



# REASSESSING ONLINE DISPUTE RESOLUTION FRAMEWORKS IN INDONESIA, MALAYSIA, AND THE PHILIPPINES

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## Abstract

This study examines the legal vacuum surrounding cross-platform online dispute resolution (ODR) within Southeast Asian online marketplace ecosystems, particularly where disputes arise from transactions involving integrated third-party services. The objective of this research is to assess the adequacy and consistency of legal frameworks in Indonesia, Malaysia, and the Philippines in accommodating cross-platform ODR. This study employs the doctrinal research method and the comparative approach for a deep dive statutory analysis and descriptive examination of primary legal sources across different legal systems. The findings demonstrate that while all three jurisdictions recognize electronic transactions and alternative dispute resolution in principle, none provides comprehensive regulation for cross-platform ODR. Indonesia explicitly acknowledges ODR in its e-commerce regulation but exhibits normative disharmony with its ADR framework. Malaysia's arbitration and mediation regimes remain structurally unsuitable

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for low-value, high-volume marketplace disputes. The Philippines introduces a centralized ODR mechanism yet fails to address liability allocation in integrated multi-platform transactions. The legal vacuum identified necessitates an integrated ODR framework capable of ensuring procedural coherence, data coordination, and enforceability. Findings of this study contribute to the effort to understand the implications dispute resolutions in today's digital economy by highlighting practical implications for scholars and policymakers alike.

**Keywords:** Online Dispute Resolution; Cross-Platform Disputes; Online Marketplaces; Southeast Asia

## **A. Introduction**

Online marketplaces have become a key section of digital economy in many countries, including those in Southeast Asia.<sup>1</sup> The development and support of online marketplaces that operate domestically has become one of the most important determinants of the success of a digital economy.<sup>2</sup> Online marketplaces, like traditional marketplaces, are prone to disputes as miscommunications and human-errors can happen between sellers and buyers.<sup>3</sup> Operators of online marketplaces must be able to accommodate dispute resolution methods between sellers and buyers to prevent further legal risks

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<sup>1</sup> Indanazulfa Qurrota A'yun et al., "Analysis of the Development of E-Commerce Transactions in the 6 Highest Transaction Countries in Southeast Asia," *Journal of Economics Research and Social Sciences* 8, no. 2 (July 2024): 207–21, <https://doi.org/10.18196/jerss.v8i2.22033>.

<sup>2</sup> Platforms in digital economies play an important role of improving the efficiency of trade overall, which contributes to further economic growth. See Avi Goldfarb and Catherine Tucker, "Digital Economics," *Journal of Economic Literature* 57, no. 1 (March 2019): 3–43, <https://doi.org/10.1257/jel.20171452>. Domestic online marketplaces shape how goods are traded and consumed by connecting local buyers and sellers, structuring the flow of transactions, and influencing the identities and strategies of market participants. See Aneta Podkalicka and Martin Fredriksson, "Mediatized Marketplaces: Platforms, Places, and Strategies for Trading Material Goods in Digital Economies," *Convergence* 29, no. 5 (August 2023): 1352–68, <https://doi.org/10.1177/13548565231192103>.

<sup>3</sup> Imam Haryanto and Muthia Sakti, "Implementation of Online Dispute Resolution (ODR) in Indonesia's E-Commerce Disputes (Comparative Study with USA)," *JHK: Jurnal Hukum Dan Keadilan* 1, no. 3 (April 2024): 1–12, <https://doi.org/10.61942/jhk.v1i3.121>.

while also enhancing commerce integrity within their platforms.<sup>4</sup> Legally, online marketplace operates as a hybrid entity that combine elements of contractual intermediation, digital infrastructure provision, and regulatory self-governance through standardized terms of service.

As online marketplaces continue to grow, they begin to integrate many third-party platforms to provide a seamless environment where users can utilize many forms of services that are relevant to the purchases and sales that they typically make.<sup>5</sup> This expands the potential of disputes from purely within an online marketplace as a singular platform,<sup>6</sup> to possible cross-platform disputes. Therefore, ensuring the application of broader universal standard of ODR becomes a complex challenge as there are more competing interests that may be difficult accommodate for, particularly regarding equality of treatment.<sup>7</sup> This concern regarding equality of treatment largely stems from the possibility of conflicts of interest between operators of online marketplaces with third-party platforms that are working with them, which can leave users, be it as buyers or sellers, alone facing two corporations that are dependent on the successful collaborations that they are currently working on. On the contrary, there is also a concern

Dispute resolution itself is a structured legal process through which conflicting parties seek to resolve disagreements in a fair,

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<sup>4</sup> Dwi Savedo Yusuf Ardiyanto Putra, "The Role of Regulation in Regulating Online Commerce in Indonesia: Compliance, Dispute Resolution, and Impact on Online Business," *HUKMY: Jurnal Hukum* 3, no. 2 (January 11, 2024): 462-74, <https://doi.org/10.35316/hukmy.2023.v3i2.462-474>.

<sup>5</sup> Yiting Deng et al., "Can Third-Party Sellers Benefit from a Platform's Entry to the Market?," *Service Science* 15, no. 4 (March 24, 2023): 233-49, <https://doi.org/10.1287/serv.2023.0324>.

<sup>6</sup> Marco Giacalone and Sajedeh Salehi, "Small Claims and the Pursuit of (Digital) Justice: A Tiered Online Dispute Resolution Perspective," *Revista Ítalo-Española de Derecho Procesal*, no. 1 (June 29, 2022): 181-213, <https://doi.org/10.37417/rivitsproc/859>.

