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Resolving travel agency disputes: integrating artificial intelligence in online mediation

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Abstract

The rapid proliferation of online travel transactions has elevated the risk of consumer disputes. Traditional litigation proves inadequate due to jurisdictional complexities, cost, and procedural delays. This article examines the legal and regulatory implications of integrating Artificial Intelligence (AI) into Online Dispute Resolution (ODR) mechanisms for travel agency disputes. Using a doctrinal legal methodology, the study analyses statutory frameworks, international instruments, and comparative regulatory models, with particular reference to Malaysia and the European Union. The findings reveal that while AI-driven ODR offers efficiency and accessibility, doctrinal reform is necessary to prevent the erosion of consumer rights. The article's original contribution lies in proposing a hybrid AI-human mediation framework that preserves algorithmic efficiency while safeguarding fairness, transparency, and accountability.

Keywords:

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1. Introduction

The tourism sector has undergone a significant transformation in recent years, with online travel agencies and booking platforms such as Booking.com and Agoda facilitating cross-border transactions for travellers worldwide. While these platforms enhance convenience by allowing users to easily compare prices, book accommodations, and access a variety of services, they simultaneously contribute to an increase in disputes (Emam & Abdelaal, 2021). Common issues include cancellations, misleading information regarding services provided, and refusal to process refunds, all of which can lead to dissatisfaction among consumers (Jevtic et al., 2020).

Travel agency disputes warrant scholarly attention because of their unique characteristics. Unlike conventional consumer disputes, travel-related conflicts often involve multiple intermediaries, time-sensitive services, and perishable contractual obligations such as hotel reservations or tour packages. Traditional legal remedies for resolving such disputes are often slow, expensive, and ill-suited to the complexities of international transactions. These remedies may involve lengthy litigation processes that not only strain the resources of the parties involved but also fail to address the unique challenges posed by cross-border legal differences and jurisdictional issues. The involvement of foreign service providers complicates issues of jurisdiction, applicable law, and enforcement, making traditional court-based remedies less effective in practice.

In contrast, online mediation, which is part of Online Dispute Resolution (ODR), presents a more accessible and cost-effective alternative for resolving travel agency disputes (Rule, 2020). By utilising technology to facilitate discussions between disputing parties, ODR can help reach resolutions without the need for formal court proceedings. ODR platforms offer speed, accessibility, and procedural flexibility, which are especially suited to low-value, cross-border consumer claims common in the tourism sector (Isaac, 2024).

The integration of artificial intelligence (AI) into ODR platforms employing tools such as chatbots, triage systems, and automated outcome recommendations holds potential for further streamlining the dispute resolution process (Alessa, 2022). These AI-driven technologies can assist consumers in navigating the complexities of disputes more efficiently. However, the adoption of automation in mediation raises important doctrinal concerns that must be carefully considered. Key issues related to fairness, transparency, consent, and the enforceability of AI-assisted resolutions are critical for evaluating the effectiveness and reliability of these systems. Contemporary literature highlights unresolved issues related to procedural fairness, transparency of algorithmic decision-making, informed consent, data protection, and the legal enforceability of AI-facilitated settlement outcomes (Radanliev, 2025). These concerns are particularly acute in travel agency disputes, where power imbalances between large digital platforms and individual consumers may be exacerbated by opaque, automated processes.

This study aims to examine these profound issues using a doctrinal legal research methodology, which involves a thorough analysis of relevant legal instruments, ethical principles, and academic commentary. The focus is on evaluating how existing legal frameworks address the challenges of AI-assisted mediation, specifically within the context of travel agency disputes. Furthermore, this examination highlights the necessary reforms that may be required to enhance the efficacy of these systems, ensuring that they can deliver equitable outcomes while maintaining the essential principles of justice and accountability in an increasingly digital world. Ultimately, this study argues that without doctrinal reform, AI-driven mediation risks undermining consumer rights and proposes a hybrid AI-human mediation framework that safeguards fairness and justice.

2. Legal framework

The legal foundations of ODR are primarily derived from the United Nations Commission on International Trade Law (UNCITRAL) Technical Notes on ODR and the European Union (EU) framework governing consumer dispute resolutions. The UNCITRAL Technical Notes establish a set of non-binding procedural standards designed to facilitate accessible, efficient, and low-cost dispute resolution for cross-border electronic transactions (UNCITRAL, 2017). However, their voluntary nature limits enforceability and results in inconsistent implementation across jurisdictions (Brand, 2023). This has raised concerns regarding the uniformity of procedural safeguards and consumer protection standards in ODR systems.

