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Establishment of the National Online Alternative Dispute Resolution System in the Philippines

2017-2020 Work Plan



FOREWORD

This document sets out the work plan of the Department of Trade and Industry-Consumer Protection and Advocacy Bureau (DTI-CPAB), in collaboration with the DTI E-Commerce Office (ECO), for the establishment of a National Online Alternative Dispute Resolution (OADR) System from 2017 to 2020, in support of the ASEAN Strategic Action Plan on Consumer Protection (ASAPCP) 2016-2025 for the post ASEAN Economic Community (AEC).

This is submitted as a written contribution of the Department of Trade and Industry, Philippines for the Third Session of the Intergovernmental Group of Experts (IGE) on Consumer Protection Law and Policy.

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INTRODUCTION

The advent of digital commerce expanded the cross-border market considerably. With markets now borderless, the number of internet users has likewise increased and online shopping has become a worldwide trend in business-to-consumer (B2C) engagement. However, in the midst of a booming E-Commerce market, consumers are facing major disputes relative to online transactions.

By virtue of Republic Act No. 7394 or the Consumer Act of the Philippines, and Republic Act No. 9285 or the Alternative Dispute Resolution (ADR) Act of 2004, the Department of Trade and Industry (DTI) instituted a complaints-handling system which makes use of ADR techniques such as mediation and adjudication in resolving consumer complaints. With this, consumers are able to seek redress before the DTI even for those that are related to online transactions.

However, since the online world enables consumers and businesses to engage with each other wherever they are in the world, redress mechanisms should likewise be readily available for them at any time and any place. The DTI's answer to this is the National Online Alternative Dispute Resolution (OADR) System.

The OADR system will serve as the web-based consumer complaints portal of the country. It will automate the entire consumer complaints-handling process of the government by interlinking all the member agencies of the Consumer Network (ConsumerNet), or the group of government departments with consumer protection function, such as the *Bangko Sentral ng Pilipinas* (Central Bank of the Philippines), Department of Agriculture, Department of Energy, Department of Health, and National Telecommunications Commission, among others, to provide redress to those consumers who will file a complaint through the system wherever they may be in the world.

From the filing of a consumer complaint up to its resolution, every step will be done online and through the OADR system. Mediation conferences and necessary hearings for the adjudication process will also be conducted online to provide ease for the parties involved. Tracking of the status and ageing of complaints and generation of data and reports are also made easy for the DTI and other ConsumerNet member agencies once the system is in place.

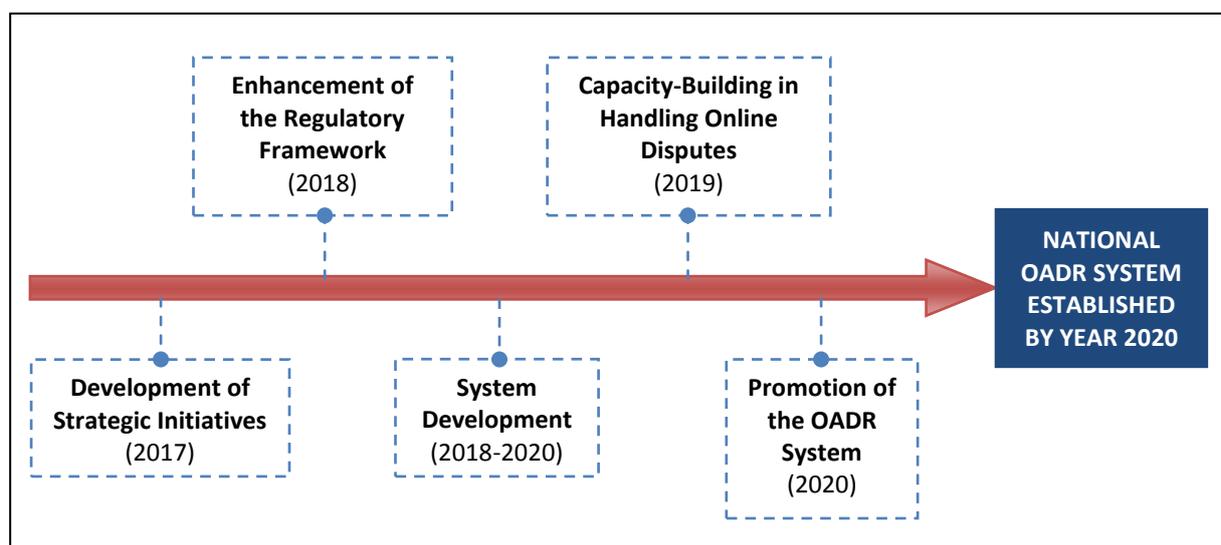
Further, the establishment of a National OADR System is a direct deliverable under the ASEAN Strategic Action Plan on Consumer Protection (ASAPCP) 2016-2025 for the post ASEAN Economic Community (AEC) 2025. Under strategic goal 3 of the said action plan which aims to institute a high consumer confidence in AEC and cross-border commercial transactions, each ASEAN Member State must establish its respective national OADR system by the year 2020 to increase accessibility to redress for a wider consumer base; offer a fast, simple, and low cost method for redress; and enhance consumer confidence in online transactions.

