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# Online Dispute Resolution System for Digital Payments in India

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## ABSTRACT

*India is quickly transitioning to a digital economy. Because of the growing number of digital transactions, e-commerce has seized vast sectors of the Indian population, making the online market space more complex and information-intensive. With the implementation of online dispute resolution for digital payments, the RBI has demonstrated its ability to quickly adapt to the fast-paced financial technology. The relationship between the consumer and the financial institution has changed dramatically as a result of growing digitalisation. As the number of digital transactions increases, so does the number of disputes and frustrations. Authorized Payment System Operators like banks, nonbanks and their participants in India were recommended to implement Online Dispute Resolution systems for resolving consumer disputes and grievances.*

## I. INTRODUCTION

The Reserve Bank of India (RBI) has ruled that payment system operators (PSOs) will have to phase in online dispute resolution (ODR) solutions. This is a significant milestone for digital payment services. The RBI Governor announced in his second bi-monthly monetary policy statement on dated 06 August 2020 that a scheme for retail payments in offline mode using cards and mobile devices, as well as an online dispute resolution (ODR) mechanism for resolving customer disputes and grievances relating to digital payments, will be implemented. With no or limited manual interaction, the mechanism will be system-driven and rule-based. The payment systems vision 2021, with its central concept of "Empowering Exceptional (E)payment Experience," intends to provide every Indian with a variety of safe, secure, simple, rapid, and economical e-payment choices. The Payment Systems Vision 2021 was formalised based on feedback from a variety of stakeholders and the Board for Payment and Settlement Systems' direction (BPSS). While the quest for a "less cash" society continues, as does the desire for a "less-card India," the goal is to increase efficiency, ensure the continuous availability of safe, secure, accessible, and affordable payment systems, and to reach out to segments of the population who have previously been unserved by payment systems. <sup>2</sup>

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<sup>1</sup> Author is a Professor in India.

<sup>2</sup> [https://www.rbi.org.in/Scripts/BS\\_PressReleaseDisplay.aspx?prid=47045](https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=47045)

## II. WHAT IS ONLINE DISPUTE RESOLUTION AND ITS ORIGIN?

Online Dispute Resolution (ODR) is a method of resolving conflicts outside of the courtroom, particularly in small and medium-sized cases, using a combination of digital technology and ADR approaches such as negotiation, mediation, and arbitration. When compared to litigation, ODR can assist people in quickly resolving their problems.

In India, online dispute resolution (ODR) is a subset of alternative dispute resolution (ADR). Technology is used to facilitate discussion and grievance resolution between disagreeing parties. Arbitration, bargaining, and mediation are examples of ODR that take place digitally or electronically.<sup>3</sup>

The history of digital contacts, particularly economic transactions, is closely followed by ODR's origins. As the number of interactions grew, so did the number of disputes and a need for redress that was unique to the internet. While the internet has been around since the late 1960s, it was mostly used in academic and military settings throughout the first twenty-five years of its existence.

The focus of the courts' initial engagement with online conflicts was on how to resolve online issues through traditional litigation rather than engaging in technology-based solutions. For example, during the mid-1990s, courts grappled with the question of where jurisdiction for issues originating from online interactions should be located. Furthermore, the early acceptance of internet use on college campuses resulted in litigation involving campus activities, including freedom of speech and harassment. Despite the fact that the issues raised were related to online activity, the dispute resolution process was still extremely analogue.

The website eBay had a crucial role in the creation of ODR. The online marketplace behemoth has offered an internal system for participants to a transaction to handle their disputes online since 1999. Today, that system assists parties in resolving over 60 million conflicts each year, a figure that approximately equals the entire number of cases handled in all US civil courts in a single year.<sup>4</sup>

In the case of **State of Maharashtra v. Dr. Praful B. Desai**<sup>5</sup>, 'the Supreme Court of India established that the Video conferencing is an acceptable method of recording evidence for witness testimony'.

In **Grid Corporation of Orissa Ltd. vs. AES Corporation**<sup>6</sup>, the Supreme Court held- "when

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<sup>3</sup> <https://indianlegaltech.com/blog/online-dispute-resolution-in-india-a-no-nonsense-guide#what-online-dispute-resolution-in-india-really-is>

<sup>4</sup> <https://www.abourtsi.org/special-topics/online-dispute-resolution>

<sup>5</sup> (2003) 4SCC 601

<sup>6</sup> 2002 AIR SC 3435

an effective consultation can be achieved by resort to electronic media and remote conferencing, it is not necessary that the two persons required to act in consultation with each other must necessarily sit together at one place unless it is the requirement of law or of the ruling contract between the parties”.

### **III. PROCEDURE FOR APPLICATION OF ODR**

The filing of an ODR requires the submission of e-documents in which the parties may utilise encryption or electronic signatures to protect the integrity of the documents and the transaction's authenticity. Typically, the parties request the appointment of a neutral panel of judges or panellists through ODR service providers to resolve disputes between them via the internet. Parties to a disagreement appreciate a straightforward, well-structured procedure that can be followed from beginning to end.<sup>7</sup>

In India, online dispute resolution is still in its infancy, but it is gaining popularity as time goes on. Convenience, trust, and competence are the three pillars of ODR. In India, online dispute resolution is still in its infancy, but it is gaining popularity as time goes on. Convenience, trust, and competence are the three pillars of ODR. E-mediation, e-negotiation, e-arbitration, e-conciliation, conciliation-mediation, and fast track arbitration are examples of projects that focus on parties adapting adjudicatory or non-adjudicatory procedures to arrive at binding and non-binding outcomes.

