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

Geneva, 19-21 October 2016

RPP Research and Partnership Platform

Contribution

Ying Yu 于颖
University of Oxford

The views expressed are those of the author(s) and do not necessarily reflect the views of UNCTAD
Escrow in E-commerce

UNCTAD RPP Programme:
Best Practices of Consumer Redress

Ying Yu 于颖
University of Oxford
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 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.
2011-2019年中国第三方互联网支付交易规模

交易规模（亿元）

22038.0 36589.1 53729.8 80767.0 118674.5 157599.7 194556.8 231055.7 269410.9

同比增长率（%）

118.1% 66.0% 46.8% 50.3% 46.9% 32.8% 23.5% 18.8% 16.6%

注释：1. 互联网支付是指客户通过台式电脑、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。

©2016.3 iResearch Inc. www.iresearch.com.cn
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 satisfied
  - C inform E
  - E pay to B

C not satisfied
  - C return commodity within cooling-off days

C didn’t receive

C inform E not to pay
  - E refund to C

B inform E

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
E allocate the money

Didn’t resolved

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
 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.

ying.yu@law.ox.ac.uk