KWASU Business and Private Law Journal

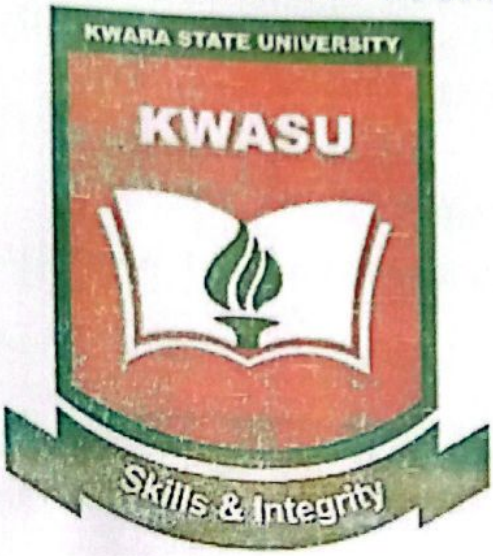
2024 VOL I, Issue I



A Publication of the
Department of Business and Private Law
Faculty of Law
Kwara State University, Malete

ISSN:0795-7408

KWASU BUSINESS AND PRIVATE LAW JOURNAL (KWASUBPLJ)



The Green University for Community Development and Entrepreneurship

VOL I, ISSUE I, 2024 ISSN:0795-7408. November 2024

JOURNAL OF DEPARTMENT OF BUSINESS AND PRIVATE LAW

FACULTY OF LAW KWARA STATE UNIVERSITY, MALETE

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The Efficacy of Online Dispute Resolution (ODR) for the Resolution of Internet-Related Disputes in Nigeria

Kudirat Magaji W. Owolabi, PhD*

Abstract

Businesses and transactions are increasingly moving online as the world becomes more digitalized. The growing volume of online commercial transactions worldwide, enabled by Information and Communication Technology (ICT), has expanded commerce beyond physical boundaries. However, this digital shift has also increased online disputes that parties desire to resolve without resorting to the courts. Hence, there is a need for a resolution method that aligns with digital techniques to address internet-related disputes. This paper assesses the effectiveness of online dispute resolution in resolving internet-related disputes in Nigeria. The research used qualitative research methodology and relied on library resources. The study revealed that Nigerian business organizations have not fully embraced ODR, despite its numerous benefits. The paper also identifies potential challenges for the smooth operation of ODR in Nigeria.

Keywords: ADR, ODR, Internet-related disputes, Nigeria.

1.0.Introduction

Over the years, ADR techniques have been viable for the resolution of both financial and commercial disputes.[1] The desire for ADR is often encouraged on the basis that it is cost-effective, promotes future harmonious relationships between disputants, and less time-wasting, amongst other reasons.[2]For these reasons, there is an increasing spread of ADR across the globe. However, this traditional way of dispute management has several limitations which are not suitable for the exigencies of modern Information Communication Technology (ICT) driven commercial

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[1] Steven Shavell, 'Alternative Dispute Resolution: An Economic Analysis' [1995] *Journal of Legal Studies*, 24(1), 1, 5; Frank A. Cona, 'Application of Online Systems in Alternative Dispute Resolution' [1997], *Buffalo Law Review*, (45) (3), 979, 982 <https://https://digitalcommons.law.buffalo.edu/buffalolawreviews/vol45/iss3/10> Accessed 9th June, 2024; Haitham A. Haloush & Bashar H. Malkawi, 'Internet Characteristics and Online Alternative Dispute Resolution' [2008], *Havard Negotiation Law Review*, (13) 327, 348.

[2] Miriam R. Arfin, 'The Benefits of Alternative Dispute Resolution in Intellectual Property Disputes' [1995] *Hastings Communications and Entertainment Law Journal*, 17 (4) 899, 901; Robert Mnookin, *Alternative Dispute Resolution*, (Havard Law School John M. Olin Centre For Law, Economics and Business Discussion Paper Series, Paper 232, 1998) 1, 6.

transactions. Today, the world is moving fast from the whole period of controlled rigidity to a more flexible and open one where people can interact to exchange ideas, culture, values and even contract or engage in commercial transactions without necessarily seeing one another or being at the same place and at the same time.[3] This are possible with the help of technology and developments in telecommunication infrastructures such as the internet, mobile phones, and computers. Technological advancement using the internet has enhanced economic development as most commercial activities are now carried out online.[4]

The internet has been a very important tool for globalization.[5] It facilitates almost every aspect of modern life.[6] The rapid increase in the volume of online commercial transactions that are carried on across the globe every minute and ICT has enhanced commerce beyond physical contact.[7] The improvement and development of communication technology have contributed enormously to enhancing human communication[8] and improving social life.[9]

The nature of disputes which are generated from online commercial transactions are low-value claims but with a high volume of cases which are either too low to pursue in the law court or consumers ignore them due to the cost and time wasting attributed to the justice system.[10] Most times, consumers desist from shopping because where disputes arise, they are technically compelled to part with funds resulting from failed transactions. This implies that trust is lost, and the business organisations and the e-commerce platforms lose more potential consumers/ customers. Unfortunately, the major hindrances to increasing transnational online business

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[3] Antonio Sanchez-Beyon & Estrella Trincado Aznar, 'Business and Labour Culture Changes in Digital Paradigm: Rise and Fall of Human Resources and The Emergence of Talent Development' [2020] *Cogito Multidisciplinary Research Journal,* Vol. XII, No. 3. 225

[4] A Rangel, 'Privacy-invading Technologies and Recommendations for Designing a Better Future for Privacy Rights', [2013], *Intercultural Human Rights Law* 8, 204

[5] Lukman Adebisi Abdulrauf & Adelodun Daibu, 'New Technologies and the Right to Privacy in Nigeria: Evaluating the Tension Between Traditional and Modern Conceptions' [2016] *Nnamdi Azikiwe University Journal of International Law and Jurisprudence,*7, 117<https://www.ajol.info/index.php/naujilj/article/view/136246> accessed 6th June, 2024.

