

Online Dispute Resolution: Its Prospects and Potential for Cameroon

Bongkiyi John Paul

johnpaulbongkiyi@gmail.com

Bongkiyi John Paul is a doctorate level (Ph.D.) student and a Graduate Teaching Assistant at the Faculty of Laws and Political Science, University of Buea where he is a Dean's Scholar. He is also a member of "mediate.com", the most visited dispute resolution website in the world. He gained membership in May 2021 when he was announced as the global winner of a paper contest organized by mediate.com.

Abstract: Information technology has revolutionized the way consumers and businesses interact around the world. Many consumer goods (such as books, computer software, videos and music) are purchased online over the Internet rather than being sold in physical environments. Similarly, companies have moved much of their commercial activities to the Internet, including proposals, negotiations and signing. However, most dispute resolution processes have not yet taken similar steps; they occur face-to-face even where the disputes occur online. This has resulted in the emergence of a new type of dispute resolution mechanism called Online Dispute Resolution (or ODR). ODR is the use of technology to resolve disputes, and it is being promoted in many countries around the world as a model for civil justice in a digital age. North America, South Africa, Australia and the European Union (EU) are actively promoting ODR, and many ODR projects are underway. As the economic power in central Africa, Cameroon faces many challenges, like any other country, in providing fast and fair solutions to online consumers. Despite this, ODR is not very popular in Cameroon today. This article focuses on the discussion of how to implement ODR in Cameroon. It provides information on the latest developments in the global ODR structure, existing means of dispute resolution in Cameroon, and aims to propose practical considerations in developing ODR for Cameroonian e-commerce.

Keywords: Online Dispute Resolution, ODR, ADR, e-Commerce, Cameroon.

INTRODUCTION

Information and Communication Technology (ICT) is one of the fastest growing sectors of every modern society. With a new wave of digitalization just around the corner, many aspects of life have been facilitated with the use of ICTs. This has also been the case with dispute resolution. The expanded use of the cyberspace for commercial purposes by businesses and organizations (both governmental and non-governmental) has given rise to novel disputes which involve typically small value claims. Resolving such disputes through traditional face-to-face means is challenging and consequently, this has led to a new type of dispute resolution, called Online Dispute Resolution (hereinafter termed ODR).

ODR refers to 'a form of appropriate dispute resolution that utilizes telecommunication (usually internet-based, but to a lesser extent, telephones and cellular phones) to facilitate speedy and efficient resolution mainly by compressing or reducing the time, costs and geographic space that is shared between disputing parties'.¹ ODR is an outgrowth from the Alternative Dispute Resolution (ADR) field, and its objective is to expand access to justice and provide fast and fair resolutions to as many disputants as possible using the power and reach of information technology.²

The idea of using ODR to resolve Internet-related disputes was initiated when the Virtual Magistrate Project was launched in 1996. This summit set the ball rolling. Since then, various entities, including governments, consumer groups, lawyers, academics and international organizations, have been catapulted into reaching an effective means of globally implementing ODR mechanisms. ODR is being promoted in many countries around the world as a model for civil justice in an online age. The European Union (EU), North America, Australia and South Africa amongst others, have aggressively promoted ODR, and there are many ODR projects currently underway.

As the largest economy in the Central African Economic and Monetary Community (CEMAC), Cameroon is facing many of the same challenges as the rest of the world in providing fast and fair resolutions to online consumers. But to date, ODR has not gotten much grip in Cameroon. Disputes are traditionally resolved through litigation. Although, the judicial system also gives recognition to the use of Alternative Dispute Resolution (ADR) mechanisms to facilitate dispute resolution processes, ADR in Cameroon has been slow to adopt technology as there is no consolidated law on Online Dispute Resolution (ODR) in the territory. To operate properly, Online Dispute Resolution requires a stable legal framework.³ Thus, in many jurisdictions, provisions related to the regulation of ODR are made available in laws, either through recommendations or guidelines.⁴ However, in Cameroon, there is no legal provision referring specifically to ODR and the uncertainty arising from non-regulation of ODR has retarded the development and growth of ODR mechanisms, consequently reducing consumer confidence in online transactions.⁵ In the subsequent sections, we shall focus on the discussion about how to implement ODR in Cameroon. Firstly, we shall; highlight the relevance of ODR in the context of electronic commerce, international movements towards Online Dispute Resolution, available redress options in Cameroon, and justify the necessity for the regulation of ODR, before proposing Practical Considerations in Developing ODR in Cameroon.

