

## **ONLINE DISPUTE RESOLUTION AS AN ALTERNATIVE DISPUTE RESOLUTION MECHANISM IN E-COMMERCE DISPUTES IN MALAYSIA**

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### **ABSTRACT**

The daily volume of transactions conducted through e-commerce is substantial, with numerous customers engaging in buying and selling goods and services. However, disputes often arise in these transactions, and it can be challenging for customers to resolve them at a single physical location. The increasing need for Alternative Dispute Resolution (ADR) has arisen to settle disputes online. ADR enables parties to resolve disputes outside the court system. The importance of Online Dispute Resolution (ODR) is growing daily, owing to the globalisation of e-commerce and the success of ADR. While ADR is a physical process, ODR is an online process that uses Information Technology to resolve disputes. This paper will primarily concentrate on the relevance of ODR and determine its suitability for dispute resolution relating to e-commerce disputes in Malaysia. This article adopts a qualitative doctrinal research methodology which analyses legal textbooks, articles and relevant organisations through legal reasoning and rational deduction. The article concludes that the use of ODR in Malaysia is feasible and can enhance access to justice by making dispute resolution more affordable, efficient, and seamless. The Digital Signature Act 1997, the Electronic Commerce Act 2006, and the Personal Data Protection Act 2010 have laid foundational legal frameworks for electronic transactions, cybersecurity, and consumer protection in the digital sphere. These legislative steps represent

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significant progress in integrating Malaysia's dispute resolution in e-commerce transactions particularly. The digital platforms have allowed various Alternative Dispute Resolution systems to use the virtual process by incorporating digital technology and to provide the future use of virtual platforms in the adjudicatory system.

**Keywords:** Alternative Dispute Resolution, Online Dispute Resolution, E-Commerce.

## **PENYELESAIAN PERTIKAIAN DALAM TALIAN SEBAGAI MEKANISME PENYELESAIAN PERTIKAIAN ALTERNATIF DALAM PERTIKAIAN E-DAGANG DI MALAYSIA**

### **ABSTRAK**

Jumlah transaksi harian yang dijalankan melalui e-dagang adalah banyak, ramai pelanggan terlibat dalam jual-beli barangan dan perkhidmatan. Walau bagaimanapun, pertikaian sering timbul dalam urusan niaga ini dan mungkin mencabar bagi pelanggan untuk menyelesaikannya di suatu lokasi fizikal. Keperluan yang semakin meningkat untuk Penyelesaian Pertikaian Alternatif (ADR) telah timbul untuk menyelesaikan pertikaian dalam talian. ADR membolehkan pihak-pihak menyelesaikan pertikaian di luar sistem mahkamah. Kepentingan Penyelesaian Pertikaian Dalam Talian (ODR) semakin berkembang setiap hari berikutan globalisasi e-dagang dan kejayaan ADR. Walaupun ADR ialah proses fizikal, ODR ialah proses dalam talian yang menggunakan teknologi maklumat untuk menyelesaikan pertikaian. Kertas kerja ini akan menumpukan pada perkaitan ODR dan menentukan kesesuaiannya untuk penyelesaian pertikaian yang berkaitan dengan pertikaian e-dagang di Malaysia. Artikel ini menggunakan metodologi penyelidikan doktrin perundangan yang menganalisis daripada buku teks undang-undang, artikel dan organisasi yang berkaitan melalui penaakulan undang-undang dan potongan rasional. Artikel tersebut menyimpulkan bahawa penggunaan ODR di Malaysia adalah boleh dilaksanakan dan boleh meningkatkan akses kepada keadilan dengan menjadikan penyelesaian pertikaian lebih berpatutan, cekap dan lancar. Undang-undang Malaysia, terutamanya Akta Tandatangani Digital 1997, Akta Perdagangan Elektronik 2006 dan Akta Perlindungan Data Peribadi 2010 telah meletakkan rangka kerja perundangan asas untuk transaksi elektronik, keselamatan siber dan perlindungan pengguna dalam ruang digital. Langkah perundangan ini mewakili kemajuan ketara dalam menyepadukan penyelesaian pertikaian Malaysia dalam urusan niaga e-

dagang khususnya. Platform digital telah membenarkan pelbagai sistem Penyelesaian Pertikaian Alternatif untuk menggunakan proses maya dengan menggabungkan teknologi digital dan menyediakan penggunaan platform maya pada masa hadapan dalam sistem adjudikasi.

**Kata Kunci:** Penyelesaian Pertikaian Alternatif, Penyelesaian Pertikaian Dalam Talian, Perdagangan Elektronik.

## INTRODUCTION

The exponential growth of e-commerce in recent years has transformed the global business landscape. With the advent of online marketplaces and digital transactions, businesses and consumers increasingly engage in electronic commerce, transcending geographical boundaries.<sup>1</sup> The ease of accessibility, convenience, and a vast array of online products and services have contributed to the surge in e-commerce transactions.<sup>2</sup>

However, the surge in e-commerce activities has brought about a parallel rise in disputes between buyers and sellers.<sup>3</sup> Disputes may arise due to various reasons, such as non-delivery of goods, misrepresentation of products, payment and refund issues, and data security breaches.<sup>4</sup> Malaysia's expanding digital economy, fueled by platforms like Shopee and TikTok Shop, has led to increased online transactions. However, this growth also presents challenges such as product misrepresentation, delayed deliveries, fraud, and disputes

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<sup>1</sup>Rakesh Belwal, Rahima Al Shibli, and Shweta Belwal, "Consumer Protection and Electronic Commerce in the Sultanate of Oman," *Journal of Information, Communication and Ethics in Society* 19, no. 1 (2021): 38–60, <https://doi.org/10.1108/JICES-09-2019-0110>.

<sup>2</sup>Zulkarnain Kedah, "Use of E-Commerce in The World of Business," *Startupreneur Business Digital (SABDA Journal)* 2, no. 1 (2023): 51–60, <https://doi.org/10.33050/sabda.v2i1.273>.

<sup>3</sup>Soleh Hasan Wahid, "Formulation of a Risk-Based Online Dispute Resolution Model for E-Commerce in Indonesia: Legal Framework and Its Application," *International Journal of Arts and Humanities Studies* 3, no. 2 (2023): 09–23, <https://doi.org/10.32996/ijahs.2023.3.2.2>.

<sup>4</sup>Belwal, Al Shibli, and Belwal, "Consumer Protection and Electronic Commerce in the Sultanate of Oman."

between buyers and sellers.<sup>5</sup> These issues underscore the importance of effective online dispute resolution (ODR) systems that can offer timely, fair, and cost-effective solutions to maintain trust in e-commerce. Evidence from Malaysia indicates recurrent problems like product quality discrepancies, logistical challenges, and imbalances in buyer-seller protection. These issues reflect broader trends in emerging digital markets, where infrastructural and regulatory gaps often hinder the fair and efficient resolution of disputes, thereby affecting consumer confidence and market sustainability.<sup>6</sup> In a nutshell, the research emphasises that Malaysia need to develop ODR frameworks that emphasise transparency, inclusivity, and fairness. The frameworks are essential to address the common challenges faced in their digital commerce environments, enhance trust among consumers and sellers, and promote the sustainable growth of e-commerce sectors in both countries.

The complexity of these disputes is further exacerbated by the cross-border nature of many e-commerce transactions, leading to challenges in determining jurisdiction and enforcing legal remedies.<sup>7</sup> These can disrupt transactions and affect customer trust. Besides that, acknowledging the cross-border nature of e-commerce adds complexity in terms of jurisdiction and legal remedies. To enhance the analysis, further exploration of practical solutions, regulatory frameworks, and technological advancements in dispute resolution would offer a more comprehensive understanding of managing e-commerce disputes in the digital age.