[6] Epiphany Azinge, 'Information Technology and Legal Practice' [2002] *Nigerian Bar Journal,* Vol. 1(2)11-24; Serena David Dokubo, 'Information Technology and Legal Practice' [2002], *The Nigerian Bar Journal* Vol.1(2), 25-38.

[7] Epiphany Azinge (Fn6), 12; Serena David Dokubo, (Fn 6) 25.

[8] Aidonoije, P.A. and Agbale. O.P. 'E-contract (by mail) and the Clause, 'Subject to Contract': A Case Study of Nigeria and Australia', [2020] *Port Harcourt Law Journal,* 9 (1), 42.

[9] Igbale, A., 'Legal And Institutional Framework for E-commerce in Nigeria' being a paper discussed on Wednesday June 9, 2010, Bankers House, PC 18, Adeola Hopewell St. V/I, Lagos cited in Aidonoije, P.A., Anne, O.O., and Oladele, O.O, 'An Empirical Study Of The Relevance And Legal Challenges of An E-contract Of Agreement In Nigeria' Cogito Multidisciplinary Research Journal, [2020] Vol. XII. No. 3, 170.

[10] Louis D D, Colin R, and Zbynek L, 'Facilitating Expansion of Cross-Border E-Commerce-Developing a Global Online Dispute Resolution System' (2011) 25 (Lessons Derived from Existing ODR Systems-Work of the United Nations Commission on International Trade Law)' Penn State Law Legal Studies Research Paper.

transactions. Today, the world is moving fast from the whole period of controlled rigidity to a more flexible and open one where people can interact to exchange ideas, culture, values and even contract or engage in commercial transactions without necessarily seeing one another or being at the same place and at the same time.[3] This are possible with the help of technology and developments in telecommunication infrastructures such as the internet, mobile phones, and computers. Technological advancement using the internet has enhanced economic development as most commercial activities are now carried out online.[4]

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[3] Antonio Sanchez-Beyon & Estrella Trincado Aznar, 'Business and Labour Culture Changes in Digital Paradigm: Rise and Fall of Human Resources and The Emergence of Talent Development' [2020] *Cogito Multidisciplinary Research Journal,* Vol. XII, No. 3. 225

[4] A Rangel, 'Privacy-invading Technologies and Recommendations for Designing a Better Future for Privacy Rights', [2013], *Intercultural Human Rights Law* 8, 204

[5] Lukman Adebisi Abdulrauf & Adelodun Daibu, 'New Technologies and the Right to Privacy in Nigeria: Evaluating the Tension Between Traditional and Modern Conceptions' [2016] *Nnamdi Azikiwe University Journal of International Law and Jurisprudence,*7, 117<https://www.ajol.info/index.php/naujilj/article/view/136246> accessed 6th June, 2024.

[6] Epiphany Azinge, 'Information Technology and Legal Practice' [2002] *Nigerian Bar Journal,* Vol. 1(2)11-24; Serena David Dokubo, 'Information Technology and Legal Practice' [2002], *The Nigerian Bar Journal* Vol.1(2), 25-38.

[7] Epiphany Azinge (Fn6), 12; Serena David Dokubo, (Fn 6) 25.

[8] Aidonoije, P.A. and Agbale. O.P. 'E-contract (by mail) and the Clause, 'Subject to Contract': A Case Study of Nigeria and Australia', [2020] *Port Harcourt Law Journal,* 9 (1), 42.

[9] Igbale, A., 'Legal And Institutional Framework for E-commerce in Nigeria' being a paper discussed on Wednesday June 9, 2010, Bankers House, PC 18, Adeola Hopewell St. V/I, Lagos cited in Aidonoije, P.A., Anne, O.O., and Oladele, O.O, 'An Empirical Study Of The Relevance And Legal Challenges of An E-contract Of Agreement In Nigeria' Cogito Multidisciplinary Research Journal, [2020] Vol. XII. No. 3, 170.

[10] Louis D D, Colin R, and Zbynek L, 'Facilitating Expansion of Cross-Border E-Commerce-Developing a Global Online Dispute Resolution System' (2011) 25 (Lessons Derived from Existing ODR Systems-Work of the United Nations Commission on International Trade Law)' Penn State Law Legal Studies Research Paper.

transactions include a lack of confidence in online transactions and a lack of predictable internet commercial laws for the resolution of online disputes. For this reason, it has become apparent that a new legal regime is required for the resolution of commercial disputes.[11] Therefore, the demand for an ICT-inclined ADR becomes a necessity.[12]

This paper thoroughly examines the implementation of Online Dispute Resolution (ODR) in Nigeria and the associated challenges. The article explores the necessity of ODR in Nigeria, considering that traditional Alternative Dispute Resolution (ADR) mechanisms are already in place, and briefly investigates the relationship between ODR and ADR. It assesses the application of ODR to disputes, reflects on the current state of its legal framework, and discusses various related aspects such as shortcomings, benefits, arguments for and against ODR regulation in Nigeria, and the regulatory approaches in developed countries. Furthermore, the paper examines the recommended practices for ODR in Nigeria, drawing insights from successful ODR implementations in other countries.

