection mechanisms and tackle issues brought about by new business practices, such as digital and e-commerce transactions. The Act provides for the recognition of e-commerce within consumer protection framework, one of the significant developments in this regard. As a result of the definition of e-commerce, the Act imposes obligations on e-commerce entities and online sellers to ensure transparency, adherence to fair trade principles, redressal of grievances, and consumer welfare in online transactions.¹²

These adjudicatory mechanisms are given the power to hear consumer complaints and provide consumers remedies like compensation, refund, replacement of goods, and termination of unfair trade practices and are divided into three levels: District Consumer Disputes Redressal Commissions, State Consumer Disputes Redressal Commissions and the National Consumer Disputes Redressal Commission (NCDRC).¹³ Despite the institutional structure created by the Act, however, consumer commissions still suffer from a high volume of cases and long delays in the processing of cases, which can hinder the use of traditional consumer dispute resolution processes.

One of the key provisions in the Consumer Protection Act 2019 is the inclusion of mediation as an alternative dispute resolution process. Mediation is also governed by the statutory framework in Chapter V of the Act (Sections 74-81) and Section 37 provides for mediation to be referred where there are elements of settlement between the parties.¹⁴ The Consumer Protection (Mediation) Regulations, 2020 also give procedural advice on the mediation proceedings before Consumer Commissions. The provisions

¹¹ Richard Susskind, *Online Courts and the Future of Justice* 82–84 (Oxford Univ. Press 2019)

¹² Consumer Protection Act, 2019, S. 2(16), 2(17)

¹³ Id. S. 28, 42, 53.

¹⁴ Id. S. 37

indicate a major shift in the legislature in promoting non-adversarial, accessible, and consensual consumer dispute resolution in India.

B. Consumer Protection (E-Commerce) Rules, 2020.

The Consumer Protection (E-Commerce) Rules, 2020 have been brought under the Consumer Protection Act, 2019, with the aim of regulating ecommerce activities and enhancing consumer protection in the digital sphere. The Rules have a number of obligations for e-commerce providers, online marketplaces and sellers to ensure transparency, accountability and fair trade in online transactions. These Rules are applicable to both inventory business model and marketplace business model in India.¹⁵

The Rules include several important provisions, such as the need for e-commerce entities to have effective grievance redressal mechanisms. The Rules also require disclosures of information to consumers on e-commerce platforms about sellers, returns, refunds, payment options, and terms of services which must be given within 48 hours of receipt and must be acted within one month of receipt of the complaint. These provisions are intended to increase transparency and prevent unfair trade practices and misleading representations in e-transactions.

Yet, even with these safeguards Online Dispute Resolution and online mediation are not fully covered by the Rules at this time. The e-commerce entities have only been mandated to establish internal grievance redressal systems, and consumers are not mandated to participate in any independent ODR proceedings. Thus, participation in online mediation is largely voluntary in nature. This has a big impact on the successful outcomes of ODR processes, as big e-commerce companies can opt-in or out of external ODR processes. Thus, although the Rules have enhanced consumer protection in e-commerce transactions, there remain significant gaps in the institutionalised online mediation and independent ODR mechanisms in India.

C. Mediation Act, 2023.

Alternative Dispute Resolution (ADR) in India. The aim of the Act is to encourage the use of mediation as an accessible, effective and efficient means of resolving disputes in a number of sectors, particularly in commercial and consumer disputes. Significantly, the law has acknowledged the increasing significance of technology in dispute resolution and grants the status of law to online mediation processes in India.

Section 3(h) of the Act explicitly adds “online mediation” to the statutory definition of mediation, which eliminates the ambiguity of whether mediation can be held online.¹⁶ Further, mediation proceedings may be by electronic communication, video conference and other electronic means pursuant to Section 30. All of these provisions recognise technology-enabled mediation as a legally binding dispute resolution mechanism and build the foundation for Online Dispute Resolution (ODR) mechanisms in India.

