The Provision of Trustworthy Online Dispute Resolution for Business to Consumer Electronic Disputes

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In online trading Electronic Commerce (e-commerce) occurs through the internet. Not only offline transactions but also electronic commerce involve disagreements, in this case e-Disputes. Providers recognise the need to furnish appropriate e- jurisdiction, in effect a mechanism known as Online Dispute Resolution (ODR), in order to ensure consumers’ trust in e-commerce. However ODR profound concerns need to be addressed to ensure consumer protection. Since trust in ODR is by its nature ‘virtual’, it is vital that ODR providers convince e-commerce consumers that their can be trusted. In addressing the issue of trust in ODR, this paper will make an original contribution to understanding how global ODR systems may work to protect consumers and safeguard e-commerce businesses. Having investigated Alternative Dispute Resolution (ADR) and ODR services, we conclude that it is control mechanisms that are vital to trust, with the most powerful influence on ODR being Government.

Field of Research: Business Law

Key Words: Electronic Commerce, Online/ Alternative Dispute Resolution, Providers, Electronic Dispute, E-Trust

1. Introduction

The Internet has created Electronic Commerce (e-commerce): consumers and businesses engage in online transactions without boundaries of time and space. Increased use of the internet enhances business and offers services to Online Consumers (e-consumer). Every online transaction could, and many such do, give rise to Electronic Disputes (e-disputes), as has happened offline (Kao, 2009). There is a need to ensure that e-disputes among participants in e-commerce are adequately resolved (Petrasas and Kybartien, 2011). Language barriers, cultural differences, delivery and payment issues, and also fraud contribute to e-disputes between businesses and consumers; (Abedi, 2011) given that online activities take place between strangers, on a ‘blind’ basis, there is potential for mistakes, misunderstanding and fraud (Cortes, 2011).

In Business to Consumer (B2C) e-commerce, beliefs, emotion and satisfaction influence consumer confidence and, consequently, trust (Liao, Chen and Yen, 2007). Uncertainty over legal frameworks and lack of well-established online dispute resolution mechanisms reduce consumer confidence, and hurt trade, in online commerce (Ponte, 2002). Online parties may be located in different part of the world, yet contact each other by the simple act of clicking a mouse. A Standard litigation in e-disputes would take too long and be impractical, inconvenient, complicated, and prohibitively expensive (Shah, 2004), hence there is a need for dispute resolution mechanisms to suit the online world.

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Online Dispute Resolution (ODR) involves Alternative Dispute Resolution (ADR), coupled with the speed and convenience of ICT to fit the demands of e-commerce. ODR enhances dispute resolution through the transformative power of the ICT (Information communication Technology) as a Fourth Party (Katsh and Rifkin, 2001). While not limited to business to consumer (B2C) online transactions, ODR may be particularly apt; for it uses the internet for the resolution of e-commerce disputes which helped generate them, with the parties frequently located far away from one another (Petrauskas and Kybartien, 2011). ODR may be the best mechanism to resolve e-disputes, yet, in the absence of recognized global practices, such systems may appear complex and problematic, unable to engender trust (Vilalta, 2010).

Trust puts people into a frame of mind best able to work out their problems; people who have been repeatedly taken advantage of may understandably enter into dispute resolution feeling that objectively unreasonable attitudes are justified (Rule and Friedberg, 2005). To avoid this, both vendors and consumers benefit from properly designed, truly global ODR systems (Rule, Duca and Nagel, 2011). This paper deals with the question of how to create such ‘virtual’ trust in ODR, given that ODR providers need to convince e-consumers of the effectiveness and reliability of their systems, not only in order to have ODR accepted by the general public, but also to enhance confidence in e-commerce itself.

2. Literature Review

2.1. Definition of Online Dispute Resolution

Both dispute resolution and information technology have coalesced into an effective, flexible and affordable way for solving disputes, compared with traditional approaches. ODR, as a synergy between ADR and information communication technology (ICT), combines the efficiencies of ADR with those of the internet to save time and reduce costs (Rule, 2002) in dealing with online disputes (Cortes, 2011). Fox describes ODR as dispute resolution involving mediation, arbitration or any other form of dispute resolution taking place outside courts and, at least partially, online (Fox, 2009). According to Hornle (2003), “ODR is information technology via the internet, referred to as online technology applied to alternative dispute resolution”. All kinds of ‘conventional’ ADR are, in fact, represented on the Net (Kohler and Schultz, 2004).