2.0. Background Overview of the ODR

Online Dispute Resolution (ODR) is an improved alternative dispute resolution mechanism which dispenses with physical presence of parties at a particular location but utilizes ICT such as the internet space, mobile phones, or computers for virtual resolution of disputes. It is a deployment of applications and computer networks for resolving disputes with ADR methods.[13] It is a class of alternative dispute resolution which is making use of the advantages of increased usage of the internet and technological gadgets.[14] In this respect, it is often seen as being the online equivalence of ADR.[15] ODR has also been described as a broader term than virtual court hearings. It is the settlement of disputes through an online mode of interaction between parties.[16] It is used as a term to refer to all online dispute resolution. ODR is a form of dispute resolution which uses alternative

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[11] OECD, *Guidelines for Consumer Protection in the Context of Electronic Commerce* (OECD Publishing, 2000)
[12] Henry H P, 'Dispute Resolution in Cyberspace: Demand for New Forms of ADR' [1999] *Ohio St. J. on Disp. Resol.* 675.
[13] Henry H P,(fn 12), 675.
[14] Rabinovich-Einy O. and Katsh E., 'Digital Justice: Reshaping Boundaries in an Online Dispute Resolution Environment' [2014] *International Journal of Dispute Resolution,* (22) (1) 7
[15] Esther van den Heuvel, 'Online Dispute Resolution as a Solution to Cross-Border E-Disputes' (2000) 8 https://scholar.google.com/scolar?hl=emn&as_sdt=0%2C5&q=esther+van+den+hauvel+on+line+dispute+resolution &oq=esther+van+den+hauvel+on+online+dispute+resd=gs_qabs&t=1654393583912&u=23p%3DHj7QU81Ym-cj accessed 4th June, 2024
[16] Jimoh Mujib Akanni, 'Advancing Online Dispute Resolution in Nigeria: Opportunities, Legal Challenges and the Ways Forward' [2020] *The Journal of Sustainable Development Law and Policy,* 11(2) 408.

methods for dispute resolution.[17] It extends to disputes that are partially or fully settled over the internet, having been initiated in cyberspace but with a source outside it. It is worthy of note that ODR evolved from a necessity to resolve disputes that arose in the online community.

ODR mechanism has been adopted by various countries in the resolution of disputes arising from e-commerce between individuals.[18] The operation of ODR is very essential for any technologically inclined nation including Nigeria due to the speed and convenience of ICT and the rise in ecommerce in the country.[19] The use of technology in dispute resolution and justice Administration in the developing economies has been ongoing for close to two decades. ODR emerged in the 21st Century from developments in the field of ADR and its adaptability to peculiarities of the online environment.[20] ODR was borne out of the need to deploy cutting-edge information technology innovation to aid access to justice.[21] Furthermore, the lockdown of courts and various ADR centres following the advent of COVID-19 further heightened the uncertainty in the administration of the justice system and the inevitability of ODR.

Almost all ODR methods are in the form of written submissions but there are other forms of ODR which range from online arbitration, online negotiation and online mediation, which may be video or chat based. ODR formats may sometimes depend on the dispute, or the parties involved in the dispute. ODR has been gaining wide acceptance in conflict resolution, especially in e-commerce disputes. no surprise there, as the use of the internet for e-commerce transactions increases, new forms of disputes relating to that space/ e-commerce will also be on the rise.

Hence, for this paper, ODR can be categorised into three (3) Methods. Namely, (i) Online Arbitration (ii) Online negotiation (iii) Online Mediation and (iv) Online Negotiation.

2.1.Online Arbitration

Online arbitration, also termed e-arbitration or cyber-arbitration, encompasses arbitration proceedings conducted entirely or predominantly online, encompassing filings, submissions, hearings, and awards.[22] The contemporary definition has evolved to encompass any arbitration

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[17] Karoline Mania, 'Online Dispute Resolution: The Future of Justice' [2021] *International Comparative Jurisprudence*, 1(1) 76, 86 <https://www.sciencedirect.com/science/article/pii/S2351667415000074> Accessed 6th July, 2024.

[18] See EU Directive (2013/11/EU) on Alternative Dispute Resolution for Consumer Disputes and Regulation (EU No 524/2013) require all EU member states to implement ODR systems for resolving consumer complaints.

[19] Aishat S., 'Using ADR to Resolve Online Disputes', [2004] *Richmond Journal of Law and Technology*, 10 (3), 1,6 < https://law.richmond.edu/jolt/v/10i3/article25.pdf> accessed 4th July, 2024.

[20] Ethan K, Ethan M, and Janet R, *Online Dispute Resolution: Resolving Conflicts in Cyberspace* (John Wiley & Sons Inc: 2001).