Additionally, section.27 provides that mediation settlement agreements shall be enforceable in the same way as decrees or judgments of civil courts.¹⁷ This greatly enhances the enforceability and reliability of online mediation settlements and boosts the willingness of parties to engage in online dispute resolution processes.

Even with these forward steps, the Act does have some gaps in the regulation of ODR systems. The law does not create a specific regulatory body for ODR platforms, statutory requirements for online mediators or ODR service providers, rules for cybersecurity and data protection or specific ethical rules for online

¹⁵ Consumer Protection (E-Commerce) Rules, 2020, rules. 4–6.

¹⁶ Id. r. 4(5).

¹⁷ Mediation Act, 2023, S. 3(h)

mediation proceedings. These gaps persist in the institutional accountability and consumer confidence in the developing ODR framework in India.

D. Digital Personal Data Protection Act, 2023

The basic legal framework governing the Online Dispute Resolution mechanism in India has been outlined in the Information Technology Act, 2000. This provision makes electronic records, including electronic complaints, digital communications, emails and mediation records, legal.¹⁸

Electronic signatures are legally recognized in Section. 5. This is especially important with regard to electronically signed mediation settlement agreements and electronic consent at ODR mediations.¹⁹ Moreover, Section 10A gives recognition and enforceability to electronic contracts.²⁰ This is particularly relevant as the disputes relating to e-commerce arise mostly in the context of e-contracts.

The Act also indirectly assists in maintaining confidentiality and integrity of online mediation proceedings. Section 72 criminalises the unauthorised disclosure of electronic information gathered in the course of digital interaction.²¹ This provision further enhances the confidentiality protections in online mediation.

Furthermore, Section 65B of the Indian Evidence Act, 1872 is very relevant to ODR proceedings as it deals with the admissibility of electronic evidence, including any email, digital invoice, screenshots, payment history, chat logs, and video conferencing logs.²²

E. Digital Personal Data Protection Act, 2023

Digital Personal Data Protection Act, 2023 comes into relevance to online mediation, as large amounts of personally and commercially sensitive consumer data are processed on ODR platforms, on a regular basis. This is crucial as an ODR platform may have to process sensitive data including consumer identities, addresses, payment information, transaction history, and any communications related to the dispute. So, in Section.4 provides that personal data may only be processed for lawful purposes and upon obtaining valid consent or recognised legitimate use.²³

By requiring data fiduciaries to inform consumers about the nature and purpose of personal data collection, Section. 5 aims to foster transparency in online mediation platforms, helping to ensure that consumers understand how their data is being used in dispute resolution processes.²⁴

Second, consent must be free, informed, specific, and revocable as required by Section 6, especially since mediation is a consent process.²⁵ Online mediation, the digital exchange of documents and the recording of the proceedings therefore need to follow the principles of informed digital consent.

And, Section. 8 requires data fiduciaries to take reasonable security measures, to avoid data breaches, and ensure that personal information is accurate.²⁶ This section further underscores the importance of cybersecurity standards and confidentiality protections in ODR platforms. These provisions, in section. 11 and 12, extend the rights for access, correction, and erasure of personal data, which are important to the trust, informational autonomy, and transparency of digital mediation systems.²⁷ The Digital Personal

¹⁸ Id. S.27.

¹⁹ Information Technology Act,2000, S.4

²⁰ Id. S. 5

²¹ Id. S.10A

²² Id. S. 72

²³ Indian Evidence Act,1872, S. 65B

²⁴ Digital Personal Data Protection Act,2023, S. 4

²⁵ Id. S.5

²⁶ Id. S. 6

²⁷ Id. S. 8

Data Protection Act, 2023 thus fortifies the existing legal regime on confidentiality, privacy, cyber safety and informed consent in online mediation proceedings.

