



**Asia-Pacific
Economic Cooperation**

Advancing Free Trade
for Asia-Pacific **Prosperity**

Public-Private Dialogue (PPD) on Promoting Consumer Protection in the Dispute Resolution and Redress Mechanisms of eCommerce

Summary Report

APEC Committee on Trade and Investment

September 2021

APEC PROJECT: CTI 09-2019T Public-Private Dialogue (PPD) on Promoting Consumer Protection in the Dispute Resolution and Redress Mechanisms of eCommerce

Produced by:

Colin Rule (Mr)

Consultant

Email: crule@medidate.com

Betsy Broder (Ms)

Consultant

Email: Betsybroder@gmail.com

Revised by:

National Institute for the Defense of Free Competition and the Protection of Intellectual Property (INDECOPI)

De la Prosa 104, San Borja

Lima, Peru

Tel: (51) 01 2247800

Website: www.indecopi.gob.pe

Project Leader : Abelardo Aramayo Baella (Mr)
Technical Secretary – Commission on Unfair Competition

Researcher : Andrea Vega Talledo (Ms)
Legal Officer – Commission on Unfair Competition

Prepared for:

Asia-Pacific Economic Cooperation Secretariat

35 Heng Mui Keng Terrace

Singapore, 1 19616

Tel (65) 68919600

Fax: (65) 68919690

Website: www.apec.org

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Disclaimer: The opinions and conclusions are the views of the authors of this report. The analysis and Recommendations in this report do not necessarily reflect the views of APEC member economies.

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This report consists of two parts: The summary of the dialogue and three appendices, which contain the agenda, a resource bibliography, and biographies of the speakers.

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I. EXECUTIVE SUMMARY

1.1. Overview

This Public-Private Dialogue (PPD) was held virtually on 26-28 April 2021 in Americas time. The online format allowed wide participation by speakers and participants from APEC and non-APEC economies. The goal of the PPD was to raise awareness about the value of online dispute resolution; to highlight the benefits it provides to both consumers and micro, small and medium enterprises (MSMEs); to encourage APEC economies to consider and promote foundational consumer protections afforded by online dispute resolution (ODR) systems, whether established by the private or public sector; and to consider the challenges and promises of emerging technologies, including artificial intelligence, as they pertain to ODR. The PPD also contributed to the development of a Best Practices for ODR document, which will be considered by the APEC membership.

Conducting the PPD virtually allowed the participants to engage freely with the speakers and to pursue specific topics during lively break-out rooms on day three. In addition to the active engagement, participants learned about existing frameworks, programs, and initiatives, including considerations of privacy, artificial intelligence, and ethics. This discussion of background issues will help APEC economies evaluate, develop, and implement consumer friendly ODR systems for business-to-consumer (B2C) disputes.

The Technical Secretary of the Commission on Unfair Competition from INDECOPI and Project Overseer, Abelardo Jose Carlos Aramayo Baella, opened the first day with a discussion of the transformative impact of e-commerce on the marketplace. He noted that the challenges that have surfaced during the COVID-19 have highlighted the need to establish effective systems to resolve consumer issues. He welcomed the PPD as an opportunity to promote dialogue on the appropriate mechanisms for dispute resolution in e-commerce and address the importance of improving consumer confidence through policies, self-regulatory mechanisms, and global best practices.

The keynote speaker, Professor Pablo Cortes, described the European Union's experience with ODR, pointing to both ODR's successes and challenges. The remainder of Day One focused on other existing ODR systems, paying particular attention to cross border transactions. Speakers described existing systems in Brazil, Mexico, and Peru. Further discussion addressed how to ensure compliance with standards, either through self-regulation or enforcement mechanisms, the impact of these mechanisms, including Artificial Intelligence (AI), when designing ODR systems, and the role of ODR in promoting financial inclusion for underserved consumers.

Day Two highlighted the challenges ahead for ODR. Presentations from UNCTAD, Japan and China described various measures and approaches that could enhance consumer confidence in ODR systems. The speakers described the need for uniform rules across borders to promote interoperability; the promise and challenge of AI in aiding the resolution of disputes; and underlying requirements for data security and privacy. The following panel focused on the critical role of design and its impact on fairness. Speakers from Australia, the USA and Colombia described a number of ethical considerations that should be built in each phase of AI in ODR systems, and the need for transparency.

The final day was devoted to break out sessions. The first break out topics explored the biggest challenges to adopting ODR in their economies, the role of governments in both establishing ODR platforms and ensuring their compliance with laws and enforceable standards, and the challenges with systems that work beyond each economy's boundaries. The second breakout rooms addressed ways to build support for ODR, the importance of consumer trust and buy in, and the need, if any, for legislative changes to enable the adoption of ODR.

Concluding remarks from Wendy Ledesma, former Director of the National Consumer Protection Authority of INDECOPI and current Professor at the Pontifical Catholic University of Peru, addressed the need to continue collaborative work on ODR, especially in multi-lateral fora such as APEC, to ensure a level playing field for consumers and greater confidence in ecommerce.