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<sup>5</sup>Karim, R., Abdullah, S., and Aziz, N. "Online Consumer Protection: A Review of Issues and Solutions in E-Commerce Transactions." *International Journal of Consumer Studies* 45, no. 3 (2021): 276–88. <https://doi.org/10.1111/ijcs.12621>.

<sup>6</sup>Norziah Othman; Nor'adha Ab Hamid; Nurhayati Abd Ghani; and Tuan Nurhafiza Raja Abdul Aziz "Enhancing Online Dispute Resolution in E-Commerce: Building Learning Societies for Sustainable Development." *International Journal of Emerging Issues in Management, Accounting and Technology* 1, no. 2 (2025): 47–51.

<sup>7</sup>Al Sentot Sudarwanto and Dona Budi Budi Kharisma, "Comparative Study of Personal Data Protection Regulations in Indonesia, Hong Kong and Malaysia," *Journal of Financial Crime* 29, no. 4 (2022): 1443–57, <https://doi.org/10.1108/JFC-09-2021-0193>.

Traditional dispute resolution mechanisms, such as litigation, are often too slow, expensive, and inefficient for the fast-paced digital environment. In this context, ODR has emerged as a crucial tool in mitigating these problems.<sup>8</sup> ODR leverages digital platforms to facilitate dispute resolution through methods such as negotiation, mediation, and arbitration, offering a more accessible, cost-effective, and timely alternative to court-based solutions. It enhances consumer trust by ensuring transparent, fair, and enforceable outcomes, thereby promoting stability and confidence in the e-commerce ecosystem. Even though ODR is not a panacea and still faces challenges related to enforcement, standardisation, and accessibility in some regions, its integration into e-commerce frameworks is a necessary evolution to address the shortcomings of traditional legal systems in the digital age.

There is a list of common reasons for e-commerce disputes, such as non-delivery, misrepresentation, payment issues, and data breaches. These can disrupt transactions and affect customer trust. Besides that, acknowledging the cross-border nature of e-commerce adds complexity in terms of jurisdiction and legal remedies. To enhance the analysis, further exploration of practical solutions, regulatory frameworks, and technological advancements in dispute resolution would offer a more comprehensive understanding of managing e-commerce disputes in the digital age.

## METHODOLOGY

This paper employs a legal doctrinal approach to explore library information and analyse data. This study gathers primary and secondary data through the documentation method from sources like libraries, legal statutes, such as legal textbooks, legal documents and relevant cases. Subsequently, the collected data undergo analysis using the content analysis method with legal reasoning and rational deduction. The analytical process involves a detailed examination or descriptions to draw conclusions. Furthermore, the critical method entails assessing laws, identifying weaknesses, expressing opinions,

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<sup>8</sup>Daniel Rainey; M. Ethan Katsh; and Mohamed S. Abdel Wahab, “*Online Dispute Resolution: Theory and Practice — A Treatise on Technology and Dispute Resolution*. 2nd ed. The Hague: Eleven International Publishing, 2021.

and reaching rational agreements or disagreements.<sup>9</sup> The study assesses the online dispute resolution to ascertain if it can provide adequate protection to online consumers relating to e-commerce disputes.

## E-COMMERCE AND ITS TREND

### Definition of E-Commerce

To better understand the laws and regulations regarding consumer protection in E-commerce transactions by defining what E-commerce is. E-commerce, short for electronic commerce, purchases and sells goods and services online. It involves conducting business transactions through electronic means, primarily on online platforms.<sup>10</sup> E-commerce encompasses various activities such as online retail, electronic payments, online auctions, and Internet banking.<sup>11</sup> This paper will use the definition of e-commerce, which refers to buying, selling, and promoting goods or services using electronic systems, such as the Internet or computer networks.<sup>12</sup> Moreover, e-commerce is commonly known as a type of business that is conducted virtually, without physical interaction, and using original signatures.<sup>13</sup> Social media platforms such as Shopee, Lazada, Facebook, Twitter, Instagram, and TikTok, which have a large user base, are famous for e-commerce transactions on the World Wide Web. As web-based e-commerce systems evolve, they are expected to significantly impact

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<sup>9</sup> Anwarul Yaqin. *Legal Research and Writing*. Kelana Jaya, Selangor: Malayan Law Journal Sdn. Bhd.; Dayton, Ohio: LexisNexis, 2007.

<sup>10</sup> Yehia Helmy, Merna Ashraf, and Laila Abdelhamid, "E-Commerce Challenges, Definitions, Solutions and Evaluation," *Journal of Computer Science* 19, no. 9 (2023): 1087–97, <https://doi.org/10.3844/jcssp.2023.1087.1097>.

<sup>11</sup> Ilona Dumanska et al., "E-Commerce and m-Commerce as Global Trends of International Trade Caused by the Covid-19 Pandemic," *WSEAS Transactions on Environment and Development* 17 (2021): 386–97, <https://doi.org/10.37394/232015.2021.17.38>.

<sup>12</sup> Kedah, "Use of E-Commerce in The World of Business."

<sup>13</sup> Eduardo Ferro Dos Santos, Paulo Victor Rodrigues De Carvalho, and José Orlando Gomes, "Interactions between E-Commerce Users during the COVID-19 Pandemic Period: What Came and What Remained," *Work* 73, no. s1 (2022): S177–87, <https://doi.org/10.3233/WOR-211136>.

sales and customer satisfaction. Figure 1 shows the overview of the structure of a web-based e-commerce system.

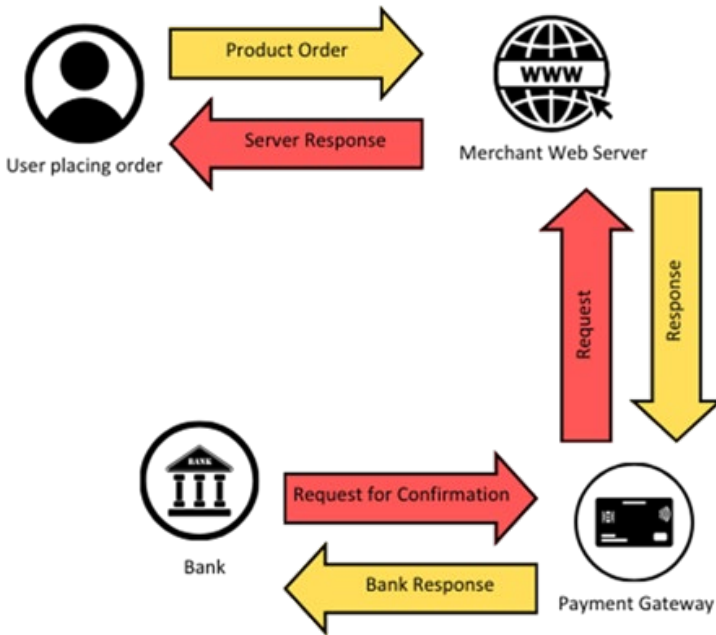


Figure 1. Structure of web-based e-commerce works<sup>14</sup>

### Emerging E-Commerce Trends in Malaysia

E-commerce has been present in Malaysia since the early 1990s, following the introduction of the Internet. Although its growth initially lagged behind that of neighbouring countries such as Singapore, China, and South Korea, it has since gained momentum. Although its growth initially lagged behind that of neighbouring countries such as Singapore, China, and South Korea.<sup>15</sup> Significant development began around 2012 with the launch of major platforms such as Lazada and

<sup>14</sup>Md Arif Hassan, Zarina Shukur, and Mohammad Kamrul Hasan, "An Efficient Secure Electronic Payment System for E-Commerce," *Computers* 9, no. 3 (2020): 1–13, <https://doi.org/10.3390/computers9030066>.

<sup>15</sup>Joo Xun Loh, "The Legal Framework of E-Commerce in Malaysia," *Asian Journal of Law and Policy* 3, no. 3 (2023): 183–98.

