

DEVELOPING AN ONLINE CONSUMER DISPUTE RESOLUTION PLATFORM IN THE FIELD OF E-COMMERCE IN VIETNAM: LESSONS FROM THE EUROPEAN UNION

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Abstract

In recent decades, e-commerce has gradually become a thriving industry that generated a huge profit and enhanced the life quality of nations around the world, including Vietnam. Nevertheless, the development of the Vietnamese e-commerce industry has also engendered a handful of consumer disputes that could not be easily resolved through traditional, face-to-face dispute resolution methods. A consumer redress system that addresses e-commerce transactions is essential to the continued success and growth of e-commerce. In this paper, we argue that traditional domestic judicial mechanisms for legal recourse do not adequately satisfy the needs of consumers or vendors and propose an online dispute resolution (ODR) system as a more reasonable, efficient and fair alternative. The ODR system will provide a forum in the same virtual marketplace environment in which consumers purchase their goods or services, allowing broad accessibility, as well as swift and affordable recourse for the parties involved. This paper will more specifically discuss the EU experience in promoting the ODR system for consumer e-commerce disputes, which can serve as a reference for the policy makers in establishing the legal framework for ODR in Vietnam. In addition, this paper also suggests a specific set of guidelines for the essential attributes that must be present in the Vietnamese consumer ODR platform.

Keywords: online dispute resolution, ODR, ODR platform, consumer protection, consumer dispute, e-commerce, Vietnam, EU

1. The needs for resolving consumer disputes in the field of e-commerce in Vietnam

1.1. The growth of the e-commerce industry in Vietnam and arising problems

In Vietnam, since the start of the first decade of the 21st century, e-commerce has been a fast-growing industry which attracts a high level of investment from a variety of Vietnamese and foreign investors. Various major e-commerce companies and corporations around the world have participated in the Vietnamese e-commerce market, such as Alibaba Group, Sea Group, Tencent, NorthStar Group etc., and are competing to gain the market share in this new industry.¹ The breakthrough of the internet and technologies, a fast developing economy, and the fact that Vietnam is among the top 20

¹ Hong A. (2018), 'Foreign investors dominate Vietnam's e-commerce market'. Retrieved from: <https://vietnaminsider.vn/foreign-investors-dominate-vietnams-e-commerce-market/> [accessed 03 May 2021].

countries with the highest number of internet users are the basis for the rise of e-commerce in Vietnam, especially the online shopping service.² According to a report made in 2021 by the Vietnam E-commerce and Digital Economy Agency (iDEA), despite the outbreak of the COVID-19 pandemic, the scale of the Vietnamese e-commerce market has reached 11.8 billion US dollars and Vietnam is the only country in the Southeast Asia region to achieve a two-digit e-commerce growth rate.³

The wide range of benefits that e-commerce brings to customers and businesses is undeniable. From a consumer's perspective, online shopping is clearly more convenient and less time-consuming than traditional shopping. For businesses, e-commerce offers a new channel to sell and introduce various kinds of products to customers and creates works for logistics service providers. This growth of the Vietnamese e-commerce industry, however, also comes with a rise of problems relating to consumer protection and cyberspace laws, such as the selling of defective or counterfeit products, unsecured e-commerce websites, and payment fraud.⁴ These problems may lead to a dispute between the buyer and the seller and sometimes other third parties such as the owner of an e-commerce website where the product is sold or the delivery service.

However, most online consumers would face difficulties in pursuing purchase complaints, due to lack of resources and power in the legal proceedings against the e-merchants. Businesses commonly prevent consumers from filing judicial claims or seeking class relief of any kind by requiring that consumers accept their online form contracts with a mandatory arbitration clause,⁵ which consumers usually accept without reading. To that end, the consumers must submit claims via face-to-face arbitration procedures that are more costly. Eventually, consumers drop these purchase complaints if pursuit requires too much effort and legal costs. Individuals lack the time, money, knowledge, and patience to pursue even small claims court proceedings. People busy with work and family obligations are likely to give up on pursuing complaints when companies ignore their initial requests for assistance. This leaves the vast majority of consumer claims off the "public radar" of courts and government regulators. Hence, it allows businesses to contain negative publicity and hinder filed claims by appeasing the few squeaky wheels who would otherwise have the capacity to take such public actions, and thus inform the majority about available claims

2 Internet World Stats, 'Top 20 countries with the highest number of internet users'. Retrieved from: <https://www.internetworldstats.com/top20.htm> [accessed 02 May 2021].

3 Van T. (2021), 'Vietnam's e-commerce market generates \$11.8 billion in 2020'. Retrieved from: <https://vietnamnet.vn/en/business/vietnam-s-e-commerce-market-generates-11-8-billion-in-2020-708478.html> [accessed 02 May 2021].

4 Quan T. (2020), 'Cẩn trọng với việc mua bán hàng qua mạng', [Cautious with online purchase]. Retrieved from: <https://nhandan.com.vn/bandoc/can-trong-voi-vec-mua-ban-hang-qua-mang-446976/> [accessed 02 May 2021].

5 Arbitration clauses in online contracts nearly always preclude class proceedings, which would otherwise allow consumers to collectively pursue factually similar claims.

and remedies. This is economically wise for businesses, considering the costs of retaining versus obtaining customers.

One of the clear examples of online consumer dispute is the case of Kim Phung vs. Di Dong Viet (a famous online distributor of electronic appliances).⁶ Kim Phung ordered an I-phone 12 ProMax, valued at nearly 1,500 US dollars, from the website of Di Dong Viet and made full payment; however, when the shipper delivered the packing box, she was not at home and yet accepted the delivery of goods. Upon opening the packing box, Kim Phung found that the inside was not the iPhone she ordered, but a brick. When she complained to the seller, Di Dong Viet refused to refund or compensate Kim Phung; it argued that the I-phone 12 ProMax was sent to her accordingly and they also provided evidence of a store output slip. Kim Phung could not provide evidence required by the court but her online purchase order, while the shipping company also provided the receipt of the handover of the packing box. The case, however, was widely discussed on internet forums and online newspapers.⁷ Consequently, under societal pressure, both the seller and the shipping company agreed to negotiate with the buyer to reach an out-of-court settlement. In many other consumer e-commerce disputes, no involved parties agreed to take responsibility and sometimes even condemned each other for the problem related to the product. These disputes can make the customers lose their trust in the seller or the brand that has wronged them in particular and the e-commerce industry in general. Under the current development of technology, it is undeniable that the digital dimension of the market is becoming vital for both consumers and traders. Consumers increasingly make purchases online and an increasing number of traders sell online. Consumers and traders should feel secured in carrying out transactions online, so it is essential to dismantle existing barriers and to boost consumer confidence. The loss of trust from customers will have a detrimental impact on the development of the Vietnamese e-commerce industry.

