



**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**

Recommendations to Promote Best Practices for Consumers' Dispute Resolution and Redress Mechanisms of eCommerce

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PREFACE

The Recommendations to Promote Best Practices for Consumers' Dispute Resolution and Redress Mechanisms of eCommerce collects suggestions from APEC economies at the Committee on Trade and Investment (CTI) Public-Private Dialogue (PPD) on Promoting Consumer Protection in the Dispute Resolution and Redress Mechanisms of eCommerce (CTI 09-2019T).

This set of voluntary recommendations has been prepared considering the interests and main instruments developed by the APEC economies in the field of Dispute Resolution and Redress Mechanisms of eCommerce. In this regard, it mainly approaches recommendations and best practices for the development, implementation, and maintenance of Online Dispute Resolution (ODR) Systems that offer consumers the confidence that they can seek a fair resolution of a conflict with a remote or local vendor.

It is important to highlight that this document is presented as a base set of recommendations, which will allow all APEC economies to participate in its continuous update, considering the advances in technology and the development of new systems for online dispute resolution.

RECOMMENDATIONS TO PROMOTE BEST PRACTICES FOR CONSUMERS' DISPUTE RESOLUTION AND REDRESS MECHANISMS OF E-COMMERCE

If possible, online dispute resolution (ODR) systems provided to citizens by consumer protection agencies should embody the following characteristics:

- **There is no cost to the consumer to file an ODR case.**

Because consumers are already aggrieved by the situation, they are reporting they should not be charged an additional fee to report the matter. Such an additional charge will likely compound the consumer's frustration and make the matter harder to resolve. In some exceptional circumstances a small filing fee may be considered, partially to ensure that the consumer is serious about pursuing resolution and is not filing the case frivolously, but this fee should be as low as possible and should not be intended to cover the overall cost of hosting the ODR platform. However, it is acceptable (and even encouraged) in some ODR designs to automatically charge involved merchants a fee when a case is filed against them, because the merchant is making a profit on the transaction and fair resolution is a widely accepted cost of doing business.

- **The ODR system maintains a minimum 99% uptime.**

ODR systems should be available 24 hours a day, 7 days a week. Consumers need to be assured that the system is always available for them to report new cases or get updates on their cases currently in progress. Long periods of downtime will undermine confidence in the ODR system and hinder accessibility. Also note that 99% uptime is a minimum – 99.9% is better, and 99.99% even better (in fact, many DevOps experts even aim for five nines, or 99.999%, as a target uptime standard).

- **All cases are resolved within 60 days from filing.**

Studies have shown that for low dollar value disputes consumers would rather lose quickly than win slowly, meaning time to resolution is an essential element of consumer satisfaction. If a consumer is quickly informed that they will not be eligible for a refund in a particular case they may be a little frustrated, but they do not feel their time was wasted. If a resolution process goes on and on, with many intermediate steps, consumers can become increasingly frustrated at how much time they must devote to responding to questions, checking in on progress, or thinking about their mistreatment or injustice. Also, consumers should not look upon the ODR system as a quasi-warranty, where they can use the threat of an ongoing complaint as leverage over a seller for months after the purchase. Time bounding the process to ensure it does not go longer than 60 days helps to both minimize consumer frustration and limit the risk of inappropriate use of the ODR system to increase consumer leverage.

- **All outcomes are enforced (including refunds) within 5 working days of case closure.**

While it is important for the resolution process to complete quickly, it is equally important for outcomes to be quickly enforced. If a consumer has an ODR case decided in their favor and

has to wait months for the payment to be returned to them it can create more frustration, and potentially a new dispute. Ideally any outcome to an ODR process will be enforced, with all payments completed, within five days of the case being closed – but quicker is always better.

- **Users can request a human appeal/review if they feel an outcome was unjust.**

There are many good reasons to use algorithms to decide cases: speed, cost, and consistency are only a few prominent factors. But algorithms can get cases wrong as well, and that is why it is important to have an easily accessible human review available to any consumer should they want one. When the consumer is notified of the outcome of their case as determined by an algorithm, they should have a one-click option to escalate the case to a human review to ensure the algorithm didn't get it wrong. Ideally this will happen in a very small percentage of cases if the algorithm is already doing a good job. But the presence of a no-cost, easy to access human review will increase confidence in algorithmic outcomes, even amongst those consumers who do not decide to utilize it.

- **There is no limit on participants' right to representation or a court appeal.**

Court based processes are not a good resolution path for every consumer case, but for some consumer cases they are essential. While merchants would certainly like to limit their legal liability by directing all cases into expedited and binding ODR processes, it is important to preserve the right of the consumer to pursue legal redress in cases where judicial attention is merited. If an ODR system is well designed, the vast majority of cases (80%+) should be resolved without having to go to court or through an administrative process. But an ODR system should not prevent access to court-based processes if a consumer feels that path is the best one for them to achieve a fair resolution.

- **ODR is compliant with Web Content Accessibility Guidelines (WCAG 2.0) Level AA digital accessibility standards.**

Online systems can provide access options for many differently abled individuals, but ODR platform developers and user experience designers must make digital accessibility a priority to ensure that web and mobile interfaces are compatible with different reading and listening devices. Compliance with open standards around digital accessibility will ensure all consumers will be able to make use of redress options provided through ODR, even if they may use alternative devices to access the platform. In this sense, a compliance at Level AA of the WCAG 2.0 guarantees the website is usable and understandable for the majority of people with or without disabilities.

- **Users are informed of data breaches within two weeks of the event.**

When a system is compromised by a data breach, time is of the essence. Users who stored personally identifiable information on the compromised servers may need to move quickly to change their passwords and login information on other sites to ensure they are not further victimized. That is why it is so important for ODR platform administrators to be transparent about data breaches, and to notify users quickly when a server has been compromised.

- **The ODR system issues quarterly reports summarizing volumes and outcomes.**

Even if an ODR system is running smoothly and the users are satisfied with their experience on the platform, a lack of transparency can undermine trust. Administering an ODR platform as a “black box” may lead to misunderstandings and mischaracterizations of the outcomes being generated. Appropriately anonymized and aggregated quarterly reports summarizing volumes and outcomes can be very helpful in maintaining user confidence and preserving trust in the fairness of the system.

- **A Stakeholder Advisory Board monitors the process and investigates complaints.**

For matters that may involve confidential information, such as complaints about specific user experiences within the ODR system, an external Stakeholder Advisory Board can provide a useful layer of governance to investigate user reports and suggest appropriate follow up. If the participants on the Advisory Board are well chosen and widely representative, they can also help to maintain confidence in the ODR system by lending their own credibility to the credibility of the ODR platform.

- **Consumer protection agencies can review selected anonymized data upon request.**

If an external consumer protection agency receives a complaint about a case in the ODR platform, there should be a system for appropriately anonymized information about the case (or set of cases) to be shared with the agency for review. Again, this option can preserve trust in the system by providing a measure of transparency without violating the privacy of process participants.

- **All personally identifiable information is encrypted and kept confidential.**

When personally identifiable information (PII) is stored in the platform database, it should not be stored in an unencrypted form. If the database is compromised and the PII is unencrypted, it can be copied by the intruder and shared with outside audiences. However, if the information is stored in an encrypted form, then if the database is compromised the intruder will be unable to interpret it. The use of system-level encryption can be very helpful in ensuring that PII is protected and ensuring that consumers will feel more comfortable sharing information with the ODR platform.