A. The Relevance of ODR in the Context of Electronic Commerce

ODR is important for e-commerce because online businesses must provide their customers with fast and fair redress processes to boost consumer trust in online transactions. Nowadays, consumers can pick up a mobile phone or a laptop and buy a product or service from any retailer around the world with the flick of a finger. However, if consumers are concerned that they will not be able to quickly address the issues they face with these purchases, they are less likely to make a purchase. If the trading partner is located in another country or continent, consumers may be particularly concerned about getting a redress in a cross-border transaction because the redress process they depend on for domestic face-to-face purchases might not be effective in international transactions. ODR is jurisdiction independent,⁶ making it particularly suitable for low-value, high-volume, cross-border transactions.

Modern day reality has indicated that ODR is an inevitable step in the fight for access to justice. Consequently, governments all-round the globe are now promoting ODR as a means of increasing access to justice for their citizens. The result has been a wave of laws and regulations that encourage (and in some cases require) the use of Online Dispute Resolution Mechanisms. However, these initiatives have not developed the same way in all regions. Some countries are leading the way in using ODR, while others are lagging behind. But now every country knows the future of internet commerce. Any economy that wants to be a leader in global e-commerce must have a strong infrastructure to convince domestic and foreign consumers that if something goes wrong, they will be able to get redress. Thus, ODR is very relevant and inevitable in this modern-day dispensation.

B. International Movements Towards Online Dispute Resolution

According to Hiroki Habuka & Colin Rule,⁷ global e-commerce is growing at a rate of 20% annually. There were more than 50 billion e-commerce purchases worldwide in 2017, which means more than 60 billion in 2018. Studies have shown that between 1% and 3% of e-commerce transactions generate a dispute.⁸ In 2017, there were approximately 1 billion e-commerce disputes worldwide, and this number will continue to grow at the same rate as e-commerce.⁹

To properly address these online disputes, international proposals to use ODR to help consumers have gained momentum. Since 2002, International organizations have been promoting ODR as a solution to access to justice challenges. UNCITRAL, the United Nation's body responsible for harmonizing international law, convened a working group on ODR with delegations from more than 66 countries and published its final Recommendations in 2016.

The number of private and public ODR startups in Europe is steadily growing. countries like the UK and the Netherlands were the first to do this, but are now being followed by more conservative governments in continental Europe.¹⁰ In 2015, the EU adopted a new regulation requiring all traders in EU member states to inform consumers of the availability of ODRs, and the EU launched its own ODR registration form to collect customer complaints and disseminate them to relevant local ODR service providers. A good example of expanding dispute resolution in Europe is the *Directive 2008/52/CE de le Parlement Européen et de Conseil de 21 Marz, 2008*,¹¹ which made mediation mandatory in EU member states in certain cases such as torts and

contract disputes, where the parties were from different countries. The International Standardization Organization is currently evaluating proposals to make ODR the de facto standard for all international e-commerce transactions. Also, Jurisdictions like South Africa, Australia, Canada and USA have developed guidelines and ODR platforms aimed at increasing access to justice for both online and offline civil disputes.

The momentum of ODR seems to be growing globally. Those who seriously considered the issue of access to justice, especially in high-volume/low-value cross-jurisdictional disputes, have concluded that ODR is the best option for the future. The track record that ODR has already achieved in a variety of global applications has pushed Judges, lawyers, regulators to consider the use of ODR in their home jurisdictions. With all these dynamics, it is clear that the era of ODR has arrived.

C. Available Redress Options in Cameroon

There is an increasing number of complaints and strong consumer concern around possible transaction problems. Despite these, there have not been enough mechanisms for effective redress for Cameroonian consumers. While numerous options do exist, none are suitable for electronic commerce transactions. The principal paths available to Cameroonian consumers include court processes and alternative dispute resolution mechanisms.

I. Court Processes

The Judicial Organization in Cameroon,¹² as contained in the law on judicial organization comprises; Customary Law Courts, Courts of First Instance, High Courts, Military Courts, Lower Courts of Administrative Litigation, Lower or Regional Audit Courts, Appeal Courts and The Supreme Court. The competent trial courts to hear commercial matters are the Courts of First Instance and the High Court.

The Court of First Instance has the material competence to hear matters where the amount of damages claimed does not exceed 10, 000, 000 FCFA through the simplified recovery procedure. Cases concerning the recovery of debts exceeding 10, 000, 000 FCFA and where the amount of damages claimed exceed 100, 000, 000 FCFA are handled by the High Court.¹³ This means that the amount of damages claimed is important when determining the appropriate court for each case.

Whatever the case, filing costs make courts an inconvenient redress path for most online transactions. The cost to file a case in a Cameroonian court is around 30, 000 FCFA (\$54.30), which is almost half of the value of an average e-commerce purchase. In addition to this stated cost, the claimant filing a case is required to deposit 5% of the amount claimed at the registry of the court in question. Although guides and forms are available, the complainant usually has to prepare a written petition and submit evidence (in addition to other administrative documents). This usually means that the complainant is going to need at least some advice from a lawyer. Legal consultation fees in Cameroon is about 50, 000 FCFA, besides other fees required to handle a matter to its logical end. In addition, the process is conducted entirely offline, meaning that the parties have to be physically present in all court sessions. Some cases usually experience adjournments, which means the time and cost is increased.