The procedure for ODR are stated below:

- In order to protect information authentication, parties use electronic signatures to protect the information of the registered e-document.
- The remedy will not be implemented until the ODR service providers have assigned a panel to the parties.
- The parties are expecting a simple, structured, and scheduled procedure that can be followed throughout.
- The World Intellectual Property Organization (WIPO), the International Chamber of Commerce (ICC), and the Singapore International Arbitration Center are three well-known established institutions that have achieved enough and made headlines for online dispute resolutions (SIAC).
- The primary motivation for bringing complaints through a complainant is to obtain compensation from the respondent. If the responder wishes to continue the proceedings, he may provide a thorough response to the allegations levelled against him. Any

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<sup>7</sup> <http://www.tygarlaw.com/online-dispute-resolution-odr-the-future-of-solving-disputes/>

anybody, whether a merchant, a consumer, or even a customer, can file a complaint.

- The first step in the negotiation process is to establish dialogue and get a mutual agreement on how to proceed with the procedures.
- Oral proceedings through video conference may or may not take place. This fluctuates depending on the circumstances. Many times, a dispute can be handled using specially built software without the involvement of a third party. Algorithmic Dispute Resolution is the term for this.
- The case can be re-opened by the party who is not pleased with the compensation within a defined time limit by the ODR, which functions not as a court who decides a dispute but as an administrator and infrastructure supplier. After it is reopened, the arbitration procedure will begin.
- The International and Domestic Arbitration Centre (IDAC) of India states that there are four essential steps to completing arbitration proceedings:
  1. Notice issued to the disputed parties.
  2. Arbitrators are appointed to carry out the proceedings.
  3. Execution of proceedings and hearings.
  4. Execution of award.<sup>8</sup>

#### **IV. PROS AND CONS OF ONLINE DISPUTE RESOLUTION**

There are various elements that lead to the conclusion that dispute resolution can be done online, while other ones lead to the conclusion that there are minimal drawbacks to using online resolution for a contested matter.

##### **The few advantages for gearing up online disputed resolution as a mechanism for a dispute:**

To begin with, it is economically feasible; in any dispute, cost always plays a big role, as the parties attempt to reach an ideal judgement at the lowest possible cost. Because all documents are shared via email and proceedings are held via video conferencing, ODR is the greatest option for addressing all financial expectations. As a result, the requirement for a site and lodging to perform the processes is avoided, and the documents do not need to be transmitted through the mail. As a result, ODR is not only simpler but also much less expensive.

Second, it is a quick procedure; one of the key advantages of ODR over traditional ADR is that it takes less time. While ADR takes several months to make a decision, ODR just takes a few weeks to make a decision in a disputed matter. Furthermore, the internet's borderless nature

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<sup>8</sup> <https://blog.ipleaders.in/top-online-dispute-resolution-odr-startups-india/>

allows parties and counsel to interact readily even if they are in different time zones. It is simple to use because e-mail aids in the scheduling of ODR hearings, eliminating the need for phone calls and faxes. Because of the speed and ease with which data and documents from numerous parties may be stored on the internet in today's modern environment, it saves both time and money.

Third, it is a non-confrontational procedure in which the disputed parties do not have to attend in person. ODR allows the adjudicating authority to determine the issue only on the merits of the case. Because most debates are conducted asynchronously over the internet, disputants have the opportunity to consider their positions before responding.

Furthermore, because there will be multiple cases where one of the parties is a small-time manufacturer and the other is a worldwide company, such a process neutralises any economic or other power inequalities that may exist between the disputants. As a result, in ODR, the counsel will perform his obligations without making a biased conclusion.

Fourth, it can record the ODR process for any purpose. ODR makes it easier to record pleadings, statements, and written, oral, or visual communications that rely exclusively on digital records.

Fifth, it can save data, as document storage is difficult in Indian courts. This is replaced by ODR, which allows parties to save data for future use in transferring or saving documents.

**There are few disadvantages while going for online resolution for any dispute:**

Firstly, it can lead to misunderstandings and a lack of human interaction. Because there will be no face-to-face interaction, the adjudicating authority will be unable to assess the credibility of parties and witnesses. Additionally, because of the nature of the internet, there will be no misinterpretation because the parties may be in different countries and speak different languages.

Second, unlike ADR, it has a limited range of disputes. ODR is best suited for resolving disputes of a certain type, such as domain names, e-commerce, and so on. ODR may not be appropriate for many types of conflicts, such as tortious issues such as defamation and trespass, which necessitate discovery, witness evidence, and cross questioning, which may not be doable via the internet.

Third, it lacks proper confidentiality, and secret cannot be maintained; secrecy is a key component of the conflict settlement process. According to the ODR service providers, certain technological measures have been taken for the safety of the parties' data, including the installation of certain software. Even if the data protection law takes protections during the implementation process, it is still exceedingly risky when hackers try to conduct a crime by

disrupting such data. As a result, intrinsic data security will be a barrier to ODR's expansion. Fourth, jurisdictional concerns arise when disputes are settled online, and it is unclear what substantive law will apply to the case. When it comes to international arbitration, there are four different legal options to consider.

- Parties' merits, contact, and claim.
- Those who have agreed to arbitrate.
- The law that governs arbitration proceedings.
- Each of the above laws is subject to conflict of law rules.

Fifth, it has an issue with the publication of procedures and awards. If the ODR mechanism is used to resolve a dispute, the specifics of the proceedings and outcomes must be made public, which is not feasible under ODR because the primary reason for using ODR is to keep the proceedings quiet.

As a result, the destiny of ODR hangs in the balance between one school of thought advocating for absolute secrecy in processes and another advocating for public disclosure of procedures and decisions. As a result, the ODR providers keep the information secure and only reveal it if both parties agree. In the case of choosing online dispute resolution, there will be an issue with award enforcement and even challenge.