F. NITI Aayog's ODR Policy Plan.

In 2019, The report titled Designing the Future of Dispute Resolution: The ODR Policy Plan for India by NITI Aayog is one of the most significant policy documents that have been released regarding ODR in India.²⁸

One of the aspects the report did recognise was that ODR can be used to resolve high-volume disputes like e-commerce consumer disputes. It recommended the implementation of professional ODR rules, and development of e-commerce infrastructure, accreditation frameworks, digital literacy initiatives, and better access for consumers. The report significantly contributed towards legitimising ODR within Indian policy discourse.

IV. EFFECTIVENESS OF ONLINE MEDIATION IN INDIA.

1. Speed and Efficiency

Faster dispute resolution is one of the biggest benefits of online mediation as compared to the traditional dispute resolution and consumer adjudication processes. While the disposal of cases in consumer forums and courts in India may be delayed due to multiple adjournments and lengthy proceedings, mediation proceedings online can be completed within a few days or weeks, as the communications, document submissions, scheduling of proceedings and settlement discussions are carried out online.²⁹

This efficiency proves to be especially valuable in consumer disputes in e-commerce, where the monetary amounts are typically low. A lot of people do not want to go through the hassle of formal action for a minor case due to the time, effort and expense required to litigate a dispute may be more than the actual amount of the dispute is worth to them. Online mediation as a result of this, offers a feasible and proportionate way to solve such disputes timely. Furthermore, the digital platforms enable multiple disputes to be managed concurrently, which makes the ODR appropriate for the high volume of transactions in e-commerce.

2. Accessibility

Mediation is greatly enhanced in terms of accessibility of dispute resolution mechanisms, as it eliminates geographical and physical barriers that would hinder the utilization of traditional dispute resolution systems. Mediation proceedings can be conducted remotely via smartphone, laptop or other digital device without a person having to be physically present in courts or consumer commissions.

This is especially true in India where formal legal institutions are not readily available in remote and less developed areas, as well as economically disadvantaged communities. Access to consumer forums in rural or semi-urban areas may be hampered by time spent to reach the forum, lack of legal infrastructure and inconvenience of the forum. Online mediation can help overcome these barriers as it facilitates dispute resolution from the consumer's own location.

Moreover, online proceedings offer additional flexibility in the scheduling and communication of hearings, which is advantageous to working consumers, elderly consumers and consumers with mobility impairments. Thus, online mediation contributes towards improving access to justice in the digital economy.

²⁸ Id. S. 11-12

²⁹ NITI Aayog, *Designing the Future of Dispute Resolution: The ODR Policy Plan for India* 18–22 (2021).

3. Cost- Effectiveness

Online Dispute Resolution mechanisms tend to be relatively inexpensive, as they eliminate numerous time-consuming and expensive litigation and procedural steps. Online mediation can save consumers from traveling, the necessity of physical appearances, documentation fees, and a lot of legal representation expenses.

This is especially relevant in e-commerce cases with a small monetary amount. For low value consumer claims, the cost of a traditional lawsuit may not be worth the alleged damages. In this regard, online mediation offers a cost-effective option for consumers who want to get immediate and cost-effective redress.

Furthermore, digital communication and e-filing of documents cut down the cost of operations for both parties and dispute resolution institutions. The incorporation of technology also cuts down on the delay caused by physical hearings and paperwork, improving the justice delivery process and the burden of litigation on the justice delivery system.

4. Informal and Consumer-Friendly Nature.

The process of traditional litigation can be formal, complex, and intimidating for an average consumer who may not know the law or the legal process. On the other hand, online mediation is relatively informal, flexible and collaborative.

The mediation is designed more as a discussion and communication process, and a negotiation to reach an agreement that is acceptable to both parties than as a formalized process or as a fight for the right to litigate. This helps to create a more balanced field and facilitates parties to address their issues openly and work out mutually agreeable solutions. In e-commerce claims, the consumers typically prefer to get a remedy that's simple and quick like a refund, replacement, exchange, or compensation instead of long litigation processes. Online mediation can help achieve these ends by helping to carry out cooperative settlement discussions. In addition, the convenience of online communications enables parties to attend comfortably without the anxiety often linked with court transactions.