1.2. The issues and challenges of using traditional dispute settlement methods for settling consumer disputes in e-commerce

As analysed, the increase in e-commerce transactions will lead to an inevitable rise in e-commerce disputes. Under the Law of Customer Protection, such disputes can be solved at the court or by the alternative dispute resolution (ADR) system, including negotiation, mediation and arbitration.⁸ Hence, it is observed that both the court and “traditional” ADR proceedings may not be

6 Thien D., Trung C. (2020), ‘Mua iPhone 12 Pro Max giá 32 triệu đồng, khách nhận được... cục gạch’, [Ordered iPhone 12 Pro Max at VND32 mil, customer received a brick]. Retrieved from: <https://tuoitre.vn/mua-iphone-12-pro-max-gia-32-trieu-dong-khach-nhan-duoc-cuc-gach-20201212131426199.htm> [accessed 02 May 2021].

7 *Ibid.*

8 Article 30 of Law on Consumer Protection 2010.

the ideal choice to resolve the consumer dispute in the field of e-commerce for a number of reasons.

The first and the most important reason is consumer disputes in the field of e-commerce are usually small cost and high-volume disputes, because millions of online transactions are made every day for people to acquire products ranging from household appliances to foods and other consumables. Therefore, it is unrealistic to assume that an average consumer may want to pursue lengthy and costly litigation or arbitration procedure to gain an insignificant result.⁹ Consumer ignorance and apathy as to legal remedies is another reason.¹⁰ Furthermore, the Vietnamese court system, like other jurisdiction's court systems, might take several years to fully resolve a dispute, despite its more simplistic nature than other types of civil disputes. For example, in a product liability dispute case between a B.T.K vs. Samsung Vietnam, it was almost two years from the date the consumer filed the lawsuit against Samsung to the date when the appellate court rendered a final judgment, despite the fact that the content of dispute was very simple and straightforward.¹¹

Regarding arbitration and mediation, despite being recognized for taking less time to resolve a dispute than court proceedings, arbitration procedure will still last several months, and the arbitration fee is much higher than the court fee. Taking Vietnam International Arbitration Centre (VIAC) as an example, normally VIAC's arbitration procedure would take from two to four months for full settlement of the case,¹² and the minimum arbitration fee of at VIAC is around 700 US dollars,¹³ which might be almost equivalent to the value of consumer dispute. Mediation is another type of ADR that can be used to resolve the e-commerce dispute as it takes the parties less time and a lower fee than arbitration to get the dispute settled. Yet, one of the many weaknesses of mediation is that the result of the dispute is mostly dependent on the goodwill and cooperation of the parties. Generally, Vietnamese private mediation service is still in the infant stage and has not yet become popular with consumers and businesses alike. The first licensed commercial mediation centre in Vietnam – Vietnam International Commercial Mediation Centre (VICMC) – was only established in 2018, and there has not been any public statistics on the number of mediated disputes.

9 Rule C., Rogers V. and Duca L. D. (2010), 'Designing a Global Consumer Online Dispute Resolution (ODR) System for Cross-Border Small Value - High Volume Claims - OAS Developments', *Public Law & Legal Theory Research Paper Series*, Paper No. 1635463, Stanford University Law School, p. 4.

10 Policy Department Economic and Scientific Policy (2007), *Redress & Alternative Dispute Resolution in Cross-Border E-commerce Transactions*, European Parliament, p. 3.

11 The case No. 19/2019/DS-PT dated 13 May 2019 of People's Court of Hai Duong Province, Vietnam.

12 VIAC (2018), VIAC's Annual Report 2018. Retrieved from: <https://www.viac.vn/images/annual%20reports/Annual-report-2018.pdf> [accessed on 05 May 2021].

13 VIAC, 'Schedule of fees of Vietnam International Arbitration Center'. Retrieved from: <https://www.viac.vn/en/cost-of-arbitration> [accessed 05 May 2021].

The second reason is the weak position of a customer against the seller regarding financial capability, asymmetric information about the product, access to legal advice and judicial resolution, etc. To elaborate, a seller in an online transaction could be a natural or legal person who, for the transaction in question, is acting in a commercial or professional capacity.¹⁴ As a result, the seller has a higher chance of possessing better material knowledge over a product than the customer, especially products with complicated components such as electronic devices.¹⁵ Furthermore, if a seller is a company, it could enjoy far better financial ability, manpower, and legal support from its in-house legal team or hired lawyers to protect them in any legal proceedings. If the customer finds himself or herself unable to do the same, the wronged consumer may have to make some concessions and accept an unfavourable offer from the seller before the judgment or arbitral award is rendered.

Last but not least, nowadays, thanks to international trade, global logistics systems, and assistance from the Internet, Vietnamese people are able to buy goods and products from foreign sellers around the world, and if there is any arising dispute between them, it shall be considered as a cross-border dispute due to the different places of domicile. The question of where a cross-border consumer dispute should be legally located is a complex one with no definitive answer, especially if the online transaction consists of more than two parties. For instance, a customer from the first country buys a product manufactured by a company in a second. Due to the typically low value of the product, it is hard to believe that a Vietnamese customer may desire to dispute cross-border and enter a foreign court to have their claims resolved.

The above reasons show the traditional dispute settlement methods, including the judicial and ADR methods, are not ideal solutions for the settlement of consumer disputes in the field of e-commerce. Another mechanism is needed to address online consumer disputes thoroughly in order to protect the lawful rights and interests of consumers and ensure the stable growth of the Vietnamese e-commerce industry. To that end, it is suggested that Vietnam promote the online dispute resolution (ODR) mechanism as an alternative for consumers to protect their legitimate interests. The ODR is often perceived as a fast, cheap, and efficient means to settle the online consumer dispute; thus, it could be an answer to the aforementioned matter in Vietnam. In the world and in the region, ODR emerged in the 1990s and has become increasingly popular since 2010s. However, the policy makers in Vietnam have not yet demonstrated interest towards the development of the ODR. Their understanding on the ODR and its role settlement online disputes is still quite limited.

14 Cortés P. (2010), 'Online Dispute Resolution for Consumers in the European Union', *Routledge*, p. 34.

15 Bloomenthal A. (2021), 'Asymmetric Information'. Retrieved from: <https://www.investopedia.com/terms/a/asymmetricinformation.asp> [accessed 05 May 2021].

The Law on Consumer Protection acknowledges the possibility of using the ADR (i.e., negotiation, mediation and arbitration) for consumer disputes. With respect to arbitration, it stipulates that in case the arbitration clause is included in form of a model contract or general transaction conditions [offered by the traders], when a dispute occurs, the individual consumer has the right to choose any other dispute resolution method.¹⁶ This provides the consumers with the liberty to choose the forum for settlement of their disputes, but does not facilitate the use of new ADR means for dispute resolution such as ODR. It is, therefore, of high importance for them to have a proper understanding of the nature and impacts of the ODR in protecting the rights of consumers in their disputes with traders as well as the conditions required for developing an efficient ODR.