## **V. FUTURE OF ODR POST LOCKDOWN**

The pandemic has compelled a shift toward solutions that reduce touch and can be engaged by technology, including for dispute resolution. The critical role of technology has been enhanced, particularly in offering remote contactless support for daily work duties, emphasising its significance in ensuring a simple and affordable form of access to justice. Progressive and disruptive improvements in justice delivery are key components that have the potential to drastically alter the direction of access to justice. Each component of the Indian system is striving toward a solution-oriented future, and this is where the shift will be seen.

The pandemic, as well as the remedies it needed, prompted changes throughout the conflict resolution ecosystem. Several international institutional arbitration centres, including the International Chamber of Commerce, the International Centre for Dispute Resolution, the Singapore International Arbitration Centre, and others, have recently issued guidance to facilitate remote participation in hearings via video conferencing.

## **VI. PLATFORMS FOR ODR IN INDIA**

The usage of ODR as a platform is still in its early stages, but it is beginning to gain traction. Together with the Arbitration and Conciliation Act of 1996, the Information Technology Act

of 2000, and the Indian Evidence Act of 1872, and their interpretation, ODR not only becomes legally and technically viable, but also helps to overcome issues such as jurisdiction and geographical barriers, and instead promotes eco-friendly processes that result in quick judgement and efficiency for the parties.<sup>9</sup>

There are several channels through which you can submit an ODR application and have your dispute handled.

- The Centre for Alternate Dispute Resolution Excellence, or CADRE, is an online platform for ODR. When one party approaches the platform, the other party is notified of the situation. If both parties are satisfied, an arbitrator is selected, and all relevant information about the dispute is delivered to them by email or WhatsApp in a timely manner.
- Normally, the parties do not meet face to face, although they can do so via video conference if they desire. The decision is legally binding and will be made within 20-25 days. For NESTWAY, an online home renting start-up, CADRE has been settling disputes involving tenants and rental contracts. NESTWAY is used by over 75,000 people for house rental purposes, and since the epidemic, conflicts over non-payment of rents have reached an all-time high. The issue is being handled by CADRE, a website-based platform developed by Shalini Saxena and Kanchan Gupta.<sup>10</sup>
- SAMA is another ODR platform that makes it simple to find high-quality ADR providers and assists consumers in resolving disputes online. Pranjali Sinha, Akshetha Ashok, and Vikram Kumar formed SAMA. ICICI Bank has adopted SAMA as an ODR platform to resolve approximately 10,000 disputes totalling over 20 lakhs.<sup>11</sup>
- CODR, or Centre for Online Dispute Resolution, was co-founded by Vikas Mahendra, a partner at legal firm Keystone Partners. It positioned itself as an organisation that would handle cases from start to finish online.
- AGAMI is a non-profit ODR platform that aims to improve the legal system and provide justice by making it more efficient in terms of time and accessibility to everyone.
- Presolv 360-Bhaven Shah, Namita Shah, and Aman Sanghavi co-founded Presolv 360, which provides services for settling commercial disputes.

In India's dispute resolution environment, ODR has the potential to improve equity, fairness,

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<sup>9</sup> <https://www.mondaq.com/india/arbitration-dispute-resolution/972422/online-dispute-resolution-a-compelling-option-or-a-far-fetched-reality-during-pandemic-times>

<sup>10</sup> <https://blog.ipleaders.in/top-online-dispute-resolution-odr-startups-india/>

<sup>11</sup> *ibid*

and access. e-Lok Adalats held in numerous states, including Chhattisgarh, Karnataka, Rajasthan, Gujarat, and soon Kerala, demonstrated the convenience of ODR by resolving disputes using WhatsApp audio/video conversations. A somewhat big and competent services pool for adjudication and representation could help improve supply-side capabilities.<sup>12</sup>

ODR has the potential to be a viable option that makes use of technology to overcome barriers and improve access to justice. ODR could be the post-pandemic disruption that improves justice delivery for everybody by permitting low-cost, remote, technology-assisted, linguistically friendly, amiable, and incentivised conflict avoidance, containment, and settlement while adhering to natural justice principles.

People during the lockdown would have been familiar with the accessible source of ODR or online dispute resolution, and they would opt for ODR since it is less expensive, takes less time, and results in a decision within a few weeks. It will not only assist people in having their problems resolved quickly, but it would also assist the court in not being overburdened with cases. People should be made aware of all the resources available to them for quickly resolving their issues.

## **VII. DIGITAL PAYMENT SECURITY CONTROLS**

The Reserve Bank of India (RBI) issued specific instructions (Digital Payment Security Controls Directions, 2021) on February 18, 2021, in order to strengthen India's developing digital payments ecosystem. These new guidelines are to act as a framework for all regulated entities (REs) in the country, to follow best practices and help maintain an industry-wide security baseline for “an enhanced and enabling environment for customers to use digital payment products in a more safe and secure manner.” The provisions apply to Regulated Entities (REs) including scheduled commercial banks, small finance banks, payment banks and credit card issuing NBFCs.<sup>13</sup>

The rollout of the guidelines comes at an ideal time. Today, 92 percent of the world's currency is digital meaning all the money we earn and spend on a daily basis lives somewhere in the cyber sphere. While the opportunity for businesses in a digital economy is vast, so are the risks. We have seen this with the explosive growth of digital payments in India as UPI hit two billion transaction per month and banks and consumers finding themselves a lucrative target for cybercriminals.<sup>14</sup>

These standards, developed in collaboration with financial institutions and payment providers

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<sup>12</sup> <https://www.financialexpress.com/opinion/india-needs-more-online-dispute-resolution/2117658/>

<sup>13</sup> <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/MD7493544C24B5FC47D0AB12798C61CDB56F.PDF>

<sup>14</sup> <https://www.biocatch.com/blog/rbi-delivers-guidance-for-new-digital-payment-security-controls>

throughout the world, will go a long way toward increasing consumer trust and accelerating digital payments adoption in the country, as well as improving the payment industry's overall security posture.