It is a challenging task for Cameroonian courts to enforce judgements related to cross-border transactions. Judgements for disputes filed by consumers in Cameroon against foreign business are nearly impossible to enforce unless the business defendant owns assets in Cameroon. Where a foreign business has no asset in Cameroon, it might mean – loss for the consumer.

II. Alternative Dispute Resolution Mechanisms

Besides the options available through the courts, online disputes can also be handled through alternative means which include the following:

1) The Telecommunications Regulatory Board (TRB) - *Agence de Régulation des Télécommunications*

The Telecommunications Regulatory Board is charged with the mandate to regulate, control and monitor the activities of users and operators in the telecommunications sector as well as providing mechanisms for consumer protection with respect to the principle of equity in the treatment of users by all telecommunications enterprises.

This entity was created by law No 98/014 of 14 July 1998 governing telecommunication activities in Cameroon. After 12 years of application, the 1998 law on telecommunications proved to be inefficient since it could no longer meet the requirements imposed by the convergence of technology. Amongst other things, the law was: silent on consumer protection, and cyber-crimes; and it had a poor organization of dispute

resolution. In a bid to remedy these problems, the 1998 law was repealed in favor of Law No 2010/013 of 21st December 2010 governing electronic communications in Cameroon. This new law extends the powers of the TRB in view of addressing the problems it initially faced.

Amongst its duties, the Telecommunications Regulating Board is charged with the settlement of disputes between operators and also individuals whose rights have been violated by network operators especially as concerns interconnection or access to the telecommunications network, numbering, frequency interference and the sharing of infrastructure.¹⁴ The procedure for settlement of disputes by the TRB varies depending on the parties concerned; B2B¹⁵ or B2C¹⁶ disputes.

Whatever be the case, there is a prior need for the parties to try settling their disputes amicably before the matter can be heard at the TRB.¹⁷ This offers parties the latitude to use whatever means of communication (online or offline) in view of settling their disputes. However, where the parties fail to arrive at a negotiated settlement, an application for dispute settlement can be made to the TRB through the Director General either via a hand written application or through ‘any’ other textual means.¹⁸ The party filing a complaint is required to also provide information related to the address and means of contact preferred. These possibilities give the discretion for a greater part of the procedure to be conducted through electronic/online means.

In the resolution of consumer complaints, the board makes available a platform¹⁹ on their official website whereby consumers could file their complaints directly to the board through an online procedure against telecommunication companies in situations where they believe their rights are infringed. Once the form is filled and submitted to the Board,²⁰ it notifies the concerned mobile network service providers who is expected to answer accordingly in relation to the complaint.²¹

However, as mentioned earlier, the Telecommunications Regulating Board focuses on the settlement of disputes between operators and also individuals whose rights have been violated by network operators. So, disputes resulting from e-commerce transaction not related to the telecommunications domain are not amenable to the TRB.

Many Cameroonian consumers are unaware about the existence of the TRB and because of this, many disputes are not referred to the board.

2) National Agency for Information and Communication Technologies (ANTIC) - Agence Nationale des Technologies de l'Information et de la Communication²²

ANTIC is responsible for regulating the activities of electronic security and regulation of the internet in Cameroon. Article 96 (9) of Law N ° 2010/013 of December 21, 2010 gives ANTIC the task of putting in place mechanisms for settling disputes on the one hand between operators of information and communication technologies and on the other hand between operators and users for problems specifically related to content and quality of service. In that capacity, ANTIC creates the policy framework for the resolution of disputes between existing and potential registrants of internet domain names relating to the “.cm” ccTLD.

Alternative Dispute Resolution processes are highly encouraged in resolving domain name disputes and ANTIC provides an enabling environment to the practice of ODR in domain-name disputes under the ICANN²³ benchmark. ICANN is an internationally recognized global non-profit organization that among other roles manages ccTLD systems through entering public-private partnerships with governments and related entities in different countries in the world. ANTIC's procedure recognizes online arbitration and online mediation for resolution of domain-name disputes.²⁴

The involvement of technology in the dispute resolution mechanisms under the ANTIC seem to be limited to communication. The policy provides for electronic form of communication between parties in view of settling their differences. The communication may be through e-mail, and the sender should normally keep a copy of the sent message as evidence. In the resolution of domain name²⁵ disputes, the Cameroonian legislator provides two Alternative means of dispute resolution to right holders as a precondition to litigation: the parties could resolve their disputes through negotiation (a) or they could seek for ANTIC's intervention (b).