2.2 Trust and Redress Mechanism in B2C E-Commerce

While various disciplines have attempted to define trust, intangible part of life that it is, there is no universally accepted consensus in the scholarly world (Kraeutler, 2002). Any such would include, but not be limited to, consistency, proficiency, fairness, honesty, personal empathy, loyalty, receptivity, and capacity (McCole, 2002). It implies willingness ‘to be vulnerable despite the risks’ be they financial, (potential loss), social, psychologial (acting against beliefs), technological (concern over insufficiently managed technology) or physical ones (conduct resulting in injury or ill health) (Pennanen, 2006). Most scholars agree that trust is a prerequisite for success in business because consumers are reluctant to buy goods or services unless they trust sellers. The key difference between Business to Consumer (B2C) e-commerce and conventional ‘real world’ businesses is the internet, characterised by being ‘blind’, borderless, universally accessible without limits of time and
space (Kim, Ferrin and Rao, 2007). The requirements of e-commerce include:

A). Consumer trust, attitude, and willingness to buy: Ajzen and Fishbein (1980) proposed the Theory of Reasoned Action (TRA) to categorise the psychology of beliefs, attitudes, intentions and behaviour, the assertion that intention how to act is determined by an individual's attitude towards conduct, which, in turn, is affected by beliefs. Existing empirical research reveals that trust is closely related to attitude, which significantly informs purchase intentions (Chow and Holden, 1997; Macintosh and Lockshin, 1997). TRA is also the theoretical basis of studies on trust formation, especially in the context of e-commerce (Jarvenpaa, Tractinsky and Vitale, 2001; McKnight, Choudhury and Kacmar, 2000). If trust is viewed as belief, confidence, sentiment, or expectation about an exchange partner's likely intention or conduct, it may be directly related to someone's readiness to buy from a vendor and, generally, to consumers' willingness to follow their purchasing attitudes. Trust may motivate consumers more positively towards affiliation and identification with vendors; for a consumer's trust in an e-commerce vendor is positively related to feeling good about purchasing from him or her (Teo and Jing Liu, 2007).

B). Consumer trust and risk perception on security, privacy: in an online market these are important factors affecting purchasing decisions. Unlike in the physical market, consumers deal with distant vendors whom they never meet and products not to be touched and felt. The established literature on marketing maintains that trust is negatively related to perceived risk (Shemwell and Cronin and Bullard, 1994; Thompson and Jing Liu, 2007). According to Ganesan (1994), it can, in fact, reduce perception of any risk associated with opportunistic conduct.

C). Risk perception, attitudes, and willingness to buy: Bauer (1967) argues that once a purchase has been considered as risky, subsequent consumer behaviour may be shaped by such a perception. Recent research has confirmed that risk perception and attitudes toward e-service, to cite Ruyter, Wetzels and Kleijn (2001), are closely related. McKnight and Cummings and Chervany (1998) stated that confidence in vendors is likely to be 'fragile' if perceived risk is high, with people less likely to purchase. According to Teo and Liu, (2007) hypothesize: consumers' risk perception towards e-commerce vendor is negatively related to confidence in buying from them.

While businesses cannot directly control how their customers feel, they can create encouraging conditions (Pichler, 2000), for consumers to feel confidence in business benevolence and integrity (Josang, Keser and Dimitrakos, 2005). There needs to be proper redress mechanisms to resolve consumer complaints and assist dispute recovery in B2C transaction (Tang 2007); for its absence tends to decrease consumer confidence (Del Río-Lanza, Vázquez-Casielles and Díaz-Martín, 2009). So, dispute redress may well shape perceptions of the trustworthiness, integrity and benevolence of online business (Ong, 2013). ODR creates an environment of trust in e-commerce to deal with any potentially catastrophic impact and thereby enhance consumer perception of, and belief in, the trustworthiness of a given service or site (Rule and Friedberg, 2005). In 2010, eBay/PayPal handled more than eighty million e-commerce disputes between buyers and sellers, up from twenty million in 2008 (Rogers, 2013).
3. Challenges of Trust in ODR Processes

ODR has yet to acquire sizable "mind-share" amongst consumers; efforts to promote it have had little impact, which is why, according to Davis (2003) ODR service providers rely on that participants, or neutral arbitrators, will respect confidentiality, refrain from being partial or judgmental or design rules that disadvantage one side. Online opponents negotiate who tend not to know each other, a potential obstacle to building informed trust. While ODR may contribute in an overall sense towards it, it also relies on a comprehensive kind of confidence, rendering the relationship between ODR and trust symbiotic (Rule and Friedberg, 2005).

Ebner (2012) acknowledges three aspects of trust in ODR:

1) **ODR as a facilitator**: Growing consumer confidence in e-commerce systems may be displayed by the degree of incorporating ODR into their financial dealings. Ongoing improvement of the internet depends to no small extent on successful e-commerce, which, in turn, relies on trust more than on anything else. “Transactions require trust, and the internet is woefully lacking in trust”.

2) **Users’ faith in ODR as a functional way of solving disputes**: Its technology must be so designed and it must be marketed accordingly, neither to be taken for granted. In fact, with the still- low level of trust in ADR, what ODR provider has not heard claims that, with ODR a foreign concept, the public would not buy into ODR, dispute resolution needed warmth and human interaction while the internet was cold and distant?