Zalora, which expanded product accessibility and cultivated consumer trust in online transactions.<sup>16</sup> More recently, the outbreak of COVID-19 served as a catalyst for rapid adoption, as lockdowns pushed Malaysians to increasingly depend on e-commerce platforms for both essential and non-essential goods.<sup>17</sup> Shoppers quickly adapted to sharing deals online, covering diverse categories such as electronics, household products, and personal care items, reflecting a broader digital consumer culture.<sup>18</sup>

Prior to the pandemic, e-commerce was already gaining traction due to its convenience and accessibility, although traditional retail maintained a stronghold in specific sectors, particularly in groceries and lifestyle goods.<sup>19</sup> Nevertheless, leading platforms such as Lazada and Shopee have firmly established their dominance in the Malaysian market, prompting businesses of all sizes to redirect marketing strategies toward digital engagement.<sup>20</sup> Various emerging trends are now evident, including diversification of product offerings, hybrid shopping preferences combining online and offline experiences, and increased emphasis on digital payment systems and logistics optimisation.<sup>21</sup>

These developments are clearly reflected in the ranking of Malaysia's most visited e-commerce platforms, as shown in Table 1,

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<sup>16</sup>Manan Kashyap, "Ecommerce in Malaysia: Growth, Trends & Opportunities," Capillarytech, April 2024, <https://www.capillarytech.com/blog/ecommerce-in-malaysia-growth/>.

<sup>17</sup>Andreea Nistor, "The Influence of the Covid-19 Pandemic on E-Commerce. Trends and Challenges before and after Covid-19," *Revista Economica* 73, no. 3 (2021): 151–61, <https://doi.org/10.56043/reveco-2021-0028>.

<sup>18</sup>Ilon Dumanska, Lesya Hrytsyna, Olena Kharun, and Olha Matviets, "E-Commerce and m-Commerce as Global Trends of International Trade Caused by the Covid-19 Pandemic."

<sup>19</sup>Hesham Magd and Ayyappan Palanissamy, "E-Commerce Disputes and Digital Justice Platforms--A Developmental Perspective.," *Global Business & Management Research* 13, no. 3 (2021).

<sup>20</sup>Xin Wong, Yi Wong, Mina Xiang, and Han Xiao, "Factors Influencing Consumers' Online Shopping Behaviour: A Study of Shopee in Malaysia," *International Journal of Tourism & Hospitality in Asia Pasifica* 7 (February 20, 2024): 71–87, <https://doi.org/10.32535/ijthap.v7i1.2913>.

<sup>21</sup>Rafael Villa and Andrés Monzón, "Mobility Restrictions and E-Commerce: Holistic Balance in Madrid Centre during COVID-19 Lockdown," *Economies* 9, no. 2 (2021), <https://doi.org/10.3390/economies9020057>.

where Shopee and Lazada dominate in estimated traffic volumes, followed by local and niche platforms such as Mudah, PGMall, and Zalora.<sup>22</sup> The data suggest that while international platforms drive much of the digital retail ecosystem, local platforms are also carving out significant roles, particularly in second-hand trading and specialised consumer segments. This dynamic indicates a maturing e-commerce environment in Malaysia, shaped by both global competition and domestic innovation.

	<b>E-Commerce Platform</b>	<b>Rank</b>	<b>Estimated Traffic</b>
1.	Shopee	5	13,800,000
2.	Lazada	25	42,950,000
3.	Mudah	34	7,330,000
4.	PGMall	45	6,630,000
5.	Zalora	220	983,710
6.	Ezbuy	656	184, 650
7.	Lelong	672	529,000
8.	Hermo	869	219,000
9.	Go Shop	1434	590,800
10.	PrestoMall	2380	86,410

Table 1: Malaysia's most visited e-commerce platforms

Businesses, including small and local businesses, quickly accelerated their digital transformation efforts to establish or enhance their online presence.<sup>23</sup> The increased remote work led to online purchases of home office equipment, electronics, and other work-related items. As safety concerns grew, contactless payments, mobile wallets, and other touchless transaction methods became more

<sup>22</sup>JR, "Emerging E-Commerce Trends Amidst Covid-19 Pandemic," One Search Pro, November 24, 2020, <https://onesearchpro.my/e-commerce-trends-amidst-covid19/>.

<sup>23</sup>Sukisno Selamat Riadi et al., "The Benefits of E-Commerce before and during the Covid-19 Pandemic for Small Enterprises in Indonesia," *WSEAS Transactions on Environment and Development* 18 (2022): 69–79, <https://doi.org/10.37394/232015.2022.18.8>.

popular.<sup>24</sup> Lockdowns and safety concerns significantly increased online shopping. This study highlights this rise and the growing dependence on e-commerce.

It was also shown that the pandemic's necessity drove consumer adoption of e-commerce, supported by observed data and trends. Small and local businesses accelerated their digital transformation efforts in response to changing market conditions. Increased remote work correlates with the rise in online home office equipment and electronics purchases. Although the study acknowledges the popularity of contactless payments and mobile wallets, it needs more supporting data. Using specific examples of successful e-commerce transitions and addressing potential drawbacks of online shopping would enrich the analysis.

After the pandemic, sustained growth in e-commerce is expected to continue, albeit at a more stabilised growth rate.<sup>25</sup> Consumers will likely adopt a hybrid approach, combining online and in-store shopping based on convenience, preference, and purchase type.<sup>26</sup> Businesses will continue to invest in digital technologies to enhance the online shopping experience, utilising data analytics and AI for personalised recommendations.<sup>27</sup> E-commerce businesses will optimise logistics and supply chains to meet sustained demand efficiently.<sup>28</sup> The high expectations for seamless online experiences developed during the pandemic will drive companies to prioritise user-friendly websites,

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<sup>24</sup>Witold Chmielarz, Marek Zborowski, Xuetao Jin, Mesut Atasever, and Justyna Szpakowska, "On a Comparative Analysis of Individual Customer Purchases on the Internet for Poland, Turkey and the People's Republic of China at the Time of the COVID-19 Pandemic," *Sustainability (Switzerland)* 14, no. 12 (2022), <https://doi.org/10.3390/su14127366>.

<sup>25</sup>Villa and Monzón, "Mobility Restrictions and E-Commerce: Holistic Balance in Madrid Centre during COVID-19 Lockdown."

<sup>26</sup>Nistor, "The Influence of the Covid-19 Pandemic on E-Commerce. Trends and Challenges before and after Covid-19."

<sup>27</sup>Yehia Helmy, Merna Ashraf, and Laila Abdelhamid.mid, "E-Commerce Challenges, Definitions, Solutions and Evaluation."

<sup>28</sup>Anna Amalyah Agus, Gatot Yudoko, Nurbudi Mulyono, and Taliya Imaniya., "E-Commerce Performance, Digital Marketing Capability and Supply Chain Capability within E-Commerce Platform: Longitudinal Study Before and After COVID-19," *International Journal of Technology* 12, no. 2 (2021): 360–70, <https://doi.org/10.14716/ijtech.v12i2.4122>.

efficient delivery, and reliable customer service.<sup>29</sup> The previous study has shown that the observed increase could be attributed to sustained e-commerce growth with a hybrid approach to shopping. Businesses invest in omnichannel strategies, digital tech, data analytics, and AI for personalised recommendations. Optimising logistics and supply chains to meet growing demand is crucial. A user-friendly website, efficient delivery, and reliable customer service drive e-commerce success. The suggestion to address potential challenges such as cybersecurity threats, supply chain disruptions, and competition underscores the importance of a comprehensive approach to implementing ODR systems. Thus, providing examples of successful businesses and analysing regulatory changes, consumer behaviour, and technological advancements would enhance the discussion and understanding of the post-pandemic e-commerce landscape.