(a) Settlement through negotiation

Firstly, in the context of claiming a registered domain name, right holders are required to contact the administrative focal point of a domain name: The WHOIS²⁶ database holds information about domain name applicants, including names and contact details, etc. These contact details are available online at the following address: ²⁷

<http://www.antic.cm/index.php?option=com_wrapper&view=wrappet&Itemid=83 >

These contact details provide the possibility of contacting the holder of the disputed domain name by correspondence and could therefore offer him the possibility of negotiation. When a contact is established between the parties, they are thus permitted to proceed in their negotiations be it online or offline.²⁸

In the case where the rightful owner obtains a reply from the holder of the domain name, two absolutely negotiated solutions are conceivable:

- Negotiations initiated by the parties may lead to an amicable solution, in which case the domain name shall be returned following the conditions of the negotiation and the beneficiary may proceed to register the name with a registrar approved by ANTIC;
- Negotiations do not lead to an agreement between the parties. The rightful owner may therefore resort to the intervention of ANTIC, under certain conditions, or initiate legal proceedings.

(b) ANTIC's Intervention:

Still on a non-litigious approach strictly speaking, the rightful owner of a domain name can seek ANTIC's intervention for the suspension or revocation of a domain name in case the negotiations with the holder of the domain name fail.²⁹ When ANTIC receives the proofs of the allegations made by the rightful owner and considers them acceptable, it shall proceed to the revocation of the domain name, and shall inform the owner thereof by writing.

With the provision on electronic communication in mind, a large part of the process for resolution of domain name disputes may be carried out using electronic means. Most notifications, including appointment of an arbitrator, change of contact details, and pursuit of legal proceedings at a court of law, may be made electronically. This is a big boost to ODR for domain name disputes. However, the limited use of technology to matters of communication is noted. Technology under the policy does not extend to decision-making processes, but simply acts as a facilitator to the process.

Express provision is made for initiating a domain name dispute in electronic format.³⁰ Once the complaint is filed, the person that owns the domain name in dispute (the registrant) is deemed to have been notified of the dispute when ANTIC 'has sent the complaint hard copy or in electronic format including annexures, to the extent available in electronic form, to the e-mail addresses of the registrant and their technical, administrative, and billing contacts'. The registrant may equally respond by electronic means.³¹ Service may similarly be deemed to have been effected when ANTIC 'has sent the response in electronic format including annexes to the extent available in electronic form, to the e-mail addresses of the complainant'. Lastly, the complainant may also file a reply in electronic format.³² However, the extent to which ICT is used in the dispute resolution process is not elaborate. The process includes a blend of both online and offline procedures in a bid to achieve the settlement. It may be argued, though, that the references to writing may include typing and that signature may extend to electronic signatures. This interpretation would therefore support the use of technology in concluding a domain name dispute through settlement by the parties.

(c) An internationally extended out-of-court procedure

ANTIC permits the parties to undertake extrajudicial procedures envisaged in an international context. Based on the resources available on ANTIC's website resolution through World Intellectual Property Organization (WIPO) is advised. WIPO dwelt on the issue of disputes arising from the registration of domain names and set up an arbitration center within the organization. The owner of a domain name may use alternative dispute resolution methods, such as the World Intellectual Property Organization Arbitration and Mediation Center for Domain Name Disputes,³³ accessible through the following link:
<<http://www.wipo.int/amc/fr/domains/filing/index.html>>

The internationalism of a domain name and the submission of such disputes to an international body which uses ODR for settlement of disputes demonstrates Cameroon's desire not to be left behind in this digital race. Consequently, Cameroon's readiness to use online means of dispute resolution could be inferred. In any case, however, it should be noted that right holders retain the possibility of appealing to the courts to settle a dispute concerning a domain name

3) Other Alternative Dispute Resolution institutions in Cameroon

Besides the aforementioned Agencies, there are other institutions charged with the resolution of disputes through alternative means. The most prominent being the *Centre d'Arbitrage de Groupement Inter-Patronal du Cameroun* popularly known by its French acronym GICAM, and the Centre of Arbitration and Mediation of the Cameroon Chamber of Commerce, Industry, Mines and Crafts (CCIMC).

GICAM is a professional association that represents almost 80% of the commercial enterprises existing in Cameroon. Based in Douala, the GICAM arbitration center provides arbitration services to enterprises and individuals in Cameroon and across the Central African region. The mission of GICAM is to provide an arbitral solution to national or international commercial disputes provided the parties identify GICAM in their contractual agreement as a recourse to any dispute.³⁴ GICAM has a Digital Economy Commission (*Commission Economie Numerique*) aimed at promoting the digital economy and helping and informing businesses to better integrate ICT.³⁵ Though GICAM performs most of its proceedings offline, it accepts any form of valid electronic transaction and procedure that is relevant to the dispute resolution process. It is but normal to say that GICAM's commitment in the use of ICT in this modern age shows its readiness to accept any form of ICT assisted dispute resolution process.