1.2. Event Details¹

The event followed this format:

- 1) **Opening Remarks** from INDECOPI
- 2) **Keynote Address** from Pablo Cortes, Professor, Leicester Law School
- 3) **Session One:** Cross-border consumer protection in the new digital markets
- 4) **Session Two:** Challenges on dispute resolution and redress mechanisms for consumers in cross-border digital trade
- 5) **Session Three:** How to improve consumers' confidence in cross-border digital trade through best practices, self-regulation and compliance policies in dispute resolution and redress mechanisms processes
- 6) **Session Four:** Next steps on promoting Consumer Protection in the dispute resolution and redress mechanisms in Digital Trade
- 7) **Session Five:** Breakout Discussions and Concluding Remarks

102 participants from 21 APEC and non-APEC economies participated over the three-day event, including 17 moderators and speakers from APEC economies Australia; China; Japan; Mexico; Peru; Singapore; and the United States. Non-APEC economy

¹ Appendix I is the agenda for the PPD.

speakers were from Brazil, Colombia, India, and UNCTAD.² The following provides details on each of the speakers:

- Pablo Cortes, Professor, Leicester Law School
- Abelardo Jose Carlos Aramayo Baella, Technical Secretary of the Commission on Unfair Competition, INDECOPI, Peru
- Betsy Broder, Consumer Protection Attorney and Advocate, USA
- Luciano Paredes, Manager of Corporate Affairs, Foreign Trade Society, Peru
- Juliana Oliveira Domingues, National Secretary for Consumer Protection, Brazil
- Filiberto Ibáñez Juárez, Director General of Complaints and Conciliation, Profeco, Mexico
- Srikara Prasad, Policy Analyst, Dvara Research, India
- Vivi Tan, Ph.D. Candidate, Melbourne Law School, Australia
- Ban Jiun Ean, Executive Director, Singapore Mediation Center, Singapore
- Colin Rule, CEO Resourceful Internet Solutions, USA
- Yoshihisha Hayakawa, Professor of Law and practicing attorney, Rikkyo University, Japan
- Arnau Izaguerri Vila, Economic Affairs Officer, UNCTAD, Switzerland
- Anyu (Andy) Lee, professor at Sichuan University and President, Beijing eBridgeChina Research Institute, China.
- Nicolas Lozada-Pimiento, Professor of Law and practicing attorney, Externado University, Colombia
- Jeannie Marie Paterson, Professor Melbourne Law School, Australia
- Leah Wing, Senior Lecturer, UMASS Amherst, US
- Wendy Ledesma Orbegozo, former Director of the National Consumer Protection Authority of INDECOPI and current Professor at Pontifical Catholic University of Peru

² Appendix III provides brief biographies of the speakers.

II. BACKGROUND

The explosive growth of online commerce offers vast opportunities for both consumers and MSMEs. But continued growth must be built on trust in the systems. A critical element of trust is the ability to handle disputes between consumers and traders easily, inexpensively, and fairly. Online dispute resolution can serve as a critical tool to gain consumer trust and thus offer greater opportunities to traders.

Although many businesses and some economies already offer ODR through their platforms, there is an evident need for more comprehensive systems, based on common standards and approaches. This is especially true for cross border transactions. At the same time, a number of APEC economies have been charged by legislation or other mandate to implement ODR. Based on these considerations, INDECOPI initiated this project to conduct this PPD, the first phase of the effort to develop within APEC a set of best practices that may serve as a roadmap for the member economies to plan, implement and oversee ODR systems in their economies.

III. EVENT SUMMARY

3.1. Opening Remarks

The Technical Secretary of the Commission on Unfair Competition of INDECOPI, Abelardo Aramayo, described how the digital economy has revolutionized the way APEC economies operate. With the increase of e-commerce, Peru has seen a marked increase in the number of consumer complaints. This has become a greater concern during COVID-19 with consumers' increased reliance on e-commerce. Consumers, however, have found that they cannot always easily complain or find a solution to their dispute. This lack of meaningful recourse can lead to a troubling loss of confidence in e-commerce.

This PPD reflects INDECOPI's commitment to change that landscape and promote consumers' confidence in e-commerce and the digital economy. This dialogue seeks to open the debate on the appropriate mechanisms for dispute resolution in e-commerce and address the importance of improving consumer confidence through new policies, self-regulatory mechanisms, and global best practices. This will help build on the capacity of public officials and private sector representatives involved in consumer protection to address ODR. INDECOPI's aim is the development of a set of voluntary recommendations in APEC to promote best practices in consumer dispute resolution in e-commerce.

3.2. Keynote Address

Professor Cortes of Leicester University (UK) described the European Union's efforts to implement ODR within its region. He portrayed the EU's ODR system as a work in progress but noted its success since its inception five years ago. The goal of the EU initiative is to enhance justice and promote cross border trade within the EU. This is supported in part through an EU directive that obligates all EU members to ensure that they have Alternative Dispute Resolution (ADR) processes for all consumer issues; obligates governments to create competent authorities to certify ADR bodies that met minimum quality assurance requirements; and imposes minimum quality assurance requirements. Significantly, the directive also requires businesses to inform customers about certified ADR bodies, with online vendors required to have a link to an ADR provider.

Professor Cortes found that the EU has achieved most of the goals in the directive. Although vendors are not required to participate in ADR, many do; consumers can easily find EU ADR providers. The EU ODR platform has received one hundred eleven thousand (111,000) claims since inception in 2016, with an average of 2.8 million visitors per year. Generally, 55% of the claims involve domestic disputes. The remainder represent cross border transactions. Competent authorities monitor the systems to ensure that they meet minimum quality standards as they also continue to raise awareness throughout the EU of the ADR options.

The EU system recently adopted new tools, including the ability for parties to directly negotiate and for traders to register in advance. They anticipate adding further tools to enhance the system and its operations.