Within the European Union, Regulation (EU) No. 524/2013 introduced the ODR platform to facilitate consumer dispute resolution arising from online transactions. However, recent evaluations have revealed limited practical effectiveness, with relatively low rates of successful referrals to Alternative Dispute Resolution (ADR) bodies despite substantial platform usage (European Commission, 2023). Consequently, the European Commission proposed repealing the ODR Regulation and strengthening alternative consumer redress mechanisms (European Commission, 2023). These developments suggest that the existence of an ODR platform alone is insufficient to ensure effective dispute resolution without meaningful stakeholder participation and enforcement mechanisms (Riepin, 2024).

In comparison, several Asia-Pacific jurisdictions have adopted more integrated approaches to ODR. Singapore, China, and South Korea have embedded ODR mechanisms within broader e-

commerce and consumer protection frameworks, thereby improving procedural coordination and accessibility for consumers (Jun, 2021). Research indicates that institutional support, technological infrastructure, and consumer-centred platform design significantly enhance trust and participation in online dispute resolution processes (Jun, 2021).

In the context of travel disputes involving flight cancellations, accommodation refunds, and package tour disruptions, these regulatory differences have significant practical implications. Consumers frequently face jurisdictional barriers when seeking redress from cross-border travel service providers. Although existing ODR frameworks improve access to dispute resolution, substantial gaps remain in terms of the enforceability of outcomes and cross-border compliance (Brand, 2023). This highlights the need for a more harmonised legal framework capable of supporting travel-related consumer disputes in an increasingly digital marketplace.

2.2 AI in travel ODR

Recent developments in AI have significantly transformed the operational capabilities of ODR. AI technologies, including natural language processing, machine learning, and large language models (LLMs), are increasingly used for dispute intake, automated triage, outcome prediction, and mediation assistance (Westermann et al., 2023). These technologies have demonstrated considerable potential in reducing processing times and improving the efficiency of high-volume consumer disputes (Alessa, 2022). Studies have further suggested that AI-assisted mediation systems can facilitate communication between disputing parties and improve settlement rates in online environments (Westermann et al., 2023).

Despite these advantages, there are significant legal and ethical concerns. Algorithmic decision-making may introduce biases that undermine procedural fairness, particularly when dispute outcomes affect vulnerable consumers (Zelevnikow, 2021). Scholars have consistently emphasised that transparency, explainability, and accountability are essential prerequisites for the legitimate deployment of AI in dispute resolution processes (Tan et al., 2024). Without adequate explanations regarding how recommendations or decisions are generated, consumers may be unable to effectively challenge outcomes, thereby compromising procedural justice and due process (Zelevnikow, 2020).

These concerns are particularly relevant in travel disputes, where AI systems may be used to assess refund eligibility, compensation claims, or cancellation requests. In the context of online mediation for travel disputes, concerns over algorithmic fairness directly affect refund and cancellation claims because consumers may be denied compensation based on non-transparent decision-making criteria (Tan et al., 2024). Consequently, while AI can enhance efficiency, excessive reliance on automated processes without meaningful human oversight may weaken consumer trust and challenge the legitimacy of ODR outcomes (Alessa, 2022).

The current literature predominantly focuses on the technological capabilities of AI-assisted dispute resolution (Westermann et al., 2023; Tan et al., 2024). However, limited research has examined how AI-driven ODR systems can be aligned with consumer protection principles, specifically within the travel industry. This represents a significant research gap that warrants further investigations.

2.3 Consumer protection in travel industry

Consumer protection frameworks emphasise fairness, transparency, informed consent, and access to effective redress mechanisms. These principles are reflected in international instruments, such as the OECD Consumer Policy Framework (OECD, 2011), and domestic

legislation, such as the UK Consumer Rights Act 2015. While these principles were originally developed for traditional consumer transactions, their application to AI-enabled ODR systems presents novel regulatory challenges (Riepin, 2024).

The travel industry presents a particularly complex environment for consumer protection because of the prevalence of cross-border transactions involving airlines, online travel agencies, accommodation providers, and package tour operators. Travel disputes commonly involve refund delays, service cancellations, overbooking, misleading representations, and force majeure events, all of which require accessible and efficient dispute resolution mechanisms (Cortes, 2017). ODR has emerged as a practical solution because it enables consumers and service providers located in different jurisdictions to resolve disputes remotely and cost-effectively (UNCITRAL, 2017).