OBJECTIVES

This work plan aims to:

- a) Establish a national OADR system that serves as a central online channel or facility for consumers to file a complaint in to seek redress for any product or service purchased either online or offline from a business establishment located in the Philippines;
- b) Reinforce inter-agency coordination among the ConsumerNet for the effective implementation of the national OADR system and enhancement of consumer protection in the country, specifically in the area of digital commerce; and
- c) Harmonize the consumer complaints-handling process of the government for more efficient and speedier redress.

COMPONENTS



Development of Strategic Initiatives

To turn the vision into results, strategic initiatives must be developed to define specific actions that need to be taken within specific timelines to achieve the ultimate goal of establishing the national OADR system in the country.

The strategic initiatives must be achievable and reflective of realistic estimates for accomplishing the goal. Since the project may require changes in the operational processes of various government agencies, the initiatives must be collectively agreed upon by the DTI and other members of the ConsumerNet.

Strategic initiatives with defined objectives, scopes, measures, targets/deliverables, and timelines are an excellent start to have a common understanding of the end goal. In coming up with this, the DTI had conducted a workshop last 05-07 December 2017 in Tagaytay City, Philippines.

The workshop gauged the readiness of the government for OADR by discussing the current status of the existing redress mechanisms in the country, surfacing the challenges and gaps, and deriving solutions for the same.

Results of the workshop reflected that harmonizing the consumer complaints-handling processes of the ConsumerNet agencies is essential for the OADR system to work. In doing so, a common procedure for handling and resolving consumer complaints within a specified timeline will be established. For this purpose, the DTI will be conducting a second workshop within the second semester of 2018.

Enhancement of the Regulatory Framework

The foundation of an effective and well-functioning national OADR system is a well-established legal framework that provides a clear mandate for the concerned governmental agencies. This should identify and define their respective roles, duties, and responsibilities, including the procedures for consumer complaints-handling and resolution.

The framework should also include provisions on data privacy and protection, and restricting the use of such data for official purposes only. The procedures that will also be laid down must establish the independence, transparency, accessibility, effectiveness, and timeliness of the entire OADR process. In this way, consumers are able to trust and feel confident in using a redress system that is new and unfamiliar.

System Development

To operationalize OADR, the system which provides the framework for both technical and non-technical activities and processes needs to be established. During this phase, the entire design, specifications, and features of the national OADR system will be developed.

It should undergo thorough planning to determine the scope of the system, including the required resources, cost, and time needed to accomplish the project, and the benefits that can be reaped by its intended users. After which, system analysis must be conducted to determine the functional requirements of the system to ensure that it meets the expectations of its end users.

In terms of systems design, it should describe, in detail, the necessary specifications, features, and operations that will satisfy the functional requirements of the system. Several phases of testing must also be carried out before going live, or commencing its full implementation, to ensure that the system delivers, at an optimum level, the intended and expected results.

The system must also be adaptable and flexible to change. Thus, maintenance must be included in the development phase of the project to include room for fine-tuning, performance boosting, and adding of new capabilities and features to meet additional user requirements.