2. Roles of online dispute resolution for building trust in e-commerce

2.1. Meaning of online dispute resolution

ODR is not a new dispute settlement method but rather a means to facilitate the dispute settlement proceedings between the parties. It primarily involves negotiation, mediation or arbitration, or a combination of all three. In this respect, it has often been associated with ADR.¹⁷ The ODR is also named electronic ADR (eADR), online ADR (oADR) and Internet dispute resolution (iDR). According to experts, “ODR is often referred to as a form of ADR which takes advantage of the speed and convenience of the Internet and information and communications technology (ICT)”.¹⁸ The use of ICT in dispute settlement can help the parties to resolve certain issues when traditional dispute settlement resolution methods are inefficient or unavailable.

In an ODR process, the parties could use the Internet or other communication technologies, such as fax or telephone, for initial filing, the appointing a neutral third party, handling of evidence, oral hearings, and even the rendering of binding decisions. The aim of ODR is still to resolve the dispute from the beginning to the end while not violating any due process principles.¹⁹ According to Lodder and Zeleznikow, ODR systems could be classified based on the forms of synchronous and asynchronous communication used.²⁰ With the first type, parties communicate with each other through texting software such as Facebook Messenger, or video conference software such as Zoom or Microsoft Teams. With the asynchronous form, parties do not communicate at

16 Article 38 of Law on Consumer Protection 2010.

17 Ahalt A. M. M. (ret.), ‘What You Should Know About Online Dispute Resolution’. Retrieved from: https://www.virtualcourthouse.com/index.cfm/feature/1_7/what-you-should-know-about-online-dispute-resolution.cfm [accessed 10 December 2020].

18 Hodges C., Creutzfeldt-Banda N., and Benöhr I. (2011), ‘The Hidden World of Consumer ADR – Redress and Behaviour’, *The Foundation for Law, Justice and Society*, p. 11.

19 Cortés (2010), *supra* note 14, p. 53.

20 Mania K. (2015), ‘Online dispute resolution: The future of justice’, *International Comparative Jurisprudence* 1 (2015), pp. 76-86. Retrieved from: https://www.academia.edu/27470991/Online_dispute_resolution_The_future_of_justice [accessed 10 December 2020].

the same time but via e-mail, fax, or forums such as the services of the National Arbitration Forum (FORUM) – a company headquartered in Minneapolis, Minnesota, United States. Each form utilizes a different technological system with respective upsides and downsides and allows the disputants to choose what is the most suitable for them. Another approach to classifying is based on the method of ADR applied in the ODR process. The most frequent ADRs used are online mediation (74% of ODR providers) and electronic arbitration (40% of ODR providers),²¹ with the former being more frequently used to resolve online disputes, including consumer disputes relating to online transactions.

A typical model for the process of online mediation starts when an e-mail is sent to the parties containing the basic information on proceedings. The parties can send the mediator with the relevant documents electronically through the ODR platform. The mediator can then convene virtual meetings, either between the mediator and each party, or simultaneously with all parties together. When the parties reach a settlement, the settlement agreement can then be signed electronically on the ODR platform. In this regard, ODR platforms provide enhanced flexibility, given that parties are able to meet and communicate whenever and wherever it is convenient for them. Katsh and Rifkin analysed those three important factors, namely convenience, trust and expertise as forming the essence of ODR.²²

It should be noted that under the ODR system, in addition to the disputing parties and a neutral third party (arbitrator, mediator, and negotiator), there is a fourth party in the ADR process, which is technology. As a matter of fact, the fourth party is used by the third party as a tool for assisting the dispute settlement process. ODR can resolve online disputes as well as (offline) traditional disputes which are capable of being resolved by information technology with minimal time and cost.

ODR involves various methods of dispute resolution including e-Negotiation, e-Conciliation, e-Mediation, e-Arbitration, and hybrid mechanisms such as Medola, Mini trial, Med Arb, fast track arbitration, Neutral Listener Agreement, Rent a Judge, etc. It may adopt either adjudicatory or non-adjudicatory process to have its decision binding or non-binding upon parties. It should also be noted that ODR is not only applicable for ADR, but could also be applied for court proceedings. In Singapore, local courts have also been actively exploring the ODR space, with the small claims tribunals allowing litigants to commence cases entirely online. Singapore has developed an ODR system named E-litigation that avails judges and lawyers to upload and

21 Mania K., *ibid*, p. 79.

22 Katsh E. (2006), 'Online Dispute Resolution: Some Implications Have Emergence Of Law In Cyber Space', *Lex Electronica*, Vol. 10, issue 3. Retrieved from: https://www.lex-electronica.org/files/sites/103/10-3_katsh.pdf [accessed 10 December 2020].

access court documents online.²³ During the COVID-19 pandemic, the court systems of various countries have conducted many parts of litigation procedure online and utilized the technology, although there were a few shortcomings and criticisms on the negative effects of technologies on litigants and the judge.²⁴

Today, there is a growing number of ODR platforms globally. Many ODR platforms have been introduced in the Netherlands for small-claims procedures and legal-advice systems.²⁵ A current market leader in ODR is Modria, which is currently partnering with e-Bay, amongst others. It offers both mediation and arbitration, with customisable services provided in a modular manner.²⁶

2.2. ODR to expand and equalize access to consumer remedies

As analysed above, consumers facing B2C e-commerce disputes usually do not pursue purchase claims through traditional face-to-face procedures that require sophistication and resources. They would drop the complaints against the online suppliers if such action requires too much time and effort. According to Nguyen Van Minh and Nguyen Thanh Hung, anger may fuel a consumer's initial email or phone call regarding a purchase problem, but most consumers generally are not able to follow up the case after receiving no reply or facing long hold times with customer service phone lines.²⁷ Consumers are also reluctant to pursue the purchase claim due to legal costs. Taking legal proceedings would require them to deposit high filing and administrative fees. This hinders consumers' incentive to file a claim when the initial filing and administration costs outweigh any potential recovery through the procedure.²⁸

The ODR is considered to be a more suitable solution for the high-volume and low-value online disputes among business and the consumer relationships (B2C) than traditional ADR or litigation. The significant advantages of ODR can be named as follow:

- 23 In 1997, the Singapore Courts embraced ODR named the Electronic Filing System (EFS). The EFS, which acted as a fully-electronic civil registry, was the first nationwide paperless court document system to be adopted in the world. The EFS enabled lawyers to commence cases and file court documents entirely online. Since 2013, the EFS was upgraded to the E-Litigation system. See LawTech.Asia, 'Legal Technology in Singapore'. Retrieved from: <https://lawtech.asia/legal-technology-in-singapore/> [accessed 05 May 2021].
- 24 Bannon A., Adelstein J. (2020), 'The Impact of Video Proceedings on Fairness and Access to Justice in Court', *Brennan Center For Justice*. Retrieved from: <https://www.brennancenter.org/our-work/research-reports/impact-video-proceedings-fairness-and-access-justice-court> [accessed 05 May 2021].
- 25 Cortés (2010), *supra* note 14, p. 67.
- 26 Ben B. (2015), 'Modria and the Future of Dispute Resolution', *Odreurope*. Retrieved from: <http://www.odreurope.com/news/articles/online-dispute-resolution/1172-modria-and-the-future-of-dispute-resolution> [accessed 10 February 2021].
- 27 Nguyen V. M., Nguyen T. H. (2016), *Research on Online Dispute Resolution System in e-commerce under the context of EVFTA*, MUTRAP Report, Code: ICB-44, p. 4. Retrieved from: [http://thuvien.hlu.edu.vn/KIPOSATA0/KIPOSSysWebFiles/files/SanPham/TaiLieuDuAnMuTrap/BaoCaoNghienCuu/ICB%2044_Research%20on%20Online%20Dispute%20Resolution%20System%20in%20e-commerce%20under%20the%20context%20of%20EVFTA%20\(2\).pdf](http://thuvien.hlu.edu.vn/KIPOSATA0/KIPOSSysWebFiles/files/SanPham/TaiLieuDuAnMuTrap/BaoCaoNghienCuu/ICB%2044_Research%20on%20Online%20Dispute%20Resolution%20System%20in%20e-commerce%20under%20the%20context%20of%20EVFTA%20(2).pdf) [accessed 12 December 2021].
- 28 Nguyen V. M., Nguyen T. H. (2016), *ibid*.

(i) Time and costs savings:

With the use of ICT, there should be no travel and accommodation expenses, probably surpass the value of the dispute in case of a cross-border dispute, and thus saving time for the parties. The use of an informal procedure that is decided by the parties expedites the settlement process and also removes the costs for hiring lawyers and expert witnesses.

(ii) Control over outcome:

Giving disputants nearly total control of the settlement process and letting them create their own agreement without having it imposed on them by a third party removes their “winner-and-loser” mindset and increases the chance of voluntary enforcement of the final outcome by the parties.²⁹ Compared to voluntary enforcement, enforcement of a judgment or arbitral award by a competent authority is complicated, slow and expensive, especially when enforcing cross-border judgments or arbitral awards are involved.

(iii) Convenience for the parties:

Asynchronous communication form ODR (i.e., the parties communicate via email or texting) allows the parties to contact each other at any time that is convenient and gives them time to think more thoroughly before making any decision. Additionally, without any pressure from being intimidated or verbally harassed by the opposite side, a party could freely give a more precise and honest response under the support of neutral third parties. With the help from ICT, any party could see any statement that was made during the settlement process and replay the whole video conference meeting or other built-in functions of the ODR website/ platform.

(iv) Document storage:

Document storage is one of the most common problems faced in any dispute settlement systems. Building and maintaining storage space for hard copies of case documents would reflect on the costs of the ADR procedure. With the development of I-Cloud Technology, the ODR platform can offer unlimited data storage space for digitalised documents. Data storage under the ODR is secured for saving and transmitting documents when necessary, without any hassle.

(v) Appropriateness of ODR:

While the application of ODR is not limited to disputes arising out of online transactions in the field of e-commerce, it appears to be particularly suitable for this type of dispute, since it is logical to use the same medium (the Internet) to acquire a resolution of e-commerce disputes when parties

²⁹ Cortés P. (2010), *supra* note 14, p. 51.

are frequently located far from one another, even in different countries.³⁰ Likewise, Ponte and Cavenagh – two ODR experts – stated that “[t]he online community is looking for conflict resolution options that mirror the speed and efficiency of the Web.”³¹

The idea of the ODR emerged in the 1990s. The first ODR platform in the world was the Virtual Magistrate (VM) founded by the US National Centre for Automated Information Research (NCAIR) in 1995. It was a voluntary online arbitration procedure created to settle any dispute between Internet Service Providers (ISP) and their customers; however, only one case was ever resolved.³² Since then, more commercial organizations and governmental bodies have started to recognize and develop the ODR platform to resolve disputes relating to online transactions, especially consumer e-disputes. Many ODR service providers such as Modria, Yousite, Cybersettle, ClickNsettle.com, SmartSettle, Legal Referee, and BBB Online have actively resolved disputes both in the public and private domain involving government and commercial entities.

Such an expansion of the applicability of ODR has been aided, in part, by the improvement of online and communications technologies. For example, faster broadband connections proliferating throughout the developed world greatly facilitated the data transfers that were required for ODR to work (such as the uploading of documents online, and for instantaneous party-to-party communications). A further example was the explosion of mobile technologies in the latter part of the 2000s, which resulted in a profound shift of many aspects of life into the online realm. Another essential part is the development of the regulatory framework on consumer ODR. It is observed that the formation of legal standards for the ODR platform in the EU has contributed significantly to the attainment of a high level of consumer protection. The ODR platform for consumer disputes established after the adoption of the regulations on consumer ODR received more than 24,000 complaints which were submitted in its first year of operation.³³ The ODR platform ensures access to simple, efficient, fast, and low-cost ways of resolving consumer domestic and cross-border disputes which arise from sales or service contracts, especially online ones. This should benefit consumers and therefore boost their confidence in e-commerce. The following section of this paper will attempt to analyse the EU regime for consumer ODR.

30 Leonel B. (2002), ‘Online Dispute Resolution– What it Means for Consumers’, Paper presented at a conference entitled: *Domain Name Systems and Internet Governance*, Grace Hotel, Sydney, p. 2.

31 Lucille P. and Cavenagh T. (2005), *Cyberjustice: Online Dispute Resolution (ODR) for Ecommerce: Upper Saddle River*, Pearson-Prentice Hall, p. 31.

32 Cortés P. (2010), *supra* note 14, p. 54.

33 European Commission (2017), ‘Report from the Commission to the European Parliament and the Council on the functioning of the European Online Dispute Resolution platform established under Regulation (EU) No. 524/2013 on online dispute resolution for consumer disputes’. Retrieved from: https://ec.europa.eu/info/sites/info/files/first_report_on_the_functioning_of_the_odr_platform.pdf [accessed 10 May 2021].

