

# “The effectiveness of ODR (Online Dispute Resolution) in the pandemic times in Ireland”

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# Dissertation Submission Form

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## **Abstract**

A global epidemic led us to experience difficult times along with a lot of conflicts and disputes that emerged with it, making people even more concerned about what to expect in the days to come.

The purpose of the following research is to examine and explain online dispute resolution (ODR) as a tool and its use during the pandemic times in Ireland.

This work aims to analyse through a mixed method, how ODR is seen and used in the EU and in Ireland, making use of data research and also by applying a survey that will set the temporal and geographic space of the study.

It will also analyse how known is ODR and the effectiveness of this tool among consumers: how they make use of it and, if so, what are their perspectives of having this kind of tool that enable them to avoid court sessions.

## **INTRODUCTION**

Taking into account that we are dealing with challenging times due to a worldwide pandemic, the uncertainty hangs in the air and sneaks into all areas in life, bringing with it more disputes and conflicts. As a result, there is an urgent need to reconsider the current system and carefully address the concerns so that they can be dealt with in the best way possible. By being aware that the current pandemic scenario is going to last for a while (giving space to the “new normal”), it is necessary to resort to technology in order to cope with the demands in law.

The facet known as Online Dispute Resolution (ODR), can be seen as a derivation of Alternative Dispute Resolution (ADR). It embraces the advantage of the internet's pace and convenience to turn into a quicker option for treating customers' redress and restoring their confidence regarding online shopping.

COVID-19 has been impacting the world in many ways since the beginning of its spreading. When speaking of dispute resolution, the flourishing industry started to increase substantially regarding the pandemic outbreak and with a wide variety of niches, such as: commercial, family, civil, consumer disputes and others. Undeniably, it has been affecting both mindset and way of life all over the world, including shopping and the habit of acquiring goods and services on an online and real time basis. The pandemic has demonstrated very immediately the urgent need for practical solutions and virtual alternatives, as well as the necessity of methodologies and online messaging platforms.

This research will aim to explain how COVID-19 has been affecting consumers in Ireland, as well their online purchases and its disputes. It will illustrate if ODR is a practical tool to use when resolving online disputes in the customers' perspective in Ireland. The necessity for such research is due to the fact that there isn't enough research in this area, showing the customers perspective and how it affects them. The study will try to show that alternative dispute resolution can be used in an online manner (and it happens more commonly than what is thought), especially in times where the pandemic is transforming people's lives as a whole. Another aspect worth being highlighted, is that the scenario with a lot of people working from home and a great number of stores closing or reducing their suppliers and services, may also have its contribution to tease the consumers to resort to other types of tools to resolve the issue(s) that can't be solved in a face-to-face situation.

To understand the facts illustrated above, Chapter 1 intends to summarize ODR definition (as there is not a fixed one), and what are the most common types of ODR in use.

Chapter 2 will focus on illustrate the necessity of ODR and why it is a growing niche that needs to get more attention, from both consumers and sellers (and mainly during the pandemic times where the people's lives has been changed forever).

Chapter 3 aims to explain how was ODR before COVID-19 and how it is changing after it. The chapter will also give examples about ODR platforms in the EU and in Ireland (although there is not enough data in this area).

Chapter 4 will gather the results of the survey that was carried out by the author, to corroborate with the objectives and information provided throughout the research. The purpose is to show that with a small sample and short period of time available, it is possible to get a sense of the effectiveness of ODR within consumers or not.

Finally, the last piece of the research will wrap up the information discussed and it will express the author's perspective on what can be expected for ODR future within consumers in Ireland.

## **Aim and Objectives of this Research**

The aim of this research is to examine how COVID-19 pandemic has impacted ODR consumers in Ireland. It will explore ODR concepts and its changes after the event of COVID-19.

This research will focus on the following objectives:

- Typify and clarify some of the many types of ODR available for use and how they function;
- Give examples about ODR platforms in the EU and in Ireland (even though there is not enough research in Ireland);
- Examine and explain the necessity of ODR, especially during the pandemic times;
- Explain changes regarding online shopping before and after the pandemic and what can be expected from ODR in the future;
- Express through survey limited data how ODR has been impacting consumers in Ireland since the pandemic started.

## **Research Methodology**

The method to support this dissertation is going to follow the Saunders *et al* (2019) criteria, where it is proposed a Research Onion framework to assist the organisation of the information. Each element of the model represents a more in-depth level of the investigation. The layers of the onion provide a more complete panorama of what is going to be discussed in the research.

The focus of the study will be supported mostly by mixed-method, with analysis of secondary researches combined with primary qualitative/quantitative research in the form of a survey, to support the information and the questions that were raised about the subject. The survey will represent a parcel from a population of people living in Ireland that are consumers, and will examine how they have been affected regarding online shopping since the pandemic started.

It will take into account Ireland, because it is the place that the author currently lives in and also found that it was worth to bring the attention to how even with efficient practices of refund and exchange products, consumers still have issues with some goods or services that didn't satisfy them.

The contribution of this study is that it can assemble with the few researches already done in the area (especially considering the consumer's perspective), and that with the improvement of new technologies, ODR can reach consumers as an option to be used when trying to solve a dispute. Also, to reinforce that the European Commission continues to stimulate even more the development of e-commerce within the European Union's common market.

The method chosen for this research is deductive, using hypothesis and then trying to justify it through data and analysis. One of the objectives of the research is to show if Online dispute resolution (ODR) is an effective tool in Ireland within the increasing of online disputes. The study will deal with a cross-sectional type of research, since it happened in a short period of time and at one moment in time.

There may not be a lot of resources regarding the main topic of this dissertation, due to how recent the pandemic event occurred (and it is still happening) in a global spectrum and how it is constantly transforming individuals' daily basis.

## Theory

Due to the current times we are facing, the theory chosen for this research is the *post-positivism*, where Wildemouth (1993) explains that there is no such thing as ultimate truth. Human knowledge is based on hypothesis, therefore, the answers can be mutable regarding the circumstances and the findings along the investigation. Likewise, COVID-19 scenario has brought a lot of uncertainty to the world, whether with scientists studying how to diminish its proliferation, or with people getting used to accommodate all the adaptations that are being created to lessen the negative impacts of the virus. Conflict resolution professionals can also be framed on this regard, as they are in the process of sorting out what changes they need to implement and how those changes will affect their companies and consumers.

Ryan (2006) explains that

Insights about the limitations of positivism and modernity imply that you have to understand your own place in the world and what you are bringing to the research by way of assumptions about knowledge. Investigating your own epistemologies and understanding how they affect you as a researcher is an essential part of the post-positivist approach. As part of this investigation, you come to some understanding of how people construct and maintain perceptions of the world (p. 18)

In other words, the post positivism also sees the individuals and their opinions, considering their assumptions and why they have determinate behaviour towards the situations in life. That is why this theory was chosen to be applied to this study, considering that the whole context needs to be observed carefully in order to analyse the facts as they are.

## 1 ODR definition and types

Cambridge Dictionary (2021), classifies ADR as: “a set of actions that are used by organizations to try to solve disagreements without using a court of law, for example arbitration and conciliation”. Among a lot of definitions, as reported by the literature, ODR can be comprehended as the sum of ADR and technology, a result of worldwide web improvement that has been around for more than 20 years. Lima *et al.* (2021), explains that ODR comprehends adequate ways of solving disputes performed on an online basis that benefits the reduction of claims in the judiciary.

Bathia (2020) emphasizes how important it is to lean on technology to maintain the course of ‘delivering justice’ in the pandemic times:

“It primarily involves the use of negotiation, mediation or arbitration for dispute resolution, but on an online platform. While ADR offers the freedom to parties to choose the tribunal and its procedure, ODR tops it by providing parties even more freedom in terms of the opportunity to conveniently resolve disputes from the comfort of their respective locations, in a faster, transparent and more cost-effective manner. Not only is this far more feasible in the context of the global crisis we are currently facing, it also has the potential to resolve a wide variety of disputes.”<sup>1</sup>

Furthermore, ODR proposes the benefits of the traditional ADR in addition to some other advantages like: Administrative duties being automated; Physical restrictions are removed; Eco-friendly operations (since there is no need to travel); Increased efficiency (especially regarding time-consuming process). In the online market, those advantages are really convenient, as the cases usually present an environment with large volume of disputes, with low prices involved and that happen geographically at distance between online customers.