<sup>7</sup> Fahimeh Abedi, John Zeleznikow, and Christopher Brien, "Universal Standards for the Concept of Fairness in Online Dispute Resolution in B2C E-Disputes," *Ohio State Journal on Dispute Resolution* (Ohio State University, Moritz College of Law, October 1, 2019), <https://vuir.vu.edu.au/41105/>.

efficient, and enforceable manner, either through adjudicative or consensual mechanisms.<sup>8</sup> It exists as a way to ensure the protection of all stakeholders within an online marketplace, which has become an important part of the global economy. According to data, Indonesia has a digital economy Gross Merchandise Value (GMV) of \$90B in 2024 (growing at 13% year-on-year). Malaysia has achieved a digital economy GMV of \$31B in 2024 (growing at 16%), followed by the Philippines' similar GMV of \$31B in 2024, but with a growth rate of 20%.<sup>9</sup> These data position the e-commerce environment, including online marketplace as its primary element, as a sector that all three countries cannot afford to see stagnate. Seen from this perspective, online dispute resolution (ODR) becomes an essential safeguard for short-term and long-term economic growth, further heightening the urgency to ensure that ODR is legally capable of tackling the current realities of online marketplace disputes.

Disputes are often cited, much like how it is in a study conducted by Sagala and Marpaung (2021), as incidents that are highly likely to happen in online transactions, as they are often risky unlike traditional transactions where buyers and sellers meet in person, along with the goods and services that are chosen as the object of the transaction.<sup>10</sup> This is supported by a study done by Lăzăroiu et al. (2020), which analyzes the perceived risk in e-commerce transactions overall, where it is often influenced by behavioral intentions, perceptual attitudes, and immediate gratifications.<sup>11</sup> Unfortunately, despite the deep dive

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<sup>8</sup> Tantimin, Tantimin, et al. "Assessing Local Communities' Roles in Geographical Indication Dispute Resolution: Challenges in Southeast Asia." *Jurnal Media Hukum* 32.2 (2025): 359-376. <https://doi.org/10.18196/jmh.v32i2.27547>.

<sup>9</sup> Google, Temasek, and Bain & Company, "E-Conomy SEA 2024: Profits on the Rise, Harnessing SEA's Advantage" (Singapore, 2024), <https://www.bain.com/insights/e-conomy-sea-2024/>.

<sup>10</sup> Lusiona Mas Sagala and Devi Siti Hamzah Marpaung, "Penegakkan Hukum Serta Upaya Penyelesaian Sengketa Online Marketplace Melalui Mekanisme Online Dispute Resolution," *Widya Yuridika* 4, no. 2 SE-Articles (December 1, 2021), <https://doi.org/10.31328/wy.v4i2.2414>.

<sup>11</sup> George Lăzăroiu et al., "Consumers' Decision-Making Process on Social Commerce Platforms: Online Trust, Perceived Risk, and Purchase

into perceived risk and other relevant aspects like online trust, there is no mention of dispute resolution, which is an aspect that can largely influence the nature of results shown in the analysis of perceived risk.

The integration of online dispute resolution (ODR) into a legal system is not just a phenomenon that is considered novel, but also a progression that can even be considered natural. This is often implied within the literature, where one study conducted by Mishra et al. (2024) even called ODR a modern art of adjudication.<sup>12</sup> This suggests that ODR is indeed a seemingly natural progression of the legal system which has traditionally allowed mediations and other forms of alternative dispute resolution (ADR) mechanisms. Despite this, another study, carried out by Sulistianingsih et al. (2023), highlighted that the implementation of ODR is still fundamentally challenged by legal certainties around data privacy and the lack of resources to understand the implementation of techniques such as mediation, within the context of ODR.<sup>13</sup> The study proposed that developing a clear legal basis that specifically supports ODR is important in providing a certain degree of legal certainties around the issues discussed.

From the literature analyzed above it is apparent that the issue of cross-platform disputes, particularly in the context of online marketplace, has not yet been discussed. This is a critical literature gap that this study is aiming to address, with the added perspectives from three Southeast Asian countries, namely Indonesia, Malaysia, and the Philippines to accentuate the novelty. This study is structured around a number of objectives: to assess the adequacy and consistency of legal

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Intentions," *Frontiers in Psychology* 11 (2020): 1-7, <https://www.frontiersin.org/journals/psychology/articles/10.3389/fpsyg.2020.00890>.

<sup>12</sup> Ashutosh Mishra et al., "Online Dispute Resolution: A Modern Art of Adjudication," *ShodhKosh: Journal of Visual and Performing Arts* 5, no. 1 (June 30, 2024): 2236-2242, <https://doi.org/10.29121/shodhkosh.v5.i1.2024.2310>.

<sup>13</sup> Dewi Sulistianingsih et al., "Online Dispute Resolution: Does the System Actually Enhance the Mediation Framework?," *Cogent Social Sciences* 9, no. 1 (December 31, 2023): 1-14, <https://doi.org/10.1080/23311886.2023.2206348>.

frameworks in Indonesia, Malaysia, and the Philippines in accommodating cross-platform ODR, and to identify existing regulatory gaps. The limitation of this study is perhaps the lack of quantitative data regarding the perceived risks of cross-platform disputes, and how digital consumers, be it as sellers or buyers in an online marketplace, are understanding them.

This study employs the doctrinal legal research method to support the analysis of relevant legal norms from the key legal frameworks.<sup>14</sup> In the purest sense, this method involves the utilization of secondary data in the form of primary law sources, while also assessing their adequacy through Black Letter Law-styled analysis.<sup>15</sup> Primary law sources are collected through the literature review technique and analyzed descriptively to extract the underlying normative patterns and tendencies, relative to the legal topic at hand. Additionally, this method is supplemented by the comparative approach to enable the normative analysis to be conducted for multiple legal systems and to descriptively highlight the common denominators, along with potentially regional patterns of legal development.

Primary law sources from Indonesia include Law No. 11 of 2008 on Electronic Information and Transactions (amended by Law No. 19 of 2016 and Law No. 1 of 2024), Government Regulation No. 80 of 2019 on Trading Through Electronic Systems, and Law No. 30 of 1999 on Alternative Dispute Resolution. Primary law sources from Malaysia include Arbitration Act 2005 (amended in 2018 and 2024), Mediation Act 2012, and Electronic Commerce Act 2006. Primary law sources from the Philippines include Alternative Dispute Resolution Act of 2004, Philippine Internet Transactions Act 2023, and Implementing Rules and Regulations of the Philippine Internet Transactions Act.