3. EU regime for consumer online dispute resolution

3.1. Historical development of EU legal framework on online dispute resolution

The EU started developing the legal framework to facilitate online transactions since the late 1990s. The first regulations on ecommerce adopted by the European Commission was the Directive 97/7/EC (Distance Selling Directive), following by the Directive 2000/31/EC (Directive on Electronic Commerce), have formed the foundation for consumer protection in the field of e-commerce by creating harmonised regulations on transparency and information requirements for online service providers, electronic contracts, etc.³⁴ Pursuant to these regulations, EU member states shall ensure that their legal systems recognize formation, completion and enforcement of electronic contracts as well as settlement of disputes using information and communications technology.³⁵

EU internal market has undergone significant changes over the last two decades. One of the main developments is the inclusion of its digital dimension. According to Eurostat, in 2016 more than four fifths of Europeans used the Internet and 66% of Internet users shopped online.³⁶ The scope and size of the markets enabling e-commerce as well as retail sectors with inherent cross-border features – such as travel and car rental services – are expanding.³⁷ Thus, EU policy makers have openly acknowledged that the traditional dispute resolution mechanisms – such as litigation before courts – are not the most suitable options to deal with an increasing number of low-value claims relating to online transaction.³⁸ Thus, it is necessary to facilitate the development of the alternative dispute resolution mechanisms which can provide a simple, efficient, fast and low-cost ways of resolving disputes which arise from the sale of goods or the supply of services online as that would help to strengthen the consumer's confidence in and benefit from the digital dimension of the EU internal market.³⁹ Hence, the European Commission also found that the normal ADR mechanism for consumer disputes had not been sufficiently and consistently developed across the EU.⁴⁰ Despite European Commission Recommendations 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of-

34 European Commission, 'e-Commerce Directive'. Retrieved from: <https://ec.europa.eu/digital-single-market/en/e-commerce-directive> [accessed 01 March 2021].

35 Cortés P. (2010), *supra* note 14, p. 76

36 Eurostat (30 January 2017), 'Internet Access and Use Statistics – Households and Individuals'. Retrieved from: http://ec.europa.eu/eurostat/statistics-explained/index.php/Internet_access_and_use_statistics_-_households_and_individuals [accessed on 10 December 2020].

37 European Commission (2013), Regulation No 524/2013 of the European Parliament and of the Council, dated 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC, p. 2.

38 Cortés P. (2018), *The Law of Consumer Redress in an Evolving Digital Market*, Cambridge University Press, p. 101.

39 Regulation (EU) No 524/2013, *supra* note 37.

40 European Commission (2011), *Impact Assessment Accompanying the Document of the Proposal for a Directive on Alternative Dispute Resolution for Consumer Disputes and the Proposal for a Regulation on Online Dispute Resolution for Consumer Disputes*, Staff Working Paper, SEC (2011) 1408, p. 28.

court settlement of consumer disputes⁴¹ and 2001/310/EC of 4 April 2001 on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes,⁴² The European Commission was of the view that the ADR for consumer disputes had not been running satisfactorily in all geographical areas or business sectors in the European Union. Consumers and traders were still not widely using the ADR for settlement for disputes which arise from the sale of goods or supply of services online.⁴³

To that end, the European Commission proposed to establish an ODR platform and provide all technical facilities necessary for the functioning of the platform.⁴⁴ Such ODR platforms should offer an electronic translation function which enables the parties and the ADR entity to have the information which is exchanged through the ODR platform as well as be able to translate the resolution of the dispute where appropriate (an important element of multilingual nature of the EU). The European Commission also acknowledged the necessity of creating a legal framework for developing an ODR platform for consumer disputes at the European Union level which is deemed to connect all existing ADR entities in the Member States and respect the legal traditions of the Member States. ADR entities to which a complaint has been transmitted through the ODR platform should therefore apply their own procedural rules, including rules on cost. However, the ODR regulations shall also establish common rules applicable to those procedures that will safeguard their effectiveness.

In 2013, the European Parliament has developed a new regulatory regime for consumer ODR, which is based on two key legislations, namely (i) the Regulation No 524/2013 on online dispute resolution for consumer disputes⁴⁵ (the Regulation on Consumer ODR) and (ii) the Directive 2013/11/EU of on alternative dispute resolution for consumer disputes⁴⁶ (Directive on Consumer ADR) in May 2013. Both regulations shall support the out-of-court settlement of consumer disputes with a view to ensure that consumers have straight-forward and low-cost access to justice.

The Directive on Consumer ADR ensures that EU consumers can turn to certified alternative dispute resolution bodies when they have a problem with a trader over the purchase of a product or a service in virtually all retail sectors – and no matter where (domestically or across borders) and how (online or offline) the purchase was made. The certified ADR bodies need to respect binding quality requirements. EU member states must establish national lists

41 EU Official Journal L 115, 17 April 1998, p. 31.

42 EU Official Journal L 109, 19 April 2001, p. 56.

43 EU Official Journal, L 165, 18 June 2013, pp. 1–3.

44 European Commission, (2013), *supra* note 37.

45 European Parliament, Directive 2013/11/EU of the European Parliament and of the Council, dated 21 May 2013 on Alternative Dispute Resolution for Consumer Disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC.

46 European Parliament, *ibid.*

of certified ADR entities that comply with this Directive and register the lists to the European Commission (the list must be updated from time to time). In addition, the Member States should also ensure that ADR entities, the European Consumer Centre Network, and, where appropriate, the bodies designated in accordance with the Directive publish that list on their website by providing a link to the Commission's website, and whenever possible on a durable medium at their premises.⁴⁷ The consumer organisations and business associations are encouraged to publish the list of ADR entities and disseminate information on what consumers should do if they have a dispute with a trader so that they can utilise the ADR rules efficiently.⁴⁸ EU member states shall ensure that their competent authorities entrusted with the enforcement of EU legal acts on consumer protection will cooperate with ADR entities, including but not limited to exchange of information on consumer ADR practices, provision of technical assessment and information by such national authorities to ADR entities where such assessment or information is necessary for the handling of individual disputes.⁴⁹

The Regulation on Consumer ODR, meanwhile, is to facilitate the establishment of an ODR platform at EU level (EU ODR Platform), which shall serve as a single point of entry to consumers and traders seeking to resolve disputes arisen from online transactions through ADR. The EU ODR Platform is sponsored and operated by the European Commission.⁵⁰ According to Article 5 of the Regulation on Consumer ODR, the European Commission shall be responsible for data security in the EU ODR Platform and ensure that the privacy of its users is respected from the design stage and that the ODR platform is accessible and usable by all, including vulnerable users. The EU ODR Platform shall secure interchange of data with ADR entities and respect the underlying principles of the European Interoperability Framework.

In order to ensure broad consumer awareness of the existence of the EU ODR Platform, the Regulation on Consumer ODR requires that traders established within the EU engaging in online sales or service contracts must provide, on their websites, an electronic link to the EU ODR Platform; the traders are also obliged to provide their contact information on the EU ODR Platform. This is not the first time the European Commission has tried to create an ODR platform (the ODR platform was initially designed for civil disputes involving small claims between individuals), but the EU ODR Platform is a refined version that has provided a common platform for the entire EU to deal with different kinds of e-commerce disputes. In addition, by establishing this EU ODR Platform, the European Commission has achieved another

47 Article 15 of Directive on Consumer ADR.

48 Article 15 of Directive on Consumer ADR.

49 Article 17.2 of Directive on Consumer ADR.

50 Article 5 of Regulation on Consumer ODR.

important objective: to create an effective tool of consumer protection for the entire community market.