[21] Ethan K, Ethan M, and Janet R. (fn.20)

[22] Mohamed S. A. W, 'ODR and E- Arbitration' (2013), *Online Dispute Resolution Theory and Practice*, Chapter 18 < http://www.mediate.com/pdf/ebnerl.pdf > accessed 22 June 2024

employing electronic submissions, teleconferencing, or video conferencing for the hearing process. Online arbitration follows a procedure similar to traditional arbitration but incorporates an electronic medium, either partially or wholly.

Upon its emergence in the United State (U.S), concerns were raised concerning its enforceability.[23] It was contended that electronic arbitration clauses commonly found in digital contracts, such as licensing agreements, contravened the written provision mandate of the Federal Arbitration Act due to their exclusively digital nature. Nevertheless, the courts resolved this matter by affirming that electronic signatures, as provides by the Federal Electronic Signatures in Global and National Commerce Act, held equivalent legal validity as formal signatures, and could confer legal effect upon electronically signed arbitration agreements.[24] Hence, online arbitration deviates from traditional arbitration in that the physical presence of all parties and arbitrators at a specific venue is not mandatory. It has been observed that online arbitration offers expeditious dispensation, cost-effectiveness, accessibility, and efficient case management.[25]

2.2. Online Negotiation

In the realm of online negotiations, communication between parties primarily takes place through remote means such as phone calls, fax, email, and video conferencing.[26] Although phone calls offer convenience in communication, evaluating document details is challenging without the aid of video conferencing. This can be facilitated through various video conferencing software applications such as Zoom, Google Meet, Skype, Netscape Conference, Microsoft Net meeting, and Vocal Tee's Internet Conference Professional.[27]

Fax and emails serve as suitable mediums for document exchange, often outperforming the capabilities of video conferencing. Online negotiation not only reduces time but also leads to economic savings. In the current era of globalization, it plays a critical role in conducting negotiations across the globe.[28] Various negotiation platforms exist for dispute resolution, with "blind bidding" standing out as an automated negotiation platform designed for economic

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[23] Mohamed S. A. W (fn. 22)

[24] Perez-Tejada v. Mattress Firm, Inc. (2019); Guidotti v. Legal Helpers Debt Resolution. LCC (2014); Woods v. Vector Mktg Corp (2014).

[25] Mohamed S. A. W (fn. 22)

[26] Janice Nadler and Donna Shestowsky, 'Negotiation, Information Technology, and the Problem of the Faceless Other' [2015], *Northwestern University Pritzker School of Law*, 145-178.

[27] David B. Lipsky and Ariel C. Avgar, 'Online Dispute Resolution through the Lens of Bargaining and Negotiation Theory: Toward an Integrated Model' [2007], *University of Toledo Law Review*, 38(1), 101-142.

[28] David B. Lipsky and Ariel C. Avgar (fn.27).

settlement of claims where liability is undisputed, yet parties fail to reach a compensation agreement.[29] Notably, this platform operates autonomously without human intervention.

2.3. Online Mediation

Online Mediation is a method that closely resembles traditional mediation, but it takes place virtually instead of in person.[30] It is gaining popularity in Europe and the US and is considered to be the most utilized and improved form of ODR in the western world.[31] Online mediation utilizes various technologies such as emails, video conferencing, and chat rooms in addition to offline communications to resolve disputes.[32] While the role of a mediator remains unchanged, the selection process for mediators may differ from traditional mediation. One of the challenges of online mediation is the inability to interpret facial expressions, gestures, and body language, and in some cases, the mediator may not be a human, but rather a pre-programmed algorithm.[33]

From the foregoing, it is observed that ODR focuses on resolving disputes that stem from internet use, such as domain name conflicts or e-commerce issues with a cost-effective and efficient process. ODR simplifies dispute resolution without the need for physical meetings. Unlike litigation, which involves court filing and adherence to court rules, ODR provides a straightforward online alternative for resolving conflicts.

3.0. The Position of ODR in Nigeria

The internet and technology have significantly impacted business in Nigeria, allowing for convenient online shopping. However, this convenience comes with challenges. The reception of online commercial services in Nigeria has been negatively affected, as many people remain hesitant to engage in online trade due to concerns about potential disputes.[34]Customers may

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[29] David B. Lipsky and Ariel C. Avgar (fn.27).

[30] Victor Terekhov, 'Online Mediation: A Game Changer or Much Ado about Nothing" [2019], *Access to Justice in Eastern Europe*, 3(2) 35, 38.

[31] Karolina Mania, Online Dispute Resolution: The Future of Justice [2015] *Int'l Comparative Jurisprudence*, 1(1), 76.

[32] Van den Heuvel E., 'Online Dispute Resolution as a Solution to Cross-border E-Disputes: An Introduction to ODR' (Being a paper presented at Building Trust in the Online Environment: Business to Customer Disputer Resolution, a conference jointly organized Organization for Co-operative Development (OECD), Hague Conference on Private and International Law and Chamber of Commerce (ICC). The Hague, 11-12 December, 2002) https://www.oecd.org/dataoecd/63/57/1878940.pdf accessed 14th July, 2024.

[33] Cortes P., 'Can I Afford Not to Mediate? Mandatory Online Mediation for European Consumers: Legal Constraints and Policy Issues' [2008] *Rutgers Computer and Technology Law Journal*, 35 (1) 75.