Because of the critical role that digital payment systems play in India, the Reserve Bank of India places a premium on the security controls that surround them. It is now proposed that the Reserve Bank of India (Digital Payment Security Controls) Directions 2020 be issued, requiring regulated entities to establish a robust governance structure for such systems and to implement common minimum security standards for channels such as the internet, mobile banking, and card payments, among others.

The provisions of these directions shall apply to the following Regulated Entities (REs):

- a) Scheduled Commercial Banks (excluding Regional Rural Banks);
- b) Small Finance Banks;
- c) Payments Banks; and
- d) Credit card issuing NBFCs.

## **VIII. CUSTOMER PROTECTION, AWARENESS AND GRIEVANCE REDRESSAL MECHANISM**

Within digital payment apps, Regulated Entities (REs) must include secure, safe, and responsible usage instructions and training materials for end users. They shall also make it mandatory for the consumer to go through secure usage guidelines while obtaining and recording confirmation during the on-boarding procedure in the first instance and first use after each update of the digital payment application or after major updates to secure and safe usage guidelines.<sup>15</sup>

REs must include a section on the digital payment application that clearly outlines the method and procedure for filing consumer complaints. There must also be a procedure in place to keep this information updated on a regular basis. The application's reporting feature must include the ability to file a complaint. Customer dispute management, reporting, and resolution procedures, as well as the RE's expected response timelines, should all be well established.

REs must follow current instructions, which are revised on a regular basis, to set up an online dispute resolution mechanism for resolving customer issues and grievances involving digital payments.

REs shall educate customers about the need to maintain the physical and logical security of their devices accessing digital payment products and services including recommending secure/

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<sup>15</sup> [https://www.rbi.org.in/Scripts/BS\\_ViewMasDirections.aspx?id=12032](https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=12032)

regular installation of operating system and application updates, downloading applications only from authorised sources, having antimalware/ anti-virus applications on devices, etc. Before clients subscribe to digital payment products and related services, REs must provide them with information regarding the risks, rewards, and liabilities of doing so.

Customers must also be made aware of their rights, obligations, and responsibilities in relation to digital payments, as well as any issues that may occur as a result of service outages, processing errors, or security breaches.

Customers should have easy access to the terms and conditions, including the customer privacy and security policy, that apply to digital payment products and services. All digital channels are to be offered on express willingness of customers and shall not be bundled without their knowledge.

When new operating features or functions, especially those relating to security, integrity, and authentication, are introduced to online delivery channels, customers should receive clear and effective communication as well as sufficient instructions on how to use the new features effectively.

REs may continue to raise public awareness about the types of threats and attacks that consumers face when using digital payment goods, as well as preventative ways to avoid them. Customers will be warned about recent dangers such as phishing, vishing, reverse-phishing, and remote access to mobile devices, as well as how to secure and safeguard their account information, credentials, PIN, card information, and gadgets.

REs will only supply digital payment products and services to a customer based on a specified written or authenticated electronic requisition and a positive recognition of the terms and conditions.

REs should provide a method on their mobile and internet banking applications for clients to identify/ designate a transaction as fraudulent, with the requisite identification, for smooth and quick communication to his RE.

REs should provide a method on their mobile and internet banking applications for clients to identify/mark a transaction as fraudulent, with the requisite identification, for smooth and quick communication to his RE. Following the customer's notification, REs may work to provide the capability for seamless/instant reporting of fraudulent transactions to the associated beneficiary/ counterparty's RE, as well as a method to receive such fraudulent transactions reported by other REs. The goal of this technique is to speed up early detection by allowing the banking/payment system to track the transaction trail and minimise the loss to the deceived consumer as soon as feasible.

## **IX. CONSUMER PROTECTION (E-COMMERCE) RULES, 2020**

The Department of Consumer Affairs seeks views/ comments/ suggestions on the proposed revisions to the Consumer Protection (E-commerce) Rules, 2020 in order to protect consumers' rights, prevent their abuse, and foster free and fair competition in the market. The proposed reforms aim to increase transparency in e-commerce platforms and enhance the regulatory system in order to combat the widespread unfair trade practises.

As for the redressal of grievance is concerned every e-commerce business must have an acceptable grievance redressal procedure, taking into account the volume of grievances it receives from India on a regular basis.

## **X. GRIEVANCE REDRESSAL MECHANISM OF E-COMMERCE ENTITY**

a) It shall appoint a Chief Compliance Officer who will be responsible for ensuring compliance with the Consumer protection Act and its rules, and who will be held liable in any proceedings relating to any relevant third-party information, data, or communication link made available or hosted by that e-commerce entity if he fails to ensure that such entity follows due diligence while performing its duties under the consumer protection Act and rules.

b) The appointment of a Chief Compliance Officer, a nodal contact person for 24x7 coordination with law enforcement agencies, officers to ensure compliance with their orders, and a Resident Grievance Officer for redressing consumer grievances on the e-commerce platform has been proposed to ensure compliance with the Consumer Protection Act, 2019 and Rules. This would ensure effective compliance with the Act's and Rules' provisions, as well as strengthen the e-commerce businesses' grievance redressal mechanism.<sup>16</sup>

c) The name of the Grievance Officer and his contact details, as well as a mechanism by which a user may make a complaint against a violation of the provisions of this rule or any other matters pertaining to the resources and services made available by it on its platform, shall be prominently published on the e-commerce entity's website, mobile based application, or both, as the case may be, and the Grievance Officer's contact details, shall be prominently published on the e-commerce entity's and the Grievance Officer shall accept and acknowledge any order, notice, or instruction from the Appropriate Government, any competent authority, or a court of competent jurisdiction.