Centre of Arbitration and Mediation of the Cameroon Chamber of Commerce, Industry, Mines and Crafts (CCIMC). In order to contribute to the improvement of the legal certainty of business in Cameroon through the creation of a specialized justice system closer to business community with a view to settling industrial and trade disputes in a more flexible, speedy and efficient manner, and to decongest courts with regard to contractual disputes, and also taking cognizance of the growing importance of the alternative dispute settlement methods and their role in supporting the competitiveness of the Cameroonian economy, the Cameroon Chamber of Commerce, Industry, Mines and Crafts (CCIMC) created a Centre of Arbitration and Mediation known as the Centre of Arbitration and Mediation of the CCIMC, abbreviated as CAM. This Centre ensures a simple, efficient and expeditious resolution of industrial and commercial disputes.³⁶ The Centre has a Court of Arbitration and Mediation (CAM/CCIMA) which is vested with administrative missions and is headed by Barrister Ntumfor Nico Halle as president. Like the other national agencies and ADR institutions, the CCIMA makes use of ICT where need arises. Though the background on the use of ICT is not expounded on by the law, electronic evidence, e-contracts and e-communication amongst others are acceptable. The Cameroon legal system is ready to adopt ICT in all domain and consequently, legal frameworks are flexible to adopt ODR with the view of achieving justice.

The available redress options are not properly suited to give consumers adequate solution to their grievances. Besides, the agencies put in place do not entertain all forms of electronic commerce disputes, they mainly entertain disputes in the telecommunications sector and domain name disputes. There is still a vacuum in the justice system since online consumers cannot gain proper solution to their problems.

D. Why should ODR be Regulated in Cameroon?

ODR has gained great popularity in regions such as Europe, the United States, South Africa, Australia and China, but the development of ODR has been more inconsistent in other parts of the world. Cameroon is an example of a country that is lagging behind in the use of ODR, although it is evident that ODR has the potential of addressing the challenges Cameroon faces in online transactions. The adoption of ODR approaches in Cameroon would be promising as other geographies have since tested and refined ODR tools, ensuring that Cameroonian businesses and regulators can now learn from other countries' best practices in designing their own initiatives. The geographies that were most successful in the implementation of ODR are those that coordinated its launch, involving many stakeholders, including authorities, organizations, chambers of commerce, private startups, or individual enthusiasts. Now that there is clear global consensus on the worth of ODR, Cameroon can begin to bring together a similar set of stakeholders.

The rapid evolution of the internet has expanded the scope of commercial transactions online, and equally created new opportunities for committing large-scale cybercrime activities.³⁷ Cybercrimes remain a major threat to Cameroon and access to justice is hampered by the unequipped nature of the judicial system to properly handle internet disputes. Statistically, between 2018 and 2019, about 17,055 cases of internet disputes were recorded in Cameroon, amounting to about FCFA 11 billion financial losses.³⁸ The Cameroonian judicial system faces difficulties in addressing this floodgate of cyber cases. Firstly, the judicial system is not properly equipped with modern ICT gadgets to properly address these cases. This is further

exacerbated by judicial delay and pendency of cases which is a common norm in Cameroonian courts. Delays in handling online cases due to the very many numbers have made many to go without remedy, thus, obstructing access to justice. This has made many to lose confidence in the judicial system and in online transactions.³⁹ To address this, ODR has the potential of handling internet disputes appropriately through its 'dispute avoidance' and 'dispute resolution' mechanisms.

E. Practical Considerations in Developing ODR in Cameroon

I. Development and maintenance of the system.

To facilitate the development of ODR in Cameroon, a key question to be answered is: Who will develop and maintain the system? The courts will play this role,⁴⁰ but the courts have a poor reputation when it comes to innovation and legislative reform. Members of the judiciary tend to be much more conservative in their management style and this contrasts with the rapid pace of innovation required for effective technology projects like ODR deployment.⁴¹

Another possibility is government agencies. To handle disputes related to electronic commercial transactions in Cameroon, the Ministry of Posts and Telecommunications (MINPOSTEL) could establish an expert committee to discuss system development of ODR. This proposal reflects the approach that has been taken in the EU, which is government led with private sector participation. This approach would be particularly effective for implementing ODR in public ADR institutions.