[34]Jimoh Mujib Akanni, (fn.16) 408.

receive incorrect or substandard goods, leading to disputes that are difficult to resolve through traditional means such as litigation or ADR.[35]

For a way out, some business organisations deploy Customer relation management (CRM) for the management of complaints however, the lack of the requisite legal framework for neutral, transparent, and speedy resolution of such disputes is a major challenge. The customer relation management model only constitutes a set of remedial measures that are only matters of internal management policy. These policies which are focused on customers, are aimed at maximizing revenue, and serve as customer retention strategies rather than consumer protection.[36] It's time to start having these considerations about justice changes in Nigeria. Reiterating the need for the application of ODR mechanisms in Nigeria is not a fruitless endeavour, because numerous internet-based conflict resolution systems are already in the public and business sectors of many other countries including the UK, US, India, Canada, Germany, Netherlands, and so on.[37]

Nominet is a method used for ODR in the United Kingdom.[38] It is a domain name registry company that has been managing the United Kingdom domain names since 1996 and the Wales domain names since September 2014.[39] Nominet established a Dispute Resolution Service (DRS) to resolve UK domain name disputes without going to court.[40] To pursue a claim under the DRS, complainants must demonstrate that they have rights in a name that is the same or similar to the disputed domain name and that the registration has been abusive. [41]The first step in the DRS process requires the complainant to complete a form on Nominet's website, specifying the materials submitted and the desired remedy. The form is then sent to the registrant of the domain name. Nominet assigns a mediator who contacts both parties by telephone to seek a solution.[42] If the case does not settle via mediation, the complainant then pays to have an independent expert appointed. The expert's decision will be based solely on the materials presented by the complainant

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[35] Jimoh Mujib Akanni, (fn. 16) 409

[36] Becker J U, Goetz G, and Sönke A, 'The Impact of Technological and Organizational Implementation of CRM on Customer Acquisition, Maintenance, and Retention' (2009) *International Journal of Research in Marketing*, 26(3) 207, 211.

[37] Jie Zheng, *Online Resolution of E- Commerce Disputes(Perspective from the European Union, the UK and China* (Springer Nature, 2020)

[38] Adrian S, 'Nominet's new rules on Uk Domains could Mean the End to Users' Privacy', The Guardian Newspaper (United Kingdom 11 June 2014) https://www.theguardian.com accessed on 22 June 2024.

[39] Nominet Council, 'Nominet confirms launch of cymru and wales in September' < https://www.nominet.uk/nominet-confirms-launch-of-cymru-and-wales-in-september/ > accessed on 20 May 2024.

[40] Laurence K, *Guidance Note: Nominet Dispute Resolution Service for Domain Names* (Scribd Publications, San Francisco 2007) 1-4.

[41] Leigh S, 'Nominet Dispute Resolution Service Decisions Subject to Review by the Courts', [2012], *Journal of Intellectual Property Law and Practice*, 7(3), 164-165

[42] John D, 'A Place to make Amends' [2008], *The Journal of the Law Society of Scotland*, 21(6), 4,10

and the registrant.[43] Appeals from the expert's decision are permitted but rare, and both the expert's decision and any appeals are published on the Nominet website. Nominet's technology appears useful for developing and implementing ODR in Nigeria. It has the potential to allow for the resolution of more disputes compared to the traditional/face-to-face ADR mechanisms currently in place if it is adapted into the legal framework.

Cybersettle is an online dispute resolution (ODR) service provider based in the United States.[44]They've developed software for a 'blind bidding' service that expedites negotiations when the only point of contention is the amount owed.[45] In this process, both the claimant and defendant provide their highest and lowest acceptable settlement figures, which are kept confidential. If the two ranges overlap, a settlement can be reached, usually at a compromise figure.[46] The United States has successfully used this system and similar systems such as 'The Mediation Room' to speed up settlements for personal injury claims and minute disputes.[47] Nigeria could benefit from adopting Cybersettle's technology within its existing alternative dispute resolution (ADR) framework to expedite negotiations and ensure quicker resolution of disputes compared to traditional face-to-face ADR mechanisms.

In India, parties have the right to appoint arbitrators, mediators, or conciliators and conduct proceedings, including presenting evidence online.[48] They can actively participate in the online ODR process regardless of their location, as long as the arbitration clause specifies the same. While on the platform, the customer completes and submits an online complaint form, and sends the completed form to the relevant trader, who then recommends an ADR entity to the customer from a list of ADR providers.[49] Once the customer and trader have agreed on the use of a specific ADR body to handle their dispute, the ODR platform transfers the complaint to that entity. The ADR entity is required to assess the claim online and reach a resolution on the complaint within 90 days.[50]

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[43]Jimoh Mujib Akanni (fn. 16)

[44] Diane Levin, *Cybersettle makes the Case for Resolving Disputes Online* (Mediation Channel, USA 2008) 1-4.

[45] Dinesh S, 'Auctions and Bidding' [1987] *Journal of Economic Literature, American Economic Association*, 25(2), 699, 718.

[46] David A, 'Brother, Can You Spare a Dime? Technology Can Reduce Dispute Resolution Costs When Times are Tough and Improve Outcomes' [2011], *Nevada Law Journals*, 11(1), 523,530.

