

# Online dispute resolution: The tech-law balance

**TRUST FACTOR.** ODR must be embedded within a robust legal and regulatory framework to make it credible and accountable



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In July 2025, the Bombay High Court set aside an arbitral award where the arbitrator had been appointed by an Online Dispute Resolution (ODR) institution using an algorithm. The Court held that such an appointment violated party autonomy under the Arbitration and Conciliation Act, 1996 (Act), reaffirming the Constitution Bench ruling of the Supreme Court in November 2024. It also issued notices to two ODR institutions seeking details of how their algorithms ensure party autonomy in such appointments. This judgment is a timely reminder to strengthen ODR before its shortcomings jeopardise its future.

ODR did not originate in legislation; it evolved in response to market needs. It was born out of the rapid growth of digital commerce, the proliferation of small-value and repetitive disputes, and the demand for faster, cheaper, and more accessible means of resolution. Today, millions of disputes in India, ranging from e-commerce refunds and consumer grievances to defaults in digital lending, are being resolved online, without any court intervention. This spontaneous adoption demonstrates both the appeal and the inevitability of ODR.

ODR is not an entirely new species of dispute resolution, but a new delivery channel for well-established alternative dispute resolution methods such as arbitration, mediation, and conciliation. It leverages technology to improve access, speed, and efficiency.

It is especially useful in handling small-value claims, consumer complaints, digital lending, and cross-border transactions where conventional litigation is impractical or uneconomical.

## TECH, AN ENABLER

But technology is only an enabler, not a substitute for law. ODR must strictly adhere to the foundational principles envisaged in the legal framework, including the Arbitration and Conciliation Act, 1996, and the Mediation Act, 2023. An ODR process that compromises statutory safeguards, such as party autonomy, risks being struck down in courts, undermining both legitimacy and adoption.

Party autonomy lies at the heart of arbitration law: it demands equal and meaningful participation of the parties to the dispute in choosing the arbitrator. This may be compromised if the ODR institution picks up an arbitrator on a random basis from a pre-approved pool of arbitrators, disregarding parties' preferences for specific expertise, cultural alignment, or perceived neutrality.

ODR institutions must, therefore, maintain publicly accessible panels of qualified arbitrators with verified qualifications and domain expertise, and demonstrable integrity. Such panels must carry brief profiles, case experience, and track records to allow parties to make informed choices. Where parties cannot agree, the institution may step in, but only under pre-defined, transparent rules.

Enforcement is another pressure point. Some ODR platforms are ambiguous on this front, and some may not conform to the Act. For instance, the SMART ODR operating under SEBI oversight permits challenges under the Act, but requires a market participant challenging an arbitral award to deposit the entire award amount upfront in

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escrow. Non-compliance could render the participant 'not fit and proper,' risking cancellation of its registration. If the award is upheld, the amount is automatically released to the other party, ensuring enforcement.

By contrast, the counterparty challenging an award is not subject to similar obligations and can challenge without any deposit, leaving the participant to seek enforcement only through courts. This framework places the parties on an unequal footing and conflicts with the Act, which does not mandate pre-deposits for challenges. Worse, market participants may face double jeopardy if the Court, independently, requires security for a stay of enforcement. To preserve fairness, ODR rules must fully align with statutory provisions governing challenge and enforcement.

A credible dispute resolution system thrives on transparency. The US' FINRA system offers useful lessons in this regard. Under the oversight of the Securities and Exchange Commission, FINRA publishes every arbitration award, monetary or non-monetary, favourable or unfavourable, in a searchable, public database. These awards disclose the names of parties, counsels, arbitrators, claims, defences, and outcomes, with sensitive personal identifiers such as social security or account numbers redacted.

FINRA also provides detailed statistics on filings, closures, resolution timelines, and the nature and types of disputes resolved. Making arbitration outcomes (not proceedings) publicly accessible serves the public interest: deters wrongdoing, fosters trust in the dispute resolution system, and enables investors to evaluate a broker's track record before engaging with them.

## ACCOUNTABILITY FACTOR

Another aspect is the accountability of the ODR institution. At present, both the platforms and the arbitrators they empanel operate largely outside formal regulatory oversight. There is no statutory body to license ODR

institutions, approve their byelaws, or supervise the conduct, appointment, or removal of arbitrators. This regulatory vacuum raises concerns: Who ensures the neutrality of platforms? Who holds arbitrators to account for competence or ethics? Who certifies procedural safeguards and data security? Courts cannot fill these gaps through ex-post correction. A structured framework of accreditation, oversight, and grievance redressal is essential to institutionalise trust in the system. ODR is reshaping India's dispute resolution landscape, driven primarily by market forces. Its rapid success, however, has outpaced the legal framework. Unless regulations catch up to provide clarity and oversight, ODR risks hitting a credibility ceiling. A dedicated ODR law, or at least a tailored chapter within existing statutes, should address the full spectrum of issues: licensing and accreditation of ODR institutions; minimum standards for procedural fairness, neutrality, and competence of neutrals; transparent disclosure norms for awards, arbitrators, and systemic statistics; robust data security and privacy protections; and procedural safeguards consistent with statutory frameworks for arbitration and mediation. Such a framework would provide ODR with the legitimacy to graduate from a market experiment to a mainstream pillar of justice delivery.

ODR is efficient, accessible, and scalable. But its future will not be secured by technology alone. Unless India embeds ODR within a robust legal and regulatory framework, it risks growing in numbers but faltering in credibility. The choice is clear: allow ODR to drift in a legal grey zone, vulnerable to pushbacks, or embed it firmly within law to deliver fair, accountable, and enforceable outcomes. The sooner this balance between technology and law is achieved, the stronger will be India's dispute resolution system, a vital pillar of sustained economic growth.