V. LIMITATIONS OF ONLINE MEDIATION IN INDIA

1. Digital Divide and technological Accessibility.

The digital divide is one of the most significant challenges in online mediation in India. However, this does not only mean lack of internet access. While many consumers are able to use their smartphone and place an order online, they may have trouble using online dispute resolution processes. A consumer in a rural area could be able to order products online, and perhaps struggle to submit an online complaint, upload files, participate in video conferences, or comprehend online legal processes. Lack of access to adequate internet connection, language and lack of digital literacy also have a negative impact on the ability to participate effectively in mediation proceedings conducted online. As a result, equal access to digital justice mechanisms is not guaranteed when access to e-commerce platforms is available.

2. Lack of Consumer Awareness

One of the other difficulties is that consumers are not very knowledgeable about online mediation and ODR. A large share of the consumer population is not informed about the various facilities like the National Consumer Helpline, INGRAM portal, e-Daakhil system, and mediation, provided by consumer law. Businesses, by and large, still rely only on customer support or ad hoc complaints resolution, which is offered by the e-commerce businesses. As a result, online mediation systems remain underutilised despite their potential to provide quick and affordable dispute resolution.

3. Enforcement Challenges.

The Mediation Act, 2023 has enhanced the enforceability of mediation settlement agreements by acknowledging that such agreements are enforceable in a similar manner to civil court decrees, though there is still some practical challenges. Delays in execution and compliance may continue where companies fail to implement settlement agreements on a voluntary basis. Moreover, the disputes that arise in cross-border e-commerce present extra jurisdictional and enforcement issues since online purchases and transactions frequently involve parties on opposite sides of the country or globe.

4. Power Imbalance between Consumers and Corporations.

There is a huge disparity between consumers and big players of ecommerce. Large corporations have legal and technological expertise, financial resources and institutional experience. Consumers, on the other hand, are not always in a strong negotiating position, legally knowledgeable, or know about the procedures. In that context, the “repeat players” theory developed by Marc Galanter is relevant, as the corporation keeps on being a party to dispute resolution processes and thus benefits over the ordinary consumer.³⁰ The imbalanced ratio can impact the fairness in online mediation procedures.

5. Inadequate information and communication technology programs.

India doesn't have a dedicated regulatory body for ODR platforms and online mediation systems. There are no comprehensive statutory accreditation standards for ODR providers, or specific ethical guidelines for mediators working online, and no uniform cybersecurity rules are applicable to digital mediation platforms. While multiple private ODR providers exist in India, the country has not yet established a comprehensive framework for the qualifications of mediators, confidentiality requirements, mediation procedures, and accountability for mediation institutions. This unregulated situation could lead to less consumer trust in online mediation systems.

6. Confidentiality & Cybersecurity Concerns

Sensitive data like personal information, financial records, transaction histories and settlement communications are exchanged in online mediation. As a result, the public's trust in ODR systems could be undermined by cybersecurity threats like hacking, data breaches, identity theft, and unauthorized information disclosure. With the implementation of the Digital Personal Data Protection Act, 2023, which highlights the importance of privacy, consent, and the protection of personal data in digital systems, these concerns have gained more significance.

VI. COMPARATIVE ANALYSIS.

A. European Union

The European Online Dispute Resolution system is one of the most technologically and operationally advanced systems in the world to handle consumer disputes. A centralized ODR platform is established via Regulation (EU) No. 524/2013, managed by the European Commission,³¹ as a single online portal for consumers to file complaints against online traders and e-commerce companies. They enable consumers to upload documents and to communicate digitally, as well as to refer disputes to the approved bodies for Alternative Dispute Resolution in EU member states.