However, the integration of AI into travel-related ODR systems raises additional concerns regarding accountability and enforceability. Where automated systems influence dispute outcomes, questions arise regarding the responsibility for erroneous recommendations or unfair outcomes (Alessa, 2022). Existing consumer protection laws generally assume human decision-makers and may not adequately address situations in which algorithmic systems substantially shape dispute resolution processes (Tan et al., 2024). Furthermore, there is limited guidance regarding the legal status of AI-assisted recommendations and the extent to which consumers may challenge automated determinations.

Accordingly, a regulatory gap exists between traditional consumer protection principles and the practical realities of AI-driven ODR mechanisms in the travel industry. Although existing frameworks provide general safeguards, they do not comprehensively address algorithmic transparency, accountability, and explainability in travel-related dispute resolution (Riepin, 2024). This gap highlights the need for a specialised governance framework capable of balancing technological innovation with effective consumer protection in AI-assisted ODR for travel dispute resolution.

3. Research methodology

This study adopts a doctrinal legal research methodology to examine the legal implications of integrating AI into ODR mechanisms for travel agency dispute resolution. A doctrinal approach is particularly appropriate because this research focuses on analysing existing legal rules, principles, and regulatory frameworks governing AI-assisted mediation rather than evaluating technological performance or user behaviour. This methodology enables a systematic assessment of whether current legal frameworks adequately address emerging issues relating to consumer protection, procedural fairness, accountability, transparency, and the enforceability of AI-assisted dispute resolution processes.

The analysis is based on both primary and secondary sources. Primary sources include international and domestic legal instruments relevant to ODR, consumer protection, electronic transactions and data governance. These include the UNCITRAL Technical Notes on Online Dispute Resolution, Regulation (EU) No. 524/2013 on Consumer ODR, the General Data Protection Regulation (GDPR), the Electronic Commerce Act 2006 (Malaysia), the Personal Data Protection Act 2010 (Malaysia), and relevant principles of contract and consumer law. Judicial authorities and established common law doctrines concerning procedural fairness, informed consent, and contractual validity are also examined in this study. Secondary sources comprise academic literature, legal commentaries, policy documents, and contemporary scholarship published between 2019 and 2025, relating to AI governance, online dispute resolution, consumer rights, and digital justice.

The Doctrinal Research Matrix presented in Table 1 demonstrates the systematic and rigorous methodological foundation underpinning this study. Through a structured examination of relevant statutes, regulatory instruments, judicial authorities, and comparative frameworks governing online dispute resolution, consumer protection, data governance, and contract law, the analysis reveals that travel-related consumer disputes are marked by significant regulatory fragmentation, jurisdictional complexity, and procedural challenges, particularly in the context of cross-border travel. These doctrinal findings provide a critical legal justification for examining the role of AI as a decision-support mechanism in ODR processes. Importantly, the matrix ensures that any proposed integration of AI into mediation frameworks remains firmly anchored in established legal principles, reinforcing transparency, informed consent, procedural fairness, and accountability while avoiding any encroachment upon judicial discretion, statutory mandates, or the legal authority of human mediators.

4. Doctrinal legal analysis

The doctrinal analysis focuses on four principal areas relevant to AI-assisted mediation in travel disputes: transparency and explainability, informed consent and procedural fairness, data protection and jurisdictional challenges, and the legal status of AI-assisted settlement agreements. Particular attention is given to travel-related disputes involving cancellations, refunds, accommodation bookings, and package tour services, where cross-border transactions frequently create barriers to effective consumer redress. A comparative analysis of regulatory developments in the European Union and Malaysia was conducted to identify regulatory gaps and evaluate the suitability of existing legal safeguards.

4.1 Transparency and availability

AI decisions must be explainable, particularly under Article 22 of the General Data Protection Regulation (GDPR), which underscores the imperative to restrict fully automated decision-making processes that could significantly affect individuals' lives. This position is reinforced by the Court of Justice of the European Union (CJEU) in *SCHUFA Holding* (Case C-634/21, 2023), where the Court held that automated credit scoring which effectively determines contractual outcomes, constitutes automated decision-making under Article 22 GDPR, thereby triggering data subjects' rights to meaningful information and safeguards. Similarly, in *Dun & Bradstreet Austria* (Case C-203/22, CJEU, 2025), the Court affirmed that data subjects are entitled to receive sufficiently precise and intelligible explanations of the logic involved in automated decision-making, even where trade secrets are claimed, establishing the general rule that algorithmic opacity cannot override transparency obligations under the GDPR. This regulation mandates that individuals possess the right to obtain human intervention when decisions have substantial consequences. Comparable concerns are evident in *State v. Loomis* (Wisconsin Supreme Court, 2016), where the court recognised the risks posed by opaque risk-assessment algorithms in criminal sentencing, articulating the general principle that algorithmic tools must not undermine due process or an individual's ability to challenge decisions affecting fundamental rights. Consequently, organisations that utilise automated systems for decision-making must ensure transparency by providing consumers with clear and comprehensible information regarding the logic, significance, and potential ramifications of such decisions.