[47] Gavin K, *Strategic Negotiation* (Gower Publications, United Kingdom 2018) 1- 50

[48]Ujwala S, 'Conciliation as an Effective Mode of Alternative Dispute Resolving System', [2012], *IOSR Journal of Humanities and Social Science*, 4(3), 1, 4.

[49] Pavel L, 'Online Dispute Resolution to Resolve Consumer Disputes from the Perspective of European Union Law: Is the Potential of ODR Fully Used?' [2016], *Masaryk University Journal of Law and Technology*, 10(1), 113,117.

[50] Pablo C, 'Accredited Online Dispute Resolution Services: Creating European Legal Standards for Ensuring Fair and Effective Processes', [2008], *Information and Communications Technology Law Journal*, 17(3), 221, 237.

Major e-commerce giants like eBay, Alibaba, and Amazon have embraced Online Dispute Resolution (ODR) as a means of settling disputes between consumers who are vendors and buyers on their platforms. Alibaba's procedure for resolving marketplace disputes offers option to a buyer if the goods are not received before the shipping deadline, or the goods are not received in compliance with the specified conditions. If the involved parties are unable to resolve a complaint within 10 days, a panel from Alibaba's ODR team will intervene and resolve the issue by imposing penalties on the defaulting party.

eBay is a prominent American multinational e-commerce corporation based in San Jose, California.[51] It serves as a platform for consumer-to-consumer and business-to-consumer sales and successfully resolves over 60 million disputes among traders annually. eBay deals with a particular kind of disagreement involving buyers not paying, frequently arising from allegations that the items provided did not align with the description.[52] In such cases, parties are initially encouraged to resolve the matter amicably through online negotiation. The online process offers practical advice to help parties avoid misunderstandings and achieve a resolution, and eBay provides guidance on the standards used to assess complaint merit. If negotiations fail to resolve the dispute, eBay provides a resolution service. This service allows the involved parties to present their arguments in a discussion area, after which a staff member from eBay will make a binding decision under its Money Back Guarantee policy.[53] It is important to note that any claim must be submitted to eBay within 30 days from the estimated delivery date to ensure a full opportunity for resolution. eBay's technology is relevant, and there are valuable lessons that Nigeria can draw from by incorporating similar methods into its dispute resolution legal framework.

Online Dispute Resolution (ODR) should be implemented and embraced in Nigeria due to its capacity to operate across borders, expediting the dispute resolution process and reducing associated costs.[54] ODR is viewed as a logical and essential progression in dispute resolution, offering swifter and more efficient outcomes compared to traditional methods.[55] It encompasses a wide range of artificial intelligence capabilities for resolving various disputes online and combines the effectiveness of ADR with the convenience of the Internet. ODR is not intended to compete

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[51] Bijal Z and Prashant A, 'Ebay is the World's Online Marketplace'[2014], *IOSR Journal of Business and Management*, 11(7), 23-29

[52] Emma D, *What To Do When an EBay Buyer Opened A Case against You* (Emmadrew Publications, Orlando 2017) 1-10

[53] Peter D, 'The Impacts of eBay on an Information Based Economy' [2007], *International Journal of Management and Enterprise Development*, 4(6), 609,613

[54] Joseph Nwazi, 'Assessing the Efficacy of Alternative Dispute Resolution (ADR) in the Settlement of Environmental Disputes in the Niger Delta Region of Nigeria' [2017], *Journal of Law and Conflict Resolution*, 9(3), 26, 31.

[55] David R. P, *Online Dispute Resolution: Overcoming the Problems and Shackles of Territory*' (Canadian Forum Publications, Canada 2001) 1-13.

with or replace ADR, but rather complement it as a natural response to evolving human activities and emerging conflicts.[56]

4. 0. Significant Benefits of ODR to Nigeria

ADR has proved to be the most suitable and cost-effective method for resolving disputes arising from commercial and financial transactions in recent years.[57] However, the emergence of COVID-19, e-commerce and the increasing number of cross-border transactions and disputes call for reform of ADR itself and the necessity for the ODR method of dispute settlement. It must be stated that the lack of a regulatory framework for stringent management of complaints is the major setback for the ODR justice system even with a high volume of small claims complaints.[58] In the administration of the justice system, ODR has the potential to automate the dispute resolution processes which according to experts may soon threaten the legal profession and change the way lawyers do their businesses.[59] Nevertheless, the benefits of ODR include its quick and effective nature, convenience, its flexibility. There is a low cost involved in online dispute resolution. If online disputes are referred to court for settlement, it will be time-consuming because of the process involved in litigation. Thus, it is preferable to resolve disputes online. If a dispute that arises online should be referred to court for settlement, the cost of settlement might be more than the cost involved in the online transaction.

For the sake of convenience, traditional dispute resolution involves going to court, where cases are assigned to courts based on the jurisdiction where the matter arose or where the subject matter is situated. In the case of online disputes, it is challenging to assign the case to a specific jurisdiction. Therefore, online dispute resolution (ODR) is the best way to resolve issues arising from internet transactions. ODR is entirely internet-based and is not governed by court rules like traditional litigation. In terms of flexibility, the parties involved in the transaction can decide how, where, and the online means to use to settle their dispute. Parties do not have to be physically present to resolve their dispute. It is done over the Internet at any time.

