

December 15, 2022

Dispute resolution on online platforms

2022 Tokyo Forum on Dispute Resolution

Anchoring new approaches to the core principles of due process and fairness

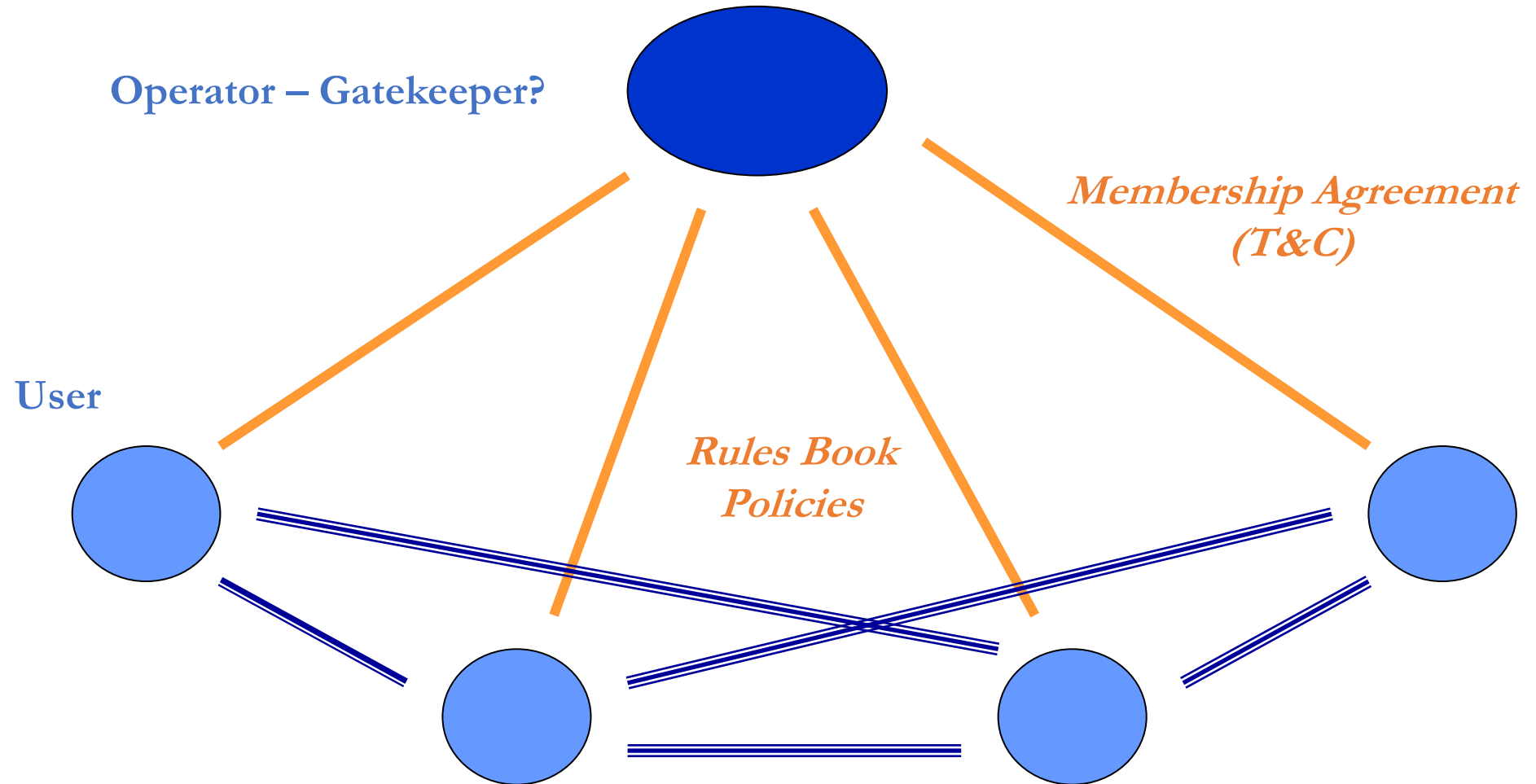
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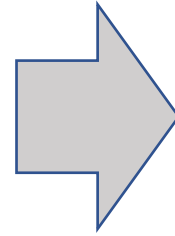
Legal Anatomy of Platforms