A third approach is to use private companies, especially online businesses and traders as part of their services to their customer base. These individual parties are best able to develop ODR systems that are fully integrated into their own operations. If the government provides financial incentives to these private companies, it can facilitate the establishment of an ODR system. However, there are always concerns about independence, fairness and compliance when private entities administer ODR systems. So, where ODR systems are designed and used by customer service teams of businesses and traders, some degree of government regulations may be required to ensure independence, fairness and compliance with regulations.

II. Enforcement of ODR Outcomes

The most important factor for a successful ODR program is its executive ability (enforceability). If decisions cannot be enforced in the ODR process, consumers will be disappointed that the results they achieve are unlikely to become reality. Enforcement is not an issue in an ODR process where agreements are achieved by mutual agreement because there is a high degree of compliance with resolutions agreed to by both parties. However, the lack of enforcement is a major issue in the ODR process where the parties cannot reach an agreement, and the matter is handled by a neutral third party. Creating regulations that support the enforcement of ODR outcomes would be of great significance in this scene.

III. Encouraging Parties to Participate

One of the biggest challenges in building an ODR system is motivating respondents to participate. In most private disputes, there is no way to get the defendant involved other than going to court. Some websites may force respondents to participate by threatening account suspension or financial penalties, but without these enforcement powers, many respondents choose not to respond to new disputes because all of the possible outcomes are negative from their perspective.

One possible solution to this problem is to introduce new rules to make ODRs easily accessible to all users and require merchants to participate in the process. However, without an existing successful ODR system and a record of successful resolutions, it is difficult to persuade legislators to adopt such regulations. It is possible to promote ODR solely through voluntary implementations by merchants or marketplace administrators. However, previous efforts in this direction have achieved only spotty compliance, with huge variation in ODR quality. To encourage private companies to implement ODR on their own platforms, there is need for a compelling economic rationale.

IV. Low cost ODR Systems

Another issue is the financing and sustainability of ODR programs. One of the reasons consumers do not go to court over e-commerce issues is the cost issue. No one wants to spend 50,000 F CFA consultation fees on a lawyer to settle a 15,000 F CFA dispute. As a result, an ODR system should be as affordable as possible, especially when dealing with low-value cases. Automating the ODR process and making algorithmic decisions can improve this cost curve by increasing efficiency and cost on a case-by-case basis.

V.Determining Third Party Neutrals

The final ODR issue concerns ‘neutrals’ that will provide services as part of the ODR process. In Cameroon, the third-party neutral should probably be a qualified lawyer or legal practitioner in the country itself. The reason for this limitation is to ensure a consistent quality of arbitration services as well as to comply with Cameroonian laws. The problem with these relatively limited neutral pools is that they are usually quite expensive. However, these cost concerns are reduced by three factors:

Firstly, only a small percentage of cases generate a dispute, and only a small percentage of disputes go to ADR, the traders or online businesses have enough reason to bear the cost for these professionals.

Secondly, acting as a mediator in a simple e-commerce case is a great opportunity for customer service personnel to engage in professional development. Dealing with online arbitration can be a great opportunity for lawyers to demonstrate their skills in providing legal advice that opens the door to professionalism. With these benefits in mind, professionals will want this type of online mediation at a much lower cost.

Third, if the ODR system partners with a Certified Dispute Settlement Service, even uncertified panelists such as consultants or students could act as mediators. Typically, these service providers are much cheaper than hiring legal experts at a fixed hourly rate.

CONCLUSION

Access to justice is an important and fundamental right. As our society moves online, we need to make it as easy for citizens and consumers to get proper redress mechanisms online as it is to achieve offline justice. This is why the development and expansion of ODR is essential to expanding e-commerce in Cameroon and around the world. As e-commerce grows, governments must invest in ODR to ensure that consumers in their jurisdiction have a guarantee of consistent and better access to justice which is important for maintaining confidence in online transactions. To date, this door has been closed to Cameroonian e-commerce consumers. Existing options do not provide adequate access to redress. The court process is too costly and time-consuming. Available ADR processes do not properly situate online disputes, making them largely ineffective. consequently, consumers do not reach a satisfactory solution in many Cameroonian e-commerce cases. This is a problem.

By leveraging the latest innovations in ODR, and by encouraging online businesses and traders to invest in ODR to increase operational efficiency and profitability, Cameroon can develop sustainable ODR systems that support the continued growth of e-commerce. With little pressure, ODR could become a fundamental part of Cameroon’s infrastructure in the near future. It is therefore, recommended to businesses, governments, lawyers and consumers to work together to develop ODR in Cameroon in order to provide better access to justice and lay the groundwork for prosperity in the expanding online economy.

¹ Sara Parker, ‘Online Dispute Resolution (ODR) and New Immigrants: A Scoping Review’ (British Columbia Ministry of Labor, Citizens’ Services and Open Government 2010) 7.