Professor Cortes offered the following recommendations and considerations for those who seek to develop an ADR/ODR platform:

- Increased trust is achieved if consumers choose traders based on their adherence to ODR.
- Trustmarks or online labels could help users determine if traders are linked to an ADR body.
- Consider mandatory participation for traders in certain regulated sectors, with opt-in model for other sectors with easily accessible links.
- Details on whether traders adhere to ADR requirements and if they offer consumers other information on non-ADR options, e.g., chargebacks to credit or debit accounts should be available to the public.

In his concluding remarks, Professor Cortes stressed that effective redress through ADR/ODR will increase consumer trust in commerce; domestic ODR systems should be developed before implementing cross-border infrastructure; common standards will promote ADR/ODR; resolution processes should start with direct negotiation and ensure engagement; and, significantly, the growth of ODR will increase access to justice.

3.3. Day One Sessions

3.3.1. Session One: Cross-border consumer protection in the new digital markets

Betsy Broder led the discussion.

Juliana Oliveira Domingues, National Consumer Secretary in Brazil, described Brazil's thriving domestic ODR program. With disputes settled within seven days, the ODR program, formerly optional, now is mandated for essential services and public entities. In developing its program, Brazil relied on best international guidelines, including considerations of vulnerable consumers. The ODR platform, consumidor.gov.br, has been integrated into the public process.

Looking forward, Brazil's ODR platform will begin to manage privacy related disputes and prioritize ODR tools that guarantee data protection for consumers. They also intend to offer their system to neighboring economies to promote cross border trade and ensure base line protections for consumers throughout the region.

Luciano Paredes, Manager of Corporate Affairs in the Foreign Trade Society in Peru, described a different approach, using a privately established platform for consumer disputes within Peru. Although developed in 2019 as a private initiative, the system relies on INDECOPI, Peru's consumer protection authority, as a third-party conciliator. Once consumers register their complaints, they are contacted by an INDECOPI case officer. That officer engages the merchant and arranges a conciliation proceeding with the parties. While initially envisioned as an in-person process, its adaption to an online process has led to greater adoption by consumers.

The speaker identified several challenges with ODR, especially with regard to cross border commerce. These include problems with delivery of goods, compliance with local regulations, noting in particular that exchange and refund policy and currency exchanges have created friction in B2C transactions. However, the future looks promising with the advent of alternative payment systems, enhanced escrow systems, and effective mechanisms for compliance with existing laws and standards.

The third presenter, Filiberto Ibáñez is the Director General of Complaints and Conciliation of Mexico's Federal Consumer Protection Agency (PROFECO). He described the operation of "Concilianet", Mexico's public ODR platform, supported and staffed by PROFECO officials. Concilianet is free to the public but is not mandated for businesses. Before it was launched, PROFECO found that it took 120 days for consumer disputes to be resolved. That dropped to 24 days with use of the ODR program. Although the time to resolve disputes increased during the COVID-19 period, at the time of the PPD, the average time to resolve a dispute was 47 days, still less than the average before the use of the ODR platform.

Courts in Mexico can enforce agreements that result from the Concilianet process. Those disputes that remain unresolved can be referred to voluntary arbitration and, if that is unsuccessful, can be filed in court.

3.3.2. Session Two: Challenges on dispute resolution and redress mechanisms for consumers in cross-border digital trade

Betsy Broder moderated this session as well.

According to Ban Jiun Ean from the Singapore Mediation Centre, Singapore faces unique challenges due to the small size of the economy, the efficiency of the judicial system and the ease by which consumers can currently resolve disputes with vendors. Nonetheless, there is still a need to establish a technology-based system that will provide low-cost dispute resolution and adapt to cross border transactions.

The Singapore Mediation Center is exploring its next steps towards an ODR system. They are considering a consumer protection framework, based on multi-lateral treaties, that will be codified into local laws and regimes. This approach would direct individual economies to identify organizations or authorities that would be responsible for collating complaints from their own economy and, when the dispute crosses borders, routing it to counterpart economy.

Australia, as described by doctoral student Vivi Tan, has yet to fully integrate ODR into the consumer dispute process. Because they are at the beginning phases of developing an ODR processes, they are taking a wide view of how best to ensure that the system is designed with strong consumer protections. Vivi Tan described the evolution of ODR automated systems: the first generation, which relied on automated resolutions of offline disputes; a hybrid model that used ODR and some form of AI; and what she described as an ideal system that would be fully automated using algorithms, legal data, and predictors.

According to Vivi Tan, the challenge with the “ideal” model is to develop technology and machine learning that creates a level playing field among the parties; offers equal access to the platform; and insures transparency and accountability. She also recognized that ODR is not suitable for every type of consumer claim. For example, large value disputes, widespread conduct that warrants public enforcement for both large scale relief and deterrence. The speaker concluded by suggesting an iterative roll out of ODR, beginning with informal resolution systems. That would enable the system to gain consumer acceptance and also build intelligence that would drive more automated resolution seeking technologies.

The final speaker in Session Two, Srikara Prasad, represented Dvara Research, a think tank in India that promotes financial inclusion for low-income consumers. Addressing how ODR can promote financial security and wellbeing, Srikara Prasad identified the

cascade of benefits of redress in the financial sector, most notably by enhancing both trust and reliability for the financial sector and consumers alike. ODR can overcome some of the challenges in India's current fragmented redress system, a function of the many state and local regulations, which pose a complex and cumbersome redress environment for consumers. Moreover, there is little capacity to handle disputes.