d) Every e-commerce firm must ensure that the grievance officer acknowledges receipt of any consumer complaint within 48 hours of receipt and that the issue is resolved within one month

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<sup>16</sup> <https://pib.gov.in/PressReleasePage.aspx?PRID=1729201>

of receipt.<sup>17</sup>

## **XI. NITI AAYOG- ONLINE DISPUTE RESOLUTION (ODR)**

NITI Aayog launched the first-of-its kind Online Dispute Resolution (ODR) handbook in India on 10th April 2021. The handbook is an invitation to business leaders to adopt ODR in India. It emphasizes the need for such a mechanism, as well as the types of ODR models that companies can use and a direction for them to follow. This handbook is being launched in association with Agami and Omidyar Network India and with the support of ICICI Bank, Ashoka Innovators for the Public, Trilegal, Dalberg, Dvara, NIPFP.<sup>18</sup>

"It highlights the need for such a mechanism, the models of ODR that businesses can adopt and an actionable pathway for them," the government think tank said.<sup>19</sup>

ODR is the use of digital technology with alternate dispute resolution (ADR) approaches such as negotiation, mediation, and arbitration to resolve disagreements. Small and medium-value cases are particularly susceptible to these disagreements.

"While courts are becoming digitized through the efforts of the judiciary, more effective, scalable, and collaborative mechanisms of containment and resolution are urgently needed. ODR can help resolve disputes efficiently and affordably," NITI Aayog said.<sup>20</sup>

"A robust ODR ecosystem in India has the potential to facilitate access to justice and the ease of doing business by making dispute resolution cheaper, quicker and most importantly equally credible as conventional methods of dispute resolution," Kant said.<sup>21</sup>

The judiciary in India is paving the way for equitable justice through the e Courts Mission Mode Project, which will have a vertical and lateral influence. The epidemic has forced adaptive and inventive changes across the board, especially in the dispute resolution environment. Even in the sphere of justice delivery, it is now up to institutions to figure out how to accomplish equitable distribution. Each branch of the Indian system must and is working toward a solution-oriented future, and it is here that the shift will be seen.<sup>22</sup>

The pandemic has compelled a shift toward solutions that reduce touch and can be engaged by technology, including for dispute resolution. In this backdrop, the NITI Aayog has taken the

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[https://consumeraffairs.nic.in/sites/default/files/file-uploads/latestnews/Comments\\_eCommerce\\_Rules2020.pdf](https://consumeraffairs.nic.in/sites/default/files/file-uploads/latestnews/Comments_eCommerce_Rules2020.pdf)

<sup>18</sup> <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1710646>

<sup>19</sup> <https://www.livemint.com/news/india/niti-aayog-to-launch-online-dispute-resolution-handbook-tomorrow-11617969675612.html>

<sup>20</sup> <https://timesofindia.indiatimes.com/business/india-business/niti-aayog-to-launch-online-dispute-resolution-handbook/articleshow/81990985.cms>

<sup>21</sup> <https://economictimes.indiatimes.com/tech/internet/robust-online-dispute-resolution-can-facilitate-affordable-justice-delivery-ease-of-doing-biz-amitabh-kant/articleshow/77433677.cms?from=mdr>

<sup>22</sup> <https://mediationmantras.com/2021/07/address-by-amitabh-kant-at-isms2021/>

lead in developing an Online Dispute Resolution (ODR) policy action plan.

ODR is a rapidly evolving dispute resolution method that employs technology not only to assist but also to assess efficient and cost-effective justice delivery. It can be used to resolve conflicts outside of the formal court system in a cost-effective and timely manner, particularly for minor and medium-sized issues. As a result of the pandemic, there will almost certainly be a flood of issues in the courts that will need to be resolved quickly. As a result, new innovation models like Online Dispute Resolution, which includes mediation, require specific backing.

NITI Aayog established a committee chaired by Justice (Retd.) A. K. Sikri to formulate an action plan for ODR in India. Members of the Committee include several Secretaries of the Government of India, including the Law Secretary, Justice Secretary, and others. This policy framework has been universally well received, and has received the support of several members of the judiciary as well as all other stakeholders.<sup>23</sup>

A robust ODR ecosystem in India will:

- have high potential to reduce the load on courts by resolving high volume of disputes outside the court.
- allow gaining access to justice and ease of doing business by making dispute resolution cheaper, quicker, and most importantly, equally credible as conventional methods.<sup>24</sup>

This Committee has been tasked with developing a framework for technology-assisted conflict resolution that complements the official court system while also laying the groundwork for a scalable and adaptable mechanism that can withstand demand and time constraints.

## **XII. RBI'S ODR POLICY ON DIGITAL PAYMENTS**

The Reserve Bank of India (RBI) announced the launch of the Online Dispute Resolution (ODR) system, which uses a technology-driven and rule-based method to resolve consumer disputes and grievances relating to digital payments with zero or little manual participation.

The Reserve Bank's Payment System Vision-2021 emphasises the importance of technology-driven, rule-based, customer-friendly, and transparent dispute resolution procedures. Authorized Payment System Operators (PSOs) — banks and non-banks – and their participants are thus recommended to implement ODR systems for resolving consumer disputes and grievances as a first step in this approach.<sup>25</sup>

To begin, by January 1, 2021, authorised PSOs must build an ODR mechanism for disputes and grievances relating to failed transactions in their respective payment systems. PSOs must

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<sup>23</sup> <https://mediationmantras.com/2021/07/address-by-amitabh-kant-at-isms2021/>

<sup>24</sup> <https://www.livelaw.in/news-updates/a-robust-odr-ecosystem-in-india-will-have-a-potential-of-reducing-the-load-on-courts-niti-ayog-ceo-amitabh-kant-159052>

<sup>25</sup> [https://www.rbi.org.in/scripts/FS\\_Notification.aspx?Id=11946&fn=9&Mode=0](https://www.rbi.org.in/scripts/FS_Notification.aspx?Id=11946&fn=9&Mode=0)

make such a system available to their participating members, i.e. Payment System Participants (PSPs). Following that, any firm establishing or participating in a payment system in India must make the ODR system available at the start of its operations.