As it can be seen in Qutieshat (2017), ODR is used to facilitate processes and optimise time-consuming:

It normally applies the alternative dispute resolution processes to resolve a claim or dispute. ODR can be used to resolve both the disputes that may arise online such as from e-commerce transactions or of-line disputes-these are any form of disputes that do not involve the internet. It is important to point out that dispute resolution is considered to be an alternative to the traditional legal

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<sup>1</sup> Available at: <https://lexjuralaw.wordpress.com/2020/07/17/the-future-of-adr-relevance-of-online-dispute-resolution-post-covid-19/>



process that involves mainly people going to a court and, presenting their issues to a judge or jury to settle a dispute<sup>1</sup>. In order for an online dispute to exist, there needs to be a claimant (this is the party that is initiating the ODR proceedings), the respondent (the party who has been provided with the claimant's notice), and a neutral (this is an individual or a party that is involved in either settling or resolving a dispute). It is important to point out that ODR normally requires a technology-based intermediary, meaning that, it cannot be classified as an ODR proceeding if it only involves the parties to a dispute and a neutral. (Qutieshat, 2017, p.2)

There are many distinct methods of online dispute resolution, but this will depend on the case and which approaches will better suit the dispute and the parties' goals and interests.

## 1.1 ODR types

Zheng (2020), demonstrated that according to the involvement of third-party neutrals and the function of technology in an ODR process, online dispute resolution can present many different types. If divided by the involvement of third-party neutrals, ODR can be split into online mediation, online negotiation, online arbitration, hybrid online dispute resolution and others.

The online mediation establishes communication using the Internet and a third neutral party also participates in the process, to assist in the best outcome between the parties. A well-known example of this category is the SquareTrade.<sup>2</sup> On this platform, a mediator is responsible to deal with the dispute, based on the matter of this dispute or the know-how that the mediator holds. The parties involved can log in at all times to submit their perspectives. When they reach a common point, the mediator is responsible to create an agreement, so that the parties can sign and accept it. Those type of online disputes usually takes no more than two weeks to be resolved.

Still in Zheng (2020), another type of ODR is the online negotiation. This type of process uses online interactions to facilitate that the parties reach the best outcome by themselves. It differs from online arbitration and online mediation, due to the lack of a third party participating in the process. Based on the characteristics of the case, the online negotiation can be classified as: automated (relying fully on technology); or in assisted negotiation (this one demanding face-to-face arrangements to reach an agreement).

Online arbitration, on the other hand, is another type of ODR that uses digital technology in the process, by which an impartial third party makes legally enforceable solutions to resolve a disagreement between the parties. In contrast with offline arbitration, the online process presents more benefits in terms of time and costs, thus being more effective. (Zheng, 2020)

When it comes to hybrid ODR, it is a blending between diverse dispute resolution methods, that will assist to reach an outcome to the dispute. The parties involved acknowledge that if a dispute happens, they will comply with the dispute resolution

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<sup>2</sup> Founded in the late 90's, consists in a platform that provides online mediation assistance in customer disputes in online market, and that collaborates with a number of online companies, including eBay and PayPal.

methods that are going to be applied to the case. Those methods can be the ones referred above.

Still clarifying types of ODR, Zheng (2020) explains that susceptible to the function of technology in ODR, it can be split in ODR assisted by technology, and ODR based on technology. The first one is when technology is used to increase ADR cases that exist in the absence of technology. They can be online arbitration, online negotiation, online mediation. Technology will only supply with appropriated tools that enable the online communication, but the human aspect in this type of ODR is essential. They are embodied by the parties and the impartial third party supporting them in settling their conflict.

The second type, ODR based on technology, refers to when technology takes the place of the human impartial party or that reduces its participation in the process. In Katsh and Rabinovich-Einy (2017), the world is in such a digital era that technology is in constant transformation. Applications once developed to facilitate communication, are now being set aside and giving space to algorithm-based software that take advantages of artificial intelligence of machines to gather as many information as possible. They anticipate that what will prevail in the future will be ODR based on technology.

When a problem can be solved using a system of regulations, algorithms can be beneficial. A good example of that is the blind-bidding process. Consists in an artificial negotiating tool that takes the benefits of the machine's calculation and communication potentials. This system is developed to determine whether or not an agreement will be reached. The parties make their own agreement proposal, and if the bids are within a certain range (usually 30 percent or less than that), an agreement will be accomplished. This type of blind-bidding system is usually well suited to disputes involving capital with no factual issues, like loan disputes (Katsh and Rabinovich-Einy, 2017).

Einhorn (2018) shows that some of the biggest online retailers nowadays were the ones that started in the ODR area first, such as: PayPal and eBay. They soon realise that they also had to deal with small disputes involving parties that were geographically apart from each other. As prosperous as ODR mechanism is (especially with big retailers), the process wasn't always seen as a good alternative to deal with those disputes. It was thought that using computers to mediate would make the process more automated and

less human, tracing an alternate route to solve the problems that would only benefit affluent people.

## 2 The necessity of ODR

With the world widespread of COVID-19, the way of living life has changed completely. Among other adaptations towards all aspects in life, the “new normal” brought up measurements that were putting into place to control the spreading of the virus. Staying at home and social distancing, are two of the main actions that made people having to resort to online interactions as a solution to the lack of face-to-face contact. Human communication reached an even more online presence, and this was no different for conflict resolution professionals as well. Especially the ones using Alternative Dispute resolution (ADR), having to facilitate, mediate or negotiate disputes in an online basis, something that became even more visible and predominant with the pandemic outburst. The use of technology and the online environment to settle disputes is considerably new, and it has effects on both clients and conflict resolution professionals (Petzold-Bradley *et al*, 2021).

As explained in Cortes (2010), the virtual marketplace environment minimises the distances with the ‘click of a mouse’. However, it has its downsides, such as the possibility of misinterpretation, fraud and the fact that the interactions happen between strangers. Even still, resorting to litigation for these disputes that arise online, demands time, availability and capital. The courts also may be scarce in terms of having enough savvy professionals available to deal with the amount of requests in the ever-growing online market.

Still in Cortes (2010), the settlement of disputes is improved when is facilitated by Information and Communications Technology (ICT).<sup>3</sup> ICT broadens the contact with justice due to communication from afar, and enable the costs to be reduced in the end. Joining ADR cases and ICT with the Internet, online dispute resolutions establish the scenario of suitable processes that wouldn’t be solved in any other way. Furthermore, when in a Business-to-consumer marketing situation (also known as B2C, where the company adopts strategies to sell the product directly to the consumer), it is of paramount importance to win the consumer’s trust, otherwise they will prefer to consume from a local shop.

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<sup>3</sup> “[...] the term is generally accepted to mean all devices, networking components, applications and systems that combined allow people and organizations (i.e., businesses, nonprofit agencies, governments and criminal enterprises) to interact in the digital world.” Available at: [www.searchcio.techtarget.com/definition/ICT-information-and-communications-technology-or-technologies](http://www.searchcio.techtarget.com/definition/ICT-information-and-communications-technology-or-technologies)

In order to achieve valuable legal protection for online consumers, it is necessary to develop dispute resolution mechanisms that respond to the needs of the parties, as disputes arising online have different needs to those arising offline. The United Nations Conference on Trade and Development observed that ‘[i]n the online environment, loss of time often causes loss of opportunities, and people involved in e-commerce will want to resolve problems in the fastest possible way. The closer our legal system is to meet this goal, the more it will boost consumers’ confidence in e-commerce.’<sup>4</sup>

The authors Katsh and Rifkin (2001), show that ODR deals with technology that will endure in the future. This technology is so valuable that can be seen as a ‘fourth play’ in the dispute settlement process, aiding and collaborating with the third party. The fourth party has the capacity to control and format elements of ODR processes, like handling with complaint forms; arrange online meetings with the parties and contribute with interactions between the parties and the third party (exchanging emails; providing online communication in general).

In Cortes (2010), is important to remember that are various misunderstandings regarding ODR, such as that it is only applicable to minor cases; that it is only based on automated systems; and that it may only be used to resolve online issues. In reality, ODR has been shown to be effective in settling offline and high-value conflicts, such as CyberSettle<sup>5</sup>, and it often involves impartial third parties, such as the Uniform Domain Name Dispute Resolution Policy (UDRP), for example. <sup>6</sup>ADR is now mostly employed in the areas of employment, family, and business conflicts, particularly those including cross-border issues.