Table 1: Doctrinal legal research matrix on AI-assisted ODR in travel agency disputes

Legal instrument / case	Source title / citation	Source type	Significant analytical focus / contribution
UNCITRAL	UNCITRAL technical notes on online dispute resolution	International Instrument	Provides foundational principles for ODR systems, including accessibility, fairness, transparency, and effectiveness, forming the normative baseline for evaluating AI-assisted mediation mechanisms.
European Union	Regulation (EU) No. 524/2013 on Consumer ODR	Regulation	Establishes a centralised framework for cross-border consumer dispute resolution, demonstrating how ODR, consumer protection, and jurisdictional coordination can be integrated within a coherent regulatory structure.
European Union	General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679)	Regulation	Introduces strict obligations on transparency, data protection, and accountability, particularly under Article 22, which limits fully automated decision-making and mandates human intervention safeguards.
Parliament of Malaysia	Electronic Commerce Act 2006	Statute	Confirms the legal validity of electronically concluded contracts, supporting the enforceability of settlement agreements reached through AI-assisted ODR platforms.
Parliament of Malaysia	Personal Data Protection Act 2010 (Malaysia)	Statute	Regulates consent, disclosure, retention, and security of personal data, but highlights regulatory gaps due to the absence of explicit provisions governing AI-driven decision-making.
Common Law Doctrine	Principles of Procedural Fairness and Natural Justice	Legal Doctrine	Establishes that decisions affecting legal rights must comply with fairness, transparency, and the right to be heard, principles that are extended to AI-assisted dispute resolution processes.
<i>SCHUFA Holding AG v. Bundesrepublik Deutschland</i>	[2023] Case C-634/21, CJEU	Case Law	Automated credit scoring effectively determines contractual outcomes. constitutes automated decision-making under Article 22 GDPR
<i>Dun and Bradstreet Austria GmbH v. Bundesrepublik Deutschland</i>	[2025] Case C-203/22, CJEU	Case Law	Data subjects are entitled to receive sufficiently precise and intelligible explanations of the logic involved in automated decision-making, even where trade secrets are claimed
<i>State v. Loomis</i>	881 N.W.2d 749 [2016] Wisconsin Supreme Court	Case Law	The risks posed by opaque risk-assessment algorithms in criminal sentencing, articulating the general principle that algorithmic tools must not undermine due process or the individual's ability to challenge decisions affecting fundamental rights
<i>Mata v. Avianca, Inc.</i>	No. 21-cv-00650 [2023] United States District Court, S.D.N.Y	Case Law	The use of AI does not absolve human actors of their duty to ensure accuracy and reliability

Table 1: Doctrinal legal research matrix on AI-assisted ODR in travel agency disputes (continued)

Legal instrument / case	Source title / citation	Source type	Significant analytical focus / contribution
<i>R Rama Chandran v Industrial Court of Malaysia</i>	[1997] 1 MLJ 145 (CLJ; LexisNexis)	Case Law	Decision-makers must act fairly, give reasons, and allow affected parties a meaningful opportunity to understand and respond to decisions affecting their rights, a principle that is directly transferable to AI-assisted decision-making environments.
<i>Pengarah Tanah dan Galian, Wilayah Persekutuan v Sri Lempah Enterprise Sdn Bhd</i>	[1979] 1 MLJ 135	Case Law	Caution against mechanical or unreflective decision-making, underscoring the rule that discretion must be exercised with understanding, rationality, and accountability.
<i>Ketua Pengarah Kastam v Ho Kwan Seng</i>	[1977] 2 MLJ 152	Case Law	Systems influencing rights must be capable of scrutiny and justification
<i>LaPaglia v. Valve Corp.</i>	No. 23-cv-01111 [D. Wash. 2025]	Case Law	AI may be used only as an assistive technology. The adjudicative function including evaluating evidence, determining credibility, applying the law, and providing reasoned decisions must remain the responsibility of the human. Excessive reliance on AI that effectively delegates these functions may undermine procedural fairness, exceed the mandate, and jeopardise the validity of the decision.
<i>Thornton v Shoe Lane Parking Ltd</i>	[1971] 2 QB 163	Case Law	Contractual obligations could arise through automated transactions without direct human interaction at the moment of acceptance
<i>Ridge v Baldwin</i>	[1964] AC 40	Case Law	Affirms the fundamental requirement of procedural fairness in decision-making, providing doctrinal support for the need for transparency and human oversight in AI-assisted mediation.
<i>Lloyd v McMahon</i>	[1987] AC 625	Case Law	Clarifies that the content of procedural fairness varies by context but remains indispensable, reinforcing the need for adaptable safeguards in AI-assisted ODR systems.