This order is issued under Section 10 (2) of the Payment and Settlement Systems Act of 2007, as well as Section 18 of the Act (Act 51 of 2007). The ODR system's minimal needs are as follows:

### **1. Applicability**

All licenced Payment Systems Operators (PSOs) — banks and non-banks – and their participating members [Payment System Participants (PSPs)] are subject to these rules.

### **2. Concept of the ODR system**

The ODR system should be a transparent, rule-based, system-driven, user-friendly, and unbiased method for resolving customer disputes and grievances that requires no or minimal manual interaction.

### **3. Structure of the ODR system**

Each PSO shall make available an ODR system for resolving disputes and grievances arising out of failed transactions and provide the participating PSPs an access to the system.

Customers will be able to lodge disputes and grievances relating to failed transactions with the PSO and its PSPs, regardless of whether the transactions were on-us or off-us.

### **4. Types of transactions covered under the scope of the ODR system**

To begin, the ODR system will handle disputes and grievances connected to unsuccessful transactions.

All provisions of the foregoing circular, including those relating to TAT and customer compensation, must be followed while using the ODR system to resolve disputes and grievances.

### **5. Lodging and tracking of disputes and grievances**

Customers must have access to one or more channels for resolving disputes and grievances, such as a web-based or paper-based complaint form, an IVR, a mobile application, a contact centre, SMS, or through branches or offices.

In addition to the above channels, third party app providers (TPAPs) must provide customers with the ability to lodge disputes and grievances through the same mobile app used for making payments, which must be integrated with the ODR system, in the case of mobile phone-based systems like Unified Payments Interface (UPI).

The procedure for filing a disagreement or grievance should be easy and require only the bare minimum of information. Based on the information provided by the customer, the ODR system

should be able to automatically acquire full details. When creating such criteria, the issue of data confidentiality must be taken into consideration.

The ODR system will assign a unique reference number to a consumer who has filed a dispute or grievance. Customers will have the ability to track the status of their dispute or grievance using this reference number.<sup>26</sup>

### **XIII. HARMONISATION OF TURNAROUND TIME (TAT) AND CUSTOMER COMPENSATION FOR FAILED TRANSACTIONS USING AUTHORISED PAYMENT SYSTEMS**

A substantial number of consumer complaints have been reported as a result of unsuccessful or "failed" transactions. Failure could be caused by a variety of variables that aren't directly traceable to the consumer, such as communication failures, cash shortages at ATMs, session timeouts, and non-credit to the beneficiary's account due to a variety of reasons.

It should be emphasised that the prescribed TAT is the upper limit for resolving failed transactions; banks and other operators / system participants must strive for faster resolving of failed transactions. If monetary compensation is required, it will be applied to the client's account without the need for a complaint or claim from the consumer. Customers who do not receive the benefit of redress as described in the TAT can file a complaint with the Reserve Bank of India's Banking Ombudsman.

#### **The principle behind the TAT is based on the following:**

If the transaction is a credit-push funds transfer and the beneficiary account is not credited while the debit to the originator is made, credit must be made within the prescribed time period, otherwise the beneficiary will be charged a penalty. If the originator bank's commencement of a transaction takes longer than the TAT, a penalty must be paid to the originator.

A 'failed transaction' is one that hasn't been fully completed for reasons that aren't traceable to the consumer, such as communication failures, cash shortages at ATMs, session timeouts, and so on. Failed transactions also include credits that were unable to be applied to the recipient account due to a lack of complete or accurate information or a delay in beginning a reversal transaction.<sup>27</sup>

| <b>• PARTICULARS</b>      | <b>• TURNAROUND TIME</b> | <b>• COMPENSATION</b>       |
|---------------------------|--------------------------|-----------------------------|
| <b>• Automated Teller</b> | <b>• Pro-active</b>      | <b>• ₹ 100/- per day of</b> |

<sup>26</sup> ibid

<sup>27</sup> [https://m.rbi.org.in/scripts/BS\\_CircularIndexDisplay.aspx?Id=11693](https://m.rbi.org.in/scripts/BS_CircularIndexDisplay.aspx?Id=11693)

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|---|---|---|
| <p><b>Machines (ATMs) including Micro-ATMs</b></p> <ul style="list-style-type: none"> <li>Customer's account debited but cash not dispensed.</li> </ul>   | <p>reversal (R) of failed transaction within a maximum of T + 5 days.</p>   | <p>delay beyond T + 5 days, to the credit of the account holder</p> <ul style="list-style-type: none"> <li></li> </ul>  |
| <p><b>Card Transaction</b><br/><u>Card to card transfer</u></p> <p>Card account debited but the beneficiary card account not credited.</p> <ul style="list-style-type: none"> <li><u>Point of Sale (PoS) (Card Present) including Cash at PoS</u></li> </ul> <p>Account debited but confirmation not received at merchant location i.e., charge-slip not generated.</p> <ul style="list-style-type: none"> <li><u>Card Not Present (CNP) (e-commerce)</u></li> </ul> <p>Account debited but confirmation not received at merchant's system.</p> | <ul style="list-style-type: none"> <li>Transaction to be reversed (R) latest within T + 1 day, if credit is not effected to the beneficiary account.</li> </ul>         | <ul style="list-style-type: none"> <li>₹ 100/- per day of delay beyond T + 1 day.</li> <li></li> <li></li> <li></li> <li>₹ 100/- per day of delay beyond T + 5 days.</li> </ul> |
| <ul style="list-style-type: none"> <li><b>Immediate Payment System (IMPS)</b></li> <li>Account debited but the beneficiary account is not credited</li> </ul>   | <ul style="list-style-type: none"> <li>If unable to credit the beneficiary account, auto reversal (R) by the Beneficiary bank latest on T + 1 day.</li> <li></li> </ul> | <ul style="list-style-type: none"> <li>₹100/- per day if delay is beyond T + 1 day.</li> </ul>  |