3.4. Day Two Sessions

3.4.1. Session Three: How to improve consumers' confidence in cross-border digital trade through best practices, self-regulation and compliance policies in dispute resolution and redress mechanisms processes.

In sessions moderated by Colin Rule, speakers discussed how to improve consumers' confidence in cross border digital trade through best practices, self-regulation, and compliance policies in dispute resolution platforms, as well as redress mechanisms.

The participants focused on emerging technologies and the challenges and opportunities they offer for consumer protection within ODR. The PPD first heard from Arnau Izaguerri, Economic Affairs Officer for Competition and Consumer Policies Branch of the United Nations Conference on Trade and Development (UNCTAD). UNCTAD has launched a multi-year initiative on ODR as part of its mission to promote a digital economy based on trust and inclusion of all populations. They are exploring the development of a block-chain based ODR as one measure to advance its mission.

UNCTAD's first step in this process is to identify current consumer dispute resolution systems in both the economies that will serve as test markets as well as those at the global level, and to identify best practices and lessons learned. Once UNCTAD has mapped out the existing systems, they plan to define technical and infrastructural requirements for certain selected economies for the development of ODR systems, including through emerging digital technologies. They also plan to build capacities of government consumer protection agencies, consumer groups, and business associations on consumer ODR, and build consensus among beneficiary economies on the modalities for delivering consumer ODR and cost/efficiency improvement of trade among beneficiary economies.

As described by Arnau Izaguerri, incorporating blockchain in its model will provide numerous benefits. It will allow for immutable communications and results; enable replication of the software by interested member economies states; and promote open source. An added value would be the adaption of the software to the particular needs or capacities of the users. Ultimately, UNCTAD hopes that such an ODR system will promote consumer protection within the digital economy and thus enhance consumer trust.

The following speaker was Professor Yoshihisa Hayakawa of Japan's Rikkyo University and a practicing lawyer in Tokyo. He first provided background on the United Nations Commission on International Trade Law (UNCITRAL) ODR project. While initially considered a pathway to the development of a system to promote easy resolution of low value/high volume cross border electronic transactions, the project concluded with the release of non-binding Technical Notes on Online Dispute Resolution. Although a helpful discussion of principles, the Technical Notes have no legal effect. And while they set out details on the first two steps of ODR– negotiation and mediation – the Notes are silent with respect to a third step. This was due to the failure to develop a consensus among the participants.

Next, Professor Hayakawa addressed two regional projects to promote ODR for resolution of consumer disputes. Returning to the topic first raised by keynote speaker Professor Cortes, Professor Hayakawa reflected on the EU's goal of establishing an ODR platform for its member economies and the goal of uniform rules, which will enable the system to operate more broadly. Turning to the APEC region, the goal is to encourage member economies to collaborate on a system that is both regional and interoperable.

Although APEC itself will not serve as an ODR provider, it will encourage members to collaborate on the development of a regional ODR platform, provide model procedural rules, and encourage ODR providers to join the APEC collaborative framework. Significantly, APEC has approved model procedural rules on ODR; the rules reflect the same approach of the UNCITRAL model procedural rules. The APEC collaborative framework also encourages potential business corporations in the APEC region, including e-commerce market providers, to actively use ODR. Academic institutions in the APEC region help to maintain a webpage on APEC's website, which includes a list of ODR service providers.

Finally, Professor Hayakawa addressed the ISO TC321 Project with ODR, which will lead to the standardization of e-commerce transaction assurance including:

- Assurance of transaction process in e-commerce including easier access to e-platforms and e-stores.
- Protection of online consumer rights.
- Interoperability and admissibility of the inspection results provide data on commodity quality in cross-border e-commerce.
- Assurance of e-commerce delivery to the final consumer.

Session Three's final speaker was Andy Lee, professor at Sichuan University and President of the eBridgeChina Research Institute. Professor Lee addressed the role of artificial intelligence in the ODR process. Noting that the trend is towards greater use of AI in ODR, he discussed why and how to infuse AI in ODR. Because e-commerce tends to create cross border and micro-disputes, it lends itself to an automated

resolution tool. His research found that consumers' satisfaction with ODR rests more upon the speed of resolution rather than the outcome, another feature that favors use of AI. Finally, and obviously, computers are able to achieve outcomes more speedily than humans.

Professor Lee also noted that AI can be built on rules that promote fairness, with case-based reasoning and decision support systems. Moreover, AI can improve over time with additional data and experiences. AI can help support various elements of ODR, including group calls, online record confirmation, mediation knowledge, case assessment and facilitating multiple languages. Additionally, AI can be integrated at various levels including resolution generating, aided mediation, assisted mediation and AI-alone mediation. Reliance on AI however has many challenges. These include finding the optimal solution to a dispute and managing a rule-based system.

AI also comes with certain risks, including the breach of privacy through unauthorized access, vulnerability to viruses and other attacks, and biased or unethical underlying rules.

Concluding his remarks, Professor Lee sees AI assisted ODR as the future. Adoption of AI will require the appropriate technology, deep learning for training of the AI system, access to sufficient data to analytical guidance, and social credit for enforcement.

3.4.2. Session Four: Next steps on promoting Consumer Protection in the dispute resolution and redress mechanisms in Digital Trade.

Colin Rule moderated this final panel on day two.