Masumy *et al.* (2020), explains that the relevance of online dispute resolution (ODR) systems has been highlighted by the need to provide widely obtainable systems

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<sup>4</sup> Cortes, Pablo, *Online Dispute Resolution for Consumers in the European Union* (2010). Routledge. Available at: <<https://ssrn.com/abstract=2254622>>.

<sup>5</sup> “Cybersettle automates the manual, time consuming, and inefficient settlement process and makes it easier for organizations to settle financial disputes. Contending parties submit confidential offers and demands on-line from most computers, smart phones or tablets.” Available at: <http://www.cybersettle.com/>

<sup>6</sup> “[...]sets out the legal framework for the resolution of disputes between a domain name registrant and a third party (i.e., a party other than the registrar) over the abusive registration and use of an Internet domain name in the generic top level domains or gTLDs (e.g., .biz, .com, .info, .mobi, .name, .net, .org), and those country code top level domains or ccTLDs that have adopted the UDRP Policy on a voluntary basis.” Available at: <http://www.wipo.int/amc/en/domains/guide>

capable of handling simple or complicated conflicts. Several of these platforms have taken steps to include comprehensive safety measures, implementing rules that are compliant with the suitable security protocol (2020 Protocol). This way, the customer will feel safe and will build up their trust while purchasing online goods or services.

In Schmitz (2018), companies and customers are sometimes believed to be on different sides of the process. But the reality is that businesses and consumers have more similarities than differences. When agreements run smoothly and problems are addressed promptly and affordably without many problems, both parties are more likely to prosper in the final scenario. The main issue regarding face-to-face conflict settlement is that it can be time and money consuming. The fact that attorneys can be taking part in the process, may also encourage competitive and combative behaviour, stimulating the unwillingness of both sides to settle down, because one side will want to prevail upon the other side. The alternative response to that would be an adequately developed ODR method, that combine similarities between companies and consumers, and provides a win-win situation for online disputes.

In Rule (2020), technology is the ‘Fourth Party’ of the process, additionally with the parties in dispute and the neutral part. Europe and Canada are good examples that are very modern and innovative, in terms of allying types of ODR platforms with different kinds of disputes. Previously, Europe used to concentrate the use of ODR to resolve commercial issues, but currently, it englobes family processes, housing issues and other types of issues that can occur.

Rule (2020) also highlights that, ODR tools should be taught in mediation trainings, so that new professionals have enough knowledge to distinguish the benefits and drawbacks and, therefore, know if adding an ODR approach to a process will generate more benefits to it or not. New tools are always being developed, so the dispute resolvers likewise, need to be aware of those changes and how to put into practice if it feels adequate to the situation they are facing.

### **3 Before and after COVID-19: changes regarding online shopping in EU and Ireland**

According to Kim (2020), the practice of shopping online is more convenient in terms of location and time when compared to purchasing in physical venues. Nonetheless, some customers prefer to do the purchases in the actual venues because when shopping online, there are more bureaucracies and difficulties in relation to the information of the product and/or service.

The United Nations Commission on International Trade Law (UNCITRAL) 2016, also established guidelines acknowledging and fostering the use of ODR as a new form and practical tool of conflict settlement. The Technical Notes from UNCITRAL are intended to provide a substantial contribution to the development of systems that will allow an easy access to ODR. They are aimed to guarantee that ODR systems are accessible to buyers and sellers in both first and developing countries, following UNCITRAL's strategy of producing universally applicable mechanisms.

As shown in Shope (2020), arbitral institutions have reacted rapidly to the COVID-19 scenario, with some of them offering new means to keep arbitration moving ahead, mostly through virtual engagements. Some arbitral organizations have already included virtual interactions in their rulings and have the appropriated technology to do it.

Following UNCITRAL's idea, Zheng (2020) explains that an ODR platform was launched in February of 2016, in the EU, where customers were enabled to get in touch with ADR entities in numerous member nations to resolve cases regarding online purchasing transactions.<sup>7</sup> With constant innovation of technology, ODR has been supported by virtual reality, automated machines and artificial intelligence. While developing legal tools on ODR, UNCITRAL working group III proposed a 3-step process: a stage of negotiation, a stage of assisted agreement, and a stage of conclusion (the last one relying on the jurisdiction, either a non-binding advising opinion or a final judicial decision). The European Committees of Online Dispute Resolution (ODR) platform, aims to make online purchasing safer, handy and more equitable by providing access to high-quality dispute resolution mechanisms.

According to the Article 14 (EU) No. 524/2013, all the online traders and sellers in EU, Iceland, Liechtenstein or Norway, are compelled to give a facilitated access to the

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<sup>7</sup> Available at: <https://ec.europa.eu/consumers/odr/main/index.cfm?event=main.home2.show&lng=EN>



ODR platform to the customers and a valid e-mail address where the ODR platform may reach the consumer (in order to resolve the issue). The issue(s) then, can be resolved with the customer directly through a dashboard, or disputes can be solved by a neutral dispute resolution body. Those practices permit that the customers feel safer when acquiring something online, since they will know where to resort to, in case the product or service is damaged or not satisfactory. When a customer has a dispute with a company in Ireland or anywhere in the EU, they should be aware that they can use ODR to solve the issue(s) without having to go to court. In Ireland and the United Kingdom, the Consumer Code regarding Online Dispute Resolution (CCODR) is in current use.

To Wolfenbarger and Gilly (2020), after the COVID-19 outbreak, consumers' adjustments to online shopping, which have been enhanced by the pandemic, are unlikely to stop or slow down. The two main incentives for purchasing in physical stores rather than online, are instant acquisitions and social contacts, despite the fact that internet shopping is significantly more convenient and cost-effective. When shopping online, customers have some perks provided by the Ecommerce, such as locality, time-saving, and product availability.

In Kim (2020), demographic data proves that some consumers have the preference to shop in physical places due to the fact that they are not willing to acquire knowledge on how to shop using the Internet.

“In this aspect, the pandemic can be a trigger that induces the late majority, who have been averse to the new way of shopping, to finally shop online [19]. The new 10% of the consumer demographic, who adopted online shopping due to pandemic, already paid the cost and experienced the convenience of online shopping and realized that a few days of waiting for delivery might be worth it [17]. Although late adopters are likely to be more skeptical in evaluating new experiences [20], their online shopping experience is likely to be positive, as it provides a relatively safe way to shop during the pandemic, and thus, they are likely to continue to shop online even after the pandemic passes [21].” Kim 2020, p.213)

Kim (2020), continues saying that during the epidemic, consumer awareness show that the market is shifting to e-commerce. With the event of COVID-19 and the

development of purchasing things online, the online market is more likely to be a success and to last for a long time.

Among the many tools available that can be used in ODR, a smartphone app called ADR4All, co-created by the EU, was released in the 2020 pandemic scenario, directed for consumer disputes. The customers can fill up a digital complaint and then have access to services that are essentially operated by EU rules on ODR. This system has the support of multi-level management that should reach consumers and businesses in a global scale (Poblet and Ross, 2021).

Poblet and Ross (2021) brings the scenario to Ireland, and reports that an ADR platform called An Olive Branch<sup>8</sup>, was created to help disputants to reinterpret their complaints in a way to achieve an amicable settlement between the parties, with the support of attorneys and specifying the concerns and goals that they want to reach in the end.

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<sup>8</sup> <http://www.anolivebranch.com/>

#### 4 DATA ANALYSIS AND DISCUSSION

The data collected in this research includes literature review with the definition of the main aspects covered in the study. It also combines the results obtained through an online survey with analysis of what is being discussed. The questions in the survey were opened and closed questions, with yes/no alternatives and multiple choice questions as well. The survey was developed in Survey Monkey, as a common way to gather as much details in the data as possible. The survey was opened for more than one month and it had 21 questions and 81 respondents on total.

The population englobed people living in Ireland, since or after the pandemic started, and also people that use online shopping as a way of consuming products and services. Those options are more adequate to the research because of the lack of time available to do the study, and also because there is not enough data available about this subject.

**Dissertation question:** How has the COVID-19 pandemic impacted consumers in Ireland?

**Hypothesis:** *ODR consumers in Ireland are negatively impacted by the pandemic.*

The survey was created based on a variety of questions, in order to collect and measure specific data of consumers living in Ireland. The survey's structure is split into sections, as it follows: 1) background of the customers: age, sex, which Irish province do they reside; how long have they been living in Ireland 2) how often do they shop online, what do they usually buy online, how the pandemic has affected their shopping frequency and if they ever had problems shopping online; 3) how long it took to resolve their issue(s) (if any), if the language was a barrier to resolve the problem and if they recommend ODR as a tool to resolve their issues.