To foster confidence in AI systems, it is vital for individuals to grasp the mechanisms behind decision-making processes and have avenues to contest or appeal those decisions when warranted. This concern is underscored by *Mata v. Avianca, Inc.* (United States District Court, S.D.N.Y., 2023), where the court imposed sanctions after an AI system generated fictitious case citations (“hallucinations”) that were relied upon without verification, holding that the use of AI does not absolve human actors of their duty to ensure accuracy and reliability. The general rule emerging from this decision is that accountability for AI-generated outputs remains firmly with human users, and automated systems must be subject to meaningful oversight to prevent misinformation from undermining the legal and ethical standards. This safeguard not only upholds individual rights but also promotes accountability in the deployment of AI, thereby fostering an ethical framework for the utilisation of technology in the field of law. The

implications of these regulations emphasise the essential need for human oversight in a landscape where AI is increasingly taking on a prominent role across various sectors, including finance and healthcare. Ensuring that automation is designed to complement rather than supplant human judgment facilitates a more balanced integration of technological advancements into society. Hence, there is a need for human intervention to verify, contextualise, and, where necessary, correct AI-generated outputs before they produce legal or significant effects on individuals.

Such an approach not only protects individual rights but also contributes to the development of a responsible and ethical environment surrounding AI, which is crucial as society navigates an increasingly automated future. As organisations adapt to these guidelines, they must actively engage with the ethical dimensions of AI technology to ensure that human values and societal norms are adequately reflected in automated processes. This ongoing dialogue will be essential for building a future in which technology and humanity coexist in a mutually beneficial manner, safeguarding against potential misuse of automation while enriching the human experience through thoughtful and responsible innovation.

Moreover, as societies become increasingly reliant on AI in decision-making processes, the emphasis on transparency and human oversight becomes increasingly vital. This concern resonates with long-standing Malaysian jurisprudence on procedural fairness, as affirmed by the Federal Court in *R Rama Chandran v Industrial Court of Malaysia* [1997] 1 MLJ 145 (CLJ; LexisNexis), where the Court held that decision-makers must act fairly, give reasons, and allow affected parties a meaningful opportunity to understand and respond to decisions affecting their rights, a principle that is directly transferable to AI-assisted decision-making environments. Organisations must invest in comprehensive training programs to equip personnel with the necessary understanding to accurately interpret AI-generated recommendations.

The importance of informed and competent decision-makers was similarly emphasised in *Pengarah Tanah dan Galian, Wilayah Persekutuan v Sri Lempah Enterprise Sdn Bhd* [1979] 1 MLJ 135, where the Federal Court cautioned against mechanical or unreflective decision-making, underscoring the rule that discretion must be exercised with understanding, rationality and accountability. Such training should not only focus on the technical aspects of AI but also underscore the ethical implications of its application. In addition, companies must establish mechanisms for regular audits of their automated systems to ensure compliance with established ethical standards and regulatory requirements. This mirrors the judicial insistence on accountability articulated in *Ketua Pengarah Kastam v Ho Kwan Seng* [1977] 2 MLJ 152, where opaque and unreasoned decision-making was held to undermine legality and legitimacy, reinforcing the general rule that systems influencing rights must be capable of scrutiny and justification. As technology continues to evolve and become more sophisticated, there must be a concerted effort to engage diverse stakeholders in discussions surrounding the deployment of AI. By incorporating a wide range of perspectives, including those of ethicists, technologists, and the communities affected by these decisions, organisations can better anticipate the societal impact of their automated systems. This integrative approach not only mitigates the risks associated with biased or flawed decision-making but also enhances the overall efficacy and acceptance of AI technologies.

Ultimately, a collaborative commitment to fostering transparency, accountability, and ethical practices in AI will not only uphold the rights of individuals but also advance the development of innovative solutions that benefit society as a whole. This conclusion is consistent with Malaysian administrative law principles, which recognise that legitimacy in decision-making flows not merely from efficiency but from fairness, accountability, and reasoned justification, as consistently reaffirmed across Federal Court jurisprudence (Rama Chandran, 1997; Ho Kwan Seng, 1977). By prioritising these principles, we can move towards a future rich with

opportunities created by responsible AI, paving the way for advancements that truly enhance human well-being while safeguarding against detrimental outcomes.