The preceding discussion of the underlying operation of AI in Session Three led directly to the remarks of Professor Jeannie Paterson from University of Melbourne. Professor Paterson emphasized that ethical considerations should be starting principles in the design of AI rules for ODR, whatever its role in the ODR process. And ethics should be paramount once an ODR platform is launched, so that problems such as bias, lack of access and considerations of social justice can be addressed as they emerge over time. Without that focus on ethics, AI can amplify the worst of ODR. This is especially true where consumers are initially suspicious of automation.

Professor Leah Wing of the University of Massachusetts, Amherst continued the discussion with a focus on how ODR can expand access to justice. She has found that the use of technology in dispute resolution magnifies access to justice risks as well as opportunities. Accordingly, ODR system designers must use their discretion to ensure that the systems they establish foster access to justice, especially with respect to users who did not have the opportunity to select their ODR platform. In developing the rules for an automated system, developers should consider the impact of the rules on process and, potentially, the outcome and how the system

promotes access to justice. This approach will require creativity, the inclusion of a diverse group of developers and focus on the efficiency of the system.

Professor Wing remarked on problems associated with unwitting reliance on incomplete or inaccurate data in an automated ODR system. To avoid these problems, managers of the ODR systems will need to identify data that is missing or inaccurate – an ongoing requirement that ultimately will enhance outcomes and confidence in the system. Oversight and training of the developers can guard against these risks and contribute to transparency.

Looking forward, the standards for ODR should rest on established principles. The International Council for Dispute Resolution (ICODR) has developed an alphabet of attributes, which includes accountability, accessibility, competence, confidentiality, empowerment, equality, fairness, honesty, impartiality, informed participation, innovation, integration, legal obligation, neutrality, protection from harm, security, and transparency. With ODR gaining more momentum, we have a valuable opportunity to develop systems based on these ethical principles.³ To ensure that ODR software reflects ethical values, it is critical that platforms monitor the systems in an ongoing way, using programmatic engineering approached to make certain that priorities articulated are maintained and the ODR operates within established guard rails.

Nicolas Lozada, a professor at Externado University, also is a practicing attorney in Bogota who often serves as an arbitrator. He addressed steps undertaken to strengthen and expand ODR in Colombia. The government is promoting various pieces of legislation that would formalize the standards for ODR in both the private and public sectors. In the meantime, practitioners are promoting ODR. Under the proposed framework, government agencies may delegate the adoption of ODR to private companies for implementation, administration, and management. Government agencies will be charged with promoting the adoption of ODR, whether on public or private platforms.

Currently in Colombia, the consumer protection authority, the Superintendency of Industry and Commerce (SIC) oversees “SIC Facilita”, a program that allows online chats between consumers and vendors, with SIC facilitating the process. In addition to being the first such system in Colombia, it also has helped resolve disputes during the challenging times of COVID-19. But because it relies on human intervention, it has limitations and does not always provide effective resolution to the disputes.

Looking forward, Professor Lozada anticipates a system that will optimize ODR systems for the needs of the client, whether a commercial vendor or government

³ Other groups are promoting similar ethical approaches. These include the American Bar Association, the [National Center for Technology and Dispute Resolution](#). Further resources can be found in Annex II and [here](#).

agency. One such program was developed for the office of the Attorney General. This platform should provide resolution within one month with the outcome binding on all parties.

3.5. Day Three – Session Five: Discussion and Final Recommendations

The PPD concluded with two break-out sessions followed by closing remarks. The break-out sessions asked the participants to identify within their economies the biggest challenges for advancing ODR, the appropriate role, if any, for the government to play in advancing ODR, and what issues remain unresolved.

In summary, the participants found the largest challenges in language, especially for cross border dispute but also within economies that have multiple languages and dialects; enforcement of outcomes; ensuring fairness of outcomes; ease of use; cost, for example determining which entity is responsible for developing, implementing and overseeing the ODR system; and uncertainty about the appropriate jurisdiction for enforcement of outcomes. Some also pointed to limited bandwidth and slow adoption of smart phones as a challenge for an automated ODR system.

The participants found consensus that an ODR systems requires transparency, ease of use, low or no cost to consumers, interoperability to accommodate cross border transactions, oversight and accountability, speed, impartiality, and the maintenance of ethical principles.

3.6. Final Remarks

Wendy Ledesma, former Director of the National Consumer Protection Authority of INDECOPI and current Professor at Pontifical Catholic University of Peru, reflected on the critical role that consumer protection plays in developing a reliable, trusted, and effective ODR system in our growing digital economies. She remarked on the increase in consumer complaints, which has led to distrust or unease with the digital economy. Addressing consumer complaints in a fair and effective way is essential in growing consumer confidence in the digital economy. Public and private sectors can advance e-commerce through self-regulatory and mandatory systems both within and beyond APEC economies.

4. Conclusions and Recommendations

The high-level conclusions of the PPD are as follows:

- ✓ Online Dispute Resolution (ODR) systems are essential for the trusted development of e-commerce. ODR platforms also benefit MSMEs by expanding their markets and establishing trusted relationships with consumers.

