### Intergovernmental Group of Experts on Competition Law and Policy, Fifteenth Session

Geneva, 19-21 October 2016

#### **RPP Reseach and Partnership Platform**

Contribution

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#### **Escrow in E-commerce**

UNCTAD RPP Programme:
Best Practices of Consumer Redress



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### Consumers' concerns of distance transaction (comparing to vis-a-vis transaction)

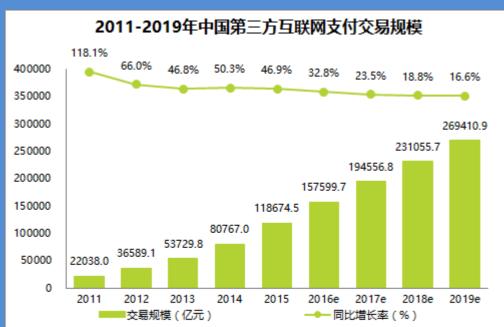
- What should I do if there is no delivery after I paid the money?
- What should I do if I'm not happy with the commodity I received?
- Can I get my money back if I do not want to the commodity?
- Who can help me if the seller refuse to refund me?



# Practice in China: Third-party Payment Solution (第三方支付)

 ——parties of distance consumer contract choose the "Third-party Payment Mode" as a payment method, the amount will be deposited by the consumer with a third party to be kept until obtain the consumer's grant after he received the goods without complaint, at which time it will be forwarded to the trader.





注释:1.互联网支付是指客户通过桌式电脑、便携式电脑等设备,依托互联网发起支付指令,实现货币资金转移的行为;2.统计企业中不含银行、银联,仅指规模以上非金融机构支付企业;3.艾瑞根据最新掌握的市场情况,对历史数据进行修正。

来源:综合企业及专家访谈,根据艾瑞统计模型核算。

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### Escrow (托付)

Black's Law Dictionary (8th ed 2004)

 ---- "A legal document or property delivered by a promisor to a third party to be held by the third party for a given amount of time or until the occurrence of a condition, at which time the third party is to hand over the document or property to the promisee."



**B&C** sales contract

**B,C&E** escrow contract

C pay to E

**E** inform B for shipment

**C** received commodity

C not satisfied

C inform E

**C** satisfied

E pay to B

C retune commodity within cooling-off days

**B** inform E

**E** refund to C

C didn't received

C inform E not to pay

E refund to C



## Functions of the Escrow in E-commerce?

Constitute the payments

Guarantee the transactions

ODR (Online Dispute Resolution)



Dispute between B & C

C inform E to Freeze money

**E** automatic mediation

Resolved: achieved an agreement

Didn't resolved

E allocate the money

Human mediator involve

Resolved: achieved an agreement

E allocate the money



# criterions of effective consumer redress body

- fair
- accessible
- rapid
- low-cost (no-cost)



### Extra Merits of Escrow ODR

- Evidence gathering
- Enforcement
- Funding

#### DIGITAL ECONOMY POLICY LEGAL INSTRUMENTS





Consumer Protection in E-commerce

OECD Recommendation

41. Governments and stakeholders should work together to develop minimum levels of consumer protection for e-commerce payments, regardless of the payment mechanism used. Such protection should include regulatory or industry-led limitations on consumer liability for unauthorised or fraudulent charges, as well as chargeback mechanisms, when appropriate. The development of other payment arrangements that may enhance consumer confidence in e-commerce, such as escrow services, should also be encouraged.





### Thank you.



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