The EU ODR legal framework has promoted significantly the awareness and interests of the consumers and businesses in the EU ODR Platform. Since the establishment in 2017, the EU ODR Platform has shown many impressive results. In its first year of operation, over 1.9 million people visited the ODR platform and about 24,000 complaints were filed/documentated (about a third of these concerning cross-border on-line purchases).⁵¹

3.2. EU online dispute resolution Platform's working mechanism

As mentioned, the European ODR Platform was established with the aim to settle consumer disputes, especially the online ones with the seller and the buyer coming from different EU member states. Thus, it takes form of an interactive website which can be accessed electronically and free of charge in all the official languages of the institutions of the EU.

The Regulation on Consumer ODR requires that traders and marketplaces established in the EU that engage in online sales (or service contracts) with consumers must provide an easily accessible electronic link on their websites to the EU ODR platform. Thus, whenever a dispute arises, the first step for the consumer is filling an online complaint form on the website of the ODR platform - available in all official EU languages.

The trader shall receive a notice from the ODR platform via email about the consumer's complaint within ten days; and from then on, that trader has three options: (i) Direct negotiation with the customer to settle the dispute bilaterally; (ii) Resolving the dispute through the ODR platform; or (iii) Refusing to answer, in which case the complaint is closed automatically after 30 days. If the trader chooses the last option, the consumer now can only take the dispute to traditional means of dispute resolution. For the first option, if the trader is open for dialogue, parties can exchange messages directly through the consumer's dashboard, send attachments such as product photos, and schedule an online meeting. The online negotiation has a maximum 90-day period to reach an agreement and either party can withdraw from direct talks at any time.⁵²

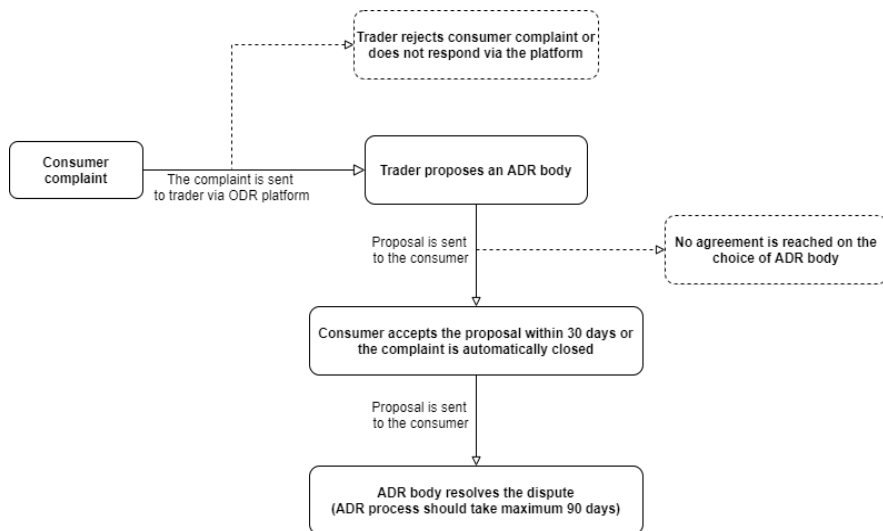
In case the trader wants to resolve the dispute through other means, once the trader has replied, both parties have thirty calendar days from the submission of the complaint to choose an ADR body to handle the dispute. A list of recommended dispute resolution bodies will be given by the platform; however, the parties can freely choose other bodies outside this list. In case it

51 Wigand C., Soumillion S. (2017), 'Buying online and solving disputes online: 24.000 consumers used new European platform in first year'. Retrieved from: <https://ec.europa.eu/commission/pressc>. Retrieved from: [orner/detail/en/IP_17_727](https://ec.europa.eu/commission/pressc) [accessed 15 February 2021].

52 European Commission, 'About the ODR platform'. Retrieved from: <https://ec.europa.eu/consumers/odr/main/?event=main.home.howitworks> [accessed 10 March 2021].

is mandatory for the online trader to use a particular dispute resolution body, for example, due to a regulatory obligation, it should clearly explain this to the consumer.⁵³ The list of ADR entities is mostly ombudsman or mediation institutions in the EU member states.⁵⁴ In 2017, over 300 ADR entities from 26 EU Member States, except Spain and Romania, have registered and can be accessed through the platform by the parties.⁵⁵ When an agreement is reached, the EU ODR platform shall inform the chosen body about the dispute. Otherwise, the complaint will not be further processed through the platform and the consumer is then informed about the option to contact an ODR advisor who can help in finding other options of redress,⁵⁶ such as small claims court or administrative procedure of an institution. Once the ADR entity has accepted jurisdiction, it will handle the complaint in line with its usual procedures and must offer a suggested solution with 90 days,⁵⁷ in accordance with its own procedures and practices. The decision of ADR entity over the dispute shall be available to access on the EU ODR Platform, and its enforcement is totally dependent on the law of the jurisdiction where the ADR entity handling the complaint is located.

The process of resolving e-commerce consumer dispute by using the EU ODR platform is visually summarized below:



53 Article 9 paragraph 3 subparagraph (c) of Regulation on Consumer ODR.

54 European Commission (2017), 'List of Dispute Resolution Bodies'. Retrieved from: <https://ec.europa.eu/consumers/odr/main/?event=main.adr.show2> [accessed 10 March 2021].

55 European Commission (2017), *Ibid.*

56 Article 9(8) of Council Regulation (EU) 524/2013 of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation 2006/2004 and Directive 2009/22/EC, [2013] OJ L 165/1.

57 Gelder E. v. et al. (2018), 'The Online Dispute Resolution Platform after One Year of Operation: A Work in Progress with Promising Potential'. Retrieved from: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3169254 [accessed 10 March 2021].

Overall, the EU ODR platform has provided the consumers within the EU a tool to resolve their dispute with traders within the EU in an uncomplicated, expeditious, and inexpensive manner which many countries or regions have not achieved yet with respect to consumer protection. In a few EU Member States, traders can even use the platform to submit complaints against consumers, where the chosen dispute resolution body has the jurisdiction to adjudicate on such a rare type of dispute.⁵⁸

4. Assessing the effectiveness of EU online dispute resolution platform

4.1. The benefit from using the EU online dispute resolution Platform

Compared to other traditional dispute resolutions, the EU ODR Platform has proved itself to be an efficient platform for resolving consumer disputes with the following notable advantages:

(i) *Quick and free of charge process of consumer dispute settlement:* Compared to litigation or traditional arbitration in terms of resolving online consumer disputes, the EU ODR platform allows the dispute to be settled in a significantly shorter time, therefore achieving the main purpose for which it was created in the first place. Based on the regulations on the ODR process, it takes a maximum of 120 days from the date the consumer files his/ her complaint to the final resolution for the dispute. In our opinion, the fact that the consumers can directly notify their complaint to the seller without having searched for contact information first is the most amazing and innovative feature of the EU ODR platform. ADR entities could utilize the platform's case management system to handle the ADR procedure online from the start to the end of the case.