|   |  |   |
|---|--|---|
| <ul style="list-style-type: none"> <li>• <b>Unified Payments Interface (UPI)</b></li> <li>• Account debited but the beneficiary account is not credited (transfer of funds).</li> <li>• Account debited but transaction confirmation not received at merchant location (payment to merchant)</li> </ul> | <ul style="list-style-type: none"> <li>• If unable to credit the beneficiary account, auto reversal (R) by the Beneficiary bank latest on T + 1 day.</li> <li>• Auto-reversal within T + 5 days.</li> </ul>                      | <ul style="list-style-type: none"> <li>• ₹100/- per day if delay is beyond T + 1 day..</li> </ul> |
| <ul style="list-style-type: none"> <li>• <b>Aadhaar Enabled Payment System (including Aadhaar Pay)</b></li> <li>• Account debited but transaction confirmation not received at merchant location.</li> <li>• Account debited but beneficiary account not credited</li> </ul>                            | <ul style="list-style-type: none"> <li>• Acquirer to initiate “Credit Adjustment” within T + 5 days.</li> </ul>  | <ul style="list-style-type: none"> <li>• ₹100/- per day if delay is beyond T + 5 days.</li> </ul> |
| <ul style="list-style-type: none"> <li>• <b>Aadhaar Payment Bridge System (APBS)</b></li> <li>• Delay in crediting beneficiary’s account.</li> </ul>  | <ul style="list-style-type: none"> <li>• Beneficiary bank to reverse the transaction within T + 1 day.</li> </ul>  | <ul style="list-style-type: none"> <li>• ₹100/- per day if delay is beyond T + 1 day.</li> </ul>  |
| <ul style="list-style-type: none"> <li>• <b>National Automated Clearing House (NACH)</b></li> <li>• Delay in crediting beneficiary’s account or reversal of amount.</li> <li>• Account debited despite revocation of debit</li> </ul>   | <ul style="list-style-type: none"> <li>• Beneficiary bank to reverse the uncredited transaction within T + 1 day</li> <li>• Customer’s bank will be responsible for such debit. Resolution to be completed within T +</li> </ul> | <ul style="list-style-type: none"> <li>• ₹100/- per day if delay is beyond T + 1 day.</li> </ul>  |

|   |   |  |
|---|---|--|
| mandate with the bank by the customer.  | 1 day.  |  |
| <ul style="list-style-type: none"> <li>• <b>Prepaid Payment Instruments (PPIs) – Cards / Wallets</b></li> <li>• <u>Off-Us transaction</u></li> <li>• The transaction will ride on UPI, card network, IMPS, etc</li> <li>• <u>On-Us transaction</u></li> <li>• Beneficiary’s PPI not credited.</li> </ul> <p>PPI debited but transaction confirmation not received at merchant location.</p> | <ul style="list-style-type: none"> <li>• Reversal effected in Remitter’s account within T + 1 day.</li> </ul> | <ul style="list-style-type: none"> <li>• ₹100/- per day if delay is beyond T + 1 day.</li> </ul> |

**Source: RBI**

#### **XIV. COMPLAINT HANDLING AND RESOLUTION PROCESS FOR UPI TRANSACTIONS**

The National Payment Corporation of India (“NPCI”) published a circular on November 24, 2020, to improve the management and resolution of complaints related to UPI transactions. Prior to this, the RBI announced the notion of an Online Dispute Resolution (“ODR”) System for digital payments in a notification dated August 6, 2020.

RBI had directed Payment System Operators (“PSOs”), Payment Service Providers (“PSPs”), and Third Party App Providers (“TPAPs”) to apply the ODR procedure for handling and addressing consumer complaints, according to the ODR announcement. For the complaint management and resolution procedure, NPCI has now implemented the Unified Dispute and Issue Resolution (“UIDR”) approach. It has been proposed that ecosystem participants pursue the following in order to enable ODR of complaints for UPI-based transactions:

- Payer App - allow users to file complaints directly from the UPI app, see the status of

transactions and disputes, and follow the rules.

- Payer PSP: Enable TPAP with standardised APIs to enable UDIR and assure adherence to API usage velocity checks.
- Remitter/beneficiary bank: Ensure that adjustments are made at the transition to support APIs for online status and that pending transactions are handled appropriately. Make appropriate improvements to the reconciliation and complaint handling processes to aid the UDIR process.<sup>28</sup>

Banks, payment service providers, and third-party applications have been mandated to implement an online dispute resolution (ODR) system by the National Payment Corporation of India (NPCI). The decision was made to address customer complaints about digital transactions conducted through the Unified Payments Interface (UPI) and to provide convenience to customers. By September 30, 2022, all UPI ecosystem members must deploy an ODR system for disputes and grievances connected to unsuccessful transactions. As part of the deployment, all players (banks, payment service providers, and third-party applications) have been instructed to enable credit and reversal processing. If the participants do not provide these services to UPI users, NPCI will discontinue onboarding new customers for them starting October 1, 2022.<sup>29</sup>