Internal ODR: *SquareTrade de eBay*



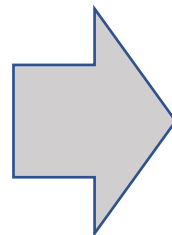
Concept and scope
of ODR in the
context of ADR



ODR Platform
Governance

Principles and
Rules: Access to
Effective Justice

Automation / AI



Enforceability

I.- Concept of ODR

ODR Models

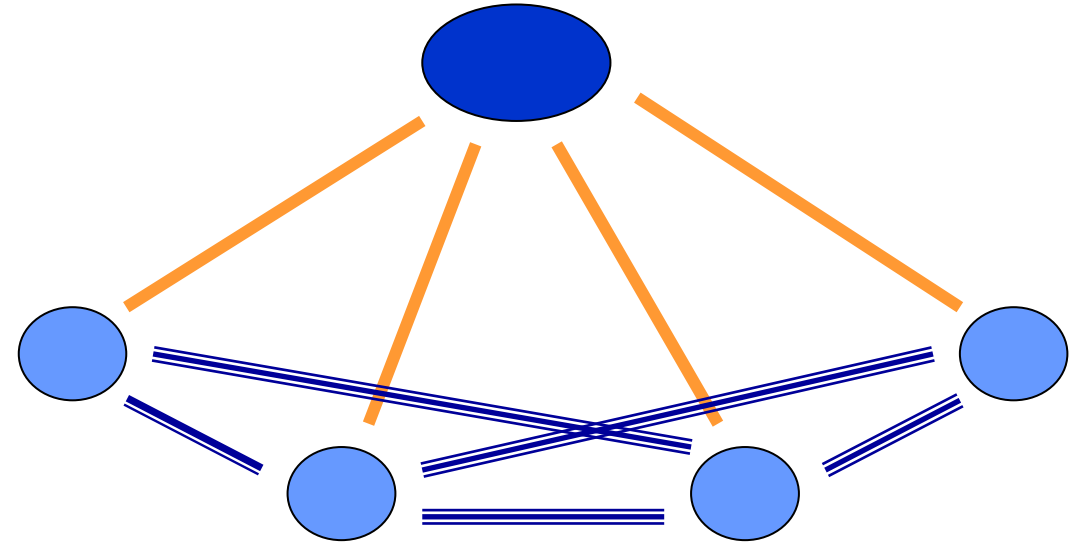


Content moderation

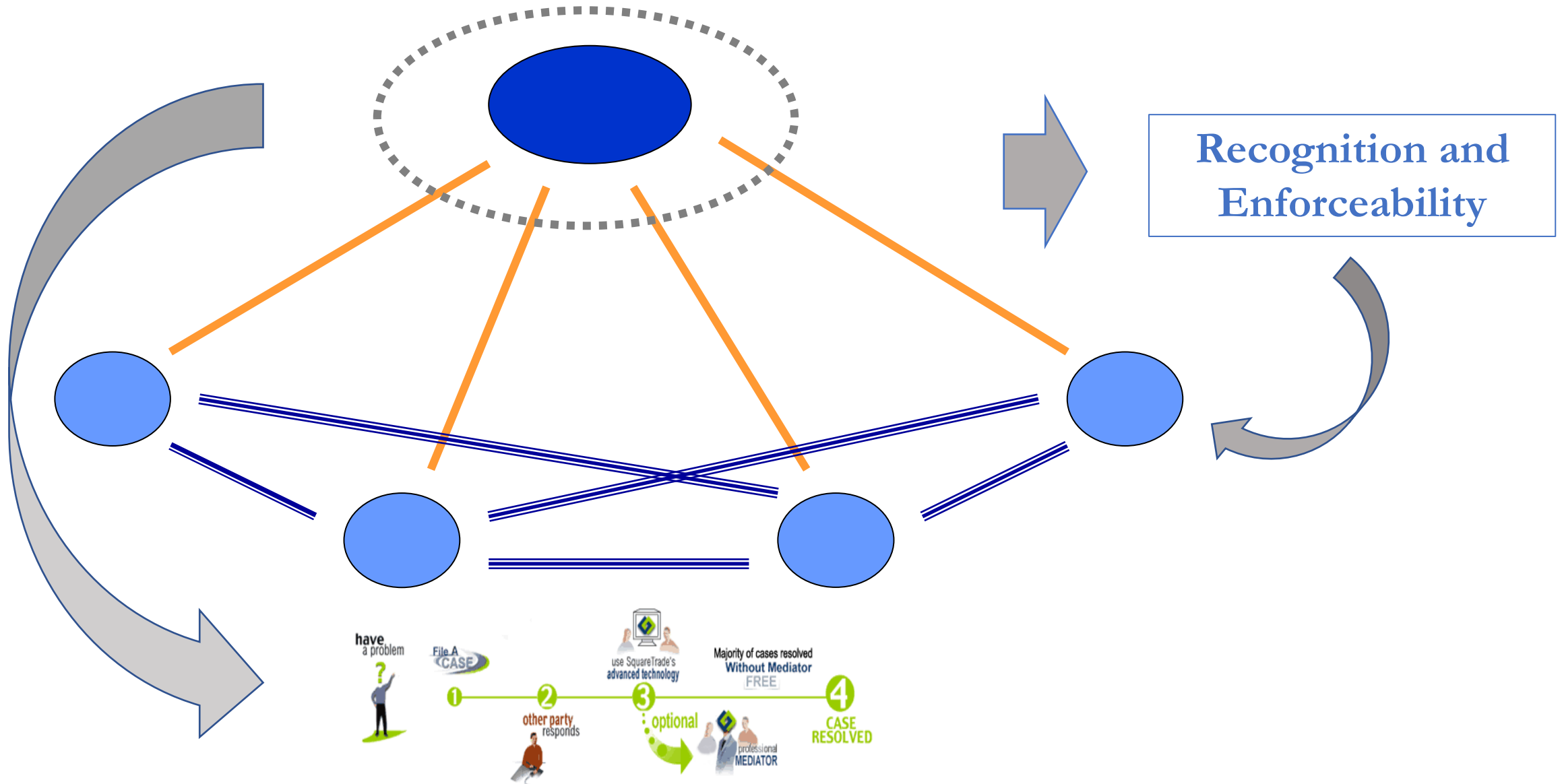
Complaint-handling mechanisms

Ad hoc dispute resolution systems

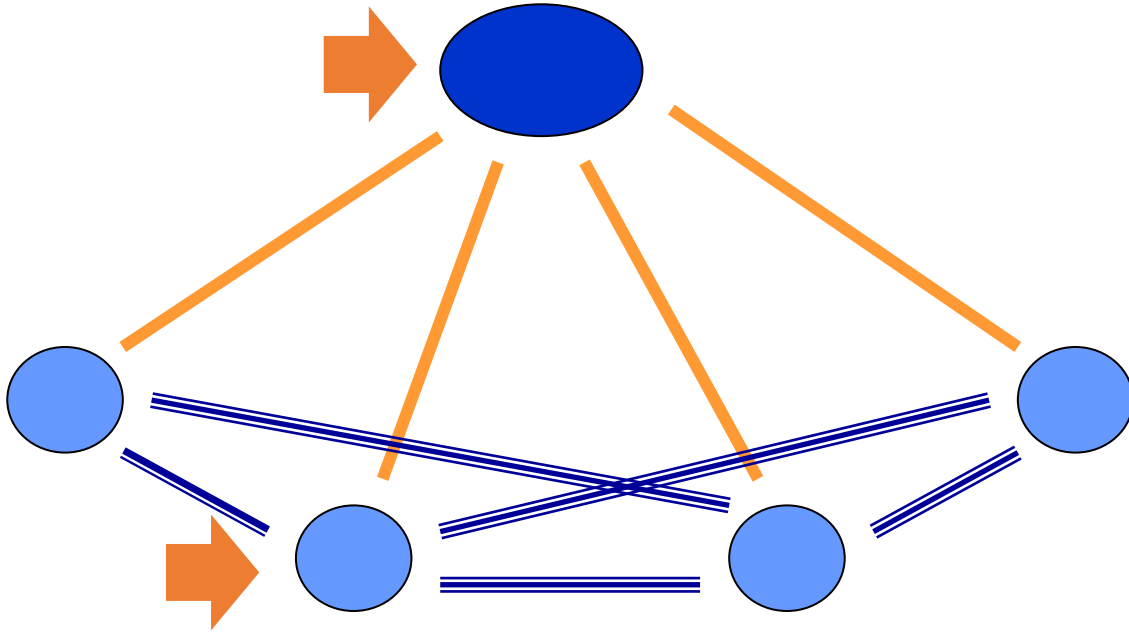
Online ADR



II.- Dispute Resolution on Platforms: Models