The potential benefits of online dispute resolution (ODR) have yet to be fully realized in many countries, and even where it is employed, it is not being maximized. Nigeria, for example, has not

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[56] Arno R. L and John Z, *Developing an Online Dispute Resolution Environment: Dialogue Tools and Negotiation Support Systems in a Three-Step Model*'(Wiley Online Library, USA 2002) 287-297

[57] Joseph Nwazi, 'Assessing the Efficacy of Alternative Dispute Resolution (ADR) in the Settlement of Environmental Disputes in The Niger Delta Region of Nigeria' [2015] *Journal of Law and Conflict Resolution*, 9 (3), 27, 34.

[58] Rule C, Rogers V and Del Duca L 'Designing a Global Consumer Online Dispute Resolution (ODR) System for Cross-Border Small Value-High Volume Claims—OAS Developments' [2010] *UCC LJ*, 24(1) 221.

[59] Steven S et al., 'International Commercial Dispute Resolution' [2010], *Int'l Law*, 44(1) 113;

fully embraced this convenient, cost-effective, accessible, and fast method of resolving disputes. Many Nigerian businesses could experience rapid growth and increased recognition if they adopt ODR. The lack of awareness about this dispute resolution technique, as well as limited access to information technology and computer literacy among many, poses a significant challenge. Furthermore, legal practitioners are also uninformed about ODR, which prevents them from advising their clients to consider online resolution. Given that online arbitration and mediation are just starting to gain recognition in Nigeria, it is not surprising that only a few people are aware of virtual dispute resolution techniques. Additionally, when using ODR, individuals often have to find legal content themselves, potentially leading to a lack of comprehensive understanding of the claims being made, as they may choose not to engage a lawyer.

No doubt, there is an ocean of opportunities for improvement of dispute resolution through technology that we need to embrace. Thus, the operation of ODR in Nigeria comes with challenges.

5.0.Potential Challenges of ODR in Nigeria.

The implementation of ODR in Nigeria may encounter various significant challenges. These challenges are prevalent in the country and have a substantial impact not only on ODR but also on the utilization and enjoyment of technological advancements. Some of these challenges include, but are not limited to, the following:

a) High cost and poor or lack of internet services

Access to the internet is not distributed equally worldwide. While some nations have relatively high connectivity, others, particularly developing countries like Nigeria, do not.[60] It is typical to encounter inadequate or unavailable internet services, which can hinder the initiation or completion of transactions or the resolution of disputes arising from such transactions.[61] This could result in substantial losses or setbacks for consumers and ultimately have an impact on the economy of the country. Many businesses and individuals in developing countries prioritize fundamental needs such as clean water, electricity, and housing, leading to limited access to reliable internet.[62] In Nigeria, the high cost of internet access makes it unattainable for many,

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[60] Amy J. Schmitz, 'There's an "App" for that: Developing Online Dispute Resolution to Empower Economic Development' [2018], *Notre Dame Journal of Law, Ethics and Public Policy*, (32) (1), 14, 21.

[61] Uchenna Jerome Orji, 'Technology Mediated Dispute Resolution: Challenges and Opportunity for Dispute Resolution' Computer and Telecommunication Law Review, [2012] 18 (5) 131. https://www.scholar.google.com/scholar?hl=en&as_sdt=0%2C5%q=online+dispute+resolution+in+Nigeria+&oq=d=gs_qabs&t=1654285974542&u=%23p%3DpAgppF310uMJ accessed 3rd July, 2024.

[62] A. Tarhini, C. Mgbemena, Trab MSA and R. Mosa'deh, 'User Adoption of Online Banking in Nigeria: A Qualitative Study' [2015] *Journal of Internet Banking and Commerce*, (20) 132 http://www.icommercecentral .com/open-access/user-adoption-of-online-banking-in-nigeria-a-qualitative study.php?aid=62486 accessed 9th July, 2024.

particularly when considering that online dispute resolution may necessitate prolonged online presence during meetings. [63]

b). Poor power supply

Ensuring a stable power source is a fundamental necessity for stimulating economic advancement in any country. It greatly boosts efficiency across various business industries. In Nigeria, the ongoing problem of inadequate power supply has far-reaching adverse effects on the economy.[64] Many Nigerians face daily difficulties arising from unreliable public power supply, including extended periods without electricity, fluctuating voltage, and planned power outages. These power supply challenges also create barriers to the use of essential ICTs, which are crucial for effective online dispute resolution (ODR) processes. ODR heavily depends on computer technology, which in turn requires a steady power supply to operate at its best. The inconsistent power supply situation in Nigeria creates an unfavourable setting for the use of ICTs, ultimately impeding the potential success of ODR. Therefore, enhancing the power sector in Nigeria is crucial for enabling the successful implementation of ODR.

c). Lack of understanding and proficiency in ICT

The widespread adoption of Online Dispute Resolution (ODR) in Nigeria faces a major challenge due to the limited Information Communication Technology (ICT) skills among the population.[65] Although many countries, including Nigeria, have embraced ICT, there is still a significant gap in ICT knowledge and skills. This gap can be attributed to several factors, such as the high cost of personal computers and the government's lack of interest in providing ICT training to its citizens. As a result, many Nigerians lack the necessary knowledge and skills to effectively use computers, which are essential for ODR. Moreover, both individuals and organizations are often reluctant to invest in skilled ICT personnel due to associated costs. In summary, the insufficient ICT skills and the reluctance to invest in ICT personnel present significant challenges to the widespread acceptance of ODR in Nigeria. [66]

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[63] Rob Rachwald, 'Is Banking Online Safer than Banking on the Corner' Computer Fraud and Security' [2008] (3) 11-12 www.researchgate.net/publication/250726752_Is_banking_online_safer_than_banking_on_the_corner accessed 9th July, 2024.