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<sup>14</sup> Hari Sutra Disemadi, "Lenses of Legal Research: a Descriptive Essay on Legal Research Methodologies," *Journal of Judicial Review* 24, no. 2 (2022): 289–304, <https://doi.org/10.37253/jjr.v24i2.7280>.

<sup>15</sup> David Tan, "Metode Penelitian Hukum: Mengupas dan Mengulas Metodologi dalam Menyelenggarakan Penelitian Hukum," *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial* 8, no. 5 (2021): 1332–36, <https://jurnal.um-tapsel.ac.id/index.php/nusantara/article/view/5601>.

## B. Discussion

### 1. Regulatory Fragmentation of ODR

Like many other inventive legal mechanisms developed after the digital transformation, challenges in developing a regulation that encapsulates all the key aspects of the utilization of technology for legal proceedings continue to arise.<sup>16</sup> This is mainly because of the overlapping nature of the utilization of technology, which typically involves many domains of law. The case of online dispute resolution (ODR) presents a rather complex and unique set of considerations, mainly because at a glance, it appears that the challenges in regulating this are often not directly related to the end results, which are also not clear. The end result of regulating ODR is ensuring that decisions made within such avenue of dispute resolution can hold legal value, much like other alternative dispute resolution mechanisms. However, this is already governed by the acknowledgement of *pacta sunt servanda*, which is a core legal doctrine used to ensure the legal value of whatever agreements made between parties and is used as basis to hold the value of agreements made in all forms of ADR.<sup>17</sup>

The main question then becomes: why even regulate ODR? Despite the existence of fundamental doctrines like *pacta sunt servanda*, regulation of online dispute resolution remains crucial for several compelling reasons.<sup>18</sup> First, the unique nature of technology-mediated dispute resolution creates a novel procedural environment that traditional legal frameworks may not adequately address. As technology effectively becomes a "fourth party" in the dispute

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<sup>16</sup> Yuri Tikhomirov et al., "Law and Digital Transformation," *Legal Issues in the Digital Age* 2, no. 2 (July 27, 2021): 3–20, <https://doi.org/10.17323/2713-2749.2021.2.3.20>.

<sup>17</sup> Mosgan Situmorang, "The Power of Pacta Sunt Servanda Principle in Arbitration Agreement," *Jurnal Penelitian Hukum De Jure* 21, no. 4 (2021): 447–58, <https://doi.org/10.30641/dejure.2021.v21.447-458>.

<sup>18</sup> This fundamentally goes back to *pacta sunt servanda* itself, as parties involved are obligated to perform the agreements. Failure to perform the agreements automatically leads to another pursuit of legal action to further compensate for the breach. See Maryam Salehijam, "Mediation Clauses: Enforceability and Impact," *Singapore Academy of Law Journal* 31 (January 1, 2019): 598–636, <https://search.informit.org/doi/10.3316/informit.838887963957337>.

resolution process, it introduces technical variables that can significantly impact the neutrality, accessibility, and effectiveness of the proceedings.<sup>19</sup> Second, without specific regulatory frameworks, ODR mechanisms lack consistent standards for procedural fairness, transparency, and enforceability,<sup>20</sup> which is especially problematic when disputes happen between parties involving the utilization of multiple platforms that are used as a part of a digital service. The asynchronous<sup>21</sup> and potentially anonymous nature of online interactions further complicates the application of traditional legal principles that were designed primarily for physical-world contexts. Third, while parties may have freedom of contract (*overeenkomst*) to choose their dispute resolution mechanisms, this freedom requires adequate protection through regulatory guardrails to prevent power imbalances and ensure meaningful consent in increasingly complex digital environments, where partnerships for the integration of many platforms into another platform like an online marketplace are of common occurrence.

The context of cross-platform disputes further increases the level of complexity even more. The already complex single-platform issues that arise from traditional e-commerce transactions get drastically compounded when multiple platforms are involved in a single commercial activity.<sup>22</sup> Users typically interact with several

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<sup>19</sup> Leah Wing et al., "Designing Ethical Online Dispute Resolution Systems: The Rise of the Fourth Party," *Negotiation Journal* 37, no. 1 (February 6, 2021): 49–64, <https://doi.org/10.1111/nej.12350>.

<sup>20</sup> Nancy A. Welsh, "Dispute Resolution Neutrals' Ethical Obligation to Support Measured Transparency," *Oklahoma Law Review* 71 (2019): 823–84, <https://digitalcommons.law.ou.edu/olr/vol71/iss3/4/>.

<sup>21</sup> The asynchronous nature of ODR can also be beneficial for the proceedings of dispute resolution, as it leaves little to no room for intimidation, while giving each parties enough time and space to give their best response for every interaction within the dispute resolution processes. See Alemu Balcha, "Online Dispute Resolution for Electronic Commerce Under Ethiopian Legal Framework: The Need for Reform," *Oromia Law Journal* 11, no. 1 (August 2022): 103–4, <https://www.ajol.info/index.php/olj/article/view/230764>.

<sup>22</sup> Cross-platform support has been often noted as one of the key shortcomings of the European Union's established ODR system. See Elisabetta Sciallis, "ODR and Access to Justice for Vulnerable Consumers: The Case of the EU

platforms at once, with marketplace platforms for finding products, often integrating payment platforms for handling money,<sup>23</sup> logistics platforms for delivery,<sup>24</sup> and sometimes even third-party verification services.<sup>25</sup> Each of these platforms operates under its own terms of service, privacy policies, and dispute resolution mechanisms. This fragmentation creates confusion about which platform's rules should govern the resolution when something goes wrong, often resulting in platforms shifting responsibility between themselves while consumers are left without clear options.