III.- Principles and Rules



Challenges

1). ODR Platform Governance

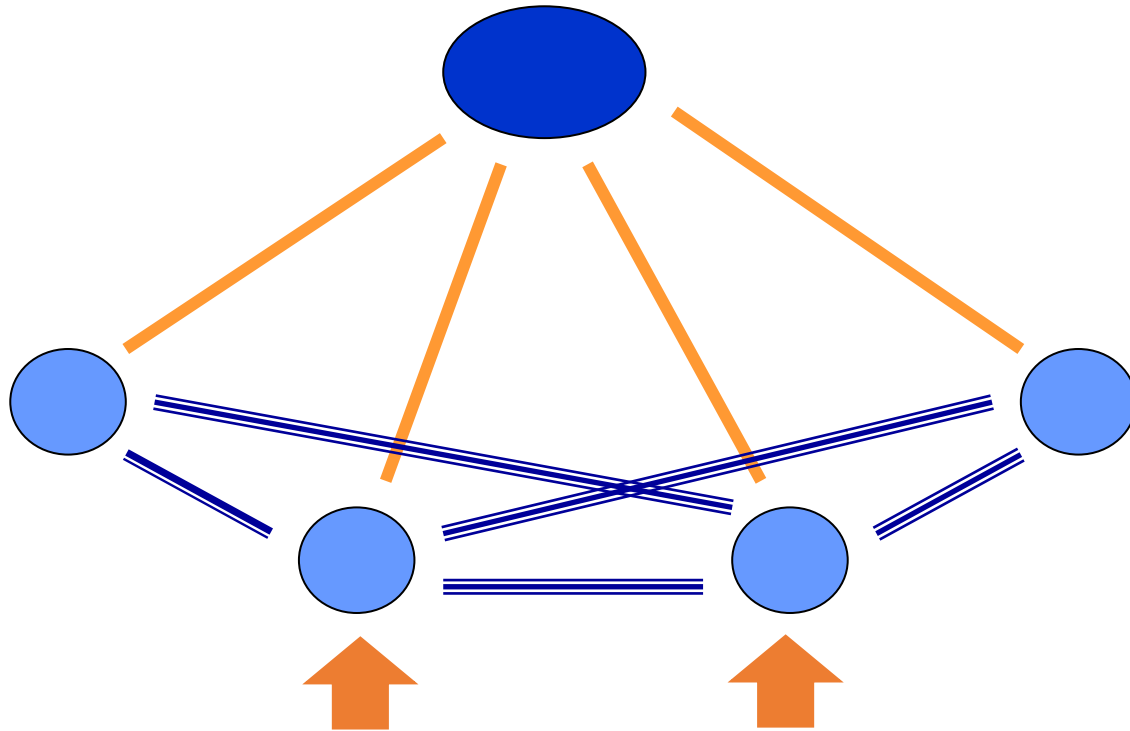
1.1. Impartiality:

- *internal ODR v. ODR platform*
- *existing institutions v. TTP*

1.2. Internal policies: procedural rules?

1.3.. Applicable Law: internal rules?