## **XV. DIGITAL OMBUDSMAN**

The efficiency and effectiveness of a system's grievance redressal mechanism is a measure of its efficiency and effectiveness since it gives crucial input on the system's operation. Digital mode of financial transactions complaints accounted for 19% of total complaints in 2016-17, but this increased to 28% by the end of June 2018, owing to the addition of defects in mobile banking service as a ground of complaint under the programme on July 1, 2017. In order to have a dedicated scheme for redressing such grievances, RBI introduced the Ombudsman Scheme for Digital Transactions on January 31, 2019 in response to the growing trend and increasing complexity of such complaints, as well as the emergence of non-bank service providers in the digital payment space.<sup>30</sup>

The Ombudsman Scheme for Digital Transactions enables the resolution of complaints about digital transactions conducted by consumers of a Payment System Participant, i.e. anyone who is not a bank and participates in a payment system (banks are covered under the Banking

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<sup>28</sup> <https://www.npci.org.in/PDF/npci/press-releases/2021/NPCI-Press-Release-Online-Dispute-Resolution-for-Digital-Payments-goes.pdf>

<sup>29</sup> <https://inc42.com/buzz/npci-orders-banks-payment-service-providers-others-to-set-up-online-dispute-resolution-system/>

<sup>30</sup> <https://m.rbi.org.in/scripts/PublicationsView.aspx?Id=20315>

Ombudsman Scheme). It is a quick and cost-free apex level procedure for resolving digital transactions.

The complainant must first approach the system participant in question for redress of grievances. If the system participant fails to respond within one month of receiving the complaint, rejects the complaint, or the complainant is dissatisfied with the response provided, the complainant may file a complaint with the Ombudsman for Digital Transactions in the jurisdiction where the complainant's branch or office is located.<sup>31</sup>

## **XVI. ACCELERATES SHIFT TO DIGITAL PAYMENTS**

As part of the Digital India and Digidhan programmes, the Indian government seeks to boost the digital payments ecosystem. Over the previous few years, the number of digital payments transactions has steadily increased. Total transaction volume climbed from Rs.1,004 crore in FY 2016-17 to Rs.4,572 crore in FY 2019-20, according to MeitY data.<sup>32</sup>

Making the Covid-19 pandemic a stepping stone, a report released on 29<sup>th</sup> March 2021 by ACI Worldwide predicted that by 2025, digital payments in India will account for 71.7 percent of all payments in the country, up from 25.5 billion real-time online transactions in 2020. According to a survey by ACI Worldwide, which provides payment solutions to businesses around the world, digital transactions in India have overtaken those in China, which accounted for 15.7 billion transactions in 2020.

Cash, cheque and the other payment options, would account for only 28.3 % of total payments by 2025, according to the report. Instant payments accounted for 15.6 % of total payments in 2020, while other electronic payments stood for 22.9 % and paper-based payments accounted for 61.4 %. These transactions are expected to change by 2025, with instant payments accounting for 37.1 %, electronic payments accounting for 34.6 percent, and cash and other paper-based payments share reducing to 28.3%, according to the report.<sup>33</sup>

Furthermore, by 2024, the volume of real-time payments will account for more than half of all electronic transactions. According to the research, India's government, regulator, banks, and Fintechs collaborated, "which has helped to advance the goal of enabling financial inclusion and also provided rapid payments digitization for citizens," according to ACI Vice-President Kaushik Roy.

According to the global report, India, China, South Korea, Thailand, and the United Kingdom

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<sup>31</sup><https://vikaspedia.in/e-governance/digital-payment/payment-systems-in-india/customer-protection-convenience-complaint-redress-in-payment-systems>

<sup>32</sup> [https://www.meity.gov.in/writereaddata/files/MeitY\\_AR\\_English\\_2020-21.pdf](https://www.meity.gov.in/writereaddata/files/MeitY_AR_English_2020-21.pdf)

<sup>33</sup> <https://investor.aciworldwide.com/news-releases/news-release-details/global-real-time-payments-transactions-surge-41-percent-2020>

would be the top five countries generating real-time transactions in 2020. In 2020, mobile wallet adoption reached a new high of 46%, up from 40.6 percent in 2019 and 18.9 percent in 2018. According to the survey, countries such as Brazil, Mexico, and Malaysia, where many people formerly relied on cash, are now among the quickest adopters of mobile wallets.<sup>34</sup>

## **XVII. CONCLUSION**

With the potential of a spike in conflicts, Covid-19 has instilled an urgent need for ODR. The Online Dispute Resolution method is expected to settle complaints more quickly than the previous system. Many consumers are hesitant to use digital payment methods since there is no effective dispute resolution process in place; however, once this system is in place, they will breathe a sigh of relief.

The legal maxim "justice delayed is justice denied" states that if justice is served in a longer period of time, it is the same as if it is not served at all. Delays in the legal system come at a hefty cost in terms of pitfalls. People lose faith and belief in the Indian court system's delivery of justice as a result of this. As a result, these alternative dispute resolution procedures are significantly faster and more effective than old rigid ways in resolving disputes.

ODR is the use of digital technology and alternate dispute resolution (ADR) approaches like negotiation, mediation, and arbitration to resolve conflicts outside of the courtroom, particularly in small and medium-value matters.

While courts are becoming increasingly digital as a result of the judiciary's efforts, more effective, scalable, and collaborative mechanisms of containment and resolution are urgently needed. ODR can assist in the efficient and cost-effective resolution of conflicts.

Because ODR is still in its early stages in India and faces numerous obstacles in its proper implementation, it can be concluded that while using Online Dispute Resolution has not shown exceptional instances of success to date, in the future, when cybersecurity and other technological issues improve, it will undoubtedly be one of the most successful ways to resolve disputes.

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<sup>34</sup> *ibid*