When disputes span across platforms, procedural inconsistency becomes a significant challenge. Each platform naturally creates its own internal protocols for handling disputes, resulting in different evidence requirements, timeframes, and approaches to resolution that rarely work well together. For example, a consumer who has a problem with a product bought through Platform A but paid via Platform B might need to file separate complaints on each platform, submit different kinds of evidence, and follow completely different procedural timelines. This creates real friction in the dispute resolution process, often discouraging users from pursuing legitimate

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ODR Platform," in *Vulnerable Consumers and the Law: Consumer Protection and Access to Justice*, 2020, 177–92. As a possible related development, the EU ODR has been scheduled to be shut down in June 2025 and is no longer taking any case after 25<sup>th</sup> of March 2025. *See also* Lisette den Butter and Celia Bouzas, "The End of the European Online Dispute Resolution Platform," Bird & Bird International Law firm, January 24, 2025, <https://www.twobirds.com/en/insights/2025/global/the-end-of-the-european-online-dispute-resolution-platform>.

<sup>23</sup> Jie Guo and Harry Bouwman, "An Analytical Framework for an M-Payment Ecosystem: A Merchants' Perspective," *Telecommunications Policy* 40, no. 2 (2016): 147–67, <https://doi.org/10.1016/j.telpol.2015.09.008>.

<sup>24</sup> Vladimir Shcherbakov and Galina Silkina, "Supply Chain Management Open Innovation: Virtual Integration in the Network Logistics System," *Journal of Open Innovation: Technology, Market, and Complexity* 7, no. 1 (2021): 54–75, <https://doi.org/10.3390/joitmc7010054>.

<sup>25</sup> Chengyi Le et al., "User Real Comments Incentive Mechanism Based on Blockchain in E-Commerce Transactions – A Tripartite Evolutionary Game Analysis," *Entropy*, 2024, <https://doi.org/10.3390/e26121005>.

claims simply because the process seems too complicated. This can happen when each platform has its own dispute resolution system, with divergent policies regarding the aspects that are disputed.

Data privacy regulations add another layer of complication to cross-platform ODR implementation. Effective dispute resolution across platforms would ideally need seamless information sharing between the involved platforms to establish complete transaction timelines and gather necessary evidence. However, the mechanism and standard of data privacy that each platform must follow can also be different, making cross-platform data exchange inherently inefficient.<sup>26</sup> Not only that, the strict nature of data protection<sup>27</sup> regulations can also create barriers to such sharing, even when it would help legitimate dispute resolution. This creates tension between privacy protection principles and efficient dispute resolution, where platforms may be legally restricted from sharing critical information that would substantiate claims or counterclaims between parties. Since ODR exists within the realm of non-litigation, creating an exemption for within the relevant data privacy regulations can be a difficult task, as the basis for such exception does not come from the court, thereby making such request for exception rather legally arbitrary.

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<sup>26</sup> Xiangbin Zuo et al., "Innovative Dispute Resolution: The Application of Blockchain in Cross-Border E-Commerce Governance," *Journal of Ecohumanism* 3, no. 8 (December 14, 2024): 7157 - 7170, <https://doi.org/10.62754/joe.v3i8.5313>.

<sup>27</sup> There's a growing notion that the stricter the data privacy regulation is, the better it is. Clément Labadie and Christine Legner, "Building Data Management Capabilities to Address Data Protection Regulations: Learnings from EU-GDPR," *Journal of Information Technology* 38, no. 1 (January 19, 2023): 16-44, <https://doi.org/10.1177/02683962221141456>. This view is often countered with findings regarding the impact of stringent data protection regulations, where they have been found to have adverse effects such as lower innovation, higher market concentration, and diminished startup activities. See also John M. Yun, "A Report Card on the Impact of Europe's Privacy Regulation (GDPR) on Digital Markets," *George Mason University Law Review* 31 (2024): 104-24, <https://lawreview.gmu.edu/forum/a-report-card-on-the-impact-of-europes-privacy-regulation-gdpr-on-digital-markets/>.

Interestingly, there is another dimension of this concern regarding data privacy, particularly coming from the issue of confidentiality, which is a staple of every single ADR that exists within any legal system.<sup>28</sup> This adds another layer of complexity by creating a paradox where platforms must go through the conceptual and legal barrier of data privacy compliance,<sup>29</sup> into a legal vacuum territory where there is no guarantee that the relevant data provided for the purpose of ODR can be safely guarded and remain confidential. These shared legal risks between the platforms involved may prove to be too much of a burden to carry, which could inevitably lead to lower level of compliance as platforms might be reluctant to get into the line of disputes between the relevant parties within the context of online marketplace, which has been getting increasingly complex due to the development of many relevant services.

## 2. Cross-Platform Challenges

The enforcement of resolutions presents perhaps the most significant practical challenge in cross-platform disputes.<sup>30</sup> Even when

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<sup>28</sup> Unfortunately, the aspect of confidentiality in ODR differs greatly from the typical physical ADR mechanisms, where mediator can easily “tear up the notes” after the relevant session. Assurance of confidentiality is less tangible in the digital realm in the context of ODR, as data analysis is important and can even facilitate the identification of patterns relevant to the dispute, which in turn will force parties to concede some of their traditional concerns of confidentiality. This can be accommodated, but the relevant court that suggests the ODR or the mediator must clarify to the relevant parties that their data will be anonymized and aggregated for the purpose of data analysis. See Dorcas Quek Anderson, “Ethical Concerns in Court-Connected Online Dispute Resolution,” *International Journal of Online Dispute Resolution* 5, no. 1-2 (December 2018): 20-38, <https://doi.org/10.5553/IJODR/235250022018005102004>.

<sup>29</sup> Damian Clifford and Yung Shin Van Der Sype, “Online Dispute Resolution: Settling Data Protection Disputes in a Digital World of Customers,” *Computer Law & Security Review* 32, no. 2 (2016): 272-85, <https://doi.org/https://doi.org/10.1016/j.clsr.2015.12.014>.

