

# Regulatory Framework on ODR

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# Online Dispute Resolution

- Fast development and expansion of e-commerce asks for ODR
- The COVID-19 pandemic has impacted the world of dispute resolution significantly.
- ODR: a mechanism for resolving disputes through the use of electronic communications and other information and communication technology (2016 UNCITRAL ODR Technical Notes)
- UNCITRAL took the lead in coming up with the first official legal document on ODR. But more work needs to be done.

# APEC

- APEC stepped up to come up with a framework for businesses, in particular MSMEs in participating economies, to provide technology-assisted dispute resolution through negotiation, mediation and arbitration for B2B low-value claims.

# A B2B ODR for MSMEs

- MSMEs play an important role in the APEC economies; the existing dispute resolution mechanisms for cross-border disputes prove to be a major barrier for the success of MSMEs
- A B2B ODR framework would undoubtedly be important for and useful to MSMEs in cross-border trade so that concrete steps should be taken without delay to start building such an ODR pilot platform in coordination with interested dispute resolution bodies and to work out the relevant procedural rules

# APEC

- **Study on Best Practices in Using ODR (Jan, 2023):**
  - ODR must include a platform allowing the parties to resolve the dispute electronically
  - All communications should take place via the ODR platform
  - The ODR platform should include algorithmic tools to help parties find a resolution without the help of a neutral third party
  - ODR should include the use of advanced technology such as AI
  - ODR design must be user-centric
    - flexibility
    - efficiency
    - accessibility
    - affordability
    - usability
    - capacity building

## **ISO/CD 32122**

### **Transaction assurance in e-commerce — Guidelines for online dispute resolution**

This document gives guidance on ODR for e-commerce transactions including Basic Principles of ODR, Technical Conditions and Operational Manuals to e-commerce operators (including e-commerce platform operators) which aim to develop their own ODR service, and ODR service providers that are outsourced by e-commerce operators.

Status : Under development, not published yet.

# International Council for ODR's Standard

- ODR platforms and processes must be:
  - Accessible
  - Accountable
  - Competent
  - Confidential
  - Equal
  - Fair and Impartial
  - Legal
  - Secure
  - Transparent

# China's effort

China Standardization Administration(中国国家标准化管理委员会)

- 31 December 2021—published 'Cross-border E-commerce—Specification for online dispute resolution documents' **GB/T 41127-2021** (跨境电子商务在线争议解决单证规范)
- 17 March 2023--published Specification for online dispute resolution in E-commerce **GB/T 42498-2023** (电子商务在线争议解决规范)



- The GB/T 42498-2023 Specification for ODR in E-commerce Standard provides process guidance for the overall process involved in ODR, the platform access process, the application submission process, the dispute resolution process, the notification of the respondent process, the online consultation process, and the online mediation process.

# Conclusion (I)

“A clear definition of ODR and carefully prepared standards can not only encourage and guide the development of trustworthy ODR, but also educate and warn users concerning ODR systems that may be problematic. This is because technology can be confusing, and when individuals are invited to use or choose an ODR platform, they may have no idea where to begin. Therefore, clear standards will be tremendously helpful for identifying which ODR practitioners are not adequately protecting users’ interests.”

*(page 79, The Future of Online Dispute Resolution (ODR): Definitions, Standards, Disability Accessibility, and Legislation, by David Allen Larson, City University of Hong Kong Review, Vol.8, 2022, <https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1560&context=facsch>)*

# Conclusion (II)

- An ODR Framework will
  - Provide a rule-based ODR framework to ensure the healthy development of ODR
  - Provide MSMEs with tailored procedures for dispute resolution (to compete and flourish)
  - Build capacity for economic growth in general
  - Accelerate and extend real access to justice for all