In conclusion, the COVID-19 pandemic served as a catalyst, accelerating the adoption of e-commerce and prompting lasting changes in consumer behaviour and business strategies. The future of e-commerce is characterised by a blend of digital and physical experiences prioritising convenience, efficiency, and safety. Businesses that adapt to these evolving trends are likely to thrive in the post-pandemic era. This growth can be attributed to the convenience of online shopping and the ability to compare prices. As a result, many businesses are now focusing on e-commerce marketing, leading to emerging trends in Malaysia's e-commerce sector, including an increase in the variety of products and services offered. These trends are evident in the country's ten most prominent e-commerce sites.<sup>30</sup>

As shown in Figure 2, the trend of Malaysia's e-commerce value (in MYR billion) and growth rate (%) from 2016 to 2024 is illustrated. The data indicate a consistent upward trajectory in the total value of e-commerce transactions, rising from below MYR 10 billion in 2016 to an estimated MYR 50 billion in 2024. This demonstrates the steady expansion of the digital economy, supported by increasing consumer

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<sup>29</sup>Ilona Dumanska, Lesya Hrytsyna, Olena Kharun, and Olha Matviets, "E-Commerce and m-Commerce as Global Trends of International Trade Caused by the Covid-19 Pandemic."

<sup>30</sup>Nikhil Reddy, "COVID-19 Accelerates e-Commerce Growth in Malaysia, Says GlobalData-GlobalData," GlobalData, 2020, <https://www.globaldata.com/media/banking/covid-19-accelerates-e-commerce-growth-malaysia-says-globaldata/>.

adoption of online platforms, improved logistics, and greater penetration of digital payment systems.

However, while the absolute value shows continuous growth, the annual growth rate presents a declining trend. Growth peaked in 2017 at nearly 50%, before gradually tapering off to below 10% by 2024. This suggests that Malaysia's e-commerce sector is transitioning from a phase of rapid expansion to one of maturity and stabilisation. Early exponential growth was largely driven by the entry of major platforms such as Lazada and Shopee, coupled with the accelerated adoption during the COVID-19 pandemic. In contrast, the recent slowdown in growth percentage reflects market saturation, increased competition, and the normalisation of consumer behaviour in the post-pandemic period.

The dual trend of rising transaction value and declining growth rates highlights a critical shift: while the sector continues to generate increasing revenue, strategic innovation and regulatory support will be essential to sustain competitiveness. Policymakers and industry players must now focus on strengthening consumer trust, improving cross-border e-commerce frameworks, and adopting advanced technologies such as artificial intelligence and blockchain to enhance efficiency and resilience in the digital marketplace.

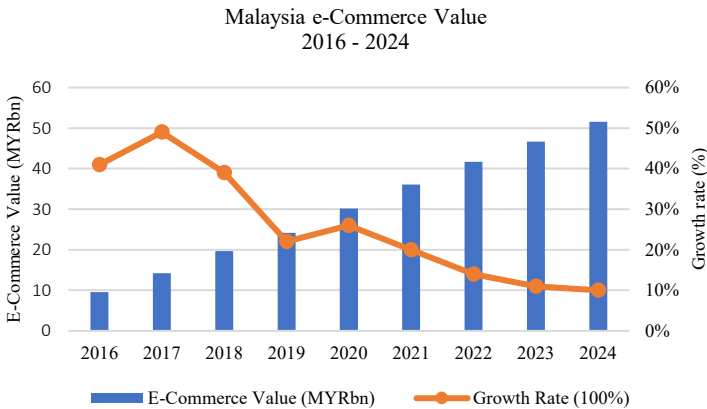


Figure 2. Global Data: Malaysia e-commerce value, 2016-2024<sup>31</sup>

<sup>31</sup>Reddy, "COVID-19 Accelerates e-Commerce Growth in Malaysia, Says GlobalData - GlobalData."

## Types of E-Commerce Disputes

In Malaysia, e-commerce disputes have been rising steadily in tandem with the rapid growth of digital trade, particularly during and after the COVID-19 pandemic when online shopping became the default mode of consumption for many households.<sup>32</sup> The Ministry of Domestic Trade and Cost of Living (KPDN) reported more than 4,800 consumer complaints relating to online transactions as of mid-2025, with the most common disputes involving non-delivery of goods, refund delays, defective or counterfeit products, and misleading advertisements.<sup>33</sup> These disputes not only highlight the weaknesses in seller accountability but also expose systemic challenges in platform monitoring and enforcement. Fraudulent activities further complicate the landscape, with reported cases escalating sharply from 3,318 in 2018 to 8,162 in 2021, amounting to financial losses exceeding RM 57 million, thereby demonstrating how online fraud has become one of the fastest-growing categories of consumer disputes in the digital marketplace.<sup>34</sup>

Malaysia's Consumer Protection Act 1999 provides an important legal foundation by empowering buyers to seek redress through the Consumer Claims Tribunal for claims up to RM 25,000, covering disputes such as false or misleading conduct, defective products, and failure to deliver.<sup>35</sup> While this mechanism offers an accessible alternative to court proceedings, its jurisdictional and monetary limits constrain its ability to address complex or high-value disputes. At the same time, data privacy breaches remain a critical concern. Although the Personal Data Protection Act 2010 (PDPA) sets out safeguards for the collection and processing of consumer information, empirical studies suggest that consumer trust remains

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<sup>32</sup>Loh, "The Legal Framework of E-Commerce in Malaysia."

<sup>33</sup>The Borneo Post, "KPDN: Online Transactions Top Consumer Complaints with over 4,800 Cases as of July 2025 | Borneo Post Online," August 2023, <https://www.theborneopost.com/2025/08/23/kpdn-online-transactions-top-consumer-complaints-with-over-4800-cases-as-of-july-2025/>.

<sup>34</sup>Loh, "The Legal Framework of E-Commerce in Malaysia."

<sup>35</sup>Su'aida Safei and Nuraisyah Chua Abdullah, "Mediation as a Pre-Trial Process at the Tribunal for Consumer Claims, Malaysia: The Way Forward," *International Journal of Academic Research in Business and Social Sciences* 12, no. 10 (2022): 3040–50.

fragile, as privacy invasions and misuse of personal data significantly undermine confidence in Malaysian e-commerce and m-commerce platforms.<sup>36</sup> The persistence of these disputes underscores the pressing need for more effective and technologically responsive redress mechanisms.

Against this backdrop, different categories of Online Dispute Resolution (ODR) can be strategically applied to address Malaysia's most prevalent e-commerce disputes. Online negotiation is particularly suitable for straightforward refund and delivery issues, allowing parties to reach swift settlements without incurring high transaction costs.<sup>37</sup> Online mediation, on the other hand, provides a collaborative solution for misrepresentation and defective goods disputes, especially where consumer dissatisfaction stems from perceived unfairness rather than outright fraud, enabling facilitated dialogue that can restore trust between buyers and sellers.<sup>38</sup> For cross-border e-commerce contracts, which often involve jurisdictional uncertainties and enforcement challenges, online arbitration offers a more robust mechanism by providing binding outcomes that can be recognised across jurisdictions.<sup>39</sup> This differentiated approach not only aligns with global practices but also responds to Malaysia's specific consumer protection challenges, thereby enhancing trust, accountability, and efficiency in the country's digital marketplace.<sup>40</sup> These disputes can be more effectively understood by mapping them against Malaysia's legal framework and the corresponding ODR methods, as shown in Table 2.

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<sup>36</sup>Auwal Shehu Ali, Zarul Fitri Zaaba, Manmeet Mahinderjit Singh, Nor Badrul Anuar, and Mohd Ridzuan M Shariff, "Creating and Analysing Privacy Policies of Malaysia E-Commerce Using Personal Data Protection Act," *Bulletin of Electrical Engineering and Informatics* 14, no. 3 (2025): 2404–12.