<sup>30</sup> This is mainly because of the fact that the regulatory frameworks that govern the mechanisms of ODR are typically made with intra-platform disputes in mind, as opposed to inter-platform (cross-platform). See Oladeji M. Tihamiyu, “Resuscitating E-Commerce’s Transnational Promise with Out-of-Court

a resolution is successfully reached through an ODR process, implementing that resolution across multiple platforms presents considerable difficulties. For instance, if a marketplace platform determines that a refund is warranted, but the payment was processed through a third-party payment platform, coordination challenges may arise in executing the refund. Without formal cooperative arrangements between platforms regarding dispute resolutions,<sup>31</sup> users may secure favorable decisions that remain practically unenforceable, undermining confidence in the entire ODR ecosystem. Although not directly relevant, the issue of antitrust also plays a significant role in these dynamics, particularly when the platforms that are integrated into the online marketplace are owned by the same company behind the online marketplace itself.

Additionally, technological incompatibility between platforms and differences in company policies create additional friction in effective cross-platform dispute resolution. The absence of standardized data formats, communication protocols, and authentication systems means evidence and case information cannot be easily transferred between platforms. In practice, this requires users to manually export and import data across platforms, often leading to information loss or corruption that can undermine the integrity of the dispute resolution process. Not to mention, users often do not have enough knowledge as to when and how their data are stored within the relevant online marketplace that they are using, and

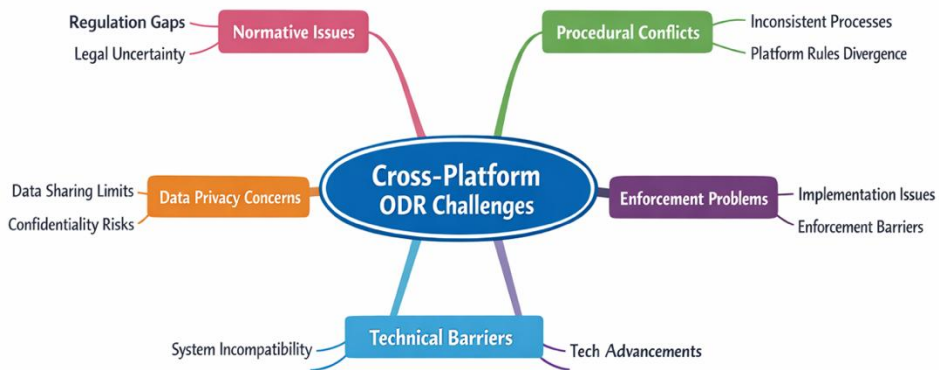
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Processes," *The University of Memphis Law Review* 54, no. 2 (2023): 229-88, <https://doi.org/10.2139/ssrn.5158105>.

<sup>31</sup> This is an even more relevant issue in cross-border e-commerce transactions, which can significantly affect the power dynamics between SMEs and bigger actors within the e-commerce space, as partnerships between platforms can favor one party over the other. See Jean-François Roberge and Véronique Fraser, "Access to Commercial Justice: A Roadmap for Online Dispute Resolution (ODR) Design for Small and Medium-Sized Businesses (SMEs) Disputes," *Ohio State Journal on Dispute Resolution* 35, no. 1 (2019): 1-61, <http://hdl.handle.net/1811/101579>.

how to export or import those data.<sup>32</sup> It's also imperative to acknowledge the speed of technological developments as a fundamental reality. By the time regulations are implemented, technological advancements may have already rendered them partially obsolete. This regulatory lag is particularly pronounced in Indonesia, Malaysia, and the Philippines, where digital economy growth outpaces regulatory development. The result is an expanding gap between the complex reality of cross-platform commerce and the regulatory frameworks meant to govern associated disputes, leaving increasing numbers of transactions in potential limbo.

**Mind Map 1: Normative and Structural Challenges in Cross-Platform Online Dispute Resolution**



**Source:** Developed by the Author (2025)

The mind map places “Cross-Platform ODR Challenges” at the center, emphasizing that the regulatory difficulties do not arise from a single issue but from interconnected structural problems within digital marketplace ecosystems. The first branch, Normative Issues, highlights regulatory gaps and legal uncertainty. Although general doctrines such as *pacta sunt servanda* provide a foundation for the

<sup>32</sup> Johann Kranz et al., “Data Portability,” *Business & Information Systems Engineering* 65, no. 5 (2023): 597–607, <https://doi.org/10.1007/s12599-023-00815-w>.

binding force of agreements, they are insufficient to address the procedural and technological complexities of cross-platform ODR. The absence of specific regulatory standards results in fragmented legal interpretation and uncertainty regarding jurisdiction, applicable rules, and institutional responsibility.

The second and third branches, Procedural Conflicts and Data Privacy Concerns, illustrate operational barriers. Procedural conflicts stem from inconsistent internal rules among platforms, including divergent evidentiary standards, timelines, and dispute-handling mechanisms. When transactions involve multiple integrated services, users may be required to navigate parallel complaint systems, generating inefficiency and discouraging legitimate claims. Simultaneously, data privacy and confidentiality obligations restrict seamless information sharing between platforms. This creates tension between data protection compliance and the evidentiary needs of effective dispute resolution, particularly in non-litigation environments where judicial authority is absent.

Finally, Enforcement Problems and Technical Barriers underscore practical and systemic limitations. Even where ODR produces a resolution, implementation across separate payment, logistics, or marketplace platforms may be obstructed by coordination failures. Technological incompatibility, lack of standardized data formats, and rapid technological advancement further widen the gap between regulatory frameworks and commercial realities. Collectively, the mind map demonstrates how normative fragmentation, procedural divergence, privacy constraints, enforcement weaknesses, and technological incompatibility converge to create a regulatory vacuum in cross-platform ODR.