4.2 Informed consent and procedural fairness

The use of AI in ODR raises important questions regarding informed consent and procedural fairness. Under traditional contract law principles, a valid agreement requires genuine consent, mutual assent (*consensus ad idem*), and an adequate understanding of the terms agreed upon (Stone & Devenney, 2022; Section 10 & 14, Contracts Act 1950). Although AI may facilitate negotiations and generate settlement recommendations, the fundamental legal requirements governing contractual consent remain inapplicable. Accordingly, parties must possess a sufficient understanding of the terms and implications of any settlement agreement reached through AI-assisted processes.

A key concern arises when AI systems operate through opaque or “black-box” algorithms. If users cannot understand the basis on which settlement recommendations are generated, questions may arise as to whether consent is truly informed. This concern is particularly significant in consumer disputes involving tourism services, where consumers may rely heavily on automated recommendations without possessing sufficient legal or technical knowledge to evaluate outcomes independently. Contemporary scholarship similarly emphasises that procedural fairness in AI-assisted decision-making depends on transparency, explainability, accountability, and the availability of mechanisms for human oversight and review (Coglianese & Lai, 2021; Sourdin, 2021).

This issue also engages the broader common law doctrine of natural justice. In *Ridge v Baldwin* [1964] AC 40, the House of Lords affirmed that decisions affecting individual rights must be made in accordance with procedural fairness. Similarly, in *Lloyd v McMahon* [1987] AC 625, the court recognised that although the content of fairness varies according to context, fairness remains an indispensable element in any decision-making process. While these cases arose within administrative law, the underlying principles are equally relevant to AI-assisted dispute resolution mechanisms, where automated recommendations may significantly influence settlement outcomes.

Concerns regarding algorithmic transparency have attracted increasing attention from scholars. The inability of users to scrutinise the reasoning process underlying AI-generated outcomes may undermine their confidence in the legitimacy of settlements and increase the likelihood of post-settlement disputes. Accordingly, AI-assisted ODR systems should incorporate explainability mechanisms, disclosure obligations, and opportunities for human review to ensure that settlement agreements are reached voluntarily and with a sufficient understanding of their implications (Sourdin, 2021).

From the Malaysian perspective, procedural fairness is recognised as a fundamental legal principle. This principle has been firmly affirmed by the Federal Court in *R Rama Chandran v Industrial Court of Malaysia* [1997] 1 MLJ 145 (LexisNexis; CLJ), where the Court held that decision-makers must act fairly, give reasons, and allow affected parties a meaningful opportunity to be heard, establishing the general rule that procedural fairness is indispensable even when decisions are made within statutory or institutional discretion (Rama Chandran, 1997). The same commitment to fairness was reiterated in *Ketua Pengarah Kastam v Ho Kwan Seng* [1977] 2 MLJ 152, where the Federal Court emphasised that opaque or unreasoned decision-making undermines legitimacy, a principle that is directly relevant when decisions are influenced by automated or algorithmic systems (Ho Kwan Seng, 1977). The increasing reliance on automated dispute resolution mechanisms necessitates safeguards that ensure users are informed of the role played by AI, the factors considered in generating recommendations, and the

availability of human review where necessary. These safeguards are essential to preserve the legitimacy and enforceability of AI-assisted settlements while maintaining public confidence in digital justice mechanisms.

4.3 Data protection and jurisdiction

Cross-border tourism disputes frequently involve the collection, processing, storage, and transfer of personal data across jurisdictions. Consequently, issues related to privacy, cybersecurity, data sovereignty, and jurisdiction represent significant legal challenges for AI-assisted ODR systems. Within the European Union, the General Data Protection Regulation (GDPR) establishes a comprehensive legal framework that governs the processing of personal data. The GDPR incorporates the principles of lawfulness, transparency, purpose limitation, data minimisation, and accountability (European Union, 2016). The particular significance is Article 22, which grants individuals protection against decisions based solely on automated processing, where such decisions produce legal or similarly significant effects. This provision reflects the growing international concern regarding the implications of automated decision-making for individual rights and procedural fairness. This concern has been judicially affirmed in *SCHUFA Holding* (Scoring), where the Court of Justice of the European Union held that automated credit scoring which effectively determines contractual outcomes, falls within the scope of Article 22 GDPR, thereby triggering heightened transparency obligations and safeguards against unreviewable algorithmic decision-making. Similar principles were reinforced in *Dun & Bradstreet Austria*, where the Court ruled that data subjects are entitled to meaningful information about the logic involved in automated decision-making, establishing the general rule that claims of trade secrecy can cannot justify algorithmic opacity where individual rights are at stake.