The survey started with structural instructions about confidentiality and personal consent on taking part of the research. After that, a brief explanation about ODR meaning was given, followed with practical examples so that it was clear to the respondents the main topic that the questions would be talking about.

The first question in the survey was an opened question, where the participants were asked if they ever had to resort to ODR before. 37 participants said that they never had to use ODR before, whilst 28 answered that they had to use ODR before. 16 respondents didn't

answer this question, which maybe indicates that they didn't feel obliged to answer because they never had to use ODR before as well.

The participants that said yes, explained in few words in which situations they had to use ODR before, and the most common answers were: regarding purchases that came with the wrong item or the items were not as described; problems to reschedule flights or to get a restitution, especially with the pandemic and the travel restrictions; accommodation that fell through due to COVID-19; used ODR in the form of Artificial Intelligence when using delivery apps such as Deliveroo or Just Eat in Ireland.

ODR is becoming more and more accessible lately, especially with the event of the pandemic, where the immediacy is even more required to solve small and big claims or issues in quicker way. However, the lack of knowledge and training about this tool, might exclude people that choose not to accept automated technology on their daily basis. There is an official website of the European Union, Your Europe (2021), that explains how to use the online dispute resolution platform step by step.<sup>9</sup> They also show the EU regulation regarding online dispute resolution with customers.

**Table 1: How old are you?**

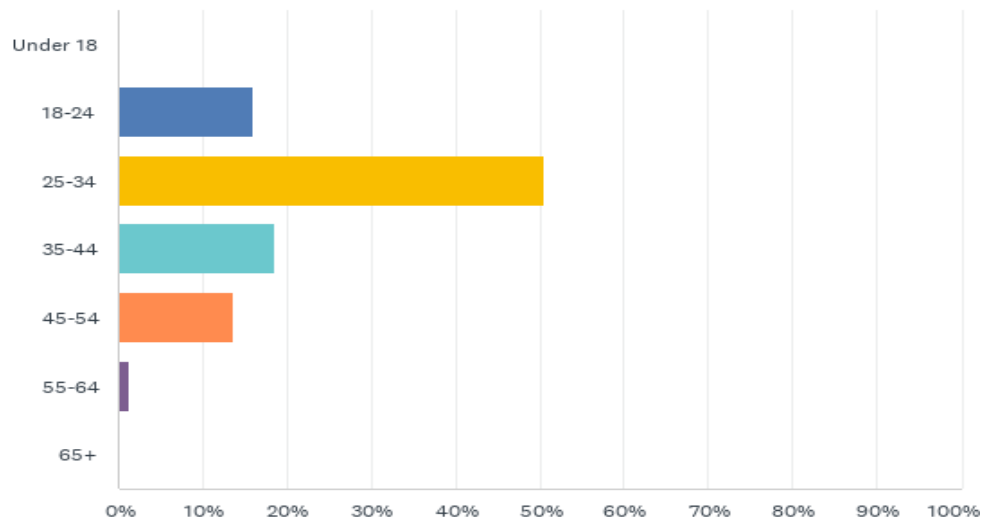


Table 1 displays the age groups of the respondents to the survey. The breakdown of the ages of the participants were as follows: 18-24 years old (13), 25-34 years old (41), 35-44 years old (15), 45-54 years old (11), 55-64 years old (1) and 0 participants of 65 years old or more.

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<sup>9</sup> see appendix 1

The majority of respondents were aged between 25-34 years old, with 50% of respondents in that age range. Less than 15% of all respondents are over the age of 45, with the majority under the age of 35.

An interesting observation is that it shows how ODR and ADR are relatively new dispute resolution techniques and, accordingly, could be an indication that respondents of a certain age (those in the older age brackets) might face challenges using technology based resolution techniques. This could account for the low number of respondents in the older age groups saying they have utilised ODR when online shopping.

Bathia (2020) explains that the lack of training might be a setback and a barrier for the ODR field, which can also endorse why people in the last age bracket could feel more sceptical to resort to ODR, preferring the traditional ADR face-to-face process.

Kulp and Schmitz (2020) wrote a really interesting paper, where they interviewed individuals from different generations and age groups, and who were not connected directly to law or ODR. They called them ‘neighbours’, and they were customers that did online shopping. Some interviewees related the term “online” to social media sites and, therefore, they expressed being apprehensive to trust a system that required them to publish something in order to communicate about a private conflict in a public environment, for example.

Kulp and Schmitz (2020) continue emphasizing that “Further clarity and specificity about what courts mean by “ODR” is necessary before these users will feel encouraged to use — or comfortable with being required to use — ODR”. The fact that many people thought that to use ODR system it was required to have a neutral third party as well, shows that they crave for guidance so that they can acknowledge the options available in the situation, feeling more in their comfort zone during the whole process.

**Table 2: What is your gender?**

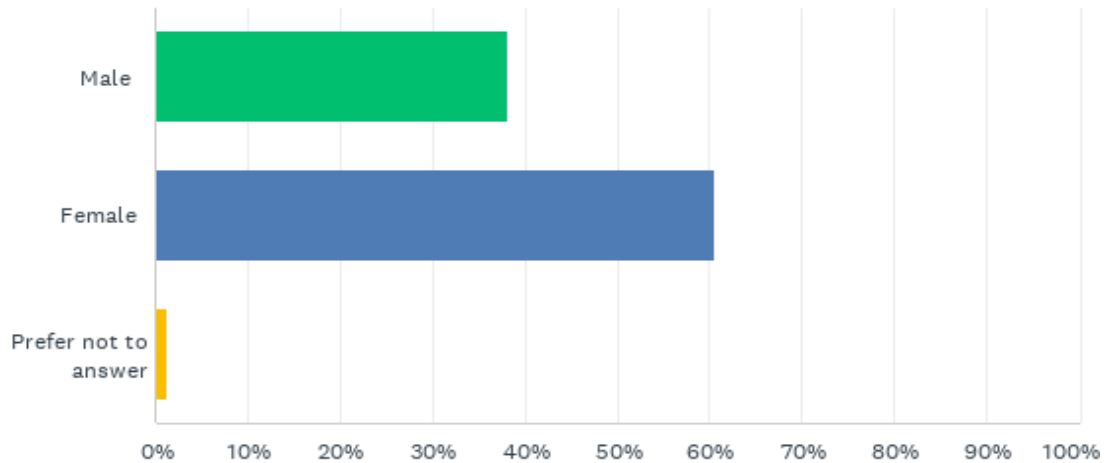


Table 2 breaks down the gender of the respondents. 60% of respondents are female, while almost 40% of respondents are male.

Kulp and Schmitz (2020) satisfactorily can exemplify this result, as in their research there was a majority of female respondents that affirmed that they wouldn't like to bother having to face court or a judge to resolve their issues. This will also explain Table 9, where the majority of women respondents had problems shopping online and in Table 12, they preferred to resolve their issues through negotiation or conciliation, rather than having to go to court.

**Table 3: Which province do you live in?**

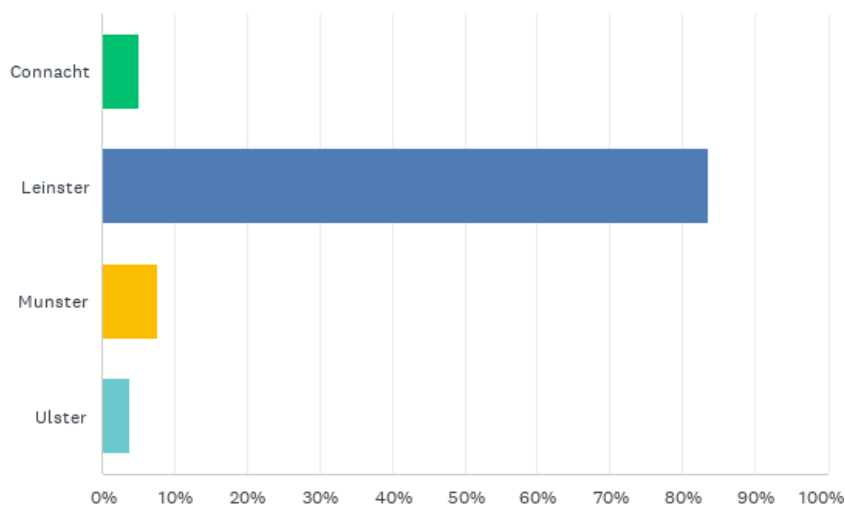


Table 3 illustrates the region in which each respondent lives in Ireland. Over 80% of the respondents live in Leinster, with less than 10% of respondents living in the three other provinces respectively.