Further, EU member states are mandated by the ADR Directive to have accredited entities for ADR of consumer dispute. Also traders are required to inform consumers about the availability of ADR and ODR

³⁰ Richard Susskind, *Online Courts and the Future of Justice* 110–15 (Oxford Univ. Press 2019)

³¹ Marc Galanter, Why the “Haves” Come Out Ahead: Speculations on the Limits of Legal Change, 9 *Law & Soc’y Rev.* 95 (1974).

mechanisms.³² The EU system, therefore, emphasizes the role of centralized infrastructure, compulsory participation of traders, recognized dispute resolution institutions, and intensive supervision of the traders. The European model is significant for India as it demonstrates the potential for structuring and regulation of an ODR mechanism to strengthen consumer protection in e-commerce transactions. The EU can be emulated in India by establishing a comprehensive consumer ODR portal and laying down statutory accreditation criteria for ODR service providers.

B. United States

The United States adopted a more private-sector oriented approach towards Online Dispute Resolution. A notable example is eBay's ODR, which was created with the help of Colin Rule, and which reportedly settled millions of disputes each year by conducting automated negotiation and online mediation.³³

The American model offers the opportunity to use technology-based systems to efficiently resolve numerous consumer disputes. It points to the scalability and expediency of online dispute resolution mechanisms. The US route also has some issues with neutrality as many DR systems are run and managed by private corporations as part of their own business. Sometimes, this causes an imbalance between consumers and companies. The US model highlights the significance of technological innovation and effective dispute resolution in India, as well as the need for independent oversight and enforcement of these provisions to ensure fairness and consumer trust.

C. United Kingdom

The United Kingdom has a more structured framework of ADR, which is based on European consumer protection laws. The Alternative Dispute Resolution for Consumer Disputes Regulations, 2015 mandate that traders need to alert consumers to the existence of alternative dispute resolution mechanisms after unresolved disputes.³⁴ Accreditation standards, institutional accountability, transparency and accessibility to consumers are valued in the UK system. It provides consumers with information about the disputes resolution processes available to them and the ease of access. The approach is applicable in India as it emphasizes the consumer awareness and the ADR information obligation in consumer protection laws.

D. Singapore

Singapore has become an important technology-based forum for resolving disputes. Singapore International Mediation Centre actively fosters mediation and digital dispute resolution technology.

This serves as a model of how effective institutional backing and technology integration can boost mediation effectiveness, access and public trust in mediation systems.

So the comparative analysis reveals that a major factor in having a successful ODR system is a centralized system, participation by traders, accreditation requirements, awareness by consumers, technological accessibility, and robust regulatory oversight. While India has made strides with the Consumer Protection Act, 2019 and the Mediation Act, 2023, the overall landscape of ODR is still relatively underdeveloped and voluntary. The experience of international models shows that India needs to shift towards a more formal, reachable, and consumer-friendly ODR framework to effectively resolve e-commerce consumer dispute.

³² Regulation (EU) No. 524/2013 of the European Parliament and of the Council of 21 May 2013 on Online Dispute Resolution for Consumer Disputes, 2013 O.J. (L 165) 1.

³³ Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on Alternative Dispute Resolution for Consumer Disputes, 2013 O.J. (L 165) 63.

³⁴ Colin Rule, *Online Dispute Resolution for Business* 45–52 (Jossey-Bass 2002).

VII. RECOMMENDATIONS

1. A Central Consumer ODR Portal should be created.

The Government of India needs to design 'Central Consumer Online Dispute Resolution' (ODR) Portal, akin to that operating in the European Union. All of the existing consumer grievance processes including the National Consumer Helpline, INGRAM and e-Daakhil should be integrated into this portal in a single comprehensive level and within the digital environment. Consumers could file complaints more easily, track the issue and use mediation services through this single portal, reducing confusion. Additionally, the platform should include features such as multilingual support, easy-to-navigate interfaces, and user-friendly online mediation tools to ensure that the platform can be utilized by consumers from diverse regions and educational backgrounds.