- ✓ Online Dispute Resolution (ODR) systems must be developed based on and managed pursuant to ethical principles of fairness, access, and transparency. Further, the systems should undergo routine and systematic evaluation to ensure that they maintain such standards and comply with appropriate laws.
- ✓ Online Dispute Resolution (ODR) systems must also be developed based on fundamental consumer protection principles of accountability and the right to redress.
- ✓ There is no single or best approach to launching an Online Dispute Resolution (ODR) platform.
- ✓ Successful platforms have been developed by vendors, the government, NGOs, and others. Each of these platforms has proven successful.
- ✓ Artificial intelligence can play a valuable role in advancing and facilitating Online Dispute Resolution (ODR), but the development of Artificial Intelligence (AI) and algorithms must be based on ethical principles and be free of bias or other features that would lead to unfairness in its decision-making process.
- ✓ Online Dispute Resolution (ODR) systems should undergo regular and systematic review of the rules and algorithms to ensure that they are unbiased and result in fair outcomes.
- ✓ A wealth of resources has already been developed in international fora; there is no need to “reinvent the wheel.”
- ✓ Efforts should be made to achieve a level of interoperability. Systems that can “talk to each other” can better promote cross-border trade, cooperation, and trust.
- ✓ ODR systems should be accountable to a government enforcement authority, which will provide the confidence that the systems are fair, and that they operate according to relevant laws and rules.

The recommendations are the following:

The enthusiastic participation from over 21 APEC member and non-member economies during the three-day PPD reflected the keen level of interest in developing ODR systems that address both domestic and cross border consumer disputes. The experience of many consumers during COVID-19 emphasized the need for such system, as consumers relied more on e-commerce for every day needs and the level of complaints in many economies increased dramatically.

APEC can play a critical role in advancing Online Dispute Resolution (ODR) among its members. By playing a central role in identifying rules and guidelines, APEC can promote standards that capture key ethical and consumer protection principles and encourage interoperability that can, at the same time, help MSMEs find new markets. The final stage of this project, as supported by INDECOPI, is the development of a best practices document. Such a document should capture these principles and provide a foundation for the development, implementation, and maintenance of ODR systems that offer consumers the confidence that they can seek a fair resolution of a conflict with a remote or local vendor.

APPENDIX I

AGENDA

Day 1

Tuesday, 27 April, 7:00 am (Asia time)
Monday, 26 April, 6:00 pm (America's time)

Welcome & Introduction: Framing the Dialogue: **Abelardo Jose Carlos Aramayo Baella, Technical Secretary of the Commission on Unfair Competition, INDECOPI**

Keynote speaker: Framing the ODR Landscape: Lessons learned from the EU
Pablo Cortes, University of Leicester, UK

Session 1: Cross-border consumer protection in the new digital markets
6pm-7:30pm (Lima time) / 7am-8:30am (Singapore time)

Moderator: Betsy Broder, USA

Panelists:

Filiberto Ibáñez, Director General of Complaints and Conciliation, Profeco, Mexico
Luciano Paredes, Manager of Corporate Affairs of the Foreign Trade Society, Peru
Juliana Oliveira Domingues, National Consumer Secretary, Brazil

Session 2: Challenges on dispute resolution and redress mechanisms for consumers in cross-border digital trade
7:45pm-9:15pm (Lima time) / 9:45am-10:15am (Singapore time)

Moderator: Betsy Broder, USA

Panelists:

Srikara Prasad, Policy Analyst, Dvara Research, India
Vivi Tan, PhD Student, Melbourne Law School, Australia
Ban Jiun Ean, Executive Director, Singapore Mediation Center

Day 2

Wednesday, 28 April, 7:00 am (Asia time)
Tuesday, 27 April, 6:00 pm (America's time)

Session 3: How to improve consumers' confidence in cross-border digital trade through best practices, self-regulation and compliance policies in dispute resolution and redress mechanisms processes.
6pm-7:30pm (Lima time) / 7am-8:30am (Singapore time)

Moderator: Colin Rule, CEO, Mediate.com

Panelists:

Arnau Izaguerri Vila, Economic Affairs Officer at the Competition and Consumer Policies Branch, UNCTAD
Yoshihisa Hayakawa, Professor of Law, Rikkyo University, Japan

Andy Lee, Professor, Sichuan University, China

Session 4: Next steps on promoting Consumer Protection in the dispute resolution and redress mechanisms in Digital Trade

7:45pm-9:15pm (Lima time) / 8:45am-10:15am (Singapore time)

Moderator: Colin Rule, CEO, Mediate.com

Panelists:

Jeannie Paterson , professor, Melbourne Law School, Australia

Leah Wing, Senior Lecturer in the Legal Studies Program, University of Massachusetts, Amherst, USA

Nicolas Lozada-Pimiento, Professor, Externado University and partner at Rincón Cuéllar Asociados, Colombia

Day 3

Thursday, 29 April, 7:00 am (Asia time)

Wednesday, 28 April, 6:00 pm (America's time)

Session 5: Workshop Discussion and Final Recommendations

Breakout rooms

What challenges do you face in implementing ODR in your economy? A discussion among the participants

Moderators: Colin Rule and Betsy Broder

Concluding Remarks: Wendy Ledesma, former Director of the National Consumer Protection Authority of INDECOPI and current Professor at Pontifical Catholic University of Peru.

APPENDIX II

This list of resources on Online Dispute Resolution and Consumer Protection was prepared for attendees of the APEC Public Private Dialogue on Promoting Consumer Protection in the Dispute Resolution and Redress Mechanisms of eCommerce, which was held April 26 – 28 (27 – 29 in Asia) 2021.

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APPENDIX III

SPEAKERS

Pablo Cortes: Keynote Speaker

A member of the Spanish bar, Pablo is recognized widely as a leading expert in dispute resolution. He currently is a Professor at the Leicester Law School and serves as a Fellow at the National Center for Technology and Dispute Resolution. Pablo has published widely. You can find many of his publications [here](#).