Even with the spread of the survey through social media (Facebook, Instagram and Whatsapp), Leinster was predominant in the answers probably due to the fact that it is currently the biggest province in terms of population in Ireland.<sup>10</sup>

Table 5 will show Brazilians and Irish people equivalent to over 66% of the entire sample, expressing that those two nationalities are really important to Irish consumer trends in general.

**Table 4: How long have you been living in Ireland?**

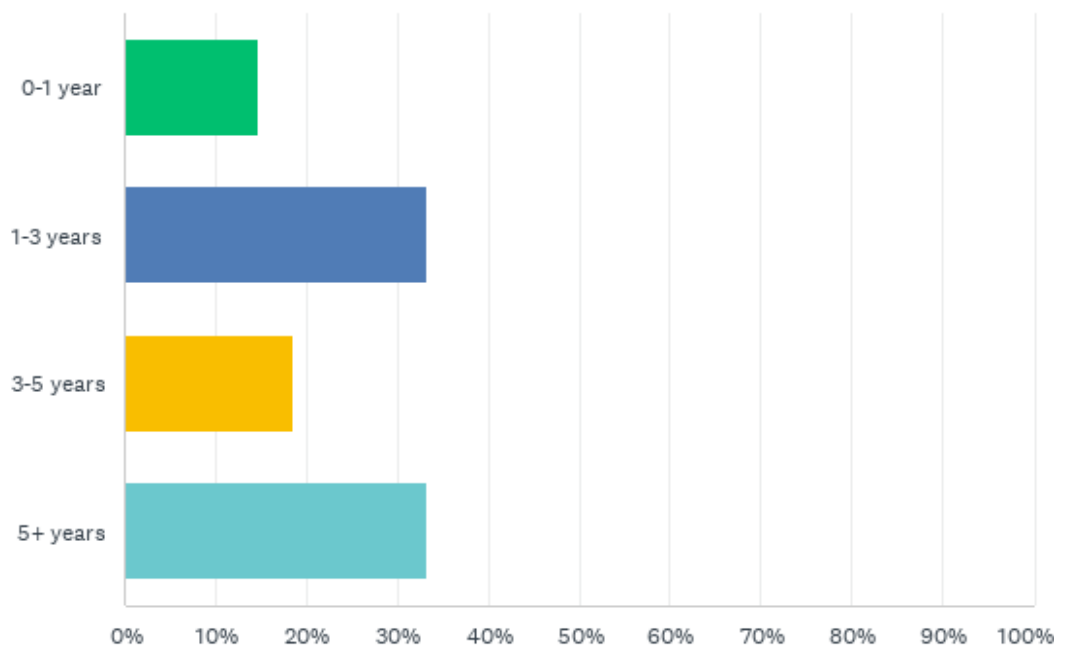


Table 4 provides us with background regarding the duration in which respondent has been living in Ireland. 33% of respondents surveyed have been living in Ireland for more than 5 years, similarly the same number have been living in Ireland between 1 and 3 years.

As Irish and Brazilian were the main nationalities that answered the survey (more than half of the answers), this means that a Brazilian parcel may have become Irish

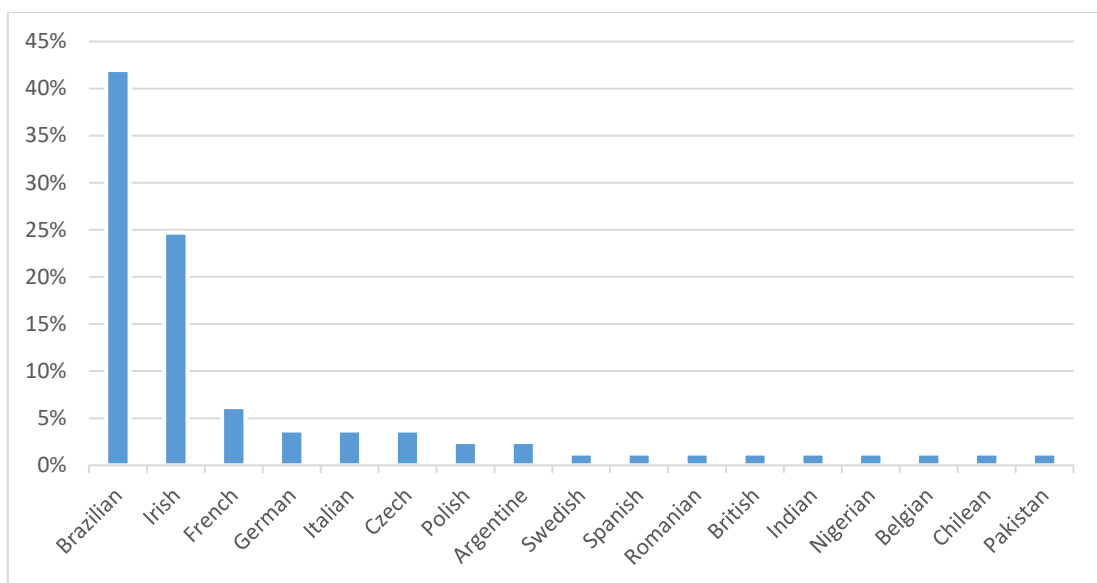
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<sup>10</sup> Available at: <https://www.citypopulation.de/en/ireland/cities>

consumer citizens' due to the fact that they live in Ireland for more than 5 years so, therefore, they have the same rights as an Irish native citizen.

As for the percentage correspondent to have been living in Ireland between 1 and 3 years, we classify mostly immigrants in general, nationalities that answered the survey and are from the outside of EU, such as: Brazilian, Argentine, British, Indian, Nigerian, Chilean and Pakistan.

***Table 5: What is your nationality?***



*Table 5* displays respondents' nationalities. The results tell us that just over 40% of the respondents are Brazilian, with Irish (25%) the next most common nationality of the respondents. These two nationalities represent over 66% of the entire sample and are, therefore, an important indicator of ODR trends in Ireland as a result.

This data is alluring, due to the fact that Ireland is a multicultural nation and, therefore, it is always welcoming different nationalities to live and work in the country.

This result can be crossed with the data in the *Table 10*, where 76% of the participants didn't encounter any language barriers to solve their online disputes. Even though the respondents have other mother languages', this was not a hindrance that made them not resolve their disputes, as English is one of the main languages of the world's globalization.



**Table 6: How often do you shop online?**

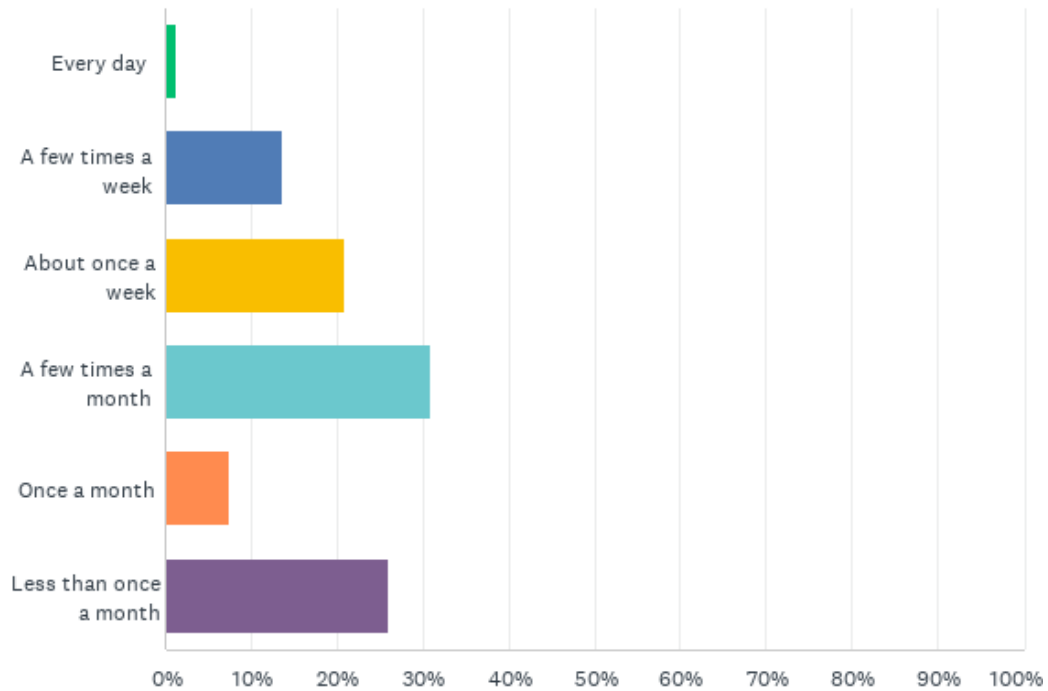


Table 6 gives us an insight into the online shopping trends of the respondents. The frequency of online shopping is a crucial variable to consider when assessing the use of ODR. As such, this is a vital variable to consider.