### **3. Comparative Analysis of Indonesia, Malaysia, and the Philippines**

Indonesia's legal system presents a complex web of regulatory framework for the regulation of online marketplaces. The fundamental legal basis for e-commerce in Indonesia is the EIT framework, which was enacted the first time around through Law No. 11 of 2008 on

Electronic Information and Transactions (EIT Law), later amended twice with Law No. 19 of 2016 and Law No. 1 of 2024.<sup>33</sup> To start, there is already a serious disconnect between this framework and the reality of e-commerce. Article 10 governs the certification of reliability, which to date still has not seen any manifestation whatsoever.<sup>34</sup> This leaves a major gap in the government's responsibility and understanding of any online marketplace's capability in handling technically complex aspects of e-commerce transactions, along with their possible disputes. It also represents a missed opportunity to regulate the responsibility of online marketplace platforms to accommodate ODR practices, despite the fundamental provision provided by Article 38. This article governs the right to file a lawsuit against operators of any electronic system, which tips the balance for the favor of litigation proceedings only.

Indonesia furthered its quest to regulate e-commerce by enacting Government Regulation No. 80 of 2019 on Trading Through Electronic Systems (E-Commerce Government Regulation). This regulation represents a critical implementation framework for the Electronic Information and Transactions Law and gives more room to regulate specific sections of the digital space, including online marketplace. The regulation's scope covers the topic of dispute resolution explicitly, as outlined in Article 72 to 75. Although this regulation can be considered quite extensive in the fact that that it governs even the cross-border nature of the possible dispute, it does not govern the context of cross-platform. The regulation does provide

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<sup>33</sup> Andreas Josef Swisman, Puguh Aji Hari Setiawan, and Dewi Iryani, "Penegakan Hukum Tindak Pidana Pencemaran Nama Baik dalam Rangka Memberikan Kepastian Hukum Bagi Pengguna Media Sosial," *Mutiara: Multidisciplinary Scientific Journal* 2, no. 11 (November 29, 2024): 1-16, <https://doi.org/10.57185/mutiara.v2i11.288>.

<sup>34</sup> Sena Lingga Saputra, Elisatris Gultom, and Agus Suwandono, "Eksistensi Lembaga Sertifikasi Keandalan untuk Mendukung Kegiatan E-Commerce dalam Menghadapi Era Industri 4.0 Ditinjau dari Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi dan Transaksi Elektronik," *ACTA DIURNAL Jurnal Ilmu Hukum Kenotariatan* 2, no. 2 (June 30, 2019): 200-212, <https://jurnal.fh.unpad.ac.id/index.php/acta/article/view/203>.

direct recognition for ODR, through Article 72(2), which explicitly mentions ODR as one of the ways of dispute resolution.

Indonesia has a dedicated framework for alternative dispute resolution through Law No. 30 of 1999 on Alternative Dispute Resolution (ADR Law).<sup>35</sup> However, the law presents a direct barrier to the practice of ODR, mainly because of the provision of Article 6(2), which governs that, *“Dispute or disagreement resolution through alternative dispute resolution as referred to in paragraph (1) shall be settled in a direct in-person meeting between the parties within a maximum period of 14 (fourteen) days, and the result shall be set forth in a written agreement.”* This provision explicitly limits ADR to in-person meetings between the parties, which is fundamentally different from ODR as a form of ADR itself.<sup>36</sup> This provision is a fundamental barrier that highlights the severity of regulatory lag in Indonesia when it comes to this legal topic. It is important to note that this does not necessarily forbid the utilization of ODR in ADR practices, as the previously highlighted more recent regulation, the E-Commerce Government Regulation, explicitly supports the utilization of ODR. However, this does prove a degree of disharmony within the relevant framework, which creates unnecessary legal risks for parties who are trying to utilize ODR to find resolution for their disputes.

In Malaysia, ADR is governed by a set of fragmented frameworks. ADR in Malaysia is regulated by two frameworks, namely the Arbitration Act 2005 and Mediation Act 2015. The Malaysian Arbitration Act has been through two amendments in 2018 and 2024. While the act recognizing electronic communications in section 9(4A) and providing a basis for digital signatures in the proposed section 33(2A), lacks specific provisions to resolve competing arbitration clauses are involved in a single transaction involving multiple

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<sup>35</sup> Riyadus Solikhin, “Perkembangan dan Urgensi Penerapan Online Dispute Resolution (ODR) Dalam Penyelesaian Sengketa Perdagangan Elektronik Di Indonesia,” *Padjadjaran Law Review* 11, no. 1 (July 1, 2023): 66–80, <https://doi.org/10.56895/plr.v11i1.1235>.

<sup>36</sup> Ikhwan Fuad Ahsan and Lukman Santoso, “Transformasi Negosiasi dalam Penyelesaian Sengketa E-Commerce Di Era Digital,” *Istinbath: Jurnal Hukum* 16, no. 2 (2019): 175–89, <https://doi.org/10.32332/istinbath.v16i2.1703>.

integrated platforms, creating uncertainty about which platform's dispute resolution mechanism prevails. Despite the Act's multi-party arbitration provisions in section 13(3A) and interim measures framework in sections 19-19J enabling preservation of digital evidence, these mechanisms remain procedurally and economically prohibitive for the typically low-value, high-volume disputes characteristic of online marketplaces, effectively creating a vacuum where theoretical access to arbitration exists but practical barriers render it inaccessible. The proposed third-party funding framework in sections 46A-46I potentially enhances access to justice for marketplace participants with limited resources, but without complementary provisions for expedited or simplified procedures specifically tailored to online marketplace disputes, the core structural gaps in cross-platform dispute resolution remain unaddressed, leaving consumers navigating conflicts across multiple platforms without clear, cost-effective recourse.