The EU ODR platform is free of charge in order to be universally accessible for EU consumers. This helps to lift the discouragement among consumers to settle the dispute because of the cost of the dispute resolution procedure. In addition, as consumer disputes are usually low-cost and relatively simple, it is expected that they shall be resolved as quickly as possible without the need for the involvement of an expert or lawyer or any complicated procedure. However, the parties may pay a fee demanded by the ADR entity chosen to manage the dispute, which may vary depending on the options chosen by the parties.

(ii) *Granting the parties greater control on the settlement process and of the outcome of the dispute:* Through the process of resolving the dispute, parties have the final word on the decision and the procedure. Parties have indeed a real role to play as they have to reach an agreement in order to finally settle the dispute. For instance, the EU ODR platform allows the parties to choose any ADR service provider that is competent to handle the case and that provider could decide to accept the request from the parties or not. The total control of the parties in the process also significantly increases the chance of parties' compliance with the

⁵⁸ Cortés (2018), *supra* note 37, pp. 88-89.

outcome. Still, the independence of the parties somewhat relies on the law of each member state with the EU.

(iii) *Maintaining a long-lasting trust relationship between the consumer and the business*: The second decade of the 21st century is a time when a trader's credibility could be heavily ruined by a complaint being publicized on social media. Thus, by requiring the online traders to register their information on the EU ODR platform to allow the customer to contact whenever there is a problem with the product or service, and also the traders can quickly react to that complaint and possibly take any prevention or amendment once notified to prevent further bad publicity from being generated, such as changing terms and conditions, replacing the defective product with a new one for the customer, and removing that line of product from the online website.⁵⁹ Also, by hearing the dispute from the customer, the trader may also earn their trust and maintain a good public reputation. Beyond this demonstration of good faith, the platform contributes to increasing the security of digital transactions.

(iv) *Lifting the language barrier*: Language could be a major obstacle for the consumer and the trader to resolve their cross-border dispute if using traditional dispute resolutions. With the EU ODR platform, the parties can freely choose any of the 23 official languages of the EU for their interaction with the platform, such as submitting a complaint or receiving notifications. There is also a built-in automatic translation tool for text communication. More importantly, the parties can request that the outcome of the ADR procedure is translated by a professional translator.

Hence, it appears that the key added value of the ODR platform has been its behavioural impact on online traders. According to the European Commission, the ODR platform has incentivised traders to take prompt action to resolve consumer disputes after being notified that the consumer had contacted the ODR platform.⁶⁰ It was found that in 40% of the cases where the consumers submit their complaint to ODR platform, consumers were contacted bilaterally by traders in order to resolve the dispute.⁶¹ In other words, the mere fact of consumers having recourse to the ODR platform would motivate the traders to try their best to settle complaints with consumers more rapidly and bilaterally without taking them through the ODR platform system.

4.2. Challenges for online dispute resolution platform of EU

Although the platform presents many improvements and advantages over litigation and traditional ADR, it is not flawless. Some problems of the ODR

59 Hobbs V., Lanzkron L. (2017), 'EU Online Dispute Resolution – All Bark and No Bite?'. Retrieved from: <https://www.twobirds.com/en/news/articles/2017/global/eu-online-dispute-resolution-all-bark-and-no-bite> [accessed 20 March 2021].

60 European Commission (2017), *supra* note 37, pp. 6, 8.

61 European Commission (2017), *supra* note 37, p. 6.

platform that require attention:

(i) Design of the ODR platform

When the platform sends a notification to the EU trader asking for participation in the dispute settlement process, if the trader refuses to do so, the system does not inform the consumer about the refusal. This will leave the consumer in an unnecessary 30-day period of uncertainty. In this regard, Cortés recommends notifying consumers before the current 30-day period through a link on the platform which traders could use when declining to participate and would automatically notify consumers.⁶²

(ii) Awareness of the outcome of the dispute

Due to the confidentiality of the dispute resolving process, which is a notable feature of all ADRs, only results of the consumer dispute resolved by the ODR platform are published online. This has imperceptibly created a lack of publicity on the wrong practice of a trader, which means that this trader can continue to apply to trade with other consumers and sellers who are not aware of the previous dispute and the wrong practice. Allowing the publicity of the resolved disputes can strengthen the alertness of the future potential parties that may deal with the party at fault in the current dispute.

(iii) Language of the process of dispute resolution

One objective of the ODR platform is to overcome the cultural and legal differences between the member states within the EU; yet, the language barrier still remains an obstacle. The ADR entity chosen by the parties to settle their dispute is allowed to choose the language of the procedure. However, not all EU consumers are able to follow the procedure in a foreign language at this level and therefore are hindered from taking part in the ADR procedure that may lead to a number of misinterpretations between the parties and the ADR service provider.⁶³ Although the platform has a built-in translation tool for the parties to be able to discuss in any European language, translation errors may still happen.

(iv) The concern over the privatization of civil justice

The concern over the trend towards the privatization of justice, especially civil justice, has existed since the creation of the first ADR arbitration. Therefore, the ODR platform's creation is criticized by supporters of an independent, impartial justice that could not be handled by private organizations, namely the ADR service providers. Moreover, the amicable settlement of disputes is sometimes seen as being a prerogative of public power as it consists in settling legal disputes, which requires a precise and protective legal framework, and that it, therefore, seems inconceivable to submit to private organizations.

(v) Limited manpower available for the ODR platform

62 Cortés (2018), *supra* note 38, p.114.

63 Cortés P. (2018), *supra* note 38, p.124.

Given the increasing number of consumer disputes, the European Commission may face the issue of shortage of human resource for ODR platform, thus hinder the effective dispute resolution system. Thompson goes one step further and considers that combining human and artificial intelligence (AI) could be used to achieve better results during the dispute resolution process. In particular, he argues that AI could provide the functions of an expert system including problem diagnosis, information, self-help, and triage, thereby replicating the assistance provided by humans.⁶⁴

The above issues, however, could be mitigated by appropriate practices, technologies and legislative acts. Thus, they should be considered/viewed as ODR challenges, or difficulties, rather than disadvantages, and some of the challenges and advantages are based on certain assumptions that require to be proved by reliable empirical research and surveys. On the other hand, they are also precious lessons for other countries such as Vietnam to create their own ODR platform.