2. Mandatory Participation by E-Commerce Platforms.

The Consumer Protection (E-Commerce) Rules, 2020 should be amended to make participation in accredited ODR proceedings compulsory for major e-commerce companies. Today, several websites have policies for avoiding and delaying the dispute settlement procedure, undermining consumer faith. Strictly enforcing participation would enable businesses to act promptly to address consumer grievances, and actively make efforts to participate in online mediation proceedings. This would facilitate settlement, minimize delays, and enhance the trust for digital consumer dispute resolution processes.

3. The accreditation process for ODR providers.

India needs an appropriate legal framework to accredit and regulate the ODR service providers. This can be achieved either through changes to the Mediation Act 2023 or in a separate delegated act. It should establish norms for mediators in the online space, ethical rules for mediator conduct, procedural rules to promote fairness, data precautions, transparency standards and with reasonable deadlines for dispute resolution. This would help promote the professionalism, accountabilities, and trust of ODR mechanisms.

4. Assisted ODR Centres Through Common Service Centres.

One major challenge in India is the digital inequality, significant number of consumers are without internet access, digital skills, technological resources. The Government should try to address this issue by introducing assisted ODR facilitation centres under the existing Common Service Centres network, to facilitate this process. Consumers can make use of these centres as they can offer consumers technological support, guide consumers about the procedure, provide language support, and assist consumers with digital literacy. Such support would render ODR mechanisms more inclusive and accessible particularly for sections of the society that are rural, the elderly, and the impoverished.

5. Consumer Awareness and Digital Literacy Campaigns

The Government should organize, on a national scale, awareness-raising sessions on consumer rights, online mediation, ODR systems as well as the digital consumer justice mechanisms. There are many consumers who still are not informed about the remedies they are entitled to in relation to transactions conducted in an online manner. Awareness spreading and promoting digital literacy can take place in educational institutions, postal systems, banks, consumer organisations, and community centres. Greater public awareness will lead to more consumer participation in the use of ODR mechanisms and make it easier and more willing for consumers to seek remedies.

6. Enhance Data Protection and Cybersecurity Regulations

Since online mediation involves the sharing of personal and financial information, strong data protection and cybersecurity standards are essential. ODR platforms must follow the Digital Personal Data Protection Act, 2023 and have commendable confidentiality obligations. In order to counteract the leakage of data,

illegal entry and misuse of consumer information, appropriate security measures need to be put in place. Improved cybersecurity would help to foster consumer trust and ensure the secure operation of digital dispute resolution processes.

VIII. CONCLUSION

Online mediation has the potential to enhance consumer justice in India's fast growing digital economy. E-commerce lawsuits can be ideal for ODR in that they tend to be of low monetary value, high volume, and of relatively simple factual nature. Litigation based approaches to resolving these disputes are frequently inadequate for getting timely and efficient relief as a consequence of delay, procedural difficulties, transaction costs, etc.

The Consumer Protection Act, 2019, combined with the Mediation Act, 2023, offers a crucial legislative and procedural framework to support the growth of online mediation in India. Moreover, the recent policy approaches like the ODR Policy Plan by NITI Aayog show the importance technology-driven dispute resolution methods now.

Nevertheless, the workability of online mediation is hampered by a number of structural problems, such as digital inequality, lacking consumer knowledge, lack of compulsory mediation schemes, lack of regulation, concern about confidentiality issues and enforcement challenges. International experience of EU, USA, UK and Singapore shows that there are four main elements of successful ODR: central institutional infrastructure, institutional accountability, access, strong regulatory protection. India has a rich potential to grow a robust and inclusive ODR ecosystem. Some of the pertinent legal and institutional changes, however, would need to focus on facilitating access for consumers, inclusion through technology, fairness of processes, data control, and accountability of regulators for realizing this objective. Such online mediation, if properly put in place, can greatly enhance consumer protection and help build a technology-based, accessible, efficient, and user-friendly justice delivery system in India.

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