The Malaysian Mediation Act 2012 establishes a foundational framework for alternative dispute resolution,<sup>37</sup> covering general provisions for the mechanism of mediation. Section 3 defines mediation as *"a voluntary process in which a mediator facilitates communication and negotiation between parties to assist the parties in reaching an agreement regarding a dispute."* The Act's section 11(1) suggests a hint of importance on in-person meetings, as it governs that, *"a mediator shall ensure that a mediation is privately conducted and he may meet with the parties together or with each party separately."* While this presents an even softer barrier compared to the in-person meeting "requirement" as found in Indonesia's ADR Law, the lack of mention regarding the forms of meeting still nevertheless leads to the same implication that the law prioritizes in-person meeting. Furthermore, the confidentiality provisions as governed by Section 15, does not provide for leverage for mediators or the parties involved to

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<sup>37</sup> Nur Khalidah Dahlan, Muhamad Helmi Md. Said, and Ramalinggam Rajamanickam, "Mediation: Practice in the Corporate World," *UUM Journal of Legal Studies* 12, no. 1 (January 31, 2021): 51-67, <https://e-journal.uum.edu.my/index.php/uumjls/article/view/uumjls2021.12.1.3>.

export their data from the relevant platforms into the ODR space, as there is a complete vacuum on the responsibilities and the relevant legal implications.

When it comes to online marketplace regulation, Malaysia relies on Electronic Commerce Act 2006.<sup>38</sup> The act has minimal direct relevance to cross-platform dispute resolution, as it primarily establishes the legal validity of electronic transactions without addressing dispute resolution mechanisms. The Act provides foundational recognition of electronic messages under section 6(1) stating that information *"shall not be denied legal effect, validity or enforceability on the ground that it is wholly or partly in an electronic form,"* which legitimizes online marketplace transactions but offers no guidance on resolving disputes arising from them. While sections 17-24 establish rules for attribution, timing, and acknowledgment of electronic messages that could help determine factual disputes about whether communications occurred, the Act is entirely silent on resolution processes when conflicts arise between users and integrated third-party services within marketplace platforms.

The Philippine Alternative Dispute Resolution Act of 2004 acknowledges electronic records through section 3(bb), which defines record as *"an information written on a tangible medium or stored in an electronic or other similar medium, retrievable in a perceivable form."* The Act's definition of mediation in section 3(q) as merely *"a voluntary process in which a mediator, selected by the disputing parties, facilitates communication and negotiation, and assists the parties in reaching a voluntary agreement regarding a dispute"* remains platform-agnostic and fails to account for the inherent power imbalances and technical complexities when disputes span across a marketplace platform and its integrated services. Despite establishing robust confidentiality protections in section 9 stating that *"Information obtained through*

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<sup>38</sup> Erwin Owan Hermansyah Soetoto, "The Comparison of Online Sale and Purchase Agreements as an Effect of Globalization in Indonesia & Malaysia," *IJLR: International Journal of Law Reconstruction* 8, no. 2 (September 2024): 331–42, <https://jurnal.unissula.ac.id/index.php/lawreconstruction/article/view/40615>.

*mediation shall be privileged and confidential*" and creating enforcement mechanisms for settlements in section 17, the Act's silence on virtual mediation processes and expedited procedures for low-value online marketplace disputes creates a significant gap where consumers caught between a marketplace platform and its integrated third-party services have theoretical access to ADR but face practical barriers to meaningful resolution.

The Philippine Internet Transactions Act 2023 establishes a comprehensive e-commerce framework,<sup>39</sup> but contains significant gaps for cross-platform dispute resolution. Section 26(b)(ii) represents a critical limitation by addressing platform liability only when *"the identity of the online merchant, e-retailer, and the digital platform/e-marketplace are the same,"* failing to account for modern marketplace ecosystems where multiple distinct services operate as an integrated whole. The Act's Online Dispute Resolution framework in section 25 creates a centralized mechanism for complaints but provides no guidance for resolving disputes spanning marketplace boundaries, while section 18's verification requirements for merchants fail to establish clear responsibility chains when integrated third-party services are involved in transactions. Despite the Act's consumer protection provisions in sections 21-24, the legislation ultimately leaves unresolved how liability should be apportioned when issues originate with integrated services rather than the marketplace itself, creating uncertainty for consumers seeking redress in increasingly common cross-platform transactions.

The Philippine Internet Transactions Act's Implementing Rules and Regulations establishes a comprehensive Online Dispute Resolution System in sections 25-29 yet lacks specific provisions addressing integrated third-party services within online marketplaces. The IRR attempts to address platform liability through section 40, which makes e-marketplaces "subsidiarily liable to the

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<sup>39</sup> Jestoni A. Olivo, "Digital Platforms and Online Advertising: A Guide for Competition Policy," PCC Market Study (Quezon City, 2024), [https://phcc.gov.ph/file-manager/file-manager/POSTS/PCC-Market-Study-2024-01-Digital-Platforms-and-Online-Advertising\\_compressed.pdf](https://phcc.gov.ph/file-manager/file-manager/POSTS/PCC-Market-Study-2024-01-Digital-Platforms-and-Online-Advertising_compressed.pdf).

online consumer" when they fail "to exercise ordinary diligence in complying with its obligations," but this framework assumes clear lines between platforms and merchants rather than addressing the complex reality of integrated services. Despite creating promising consumer protection mechanisms like the Online Business Database in section 18 and mandating internal redress mechanisms in section 38 (requiring exhaustion within 7 days), the IRR's liability framework still treats platforms as distinct from merchants rather than recognizing the seamless consumer experience across integrated services, with section 41 imposing solidary liability only in limited circumstances involving illegal or dangerous goods rather than addressing everyday cross-platform transaction failures. Meanwhile, section 32(h)'s requirement for "an effective and responsive redress mechanism" remains vague about how this applies when disputes cross the boundaries between a marketplace and its integrated partner services.

#### **4. Implications for Legal Certainty**

The identified gaps need to be further dissected to assess the subsequent implications, particularly in the context of legal certainty. For this, it is imperative to first highlight the comparative differences to underscore how such differences can ultimately affect the relevant enforcement of ODR mechanisms. Below is the table highlighting the comparative differences between the three countries.