<sup>37</sup>Sonny Zullhuda, "Consumer Protection in the Malaysian Digital Marketplace from Risks and Concerns to a Law Reform," *Cyberpolitik Journal* 10, no. 19 (2023): 52–56, <https://repositories.lib.utexas.edu/handle>

<sup>38</sup>Safei and Abdullah, "Mediation as a Pre-Trial Process at the Tribunal for Consumer Claims, Malaysia: The Way Forward."

<sup>39</sup>Haijing Huang and Tze Chin Ong, "The Future of E-Commerce Disputes: An Analysis of Multilateral Dispute Resolution Mechanisms," *JMCL* 51 (2024): 63.

<sup>40</sup>Zullhuda, "Consumer Protection in the Malaysian Digital Marketplace from Risks and Concerns to a Law Reform."

<b>Dispute Type</b>	<b>Relevant Legal Framework in Malaysia</b>	<b>Suitable ODR Method</b>
Suitable ODR Method	Consumer Protection Act 1999; Consumer Claims Tribunal (claims ≤ RM25,000)	Online Negotiation – quick settlement between buyer and seller for refund or delivery confirmation
Misrepresentation of goods / Defective products	Consumer Protection Act 1999; Electronic Commerce Act 2006	Online Mediation – facilitated dialogue to resolve dissatisfaction, restore trust, and negotiate compensation
Counterfeit products / Misleading advertisements	Consumer Protection Act 1999; Trade Descriptions Act 2011	Online Mediation / Arbitration – mediation for small-value claims, arbitration for higher-value or recurring disputes
Data privacy breaches / Misuse of personal information	Personal Data Protection Act 2010 (PDPA)	Online Mediation / Arbitration – to balance consumer rights, platform liability, and compliance obligations
Cross-border e-commerce disputes	Electronic Commerce Act 2006; Arbitration Act 2005; ASEAN E-Commerce Framework	Online Arbitration – binding decisions enforceable across jurisdictions, especially for contractual disputes

Table 2. Mapping of E-Commerce Disputes in Malaysia to Legal Framework and Suitable ODR Methods

## METHODS OF ONLINE DISPUTE RESOLUTION (ODR)

The increasing volume of commercial activities in cyberspace enhances the attractiveness of resolving disputes online.<sup>41</sup> Furthermore, a widely acknowledged benefit of ODR is its potential for speed. ODR tools like emails or web postings allow for almost instantaneous communication, unlike offline ADR processes that depend on scheduling based on the availability of parties and venues.

Additional advantages of ODR include immediate access to justice for small claims, fostering consumer trust and confidence, promoting party autonomy and privacy, and contributing to environmental sustainability through the online uploading of documents. ODR methods, similar to traditional offline ADR, draw inspiration from conventional ADR processes like mediation and arbitration. Although the procedures and communications may seem alike, they leverage unique technologies.<sup>42</sup>

Similar to traditional offline ADR, engaging in a non-binding ODR process does not preclude disputants from pursuing their case in a national court.<sup>43</sup> Hence, it can be said that the ODR methods can be utilised at various stages of a dispute resolution process. Parties can opt for ODR before, during, or after filing a lawsuit in court. ODR processes are typically less formal than traditional litigation, providing both parties with more flexibility in presenting evidence. Additionally, parties engaging in ODR may choose to have legal representation, but it is not mandatory. If an attorney is involved, their role can vary depending on the nature of the dispute, with the attorney generally assisting the party throughout the ODR processes.

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<sup>41</sup>Charlotta Kronblad, “Digital Transformation of the Legal Field-A Bubble in Trouble” (Chalmers Tekniska Hogskola, 2021).

<sup>42</sup>Avital Mentovich, J J Prescott, and Orna Rabinovich-Einy, “Are Litigation Outcome Disparities Inevitable? Courts, Technology, and the Future of Impartiality,” *Alabama Law Review* 73, no. 4 (2020): 893–979.

<sup>43</sup>Jean-Francois Roberge and Veronique Fraser, “Access to Commercial Justice: A Roadmap for Online Dispute Resolution (ODR) Design for Small and Medium-Sized Businesses (SMEs) Disputes,” *Ohio State Journal on Dispute Resolution* 35, no. 1 (2019): 1–61.

## Online Arbitration

Online arbitration refers to arbitration where all aspects of the proceedings take place in a digital environment.<sup>44</sup> Online arbitration is suitable for all types of disputes that can be resolved through arbitration, regardless of whether they originated online or offline. In online arbitration, hearings can be conducted via video conferencing, although in many cases, it involves parties uploading their documents online and responding to any inquiries from the arbitrator. This process is particularly well-suited for cases where the focus is on written submissions rather than witness testimonies, making it a practical choice for ODR methods.

In online arbitration, parties can participate in the proceedings without the requirement of being physically present at the designated arbitration location. International arbitral institutions have established guidelines that offer a high level of flexibility, allowing hearings and procedural conferences to be conducted virtually. Due to the Covid-19 pandemic, the International Chamber of Commerce (ICC) has introduced its Virtual Hearing Solution to facilitate emergency arbitration proceedings through videoconferencing or similar communication methods.<sup>45</sup> Apart from videoconferencing, institutions like the London Court of International Arbitration (LCIA) have implemented digital case management systems in response to the challenges posed by the Covid-19 crisis.<sup>46</sup>

## Online Mediation

Mediation is a voluntary process where a neutral third party, known as a mediator, facilitates the resolution of disputes between parties. Unlike

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<sup>44</sup>Harold Hongju Koh, “The ‘Gants Principles’ for Online Dispute Resolution: Realizing Chief Justice’s Vision for Courts in the Cloud,” *Boston College Law Review* 62, no. 8 (2021): 2768–94.

<sup>45</sup>Debora Visconte, “ICC Guidance Note on Possible Measures Aimed at Mitigating the Effects of the Covid-19 Pandemic and CIArb Guidance Note on Remote Dispute Resolution Proceedings,” in *Revista Brasileira de Arbitragem*, 2020, 198.

<sup>46</sup>Iris Ng, Melissa Ng, Andre Soh, and Chen Siyuan, “Five Recurring Problems in International Arbitration: The Relationship between Courts and Arbitral Tribunals,” *Indian Journal of Arbitration Law* 8, no. 2 (2019): 19–47.

an arbitrator who makes decisions, a mediator does not impose solutions but instead helps the parties explore and generate their own options for resolving the conflict. The mediator guides the communication and negotiation process, encouraging constructive dialogue and assisting the parties in reaching a mutually acceptable agreement. Mediation is commonly used in ODR for small consumer disputes due to its collaborative and flexible nature, allowing parties to actively participate in finding solutions to their issues.<sup>47</sup>

Hence, online mediation is portrayed as a voluntary process facilitated by a neutral third party, where the mediator assists disputing parties in reaching a mutually acceptable resolution without imposing a decision. It effectively highlights the key distinction between mediation and arbitration, and rightly emphasises mediation's collaborative, flexible, and party-driven nature which are qualities that make it particularly suitable for ODR, especially in the context of small consumer disputes. For instance, it assumes an equal balance of power and communication skills between the parties, which is often not the case. Power imbalances, lack of legal knowledge, or emotional vulnerability can hinder the fairness and effectiveness of the mediation process, especially when one party is more dominant or better informed.<sup>48</sup>

Additionally, while the potential of mediation to produce mutually agreeable outcomes, it overlooks the fact that such agreements are typically non-binding unless formalised through legal mechanisms, raising concerns about enforceability and follow-through. It also omits a discussion of the mediator's qualifications, training, and potential biases, all of which can significantly impact the fairness and success of the process. Furthermore, although mediation is increasingly integrated into digital platforms, it does not address the unique challenges of ODR, such as limited access to technology, variations in

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<sup>47</sup>Mosgan Situmorang, "Measuring The Effectiveness of Consumer Dispute Resolution on Small Value E-Commerce Transaction," *J. Penelit. Huk. Jure* 22, no. 4 (2022): 537.