In Malaysia, personal data protection is primarily governed by the Personal Data Protection Act 2010 (Act No.709). Although the Act imposes obligations related to consent, disclosure, retention, and security of personal data, it does not specifically regulate AI-driven decision-making processes or algorithmic dispute resolution. The regulatory gap mirrors concerns observed in other jurisdictions, as illustrated in *Mata v. Avianca, Inc.*, where reliance on AI-generated outputs containing fabricated legal authorities resulted in judicial sanctions, affirming the general principle that responsibility and liability for AI-assisted processes remain with human actors. The absence of explicit legal safeguards creates uncertainty regarding liability, transparency obligations, and remedies available to consumers affected by AI-generated results.

Jurisdiction presents an additional challenge in cross-border tourism dispute resolution. Traditional private international law principles generally determine jurisdiction through territorial connections, contractual choice-of-law clauses and forum selection agreements (Briggs, 2019). However, AI-assisted ODR platforms frequently operate across multiple jurisdictions simultaneously, making it difficult to identify the applicable law and competent forum for enforcement. The borderless nature of digital dispute resolution therefore challenges conventional jurisdictional doctrines and may complicate the recognition and enforcement of settlement agreements.

In comparison, the European Union has established a more comprehensive framework through Regulation (EU) No. 524/2013 on Consumer ODR, which created a centralised platform for resolving cross-border consumer disputes. The framework demonstrates how consumer protection, data protection, and dispute resolution mechanisms can be integrated within a coherent regulatory structure. Malaysia currently lacks a comparable statutory framework governing AI-assisted ODR, particularly in the tourism sector. Consequently, legislative reform may be necessary to address jurisdictional uncertainty, cross-border data transfers, and accountability obligations applicable to ODR platform operators in the EU.

4.4 Legal status of AI-generated settlements

The legal status of AI-generated settlements remains uncertain within the existing contract law frameworks. Under common law, a legally enforceable contract requires an offer, acceptance, consideration, intention to create legal relations, and certainty of terms (McKendrick, 2024). Although AI technologies may facilitate negotiations and propose settlement outcomes, they do not possess legal or contractual capacity. Consequently, AI cannot independently create legally binding agreements. This position was illustrated in *LaPaglia v. Valve Corp.* (2025), where the plaintiff challenged the enforceability of an arbitration agreement formed through an automated online system operated by the defendant, arguing that the process lacked meaningful human involvement and informed consent. The court held that while automated systems may be used to streamline contracting processes, enforceability ultimately depends on demonstrable human assent and comprehension of contractual terms, particularly where algorithmic interfaces are employed. The general rule emerging from this decision is that AI-driven or automated contracting mechanisms cannot displace the requirement of human intention and accountability, reaffirming that legal responsibility for consent and contractual formation remains with the human party deploying the system, not the AI.

Therefore, the question is not whether AI itself can contract but whether agreements facilitated through AI satisfy traditional contractual requirements. Judicial authorities have long recognised the validity of contracts concluded through automated systems. In *Thornton v Shoe Lane Parking Ltd* [1971] 2 QB 163, Lord Denning acknowledged that contractual obligations could arise through automated transactions without direct human interaction at the time of acceptance. This decision demonstrates that the law can recognise agreements formed through technological processes, provided that the essential elements of contract formation are present.

From a Malaysian perspective, the Electronic Commerce Act 2006 further supports the legal recognition of electronically concluded transactions in Malaysia. Section 12 expressly provides that contracts shall not be denied legal effect solely because electronic messages are used in their formation. This provision suggests that settlement agreements concluded through ODR platforms may be legally enforceable, provided that the essential elements of contract formation are satisfied in the agreement.

Nevertheless, AI-generated settlements introduce additional concerns related to accountability, transparency, and liability. When an AI system produces biased recommendations or inaccurate outcomes, uncertainty may arise regarding the responsibility for the resulting losses. Questions may arise as to whether liability should be attributed to the software developer, platform operator, mediator, or disputing parties. Existing legal doctrines concerning negligence, professional responsibility, and contractual liability may provide partial solutions, but they were not designed specifically to address autonomous decision-support technologies (DSTs).

Accordingly, AI should be regarded as a decision support mechanism rather than an autonomous legal actor. A hybrid model combining AI-assisted negotiation with human mediator oversight offers the most sustainable legal approach. Such a model preserves the efficiency benefits associated with AI while ensuring compliance with the established principles of consent, procedural fairness, accountability, and consumer protection. This also aligns with emerging international scholarship advocating a human-centred approach to the governance of AI within dispute resolution systems (Sourdin, 2021).