The most common response shows us that 1 in 3 of our respondents shop online more than once a week, with 20% of the respondents stating their shopping habits entail shopping online once a week. 25% of the respondents indicated patterns of low engagement with online shopping, stating they only shop online less than once a month.

This table can cross results with Table 8, where 90% of the participants answered that they have noticed an increasing in their online shopping habits after the pandemic started. This can be due to how people had to start working from home to keep social distancing and enforcing health safety measurements. Along with physical health measurements, mental health is something to take into consideration when talking about the decrease of human interactions. Some people may consider that their shopping frequency increased, because they had to stay at home without more possibilities of what to do and where they could acquire something that it was not in a physical shop.

**Table 7: Which of the following products/services do you usually purchase online?**

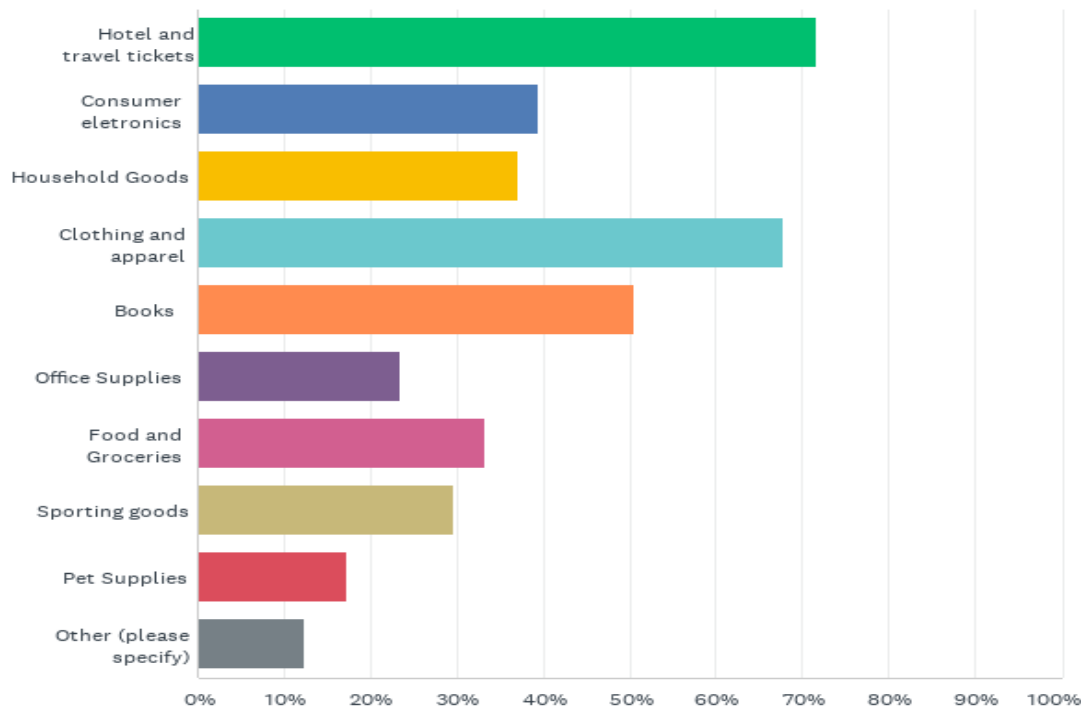


Table 7 provides us with an interesting insight into the online shopping habits of the respondents. The question measures the most common items and services purchased online. Over 70% of respondents reported that they purchase hotel and travel services online, with this being the leading product bought online amongst the respondents surveyed. 67% of respondents stated they regularly buy items of clothing online.

Other popular products bought online include books (51%), consumer electronics (40%) and household goods (37%).

Crossing those results with the opened question that the participants should address their issues regarding online shopping, the majority of the answers enhanced that people had problems with delayed flights, with flights that were cancelled due to the pandemic and others. The travel restrictions were and are still strict during COVID times, therefore, the respondents had a lot of issues regarding their travel tickets, and some of them did not succeed when trying to reschedule the flights.

**Table 8: Have you noticed an increase in online shopping since the pandemic started?**

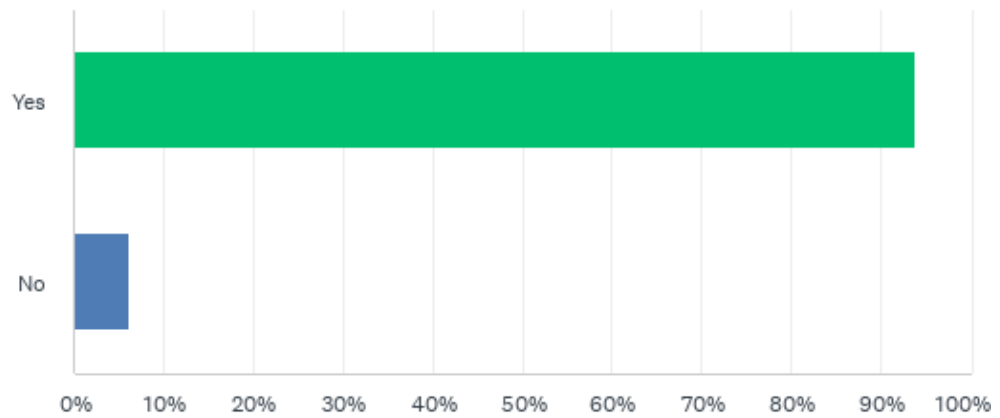


Table 8 displays respondent’s perceived attitudes towards online shopping frequency since the onset of the Covid-19 pandemic. Over 90% of the respondents indicated that they have noticed an increase in online shopping since the beginning of the pandemic.

55% of respondents reported problems shopping online, while the remainder, just over 45% said they had never had any problems with online purchases (Table 8).

**Table 9: Have you ever had problems shopping online?**

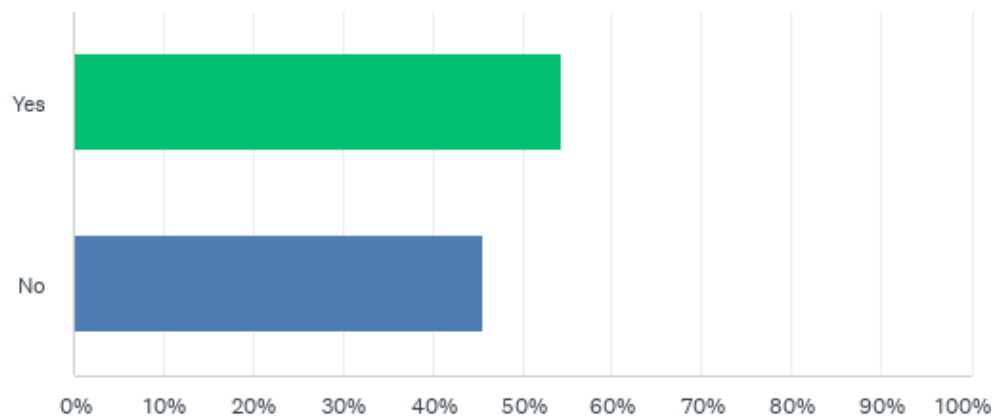


Table 9 asked if the participants ever had any problems shopping online. More than 50% answered ‘yes’ and more than 40% of the respondents answered ‘no’.

As well as they have noticed an increase in shopping online, it is natural that the problems would arise with it, especially because they were buying something without touching or seeing it previously. Some respondents answered in another question that the products that they acquired weren't good or that they had to exchange because it was broken. Those are some of the drawbacks that can be encountered while shopping online.