Abelardo Jose Carlos Aramayo Baella: Convenor

Abelardo serves as INDECOPI's Technical Secretary of the Commission on Unfair Competition. He earned his Lawyer's Degree from the Pontifical Catholic University of Peru and has master's degree studies on Intellectual Property and Competition law at the Graduate School of the same university. He is a Member of the Administrative Tribunal of Settlement of Claims from Users-TRASU of the Supervisory Agency for Private Investment in Telecommunications (Osiptel). Ex member of the Consumer Protection Commission N° 2 from INDECOPI. Professor, writer and speaker at national and international Conferences on Commercial law, Competition law and Intellectual Property.

Betsy Broder: Moderator, Sessions 1 and 2

A career consumer protection and privacy attorney, Betsy served in numerous leadership positions at the US Federal Trade Commission during her 30+ year tenure. She is a leading voice and innovator on many consumer protection issues including dispute resolution, cyber fraud, privacy and data security. Betsy represented the FTC during the UNCITRAL ODR project and led FTC initiatives on cross border fraud, identity theft, data sharing, and enforcement coordination. She has testified before the US Congress and has been featured in many news sources including the NY Times, the Washington Post, The PBS News Hour and CSPAN.

Session 1

Luciano Paredes: Panelist

Luciano Paredes is a specialist on international affairs with +10 years of professional experience promoting the relations of Peruvian enterprises in the Asia-Pacific region. He holds a double MSc. degree in Public Policy and Human Development by Maastricht University and United Nations University with specialization in Governance of Innovation. Luciano currently serves as Manager of Corporate Affairs in the Foreign Trade Society of Peru where he coordinates the engagement of Peruvian business leaders in different business councils such as the APEC Business Advisory Council (ABAC), Peruvian – Chilean Business Council and the Pacific Alliance Business Council. As part of his duties, Luciano has served as the lead coordinator of the APEC CEO Summit in 2016 and as Chief of Staff to the Chairman of the Pacific Alliance Business Council in 2019. He has previous experience in the financial and IT sectors as well as conducting research on development economics. He strongly believes in

the role of the private sector for building more prosperous and inclusive societies, the power of the public-private dialogue and the key role of a State with good governance.

Juliana Oliveira Domingues: Panelist

Juliana serves as the National Secretary for Consumer Protection - Brazil and Former Director of the Department of Consumer Protection from the Ministry of Justice. She also teaches at the University of São Paulo and earned a fellowship as Visiting-Scholar at Georgetown University (USA). She was the first and only Brazilian selected by the American Bar Association for the program of International Scholar in Residence. She worked in several national and international high-profile cases and won national and international awards and prizes as a leading lawyer on antitrust, economic regulation, international trade, trade remedies (WTO). She has vast experience with consumer law, compliance, data protection, and fashion law and has been honored with numerous awards.

Filiberto Ibáñez Juárez: Panelist

Filiberto Ibáñez is the Director General of Complaints and Conciliation of Mexico's Federal Consumer Protection Agency (Profeco).

With over 23 years of experience in the federal public service in Mexico, he was the Director of Legislative Analysis, the Director of Legal Studies and Regulations, as well as the Coordinator of Advisors and Chief of Staff to the Secretary in the Secretariat of Welfare (*Bienestar*). In the Secretariat of Public Education (SEP), he was Legal Coordinator in the Under Secretariat of Higher Education and the Under Secretariat of Middle Higher Education, where he was in charge of the legal design of the Open and Distant Learning University, and the Secretariat's Online High School.

He has a Bachelor's degree from the Ibero American University, Mexico City, and graduated with honors as a Master in Laws from the Nacional Autonomous University of Mexico (UNAM). He also holds a Diploma on Lobbying Strategies and Legislative Technique, and a Diploma in Regulatory Improvement.

Session 2

Srikara Prasad: Panelist

Srikara is a Policy Analyst with Dvara's Future of Finance Initiative. He completed his under-graduation in the Law and Arts with honours (B.A., LL.B.) course from Symbiosis Law School, Pune. He has interned with the United Nations Development Program (UNDP), Bangalore along with a few law firms in the past. Dvara Research seeks to enhance financial inclusion is a leading advocacy group in India.

Vivi Tan: Panelist

A PhD student at Melbourne Law School, Vivi's research crosses consumer protection law, contract law and dispute resolution system and design, including alternative and online dispute resolution. Her thesis explores the integration of information and communication

technologies into judicial and extrajudicial dispute resolution processes and their implications for dispute resolution regulation and practice as well as for consumer protection law.

Ban Jiun Ean: Panelist

As Executive Director of the Singapore Mediation Center, attorney Jiun Ean spent nine years doing legal policy work, with a focus on the development of Singapore's alternative dispute resolution (ADR) industry. Jiun Ean spearheaded the development of the world's first integrated dispute resolution centre, Maxwell Chambers, which brought together arbitral institutions, service providers and legal practitioners under the same roof in a facility equipped with bespoke dispute resolution rooms and state-of-the-art supporting technology. In 2010, he was appointed Chief Executive Officer of Maxwell Chambers, helming the company for five years and establishing it as the foremost dispute resolution centre of its kind in the world. In June 2019, Jiun Ean was appointed as the Executive Director of Singapore Mediation Centre (SMC).