<sup>48</sup>Rainey, D., Abdel Wahab, M. S. A., & Katsh, E. (2021). *Online Dispute Resolution-Theory and Practice: A Treatise on Technology and Dispute Resolution*.

digital literacy, and concerns over data privacy and confidentiality.<sup>49</sup> These factors may disadvantage certain users and affect the quality of the mediation experience. In sum, despite the core features and advantages of mediation, it fails to critically engage with the structural, practical, and contextual complexities that influence how effective and equitable mediation can be in both traditional and online environments.<sup>50</sup>

Online mediation typically begins in cyberspace with an introductory email sent to the involved parties, providing them with essential details about the online mediation process. Subsequent meetings or joint-mediation sessions often take place virtually in designated "chat rooms," where the mediator can engage with both parties concurrently or separately as required by the circumstances.<sup>51</sup> In online mediation, it is common to have separate chat rooms for joint sessions where both parties and the mediator interact together, and for caucuses, also known as private sessions, where the mediator communicates individually with each party. This setup allows for open discussions between all parties as well as confidential conversations between the mediator and each party. Online mediation is a popular method in ODR due to its simplicity and flexibility, as it typically involves fewer formal legal procedures compared to traditional offline mediation or litigation. This streamlined approach enables efficient communication and negotiation, making online mediation a preferred choice for resolving disputes in a timely and cost-effective manner.

## Online Negotiation

Online negotiation is a form of dispute resolution that utilises technology to facilitate the process of deliberation and discussion between parties. It allows parties to negotiate and seek solutions through digital platforms, which can help streamline communication

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<sup>49</sup>James J. Prescott "Next Steps in Online Courts: Accelerating Access to Justice Through Court Technology," *Alaska Law Review* 41, no. 1 (2024): 93–143.

<sup>50</sup>Prescott, *Next Steps in Online Courts*, 93.

<sup>51</sup>Shrawan Kumar Trivedi and Mohit Yadav, "Repurchase Intentions in Y Generation: Mediation of Trust and e-Satisfaction," *Marketing Intelligence and Planning* 38, no. 4 (2020): 401–15, <https://doi.org/10.1108/MIP-02-2019-0072>.

and potentially improve accessibility and convenience. The outcomes of online negotiations often involve compromises reached through mutual discussion, leveraging technological tools as facilitators in the process.

In a nutshell, a concise and generally accurate description of online negotiation as a form of dispute resolution that relies on technology to support dialogue and problem-solving between parties. It rightly emphasises the use of digital platforms to enhance communication, accessibility, and convenience, particularly in contexts where physical meetings may be impractical or costly.<sup>52, 53</sup>

Online mediation is a highly suitable mechanism for resolving e-commerce disputes due to its accessibility, efficiency, and adaptability to the digital nature of online transactions. From a legal standpoint, mediation promotes party autonomy, allowing disputants to voluntarily reach a mutually agreeable solution without the need for adversarial litigation.<sup>54</sup> In the context of e-commerce, where disputes often involve cross-border transactions, relatively low-value claims, and ongoing commercial relationships, online mediation offers a cost-effective and time-efficient alternative. It also ensures procedural fairness through neutral facilitation while maintaining flexibility in terms of language, legal systems, and cultural expectations.<sup>55</sup>

Furthermore, many legal frameworks and international instruments, such as the UNCITRAL Technical Notes on ODR, recognise the legitimacy and enforceability of mediated settlements, provided that parties give informed consent and due process is

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<sup>52</sup>Agha Fasihullah, Bisma Awan, Aamir Khan “Negotiating in the Digital Age: Exploring the Role of Technology in Modern Negotiations.” *Law and Policy Review* 2, no. 1 (2023): 61–86.

<sup>53</sup>Bahaudin G. Mujtaba, Tiffany D. Garner, “Exploring Negotiation and Mediation Options before Arbitration or Litigation: Which Alternative Dispute Resolution Is Best for Settling Workplace Conflicts?” *International Journal of Law, Justice and Jurisprudence* 4, no. 2 (2024): 50–63

<sup>54</sup>Naureen Akhtar, Aamir Khan, Rao Imran Habib, and Hafiz Abdul Rehman Saleem. “Online Dispute Resolution Mechanism as an Effective Tool for Resolving Cross-Border Consumer Disputes in the Era of E-Commerce.” *International Journal of Law and Management* (2025).

<sup>55</sup>Rachele Beretta *Procedural Justice in Online Dispute Resolution: An Empirical Enquiry*. PhD diss., University of Antwerp, 2024.

respected. Therefore, online mediation not only aligns with the practical needs of e-commerce but also satisfies the fundamental legal principles of dispute resolution.

This method shares the advantages of traditional negotiation, such as providing parties with broad choices, allowing for a win-win solution, and offering a flexible space to communicate and clarify issues. However, it also inherits certain weaknesses, including the need for trust and willingness from parties, the challenge of ensuring balanced positions, and the risk of less profitable deals if communication or trust is lacking.<sup>56</sup>

Furthermore, online negotiation platforms are characterised by their ability to allow parties to specify their acceptable value ranges, facilitating efficient dispute resolution. They can be fully automated, utilising computer systems for information gathering and decision-making without the need for third-party interaction. Additionally, these platforms enhance flexibility and speed in the negotiation process, making them suitable for e-commerce disputes.<sup>57</sup> In online negotiation platforms, plaintiffs and defendants can provide their highest and lowest acceptable values, which represent the maximum they are willing to concede and the minimum they are willing to accept, respectively. These values help define the negotiation range and facilitate the resolution of disputes by clarifying each party's expectations. The specific values will vary depending on the individual circumstances of each case.

## **ONLINE DISPUTE RESOLUTION (ODR) AND ITS RELEVANCY**

The development and integration of ODR present different stages in various countries. Globally, ODR is gaining recognition as a feasible alternative for conflict resolution in the digital age, particularly because

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<sup>56</sup>Rina Elsa Rizkiana, "The Future of Online Dispute Resolution: Building A Framework for E-Commerce Dispute Resolution in Indonesia," *The Lawpreneurship Journal* 1, no. 2 (2021): 114–38, <https://doi.org/10.21632/tlj.1.2.114-138>.

<sup>57</sup>Soleh Hasan Wahid, "Formulation of a Risk-Based Online Dispute Resolution Model for E-Commerce in Indonesia: Legal Framework and Its Application." (2023)

it is closely related to online activities. The expansion of internet connectivity and online transactions enhances the potential of ODR to serve as an effective tool for settling disputes, especially as online commerce becomes increasingly prevalent in Malaysia. Consequently, there is a growing need for national laws to address issues arising from online trade to facilitate the proper implementation and regulation of ODR in the country.<sup>58</sup>

The development and integration of ODR in Malaysia has undergone several gradual yet significant stages, reflecting the country's evolving digital landscape and legal infrastructure.<sup>59</sup> Initially, dispute resolution in Malaysia remained largely traditional, relying heavily on court-based litigation and manual arbitration processes. However, as e-commerce began to flourish particularly in the post-2010 era which the need for more efficient, accessible, and technology-driven solutions became increasingly apparent. The COVID-19 pandemic further accelerated this shift, prompting the courts to adopt virtual hearings and encouraging both public and private sectors to explore digital mediation and arbitration platforms.