² Hiroki Habuka & Colin Rule, “The Promise and Potential of Online Dispute Resolution in Japan”, *International Journal of Online Dispute Resolution IJODR*, 2017 (4) 2, p. 75.

³ Sodiq O Omoola and Umar A. Oseni, ‘Towards an Effective Legal Framework for Online Dispute Resolution in E-Commerce Transactions: Trends, Traditions, and Transitions’ (2016) 24 *International Islamic University of Malaysia Law Journal* 274, available at <https://www.researchgate.net/publication/303896528_Towards_an_Effective_Legal_Framework_for_Online_Dispute_Resolution_in_E-Commerce_Transactions_Trends_Traditions_and_Transitions> accessed on 17/05/2021

⁴ Lee A Bygrave, ‘Online Dispute Resolution – What It Means for Consumers’, *Domain Name Systems and Internet Governance (Baker & McKenzie Cyberspace Law and Policy Centre and the Continuing Legal Education programme of University of NSW 2002)* 1

⁵ Fahimeh Abedi and John Zeleznikow, ‘The Provision of Trustworthy Online Dispute Resolution for Business to Consumer Electronic Disputes’, *Proceedings of 7th Asia-Pacific Business Research Conference (2014)* available at <http://www.wbiworldconpro.com/uploads/singapore-conference-2014/marketing/1408616117_512-Fahimeh_abedi.pdf> accessed 17 May 2021.

⁶ Meaning it can provide redress across borders without having to reconcile conflicting legal regimes.

⁷ Hiroki Habuka & Colin Rule, “The Promise and Potential of Online Dispute Resolution in Japan”, *International Journal on Online Dispute Resolution* 2017 (4) 2, pg 76

⁸ *Ibid*

⁹ Large e-commerce marketplaces have responded to this growth in disputes by building their own redress processes. In 2004, eBay launched its Dispute Resolution Center, which has since resolved hundreds of millions of disputes. Similarly, Chinese e-commerce

giant Alibaba has an ODR-based problem-solving process that handles even more cases. Equity economies like Airbnb and Upwork have integrated problem-solving centers into their markets to solve emerging problems quickly and efficiently.

¹⁰ G. Ross & M. Poblet. 'ODR in Europe', in M. S. A. Wahab, E. Katsh, & D. Rainey (Eds.), *Online Dispute Resolution: Theory and Practice*, The Hague, *Eleven International Publishing*, 2013.

¹¹ European Parliament & The European Union Council. (2008). Directiva 2008/52/CE do Parlamento Europeu e do Conselho – May 21st, 2008 relates certain aspects of the civil and commercial mediation. *Estrasburgo, Jornal Oficial da União Europeia*.

¹² Law N° 2006/015 of 29th December 2006 on Judicial Organization, modified and completed by Law N° 2011/027 of 14 December 2011

¹³ *Ibid*

¹⁴ Feh Henry Baaboh, Esq, Telecommunications Law in Cameroon, available at <<https://www.hg.org/legal-articles/telecommunications-law-in-cameroon-7157>>, Accessed on 21/05/2021

¹⁵ Business to Business

¹⁶ Business to Consumer

¹⁷ Article 2 de la décision N°000098/ART/DG/DAJCI du 31 juillet 2008, portant règlement des différends devant le régulateur ; *Avant de saisir l'Agence, le demandeur doit apporter la preuve qu'il a préalablement saisi l'autre partie sans succès, des faits objet du litige sous peine d'irrecevabilité*.

¹⁸ Stéphane Maviane EFFA, « Le juge du contentieux des communications électroniques au Cameroun » available at <https://www.memoireonline.com/12/13/8274/Le-juge-du-contentieux-des-communications-electroniques-au-Cameroun.html#fnref87>>>, accessed on 20/05/2021.

¹⁹ Here is the link to file a complaint on the Board's website <<<http://www.art.cm/en/node/1624>>>. While on the page, the consumer who desires to file a complaint should click on the link/statement written in French "Reclamation du Consommateur" and proceed as directed.

²⁰ Ngang Eric Ndeh Mboumien, "Assessing the Socio-Economic Impact of Internet Shutdown in The English-Speaking Regions of Cameroon From a Multistakeholder and Multisector Perspective", *AfroLeadership*, 2018 at page 15 - The 2011 framework Law on consumer protection authorizes the Cameroon's telecommunications regulator, the Telecommunications Regulatory Board (TRB) to be responsible for mediation and settlement of conflicts in the case of non-compliance by operators

²¹ A careful study of the TRB dispute resolution procedure with attention to its references to technology suggests that the Board is already tailored to support ODR. First, it recognizes that an agreement should be in writing, which includes exchange of messages on an electronic platform such as e-mail 'or other means of telecommunications which provide a record of the agreement'. Secondly, where the communication made relating to the dispute resolution process happens using electronic platforms, then the addresses may similarly be electronic addresses for example e-mail addresses or Instant Messaging profiles. In general, it is envisioned that communication under an ODR system takes place using electronic platforms. Since the main rubrics of technology-assisted ADR forming a likeness of ODR are the recognition of agreements by use of electronic means, and communication using technology, then it appears that the TRB supports ODR. The extent of involvement of technology in the ADR process is, however, not expounded. Nevertheless, a plain reading of this provision suggests that technology under the TRB at the moment is limited to facilitation through hearing devices and transcription.