**Table 1:** Comparative Legal Frameworks on Cross-Platform Online Dispute Resolution in Indonesia, Malaysia, and the Philippines

<b>Legal Aspect</b>	<b>Indonesia</b>	<b>Malaysia</b>	<b>Philippines</b>
Recognition of Electronic Transactions	Recognized under EIT Law (2008, amended 2016 & 2024)	Recognized under Electronic Commerce Act 2006	Recognized under Internet Transactions Act 2023
Explicit Recognition of ODR	Expressly acknowledged	No explicit statutory ODR framework	Centralized ODR system under Internet

	in GR 80/2019 (Art. 72(2))		Transactions Act 2023
Cross-Platform Dispute Regulation	No provision addressing multi-platform disputes	No provision resolving competing arbitration clauses in integrated platforms	No clear liability allocation for integrated services
ADR Framework Compatibility with ODR	ADR Law (1999) requires in- person meeting (Art. 6(2)) – structural barrier	Mediation Act 2012 implies physical mediation; Arbitration Act digital-friendly but impractical	ADR Act 2004 platform- agnostic; silent on virtual mediation
Procedural Suitability for Marketplace Disputes	No simplified or expedited ODR mechanism	Arbitration costly and procedurally complex	ODR centralized but lacks multi- platform procedural clarity
Liability Allocation in Integrated Ecosystems	No cross- platform liability framework	No guidance on competing dispute clauses	Limited subsidiary liability (Sec. 40 IRR); identity-based liability (Sec. 26)
Data & Confidentiality Governance in ODR	No integrated data-sharing framework for cross-platform ODR	Confidentiality provisions exist but no digital data- transfer rules	Strong confidentiality rules but no cross-platform data protocol
Regulatory Coherence	Normative disharmony between E- Commerce	Fragmented statutory regime (Arbitration,	Fragmentation between ADR Act and Internet

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Regulation and ADR Law	Mediation, E- Commerce)	Transactions Act
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**Source:** Developed by the Author (2025)

The comparative table demonstrates that Indonesia, Malaysia, and the Philippines share a fundamental similarity in recognizing the legal validity of electronic transactions. Each jurisdiction has enacted legislation that affirms the enforceability of electronic communications and digital contracts, thereby providing a formal legal basis for online marketplaces. However, while electronic transaction legitimacy is well established, this shared foundation does not extend to comprehensive regulation of cross-platform dispute resolution. Thus, although the three systems converge at the level of digital contract recognition, they diverge significantly in the governance of disputes arising from integrated platform ecosystems.

A second major similarity lies in the existence of a regulatory vacuum concerning cross-platform disputes. None of the three jurisdictions explicitly regulates liability allocation, jurisdictional coordination, or procedural harmonization when multiple platforms are involved in a single transaction. Indonesia fails to address cross-platform mechanisms in Government Regulation No. 80 of 2019; Malaysia does not provide guidance for competing arbitration clauses across integrated services; and the Philippines, despite its newer legislation, limits liability primarily to identity-based or subsidiary models. This shared lacuna produces legal uncertainty and weakens consumer protection in multi-platform commerce.

The most pronounced difference appears in the explicit recognition of Online Dispute Resolution (ODR). Indonesia formally acknowledges ODR within its e-commerce regulation, whereas Malaysia lacks a dedicated statutory ODR framework and relies on traditional arbitration and mediation regimes. The Philippines goes further by establishing a centralized ODR mechanism under the Internet Transactions Act 2023. In this respect, the Philippines is normatively more progressive, as it institutionalizes ODR within a

statutory enforcement structure rather than merely recognizing it in principle.

Another important distinction concerns compatibility between ADR frameworks and digital processes. Indonesia exhibits normative disharmony, as its ADR Law mandates in-person meetings, creating structural tension with ODR practices. Malaysia's framework is technologically accommodating in arbitration but remains procedurally and economically unsuitable for low-value marketplace disputes. The Philippines adopts a platform-agnostic ADR definition, avoiding direct contradiction, yet fails to operationalize virtual mediation clearly. Therefore, Indonesia presents the most explicit doctrinal conflict, while Malaysia and the Philippines demonstrate regulatory silence rather than incompatibility.

In terms of procedural suitability, all three jurisdictions demonstrate structural inadequacy for handling high-volume, low-value disputes characteristic of online marketplaces. Malaysia's arbitration model is cost-prohibitive; Indonesia lacks simplified digital procedures; and the Philippine ODR system, although centralized, does not adequately address multi-platform procedural coordination. Consequently, none of the systems fully satisfies efficiency, accessibility, and proportionality standards required for cross-platform ODR.

Overall, the Philippines currently offers the relatively strongest structural foundation due to its centralized ODR framework and more modern legislative architecture. However, it remains substantively incomplete regarding integrated platform liability. Indonesia shows partial recognition but suffers from normative inconsistency, while Malaysia maintains doctrinal coherence yet lacks functional adaptation for digital commerce. Accordingly, while the Philippine framework appears comparatively more advanced, none of the three jurisdictions can be considered normatively adequate for comprehensive cross-platform ODR governance, creating severe ambiguity around the legal basis for a cross-platform ODR, which as highlighted previously, has become an essential feature of today's online marketplace.

### **C. Conclusion**

This study conclusive reveals that cross-platform Online Dispute Resolution (ODR) in Southeast Asia currently operates within a critical regulatory vacuum. This vacuum is characterized by systemic legal fragmentation and enforcement incapacities across Indonesia, Malaysia, and the Philippines. The significance of this regulatory gap is potentially severe for the growth of digital economy in the region, as the absence of interoperable legal standards, clear liability allocation, and procedural consistency directly undermines consumer protection and threatens the sustainable growth of the region's digital economy. In addressing the identified normative gaps, the study recommends that policymakers from all three countries to urgently move towards a concrete legal development by specifically addressing the issue of liability among integrated platform services, amend traditional ADR legislations to explicitly legitimize asynchronous digital proceedings, and mandate data and procedural interoperability among e-commerce operators to ensure seamless, enforceable dispute resolutions.

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