On the other hand, Malaysia is in a transitional stage where hybrid systems are common and combining traditional legal procedures with digital tools but a fully integrated and standardised ODR framework is still developing.<sup>60</sup> It should be noted that while progress has been made, challenges such as lack of public awareness, inconsistent regulatory support, limited technical infrastructure in rural areas, and concerns over data security and enforceability of outcomes must be addressed. To move forward, Malaysia must invest in legal

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<sup>58</sup>Naureen Akhtar, Aamir Khan, Rao Imran Habib, and Hafiz Abdul Rehman Saleem., "Online Dispute Resolution as a Solution to E-Commerce Disputes: A Comparative Study of Pakistan and UK," *Journal of Contemporary Issues in Business and Government* 28, no. 03 (2022): 149–59, <https://doi.org/10.47750/cibg.2022.28.03.015>.

<sup>59</sup>Unnaty Goyal, and Aaryushi Goyal. "The Evolution and Effectiveness of Online Dispute Resolution (ODR) Platforms: A Comprehensive Analysis of ADR in the Digital Age." *Indian Journal of Integrated Research in Law* 3, no. 5 (2023): 226–51.

<sup>60</sup>Judy Yueh Ling Song, and Esther Tan. "Beyond Traditional Contracts: The Legal Recognition and Challenges of Smart Contracts in Malaysia and Singapore." *Journal of Law, Market & Innovation* 3, no. 3 (2024): 323–57.

reform, digital literacy, and cross-sector collaboration to ensure ODR becomes a credible and integral part of its justice system, especially in supporting the growing demands of e-commerce and digital transactions.

There is a lack of collaboration on a regional level for implementing ODR within ASEAN which may become a cornerstone for Malaysia to apply ODR in settling the e-commerce disputes in the near future. For instance, as in Cambodia ODR mechanisms facilitate cost-cutting by eliminating expenses associated with traditional meetings, accommodation, and administration. This is particularly beneficial in industrial relations disputes where parties often have differing economic capacities.<sup>61</sup>

There is currently a lack of regional collaboration within ASEAN in ODR, which may hinder the development of a unified framework. This gap presents both a challenge and an opportunity for Malaysia, especially as it looks to adopt ODR mechanisms for resolving e-commerce disputes in the near future. Cambodia has already demonstrated the effectiveness of ODR in reducing costs by eliminating expenses associated with traditional dispute resolution methods such as travel, accommodation, and administrative overhead. This is particularly valuable in industrial relations disputes, where parties often have unequal financial resources.

The lack of regional collaboration within ASEAN presents both significant challenges and opportunities for Malaysia in advancing and adopting ODR mechanisms, especially in the context of cross-border e-commerce and digital consumer protection. While ASEAN as a bloc has made attempts to harmonise digital economy strategies such as through the ASEAN Agreement on Electronic Commerce (2019) these efforts remain limited in scope and fragmented in implementation. Most ASEAN countries operate under divergent legal systems, digital infrastructure capabilities, and consumer protection standards, which undermines the establishment of a cohesive regional framework for

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<sup>61</sup>Kadek Agus Sudiarawan,, Putu Gede Arya Sumerta Yasa, Desak Putu Dewi Kasih, Nyoman Satyayudha Dananjaya, and Ni Ketut Devi Damayanti. "Formulation of Online Dispute Resolution in Realizing Fair Industrial Relations Dispute Settlement: A Comparative Study," *Jurnal IUS Kajian Hukum Dan Keadilan* 12, no. 2 (2024): 227–48, <https://doi.org/10.29303/ius.v12i2.1308>.

ODR.<sup>62</sup>

For Malaysia, this lack of regional alignment creates a critical challenge without unified protocols or mutual legal recognition of electronic contracts, signatures, and dispute outcomes, Malaysia faces legal uncertainty in enforcing ODR decisions across borders. This is particularly problematic in a region where e-commerce transactions frequently involve buyers and sellers located in different ASEAN member states. The absence of interoperable digital dispute resolution systems means Malaysian consumers and businesses are often left without efficient recourse when cross-border disputes arise, eroding trust in regional online markets.<sup>63</sup>

However, this regional gap also presents a strategic opportunity for Malaysia to take a leadership role. As one of the more digitally advanced ASEAN economies, Malaysia can spearhead initiatives to develop model ODR frameworks, promote the standardisation of legal and technical infrastructure, and push for mutual recognition agreements (MRAs) on ODR processes and outcomes. Doing so would not only strengthen regional cooperation but also enhance Malaysia's position as a digital dispute resolution hub within ASEAN.<sup>64</sup>

Furthermore, the lack of collaboration highlights the need for Malaysia to invest more in bilateral digital cooperation, while also strengthening its own national ODR platforms to serve domestic and cross-border users effectively. Yet, a critical barrier remains without a concerted ASEAN-level effort, even the most robust national systems may be limited in their effectiveness due to jurisdictional conflicts, data privacy inconsistencies, and the absence of enforceable regional legal mechanisms.<sup>65</sup>

Therefore, it clearly shows that the absence of regional collaboration in ASEAN significantly affects Malaysia's ability to

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<sup>62</sup>Akhtar, Khan, Habib, and Saleem, *Online Dispute Resolution as a Solution to E-Commerce Disputes*

<sup>63</sup>Phet Sengpunya. *Law Concept in ASEAN Economic Community – A Study of e-Commerce Legal Modernization*. PhD diss., University of Pécs, 2022.

<sup>64</sup>Sengpunya, *Law Concept in ASEAN Economic Community*.

<sup>65</sup>Naureen Akhtar, Aamir Khan, Rao Imran Habib, and Hafiz Abdul Rehman Saleem., "Online Dispute Resolution as a Solution to E-Commerce Disputes: A Comparative Study of Pakistan and UK," *Journal of Contemporary Issues in Business and Government* 28, no. 03 (2022): 149–59, <https://doi.org/10.47750/cibg.2022.28.03.015>.

fully capitalise on ODR, creating both systemic limitations and strategic openings. Thus, Malaysia must balance strengthening its domestic ODR capabilities with advocating for greater ASEAN integration in digital governance as an approach that not only addresses current challenges but also leverages the opportunity to shape the future of regional e-commerce dispute resolution.

## RECOMMENDATIONS

This research emphasises that Malaysia is working towards strengthening consumer protection by establishing a unified regulatory framework for ODR purposes. This involves developing comprehensive redress mechanisms to better serve consumers' needs especially relating to e-commerce disputes. To inform these reforms, the research compares similar efforts in the United Kingdom and Australia, which have various experiences in integrating ODR and enhancing consumer rights. It suggests that Malaysia should draw on these international lessons to formulate a new legal framework that broadens and improves the effectiveness of dispute resolution mechanisms. This approach aims to promote more accessible, efficient, and protective consumer redress systems in Malaysia's e-commerce sector.

### International Practices of ODR

**United Kingdom:** The United Kingdom has introduced a new online court system for civil claims up to £25,000, aimed at improving access to justice, particularly for the public and small businesses. This is part of a hierarchical reform to the civil court structure. The proposed system consists of three main stages (plus a preliminary "Stage Zero") to resolve disputes entirely online, minimising or eliminating the need for in-person court appearances. Stage zero (Pre-filing stage) involves parties receiving information about their case, legal advice and an overview of applicable legal principles are provided and helps parties understand the status and possible outcomes of their case.<sup>66</sup>

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<sup>66</sup>Elena Ermakova and Olga Protopopova. "Digitalization of Civil Proceedings in England." *Perm University Herald of Juridical Sciences* 63 (2024): 155

Next, stage one requires the claimant to file a notice through an ODR platform and the ODR administrator notifies the respondent and facilitates direct negotiation between the parties via the platform. After that, stage two emphasises that if direct negotiation fails, the case moves to a facilitated settlement stage and an appointed facilitator attempts to help the parties reach an agreement. Besides that, stage three scrutinises if facilitated settlement fails, a more formal online adjudication process begins, then the ODR administrator or a neutral party outlines how the case will proceed and automated systems and interactive tools assist in identifying the issues and presenting relevant evidence and documents.<sup>67</sup> Therefore, it clearly shows that the online court makes legal recourse more accessible, especially for individuals and small businesses that may not afford traditional litigation. By automating and digitising processes, cases can be resolved more quickly and at lower cost. In the meantime, multiple stages provide opportunities for resolution without judicial intervention, promoting settlement. Stage Zero provides much-needed legal guidance before formal proceedings, potentially deterring unnecessary litigation.