Capacity-Building in Handling Online Disputes

Disputes related to online transactions are relatively new and complex challenges being faced by consumers and consumer protection authorities alike. Capacity-building activities must be conducted to keep government technical officers abreast with the latest trends, developments, updates, and best practices on consumer protection, especially in today's digital economy.

It is vital for consumer protection authorities to be trained in using modern techniques and strategies in handling and investigating online disputes, specifically in determining and distinguishing legitimate online selling companies and websites from illegitimate ones.

Establishing a coordinated national OADR system requires highly-skilled and empowered government technical officers to effectively address complaints and protect consumers from fraudulent transactions and unconscionable business practices.

Promotion of the OADR System

To inform consumers that an OADR facility is made available for them, intensive, massive, and coordinated advocacy campaigns must be conducted to promote it as an alternative means for fast, easy, and convenient filing of consumer complaints.

The campaigns may be done using various media such as print, broadcast (television and radio), and social media. Business and consumer education seminars may also be conducted by the concerned government agencies to teach business establishments and consumers on how to access and use the system.

Regardless of the methodology used, the messaging must be clear, concise, and easy to understand, with much consideration for the vulnerable consumers such as the senior citizens and persons with disability (PWD) who may likely encounter difficulty in using the OADR system.

The government must understand that the OADR as an online facility may not be for everyone. Consumers with no access to the internet and no technical know-how in using web-based technology may require extra assistance and attention before they are convinced to make use of the system. Circumstances such as these must be put into consideration when coming up with advocacy campaigns and messaging.

ELEMENTS OF AN EFFECTIVE OADR SYSTEM

For an OADR system to be effective in facilitating consumer redress, it should at least have the following elements:

- a) It must be applicable for all types of transactions, be it done online or offline. An OADR system may be web-based but it should not discriminate on B2C transactions with a brick and mortar business, or online business.

- b) It should enable a three-way communication between the consumer complainant, business establishment, and mediator since OADR involves the conduct of mediation conferences via online.
- c) It must be user-friendly. Common understanding of its use, purpose, processes, and terminologies must be ensured among the consumers, businesses, and government.
- d) It must be accessible, fair, independent, transparent, effective, and timely in facilitating redress for consumers.

BENEFITS AND CHALLENGES OF OADR

Benefits	Challenges
<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Access to a wider consumer base <input checked="" type="checkbox"/> Fast, simple, and low cost method of resolving consumer disputes <input checked="" type="checkbox"/> Enhances consumer confidence in online transactions 	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> May not be accessible and user-friendly to vulnerable consumers <input checked="" type="checkbox"/> Varying consumer dispute mechanisms, procedures, and regulations per agency <input checked="" type="checkbox"/> Requires high-cost of developing the system (resource intensive)

THE CONSUMER NETWORK (ConsumerNet)

The national OADR system will serve as the Philippine government’s central hub for consumer complaints linking governmental agencies under a single system to effectively facilitate redress. Given the extensive members of the ConsumerNet, the DTI only identified the following agencies as the most critical governmental bodies to be on board of the initial phase of the project:

- a) Bangko Sentral ng Pilipinas
- b) Civil Aeronautics Board
- c) Department of Agriculture
- d) Department of Energy
- e) Department of Health
- f) Department of Information and Communications Technology
- g) Department of Tourism
- h) Department of Trade and Industry
- i) Energy Regulatory Commission
- j) Food and Drug Administration
- k) Housing and Land Use Regulatory Board
- l) Insurance Commission
- m) Land Transportation Franchising Regulatory Board
- n) National Telecommunications Commission
- o) Securities and Exchange Commission

Each of these government agencies will be given access to the OADR system so they can view, track, address, and update the status of consumer complaints that are filed before

them. As the proponent of the project and national consumer protection authority of the country, it is recommended for the DTI to be the super administrator of the system while focal points from each ConsumerNet member will be assigned as agency administrator.

To strengthen the cooperation among the Network, the DTI recommends the signing of a Memorandum of Agreement which will include, among others, the enrollment of each member agency into the national OADR system.