3) **Interpersonal trust**: Users of ODR experience not only distrust inherent in conflict situations they are also challenged by the online environment. While these two aspects may have much in common, there are also conceptual differences; for each features fundamentally different players.

People contemplating ODR need structured information to make informed choices whether to institute the process and which provider to choose, lack of such being considered a major current issue with ODR, essentially one of trust: Without understanding a process that may affect one’s rights, there is likely little confidence, not least in online neutral arbitrators, with distrust interfering with dispute resolution. Mediators, need to build positive relationships between parties, seeing that those involved may continue to have to interact (Raines, 2006). Trust is a key aspect of mediation, established offline through ‘sessions’; online, this may be more difficult, though no less important, to establish and maintain trust. When put face to face, parties may know each other and have an ongoing relationship. However, In Online environment, disputants tend not to do so, without any real time or virtual relationship, connected merely through an e-commerce transaction such as business to consumer (B2C) or consumer-to-consumer (C2C), to use eBay as an example. With e-commerce depending on email or real-time online, a mediator’s ability to temper the tone of his interaction or skilfully read body language may be of little use, making it harder to build confidence online (Van den Heuvel, 2002).
4. Trust in ODR: Solutions

‘ODR, like all e-commerce, needs to have mechanisms to build consumer trust in the goods or services, (including) legal services in the form of dispute resolution, and to ensure consumer protection. The regulation of legal services, including dispute resolution, need not be delegated wholly to professional organisations that (may) incorporate a degree of self interest’ (Teitz, 2001). Trust, control, and government are the three components essential for the development of ODR, with trust being a perennial problem in virtually all online activities. ODR service providers can enhance confidence in different ways, such that, with a reputable institution furnishing reliable information, people are more likely to choose recommended organisations, which will make users more confident in, and be prepared to rely on, a given ODR provider. If the provider does not comply with the indicated standard of delivery, the institution would stop using it. Trustmark is an important example of judging ODR providers (Schultz, 2004).

By issuing press releases, and information such as telephone numbers, email and physical addresses and data protection rules, by explaining the process and their use of third party neutrals, trust marks and feedback mechanisms, ODR providers might create an atmosphere of confidence; with instant feedback being a sizable advantage over ADR. Parties ought to be allowed to provide it regardless of their success or otherwise (Cortes, 2011). The provider of information most likely to be trusted by consumers ignorant about online dispute resolution, is usually government. Accreditation is a typical form of such structured information. Relevant certification may be displayed through Trustmarks (Schultz, 2004).

With the two basic kinds of trust: identification-based trust (IBT) and calculus-based trust (CBT), the former depends on the degree that parties care about each other. ODR practitioners may encourage parties to investigate each other’s reputation, such as the Feedback Rating of an eBay seller. On-line disputes often deepen scepticism towards opposing parties and the mediator. If relationships are neither feasible nor desired, neutrals may want to focus on Calculus-Based Trust (CBT; Raines, 2006). With CBT which features self enforcing, binding agreements, individuals deliver what is expected of them, so as to avoid penalties (Lewicki and Wiethoff, 2000). Settlements reached through ODR are, as a rule, legally enforceable, as are private mediation agreements (Raines, 2006).

5. Summary and Conclusion

Trust-related issues may prevent resolution of disputes. Increased confidence in e-commerce requires high level of trust among online users. The best way to instil faith in online transactions is through ODR, with disputants interacting exclusively online and never meeting face to face. Online parties often hesitate to reach an agreement because they expect that their opponent will not live up to mediated settlements or abide by arbitrators’ decisions. Lack of trust prevents resolution, even when disputants would clearly be better off with one. Practitioners need to build and repair trust convincingly.

Vladimir Ilyich Lenin stated, ‘Trust is good but Control is better’ (Skinner and Spira, 2003).
If trust does require control, that of governments over ODR providers would enhance public confidence, given public faith in them. They control access to litigation and have regulatory expertise, not least on ODR providers. By raising awareness about, and inducing trust in, architecture of reliability, they, and only they, can devise it, rather than the private sector, through self regulation. The ideal means of satisfying the need for unambiguous information about the structure and processes of ODR providers is by accreditation, to be equipped by governments as its most trustworthy source who could also provide ODR services without increased cost, if not looking for economic profits and prepared to subsidise utterly unprofitable ventures such as Cyber Courts. Enhanced levels of e-commerce stand to benefit business, consumers and society alike, provided that trust is strengthened and e-consumer is better protected.

References


Schulz, T 2004, ‘Does online dispute resolution need governmental intervention-The case for architectures of control and trust’, *NCJL & Tech* vol. 6, pp. 71-106.