**Table 10: What is your native language?**

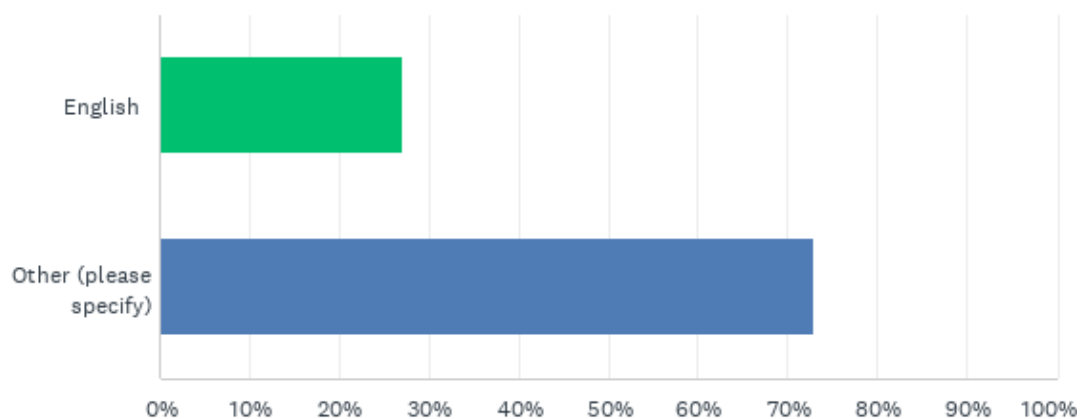
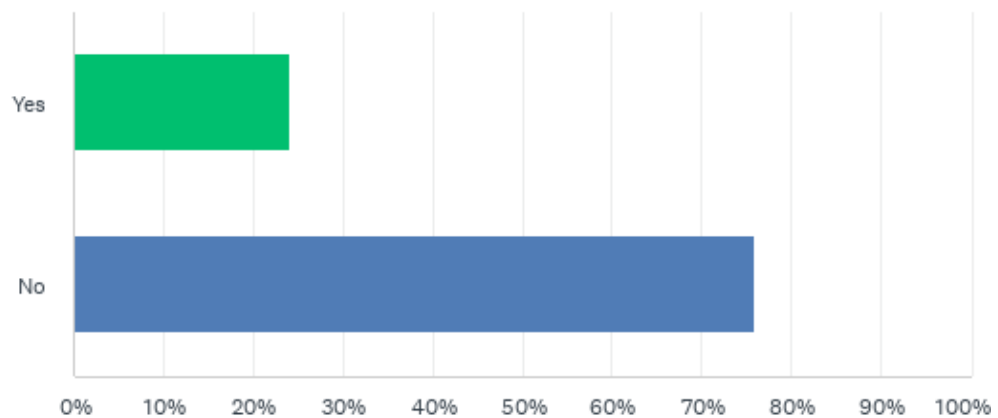


Table 10 illustrates the native language of the respondents. Given that the research englobed a lot of different nationalities because Ireland is a multicultural country, it is not a surprise that the majority of the respondents, more than 70% of them, don't have English as their mother language.

**Table 11: Have you ever encountered any language barrier when resolving online disputes?**



76% of respondents, or 3 in every 4 people surveyed, stated they have never encountered any language difficulties when resolving online disputes, according to *Table 10*. This could be explained by a number of factors – some of the respondents have never had to resolve an online dispute, thus never encountering a language difficulty in this regard. Alternatively, the high English level of respondent’s (both native and non-native speakers) may account for the low level of reported language issues when resolving online disputes.

This is intriguing given one of the other questions respondents were asked was about their native language. Almost 73% of respondents indicated that English was not their first language so we may have expected the language barrier to play a larger role in online dispute resolution.

**Table 12: Which procedure did you use to resolve your online dispute?**

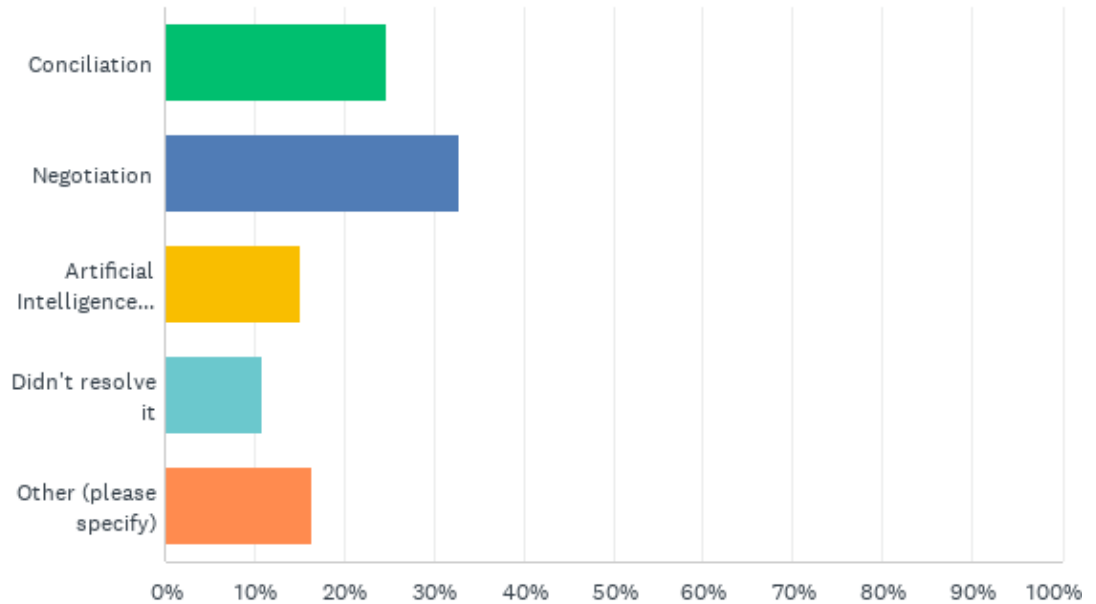


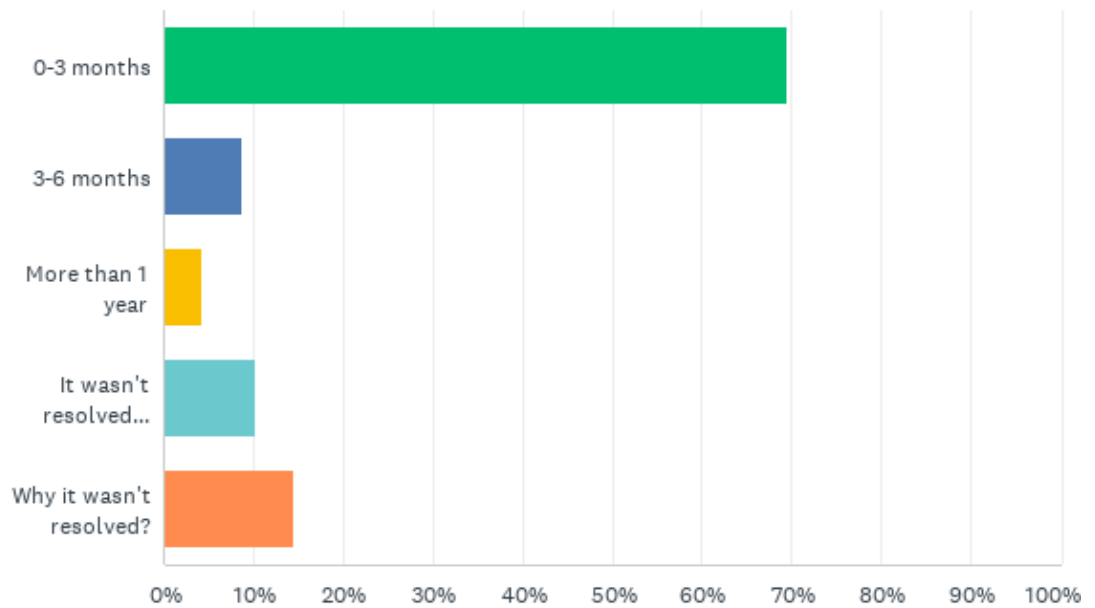
Table 12 gives us an insight into the forms of procedures which the respondents used to resolve online disputes that they have been faced with. The results show us that conciliation and negotiation are the two most common types of dispute resolution techniques employed, with 33% indicating they used negotiation and 25% intimating that conciliation provided a resolution to their online dispute.