**Australia:** The Victorian Civil and Administrative Tribunal (VCAT) in Victoria, Australia, has introduced ODR as part of its modernisation efforts. VCAT handles a wide range of disputes, including both small claims and high-value matters, covering issues with monetary and non-monetary consequences like tenancy disputes and anti-discrimination cases.<sup>68</sup> The tribunal aims to first, provide cost-effective and efficient dispute resolution. Second, promote consumer rights and offer proper redress mechanisms. Third, deter businesses from violating these rights and fourth, benefit a wide range of consumers, especially online users, through accessible and faster online processes. This digital shift aligns with VCAT's 2017 digital strategy, emphasising the use of ICT (Information and Communication Technology) to deliver effective online services.<sup>69</sup>

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<sup>67</sup>Magd and Palanissamy, "E-Commerce Disputes and Digital Justice Platforms--A Developmental Perspective."

<sup>68</sup>Valchuk, N. *Potential and Challenges of Online Dispute Resolution for Courts*. Master thesis, Vilniaus universitetas, 2024.

<sup>69</sup>Riikka Koulu, *Law, Technology and Dispute Resolution, Law, Technology and Dispute Resolution*, 2018, <https://doi.org/10.4324/9781315149479>.

By moving dispute resolution online, VCAT reduces costs and increases accessibility, particularly for individuals who may not afford traditional legal pathways. consumer-centric approach enables the tribunal's focus on enforcing consumer rights and offering redress fosters a fairer marketplace, empowering consumers. Furthermore, the wide jurisdiction of applicability of VCAT covers both monetary and non-monetary disputes, making it relevant for a broad spectrum of cases, from small claims to complex legal matters. digital modernisation will help the incorporation of ICT and alignment with a structured digital strategy showing forward-thinking and adaptability to contemporary needs.<sup>70</sup> Hence, it can be said that VCAT's implementation of Online Dispute Resolution reflects a progressive step toward modernising legal frameworks and enhancing access to justice. By leveraging technology, it not only benefits consumers especially those engaging in online transactions but also fosters a more accountable business environment. However, continued attention is needed to ensure equity in access and quality of outcomes in this digital legal landscape.

Hence, based on the elaboration of the regulatory framework, the development of ADR institutions, and the enhancement of e-commerce platforms collectively support the realisation of ODR in Malaysia. These elements present both opportunities and challenges for implementing ODR in resolving e-commerce transaction disputes. Based on the opportunities and challenges identified in implementing ODR in Malaysia, it is evident that establishing a comprehensive ODR regulatory framework or model is crucial. An essential aspect of this is the form of regulation as the existing legal foundation for ODR is primarily reflected in the Arbitration Act and Alternative Dispute Resolution.<sup>71</sup> To effectively incorporate ODR, amendments to this law should be pursued to explicitly recognise and regulate online dispute resolution mechanisms to facilitate virtual arbitration and alternative dispute resolution processes, clearly acknowledging their validity and enforceability in digital contexts.

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<sup>70</sup>Beretta, *Procedural Justice in Online Dispute Resolution: An Empirical Enquiry*, 2024

<sup>71</sup> Muhamad Ikhwan Mohd Zain, and Nur Ezan Rahmat, "Legal Analysis of Malaysia's Integrated Dispute Resolution Scheme: Lessons from Other Countries." *Environment-Behaviour Proceedings Journal* 9, no. 28 (2024): 253–258

In essence, the ODR development model should be a comprehensive, technologically advanced system grounded in self-regulation by trusted institutions and guided by international standards. This integrated approach ensures that ODR in Malaysia remains effective, trustworthy, and aligned with global dispute resolution practices.

Since ODR is inherently an online resolution method, the enforcement of decisions can also be conducted digitally to enhance efficiency and accessibility. The implementation of ODR judgments can be carried out through online registration and monitoring, ensuring that enforcement actions are seamless and aligned with the digital nature of the dispute resolution process.<sup>72</sup> This process relies on collaboration with judicial and administrative authorities to ensure that ODR outcomes are effectively enforced within the legal framework, fostering a streamlined, transparent, and efficient enforcement mechanism.

## CONCLUSION

ODR is an increasingly important mechanism for resolving commercial disputes, particularly in the digital age, where cross-border transactions and e-commerce are prevalent. ODR refers to the use of technology—such as websites, platforms, video conferencing, and digital communication tools—to facilitate the resolution of disputes outside traditional courtrooms. In the context of commercial disputes, the ODR process typically begins with the submission of a complaint through an online platform, followed by a structured process that may involve negotiation, mediation, arbitration, or a combination thereof.<sup>73</sup>

Initially, parties may attempt direct negotiation via automated systems or communication tools provided by the platform. If

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<sup>72</sup>Goyal and Goyal, *The Evolution and Effectiveness of Online Dispute Resolution (ODR) Platforms: A Comprehensive Analysis of ADR in the Digital Age* (2023).

<sup>73</sup>Naureen Akhtar, Aamir Khan, Rao Imran Habib, and Hafiz Abdul Rehman Saleem., “Online Dispute Resolution as a Solution to E-Commerce Disputes: A Comparative Study of Pakistan and UK,” *Journal of Contemporary Issues in Business and Government* 28, no. 03 (2022): 149–59, <https://doi.org/10.47750/cibg.2022.28.03.015>.

negotiation fails, the dispute may proceed to online mediation, where a neutral third party facilitates dialogue between the parties to reach a voluntary agreement. If mediation is unsuccessful or not chosen, the matter can escalate to online arbitration, where an arbitrator issues a binding decision based on the evidence submitted electronically. ODR platforms often provide secure spaces for document exchange, asynchronous communication, and real-time virtual hearings, making the process more efficient and accessible especially for businesses operating in different jurisdictions. It is particularly valuable for resolving low to medium-value claims where traditional litigation would be time-consuming and costly. However, the success of ODR in commercial contexts depends on factors such as the enforceability of outcomes, the neutrality and qualifications of mediators or arbitrators, data security, and ensuring procedural fairness despite the absence of physical interaction. Overall, ODR offers a cost-effective, time-saving, and flexible alternative to conventional dispute resolution, increasingly becoming a preferred method for resolving commercial conflicts in the digital economy.<sup>74</sup>

Malaysia needs to capitalise on the opportunities presented by the global economy and trade to establish itself as a commercially viable entity. Embracing the rapidly evolving mechanisms and legal frameworks adopted worldwide is essential. Collaboration between the government, enterprises, consumers, and international traders is crucial to unlock the potential of e-commerce. Experts emphasise the necessity of implementing an ODR system to facilitate online transactions and attract global consumers. Upholding legal standards that ensure accuracy and confidentiality is paramount to prevent disputes from escalating. To enhance enforceability, introducing laws with mandatory ODR clauses is imperative to legitimise the process nationwide.

The accessibility of the world today is largely attributed to technological advancements and robust internet connectivity. Globalisation has transformed the world into a closely interconnected global village. This integration, facilitated by technological tools, has given rise to e-commerce, a virtual marketplace where transactions

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<sup>74</sup> Kumar Bal Govind Singh, "Online Dispute Resolution in Cross-Border Disputes: A Comprehensive Analysis." SSRN, December 24, 2023. <https://ssrn.com/abstract=4643682>.

occur between buyers and sellers. In advanced economies, e-commerce has significantly replaced traditional markets by not only offering goods and services online but also providing effective dispute resolution mechanisms.

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