²² The tasks of the Agency amongst others are to ensure, on behalf of the state: The promotion and monitoring of government actions in the field of information and communication technologies (ICT); The regulation, monitoring, and follow up of activities related to the security of information systems and electronic communications networks and electronic certification, in collaboration with the Telecommunications Regulatory Agency.

²³ Internet Corporation for Assigned Names and Numbers

²⁴ *Ibid*

²⁵ A domain name is an identifier with a set of properties that allow computers to converse with IP addresses.

It is also the sign under which a company operates on the Internet network, a virtual establishment to which customers can turn to obtain goods or services (this is the electronic shop) of the commercial activity that it carries out.

²⁶ WHOIS (pronounced as the phrase "who is") is a query and response protocol that is widely used for querying databases that store the registered users or assignees of an internet resource, such as a domain name, an IP address block or an autonomous system, but is also used for a wider range of other information.

²⁷ Management Policy for Disputes Relative to <<.cm>> Domain Names, available at <https://www.antic.cm/images/stories/data/MANAGEMENT_POLICY.pdf>, accessed on 20/05/2021.

²⁸ By contacting the focal point of a domain name registered under the extension ".cm", the right holder may aspire for direct negotiation. This negotiation will concern the restitution of the domain name. But for negotiations to open, it requires that there be a response from the focal point, who has the freedom to reply or not, to send a mail or not to the domain name holder.

This possibility mentioned above does not guarantee any response from the focal point. This clearly indicates that there is no assurance that the domain name holder would receive and take cognizance of the message transmitted. In the event of a reply, however, the hypothesis of a negotiated solution is not excluded.

²⁹ This is possible in one of the following cases: When the rightful owner provides proof of use of the disputed domain name for cybercrime activities; The disputed domain name is identical or similar and may lead to confusion with a trademark or a service mark protected by the right holder in OAPI (African Intellectual Property Organization) prior to the registration of the domain name or the filing of the trademark if any; Non-compliance with the first-come, first-served rule, by the Registrar, with the rightful owner having been the first to apply for the registration of the domain name, as evidenced; The rightful owner proves that the domain name has been registered and is being used in bad faith, that is to say, essentially for the purpose of selling, leasing or transferring it at a

high cost, prevent the owner of the trademark from reflecting the trademark under the .cm extension or for the purpose of interrupting its activity, competing with that of the domain name holder;

³⁰ Management Policy For Disputes Relative to <<.cm>> Domain Names, available at <https://www.antic.cm/images/stories/data/MANAGEMENT_POLICY.pdf>, accessed on 20/05/2021.

³¹ *Ibid*

³² Stéphane Maviane, note 11 above

³³ These proceedings only concern disputes relating to the registration of domain names between a proprietor and a third party and do not in any way concern disputes relating to the liability of a registrar.

³⁴ Article 2.2 of the Reglement d'Arbitrage Du Centre d'Arbitrage du GICAM

³⁵ As such, GICAM: Develops the Group's proposals to accelerate the digital transformation of the Cameroonian economy; Assesses the support needs for the digital economy; Develops information and training in the use of the web, social networks, dematerialization and document archiving, data security, etc; Promotes electronic exchanges between companies; Works to promote incubators

³⁶ Available at: www.allafrica.com/stories/201710090248.html, (accessed on 10/05/2021)

³⁷ This statement was made by Minette Libom Li Likeng, the Cameroonian minister of Posts and Telecommunications during the first National forum on Cyber Security and the fight against Cybercrimes which began in November 3, 2020 in Yaoundé.

³⁸ Cyber security/ Cybercrimes; Experts examine advantages, challenges, available at <https://www.cameroon-tribune.cm/article.html/36153/fr.html/cyber-security-cybercrimes-experts>, accessed on 31/05/2021

³⁹ The regulation-led approach recognizes consumer protection as a key confidence-builder in e-commerce and ODR.

⁴⁰ Hiroki Habuka & Colin Rule, "The Promise and Potential of Online Dispute Resolution in Japan", *International Journal on Online Dispute Resolution* 2017 (4) 2, pg 84

⁴¹ *Ibid*