AI accounted for 15% of dispute resolution techniques, while one in 10 respondents said that their online dispute went unresolved.

Using negotiation and conciliation as their main manners of dealing with the disputes, the participants show that they can be a little in doubt on whether using ODR is safe or not. As some people have the urge to deal with people face-to-face to resolve their problems, ODR can make them feel unsafe about having their issues addressed fully online through a screen.

AI option seemed to be a quicker option to 15% of the respondents to solve their issues and demands.

**Table 13: How long did it take to resolve your online issue?**

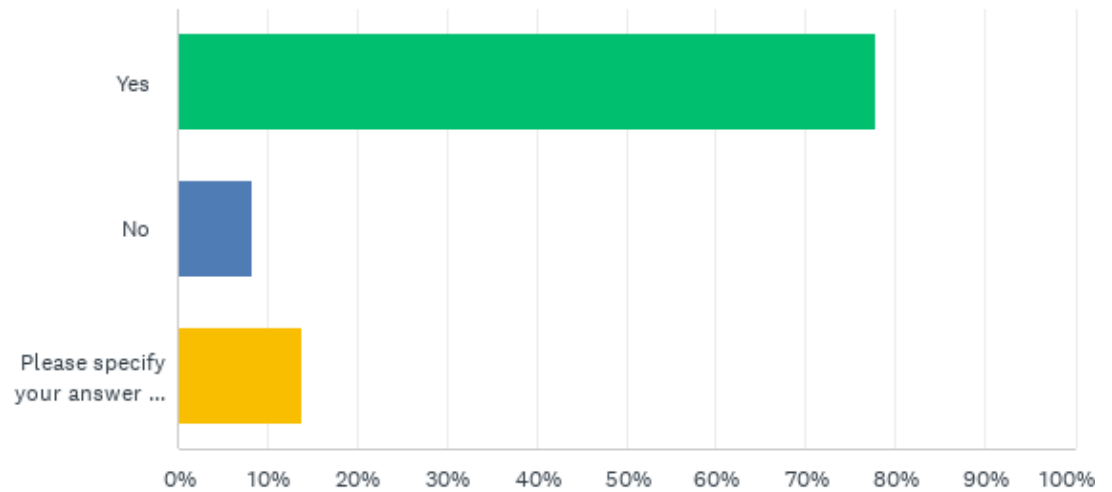


70% of respondents stated that their online dispute was resolved within 3 months of the dispute arising. 9% indicated it took between 3 and 6 months, while just 4% of respondents indicated it took more than one year to resolve their online dispute according to *Table 13*.

10% of respondents, as alluded to in *Table 12*, stated their dispute was left unresolved at the time of this survey. The reasons given for these unresolved disputes ranged from a lack of follow up from the respondent (5%) to a lack of suitable internet coverage in their homes (2%) during the period of the aforementioned dispute.

Within the 10% of the participants that answered that they didn't resolve their issues, one participant said that the process wasn't resolved because he tried it online and even still, it didn't get any solution and he ended up losing his capital.

**Table 14: Would you recommend ODR as a tool to solve online disputes?**



Regarding whether they would recommend ODR as a tool to resolve their online disputes, almost 80% of the participants said that they would recommend ODR as a useful tool. Some of them even said that they didn't have any knowledge about this area before, but by hearing that it would optimise their time and save them to go to court, they thought that it was worth to give it a goal and see how it actually works in practice.



## CONCLUSION

Technology is following the world fast-paced environment and this will continue to reflect on everybody's lives in various fields. In the conflict resolution area, the necessity of optimising the processes are becoming more and more appropriated. Due to the COVID-19 pandemic, a lot of businesses were compelled to go to the virtual atmosphere, and a lot of them performed well when they followed technology evolution. However, the researches lack on showing the consumers' perspective, having to learn how to use online tools to have access to different services, or how they don't feel safe having to fill up their information in online forms that they actually don't understand where is it being directed to, for example.

It is a fact that a good number of mediators are migrating to the online environment, but this doesn't mean that it is a peaceful place to be. As people are free to express their opinions and perspectives, the environment set space to all kinds of interactions, varying between amicable and/or angry interactions between the parties. The 'Fourth-party' (also known as technology tools), is evolving constantly, even though it is still in its early ages. ODR practitioners will have more tools to assist them to solve online conflicts as the fourth-party grows more proficiently.

As the area of online dispute resolution matures and expands, it is vital that we continue to watch and research the benefits and drawbacks that ODR can bring, covering all parties that may be involved in the process. It is important to take into account what can be risky in virtual mediation, how is it hard to trust something that you can only see through a screen, for example. Thus, consent and confidentiality are also essential topics to be respected and put into practice during the process.

When talking about Irish' perspective regarding ODR as a useful tool to conflict resolution, what can be conclude is that there is still little knowledge about how ODR actually works, even though people would recommend its use during the current times we are living in. The question is to know what is the missing piece on this perception: if they don't use it frequently because it is easier to use a process that is familiar to them (that is intrinsic to their comfort zone), or if it is because of the lack of training no how to use and trust this tool.

It is undeniable EU's effort to create platforms to deal with ODR in an easy way, however, as it has grown so fast and even multiplied with the pandemic, the lack of management within the companies involved on this development reflects on how long those initiatives can last. Among many doubts that can appear regarding ODR system, it is clear that the Fourth-party is here to stay, so it is up to all users to adapt and use it carefully, taking advantage of all the benefits and trying to halt the drawbacks that may occur along the way.

## **REFLECTIONS**

It is extremely important that individuals adapt to the challenging scenarios in life. As evident as it is an ever-growing field, ODR still needs to be spread and taught amongst consumers, sellers and ADR practitioners. Society can take advantages over the more adaptable environment provided by ODR and its approach to justice.

I believe that technology is out there to be used in the best possible way, so it is essential that we do it so, rather than keep comparing which one is the best. As regarding efficiency, it is important to clarify how ODR can assure confidentiality and data protection, in order to break paradigms or pre-concepts that are present in studies about this tool.

Notably, in the pandemic times, the world will never be the same as it was once, just like a lot of areas in our lives are changing constantly. If we can use technology to optimise processes, minimise distances, and solve our problems, then we are going to have more options available to address the issues satisfactorily. The extent that could measure how affective ODR can be will be a reflection of its use and the benefits that it can bring in our daily lives.

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## Appendices

### Appendix 1 – Steps on how to use EU Online Dispute Resolution platform

misunderstandings can spin out of control



## Online Dispute Resolution



### 4 STEPS TO BETTER BUSINESS

The Online Dispute Resolution platform helps you resolve disputes with consumers in 4 steps, online and out-of-court.

## How it works



Felipe isn't happy. The lamp he ordered from your website has just arrived in Madrid, but it doesn't match the online description. His problem is now your problem...



STEP

1

Felipe complains...



He sends his complaint via the platform, in his own language. You get it in your language, along with a list of dispute resolution bodies that can deal with the complaint.



Don't understand the procedure? Get in touch with your national contact point.



STEP

2

Agreement on a dispute resolution body...



You and Felipe have **30 days** to agree. You choose first, Felipe must then give his agreement.



Don't know your rights? Get in touch with your national contact point.



**You DON'T agree...**

The end. Your national contact point can provide alternatives. You lose the chance to sort things out easily online.



STEP

3

Case examined...



The dispute resolution body has **90 days** to find a solution.



**The body can't take on the case.**

The end. Turn to your national contact point for other options.



STEP

4

Case closed.



**A solution is found** and you and Felipe are informed. A once disappointed customer may now become a loyal one.

## WHAT TRADERS MUST DO

Selling goods or services online in the EU? EU law means you must:

- ✓ **Link** to the Online Dispute Resolution platform from **your website**.
- ✓ Put your **email** on your website.

If you have agreed to use a specific dispute resolution body or if such an agreement applies collectively to your sector, then you also have to:

- ✓ **Link** to the platform when you make an offer via **email**.
- ✓ Include information on the platform in your **contract terms and conditions**.

## Don't let misunderstandings spin out of control

Online Dispute Resolution Platform

<http://ec.europa.eu/odr>

More about business and Online Dispute Resolution in the EU

[http://europa.eu/youreurope/business/sell-abroad/resolving-disputes/index\\_en.htm](http://europa.eu/youreurope/business/sell-abroad/resolving-disputes/index_en.htm)