Session 3

Colin Rule: Moderator, Session 3 and 4

A world-renowned innovator and expert in ODR, Colin is CEO of Resourceful Internet Solutions, Inc. ("RIS"), home of Mediate.com, MediateUniversity.com, Arbitrate.com, CaseloadManager.com and a number of additional leading online dispute resolution initiatives. From 2017 to 2020, Colin was Vice President for Online Dispute Resolution at Tyler Technologies. Tyler acquired Modria.com, an ODR provider that Colin co-founded, in 2017. Previously, from 2003 to 2011, Colin was Director of Online Dispute Resolution for eBay and PayPal. Further, Colin co-founded Online Resolution in 1999, one of the first online dispute resolution (ODR) providers, and served as its CEO and President. Colin also worked for several years with the National Institute for Dispute Resolution in Washington, D.C. and the Consensus Building Institute in Cambridge, MA. You can read many of Colin's articles and see some of his talks at colinrule.com/writing.

Yoshihisa Hayakawa: Panelist

Yoshihisa Hayakawa serves as a professor of law at Rikkyo University, Tokyo. He also has taught and conducted research at various foreign universities including Columbia University, Cornell University, QM College of University of London and Australian National University. As a partner at Uryu & Itoga, Tokyo, Yoshi serves as a counsel in many cases of transnational litigation and international commercial arbitration as well as serving as an arbitrator in many arbitration cases. He has also represented Japan in many inter-governmental organizations including UNCITRAL, APEC and Hague Conference on PIL. Yoshi also serves as President of Japan National Committee of UIA, Japanese Member for Commission on Arbitration and ADR of ICC and Japanese Member of Users Council of SIAC. He further serves as Secretary General of Japan International Dispute Resolution Center.

Arnau Izaguerri Vila

Arnau is an Economic Affairs Officer at the Competition and Consumer Policies Branch of United Nations Conference on Trade and Development. He is project officer for the UNCTAD BODR project on “Delivering block-chain based online dispute resolution for consumers as means to improve international trade and electronic commerce,” targeting Malaysia and Thailand. He was previously responsible for the implementation of the UNCTAD MENA Programme for regional integration through competition and consumer protection policies for the Middle East and North Africa region and for the COMPAL Programme for Latin America and the Caribbean, before that. He was also responsible for the intergovernmental negotiations leading to the revision of the United Nations Guidelines for Consumer Protection and currently serves as secretariat to UNCTAD's Intergovernmental Group of Experts on Consumer Protection Law and Policy.

Arnau Izaguerri holds a degree and Master in Law by the ESADE Law & Business School, Ramón Llull University in Barcelona. He earned his master's degree in International Law *summa cum laude* at the Graduate Institute in Geneva. He has experience in private law practice at the World Trade Organization, the Ministry for the Economy and Finance of France, the National Institute for the Defense of Free Competition and the Protection of Intellectual Property of Peru and the Ministry of Foreign Affairs of Andorra. His various publications are related to public international law, international trade law, and consumer protection.

Andy Lee: Panelist

Professor Anyu (Andy) Lee is the president of Beijing eBridgeChina Research Institute, visiting professor at Qinghua University, Beijing, China and adjunct professor at East West Center, Honolulu, Hawaii, before this position, Prof. Lee was a professor at University of International Business and Economy in Beijing, China since 2010. Prof. Lee served as the chief scientist of the university's eCommerce Research institute and headed the university's Shenzhen Research Institute, which is a thinking tank founded jointly by the university and Shenzhen municipal government. Prior to the university position, Prof. Lee was the director of eCommerce technology research center at China Academy of Sciences for 10 years. Before coming back to China, Prof. Lee worked in Silicon Valley for over 12 years as an engineer and research scientist in various companies including LSI Logic, Silicongraphic, HP Lab. Prof. Lee founded Internet Image Inc. in 1997 and successfully merged with Intraware, a Nasdaq listed company. Prof. Lee was educated in Shanghai Jiao Tong University (BS, MS), University of Arizona (MS), and Stanford University (PhD) with HP corporate fellowship.

Session 4

Nicolas Lozada-Pimiento: Panelist

Nicolas Lozada-Pimiento is a techno-enthusiast Colombian lawyer and serves as a professor at Externado University and partner at Bogota-based firm Rincón Cuéllar Asociados. He is also an arbitrator at several Colombian and Spanish arbitration centers. His main fields of interest and practice are LegalTech, Alternative Dispute Resolution, and International Law.

Since attending law school, Nicolás has been concerned with the ineffective nature of the Colombian judicial system and has made it his personal mission to improve legal adjudication in his country with the use of technology. In 2012, Nicolás was appointed Colombia's delegate to UNCITRAL Group III on Online Dispute Resolution (ODR). This led him to conduct research, promote legal reform, and become a speaker on the topic, including giving a Ted Talk.

Jeannie Marie Paterson: Panelist

Professor Paterson teaches at the University of Melbourne Law School where she also is co-director of the Digital Access and Equity Research Program - Melbourne Social Equity Institute. She specialises in the areas of contracts, consumer protection and consumer credit law, as well as the role of new technologies in these fields. Jeannie has published widely on these research topics in leading journals and edited collections, including as the co-editor, with Elise Bant, of *Misleading Silence* (2020).

Leah Wing: Panelist

Leah is Senior Lecturer II in the Legal Studies Program at the University of Massachusetts, Amherst, where she has taught since 1993. Leah is co-director of the National Center for Technology and Dispute Resolution (NCTDR), founding board member of the International Council for Online Dispute Resolution (ICODR), serves on the editorial boards of the International Journal of Online Dispute Resolution and Conflict Resolution Quarterly, and has served two terms on the Association of Conflict Resolution Board of Directors. Leah founded and directs the Art of Conflict Transformation Event Series at UMASS Amherst.