III.- Principles and Rules



Challenges

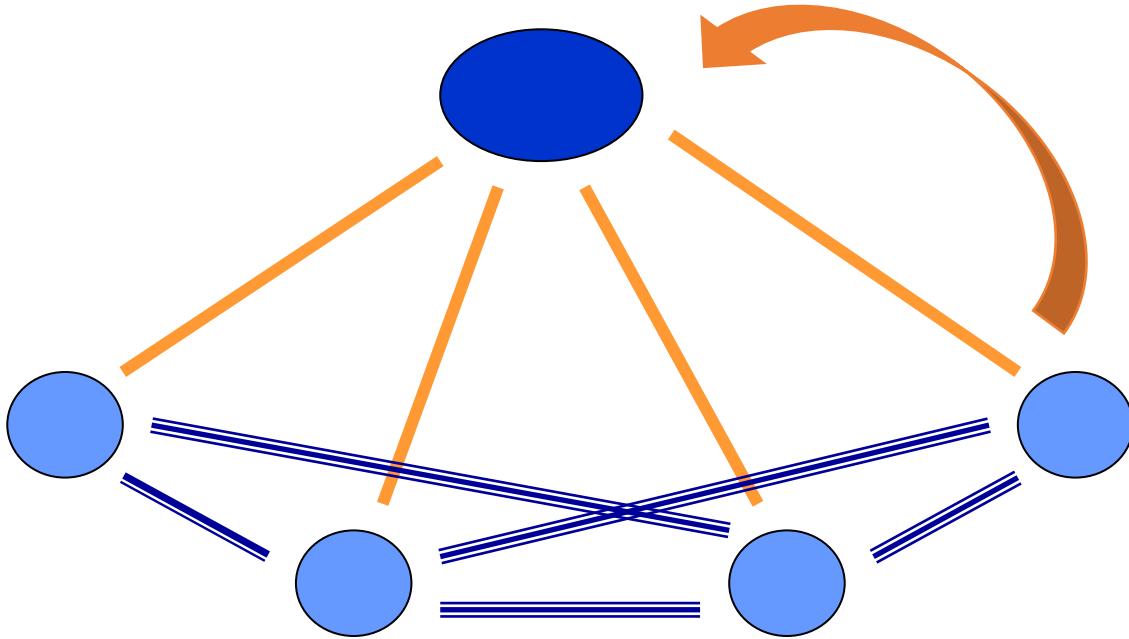
2). Access to platform

2.1. Identity verification:

2.2. Data protection and confidentiality

2.3. Valid consent

III.- Principles and Rules



Challenges

3). Redress and appeal

III.- Principles and Rules

Principles

- 1). Accessibility
- 2). Equality of arms
- 3). Confidentiality
- 4). Explainability
- 5). Right to a reasoned decisions
- 6). Judicial review

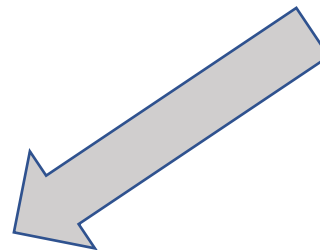
IV.- Purely automated decisions

Principles

- 1). Accessibility
- 2). Equality of arms
- 3). Confidentiality
- 4). Explainability
- 5). Right to a reasoned decisions
- 6). Judicial review

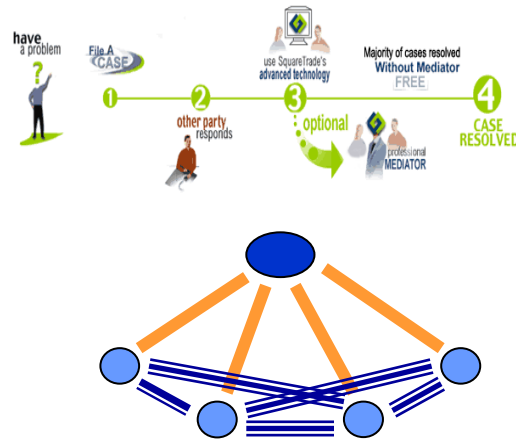
Opportunities

- a). Self-enforced remedies
- b). Automation:
risk or opportunity?



Dispute Resolution in Platforms and Dispute Resolution Platforms

ODR Models



Opportunities

- a). Self-enforced remedies
- b). Automation:
risk or opportunity?
- c). Personalization

Challenges

- A). Impartiality:
 - *internal ODR v. ODR platform*
 - *existing institutions v. TTP*
- B). Internal policies: procedural rules?
- C). Valid consent (clause)
- D). Recognition and enforceability:
within the platform? Outside? Any jurisdiction?
- E). Applicable Law: internal rules?
- F). Multiple-tier models: complaint – ODR
- G). Redress and appeal

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