[64] Robin V Cupido, 'The Growth of E-Commerce and Online Dispute Resolution in Developing Nations: An Analysis. [2016] *International Journal of Social, Behaviour, Education, Economics, Business and Industrial Engineering*, 10(1) 3254-3257; E.I. Henry, "Factors that Influence Customers' Attitude Toward Electronic Banking in Nigeria' [2018] *Journal of Internet Commerce*, 17 (3) 325-328 > accessed 9th July, 2024.

[65] Wallet Peter, Information and Communication Technology (ICT) in Education in Sub-Saharan Africa: A Comparative Analysis of Basic E-readiness in Schools' [2015] *UNESCO Institute for Statistics*, 1-30 , 5.

[66] Adeobi Ifejiofor and Cosmas Nwankwo, 'The Undercurrents of ICT Skill Acquisition in Nigeria: Problems and Prospects'[2015] *International of Research in Business and Management*, (1) (8) 1-7, E.I. Stella, 'Strategic Impact of ICT on Modern Day Banking in Nigeria' (2014), *International Journal of Strategic Information Technology and Applications*, 5 (4), Available at<http://www.igi-global.com/article/strategic-impact-of-ict-on-modern-day-banking

d). Absence of particular laws

The Arbitration and Mediation Act (AMA) of 2023 governs alternative dispute resolution (ADR) in Nigeria. However, the Act does not encompass online dispute resolution (ODR), and there are no specific regulations or laws overseeing ODR in Nigeria. This absence of a regulatory framework impedes the widespread adoption of ODR. [67] Having legislation that deals with ODR would improve its legitimacy and dependability. Without legal acknowledgment of the processes for settling disputes online, enforcing arbitration awards might be difficult and impractical. [68]

e). Confidentiality and Security

Confidentiality plays a crucial role in Alternative Dispute Resolution (ADR). Resolving disputes requires a strong focus on safeguarding data, information, and documents shared during discussions. However, Online Dispute Resolution (ODR) faces challenges in maintaining confidentiality and security. In ODR, parties must be able to communicate openly, knowing that their words will not be used against them. Breaching this trust can significantly undermine the entire process. The confidentiality of ODR is at risk due to the lack of security, potentially allowing third parties to access and distribute exchanged documents without consent. This security vulnerability acts as a deterrent, dissuading individuals from using ODR to resolve disputes.[69]

6.0. Conclusion/Recommendations

In Nigeria, ODR remains a novel mechanism for settlement of dispute which is yet to gain momentum considering the unavailability of a legal framework to regulate its operation. While a lot of business organizations lack information on the existence of such an electronic dispute resolution mechanism, the ones that are aware lack the resources to operate a viable ODR platform. Online Dispute Resolution, if used effectively, can be a valuable tool for resolving online transactions. It deviates from the typical litigation process, offering cost-efficient and flexible solutions. Online dispute resolution provides greater satisfaction to the parties involved by providing convenient solutions. It is faster, cost-effective, and more accessible compared to the traditional legal system. The paper, therefore, recommends as follows:

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in-nigeria/125028> accessed 10th June, 2024; P.I. Udobi-Owoloja, B.E. Akhigbe, Ubi, A.E., Gbajumo-Sheriff, M.A., & Umoru, B., 'Digital Banking and Bank Profitability in Nigeria' [2020], *Nigerian Journal of Management Studies* 20(2), 24-34; Jayshree C., 'Internet Banking-Benefits and Challenges in an Emerging Economy' [2013], *International Journal of Research in Business Management*,1(2), 19-26.

[67] Owolabi W.M., K, 'Post Covid-19 Impacts on the Use of Technologies for Resolution of Corporate and Commercial Disputes in Nigeria '[2023], *Cavendish University Law Journal*, 3(1), 1, 15

[68] Wallet Peter (fn 66)

[69] Jayshree C.,(fn 67).

- Consumers must have a good grasp of what ODR is and how it can help them resolve disputes quickly and inexpensively.
- Lawyers getting training in the art of online mediation.
- Mediators resorting to the internet more when mediating disputes; training themselves in online mediation simulations in as many languages as possible — e.g. Hausa, Igbo, Yoruba — and for different kinds of cases; persuading their clients to use the internet when resolving disputes too would increase ODR awareness and encourage people to use them when proposed by Nigerian brands.
- The eBay and Amazon technique can be adopted too but it would be in the business-to-consumer method because eBay's technique is for consumer-to-consumer disputes, and we don't have Nigerian brands which operate that way.
- Courts preaching ODR; insisting that there should be an ODR clause like there is for ADR, parties to a dispute will have no choice but to resort to ODR when disputes arise.
- Nigerian business organisations should also include ODR clauses in the terms of their contracts.