5. Lessons and recommendations for Vietnam

Regarding the benefit that could be gained from the use of ODR to resolve online and offline consumer disputes and the limitation of face-to-face contact during the Covid-19 pandemic, the establishment of a Vietnamese ODR platform is justifiably needed. In order to increase ODR application and establish a platform, Vietnam could learn from the ODR platform of EU and EU regulations on ODR and ADR. Establishing an ODR platform requires synergic work from several parties involved in the online business. Below are the steps it might take these parties to achieve this objective:

5.1. Establishing a legal framework for the online dispute resolution platform in Vietnam

Based on the already existing legal framework of e-commerce, the Vietnamese Government could make the first step by adding provisions that encourage the use of ODR to resolve consumer disputes in the Law on Consumer Protection and its guiding by-law documents as well as increasing regulations on various aspects of ODR. For instance, Decree No. 52/2013/ND-CP on e-commerce should be amended to provide detailed guidance on the execution of online contracts and the use of electronic signatures.⁶⁵ Furthermore, the laws can require the disputants to initially resolve their dispute by negotiation or mediation on the ODR platform or other ADR methods before looking for other adjudicative dispute resolutions. Finally, the decision

64 Darin T. (2014), 'Leveraging Technology in Civil Justice ODR', *Society for Computers & Law*, www.scl.org/articles/3205-leveraging-technology-in-civil-justice-odr [accessed 20 March 2021].

65 Duong Q. H. (2019), "Online dispute resolution in Vietnam" [Giải quyết tranh chấp trực tuyến ở Việt Nam]. Retrieved from: <http://lapphap.vn/Pages/TinTuc/210692/Giai-quyet-tranh-chap-truc-tuyen-o-Viet-Nam.html> [accessed 10 May 2021].

of a state-recognized ADR body over a dispute settled through the ODR process must be recognized by the law and enforceable.

5.2. Creating a national online dispute resolution platform for consumer disputes

A regulation that Vietnam could learn from EU Regulation on consumer ODR is the mandatory requirement for online traders targeting Vietnamese market and/or Vietnamese consumers to provide an easily accessible electronic link on their websites and business e-mail to the ODR platform. That could help to build the confidence of the consumers on the activities of online traders. Thus, it is believed that if Vietnam creates an ODR platform, that platform should be under the management of the E-commerce Department of the Ministry of Industry and Trade (MOIT).

Some suggested requirements for Vietnam-based online businesses are as follow:

- The trader who sells products on their website: When registering their commercial website with the MOIT, the trader must also post on their website (a) the link to the ODR platform website, (b) contact phone number, (c) email address, and (d) address of physical location of the store(s). In case the trader is a natural person, only an email and a telephone number are required; and

- The trader who sells products on a third party's e-commerce websites:⁶⁶ the seller must provide (a) their contact phone number, (b) email address and (c) address of the physical place of the shop (if any) on the online marketplace website. The owner of the e-commerce website has an obligation to post the link to the ODR platform.

These requirements, if complied, can protect consumers in that the consumers who buy the product from a Vietnam-based seller can save time from looking for the contact of the trader and send their complaint about the purchased product directly through the ODR platform. This platform must also include a search engine in which consumers can easily search out the business in case there is any email of that business. Any online business that fails to provide the required information shall be subjected to a heavy administrative fine and if that business continues to not provide the information, it shall be prohibited from doing online business.

In order to increase public awareness of the operation of the Vietnamese ODR platform and to ensure the compliance of sellers with the law on consumer protection, the number of complaints submitted to a seller should be clearly displayed on the website. This number shall serve as a warning to the business to correct its way of doing business and a warning for the customer before buying a product or using a service from that business.

Regarding the ODR providers, the Vietnamese government can follow

⁶⁶ In Vietnamese laws, an e-commerce website is also called "e-commerce trading floor".

EU's practices and create a list of ADR service providers which is attached to the ODR platform for the disputing parties to choose. These bodies must be capable of handling e-consumer disputes by having sufficient ICT infrastructure and professionally competent personnel who have adequate knowledge about consumer protection and how to use the technologies.

5.3. Encouraging Vietnam alternative dispute resolution service providers and businesses to adopt online dispute resolution to resolve disputes

While waiting for a Vietnamese nationwide ODR platform to be established, mediation and arbitration centers should take the initiative by setting up their own ODR platform to resolve civil disputes, including e-commerce consumer disputes. This should help to build the trust of consumers and businesses in resolving disputes through ODR as well as educate them about the procedure. Even though there has not been any law or by-law document guiding ODR yet, these organizations can build regulations in their Arbitration/ Mediation Rules which encourage the disputing parties to use ODR to communicate, send electronic documents, and appoint a third neutral party. The legal practitioners and experts in the ADR field should also take part in promoting the use of ODR in Vietnam by learning about the ODR and its advantages, and spreading this knowledge to the public through newspapers, scientific articles, and conferences.

Vietnamese individuals or Vietnam-based companies who engage in selling goods and providing services through e-commerce websites could utilize the already-existing ODR platform or create one to resolve the small value dispute with customers from Vietnam or foreign countries. To begin with, online sellers can encourage customers to inform any problem relating to the purchased products through the seller's website instead of complaining and giving a negative review on social media. After receiving a complaint from a customer on the website, the seller may negotiate with that person through email, online message, or videoconference software, etc, to find a resolution for the arising dispute. In case the negotiation meets a dead end, the trader can recommend an ADR body in Vietnam to give the final words over the dispute to the customer. Doing this shall form a habit of Vietnamese and foreign consumers in resolving their dispute with the Vietnamese seller by using the online means and ODR.

5.4. Modernizing the ICT infrastructure in Vietnam

Since the success of ODR relies heavily on the quality of the Internet and other communication technologies, the Internet infrastructure in Vietnam has to be improved as well. Vietnamese Internet service providers (ISP) should focus on the equal development of all provinces' internet infrastructure, instead of focusing on that in major cities like Ho Chi Minh or Hanoi. This can

subsequently allow consumers and businesses all over the country to use the ODR platform to resolve any arising online dispute between them. In addition, the mobile network should also be equally developed to the Internet which allows the disputing parties to use their mobile devices to access the ODR platform.

Conclusion

In conclusion, with the rise of e-commerce and consumer disputes in Vietnam, ODR can provide a viable solution for resolving this customer disputes in general and especially online one. The aim of using ODR is to create a safe and transparent legal space for the development of e-commerce in Vietnam and to protect the rights of consumers by settling disputes in an inexpensive, time-saving manner.

The added value of the ODR platform could go beyond dispute resolution and become a useful data-gathering tool to increase policy and regulatory interventions. In particular, the platform could be used as a tool to centralise feedback from consumers and traders, and to better identify failed sectors and issues that require specific scrutiny. ●

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