5. Discussion

As the digital landscape continues to evolve, the implications for dispute resolution in the tourism sector become increasingly pronounced. Consumers increasingly rely on digital platforms for

their travel needs, involving cross-border service providers, automated booking systems, and standard-form digital contracts, which can create a myriad of challenges when problems arise. When disputes such as contractual cancellations, protracted refund processes, misleading accommodation descriptions, or non-performance of package tour services arise, consumers often encounter fragmented complaint mechanisms and jurisdictional uncertainty. Consequently, traditional dispute resolution methods may fall short of meeting the expectations of a rapidly changing marketplace. In this context, ODR has emerged as a pragmatic response to the inefficiencies of traditional litigation processes. The integration of ODR not only addresses the need for efficiency but also raises critical questions about the adequacy of current regulatory frameworks in protecting consumer rights in the digital age.

AI integration enhances procedural efficiency in travel-related disputes, particularly in administrative and operational practices. AI-assisted systems can be used for early stage dispute triage, automated classification of claims, identification of applicable legal norms, and generation of settlement ranges based on comparable cases involving refunds or service failures. In cross-border tourism disputes, such tools may assist consumers in navigating complex regulatory environments by providing standardised information and structured negotiation pathways.

However, this advancement also introduces significant doctrinal risks that merit careful consideration by the medical community. Notably, issues such as opacity, bias, and diminished user agency are critical concerns arising from reliance on AI technologies. The lack of transparency surrounding AI algorithms can obscure decision-making processes, making it challenging for users to comprehend how outcomes are derived. This ambiguity can lead to a decrease in trust and accountability, which are essential components of effective governance and service delivery; therefore, the benefits of AI-assisted systems must be balanced against significant legal risks, particularly where algorithmic processes lack transparency or meaningful human oversight.

Moreover, the inherent biases present in AI systems can perpetuate existing inequalities and injustices, as algorithms trained on historical data may reflect and amplify societal biases. Such biases can result in the unfair treatment of certain groups, raising ethical questions about the fairness and equity of AI-driven processes. It is crucial to recognise that the implications extend beyond individual cases; unchecked biases can contribute to systemic disparities across society, necessitating active measures to mitigate the risk of travel agency disputes.

Additionally, the increasing reliance on automated systems in the resolution of disputes between consumers and travel agencies may significantly diminish consumer agency, particularly in cases where decisions concerning cancellations, refunds, or compensation are generated through algorithmic processes. In such circumstances, consumers may find themselves distanced from decision-making processes that directly affect their legal rights and financial interests, particularly in low-value and cross-border travel disputes. This erosion of consumer autonomy presents a substantial legal and ethical challenge, as consumers may be subjected to algorithmic determinations without adequate understanding, meaningful participation or access to human review. The complexity of these dynamics underscores the need for a multidisciplinary approach that integrates consumer protection perspectives, technology ethics, and digital governance to ensure that AI use in travel dispute resolution remains fair, transparent, and consumer-centred.

Transparency and informed consent remain central concerns in AI-assisted ODR. In travel disputes, consumers may rely heavily on automated settlement recommendations generated by opaque algorithms, especially when there is a power imbalance between individual consumers and large digital travel platforms. If users are not adequately informed about the role of AI, the data inputs considered, or the logic underpinning settlement outcomes, the legitimacy of consent may be undermined. This risk is particularly acute in low-value tourism disputes, where consumers may prioritise speed over scrutiny and potentially accept unfavourable outcomes without fully understanding their legal implications.

Furthermore, the legality of AI-mediated outcomes remains unresolved on an international scale. Different jurisdictions are grappling with the creation of robust legal frameworks that adequately address the complexities of AI technologies. This regulatory uncertainty raises critical legal questions regarding liability, accountability, and regulatory oversight, particularly in cross-border consumer disputes. In this regard, the European Union's consumer ODR regime, when read alongside its data protection and automated decision-making safeguards, demonstrates a more integrated and coherent approach to transparency, accountability, and cross-border consumer redress than the US's. In contrast, the Malaysian legal framework governs electronic transactions and personal data protection in a more fragmented manner and does not expressly regulate AI-assisted dispute resolution. This divergence is especially significant in the tourism sector, where disputes frequently involve EU-based digital travel platforms and Malaysian consumers, exposing regulatory gaps related to jurisdiction, accountability, and enforceability. Although the EU framework is not directly transferable, it provides a valuable benchmark by illustrating how consumer protection, data governance, and ODR mechanisms can be harmonised within a unified regulatory structure.

Concerns regarding algorithmic bias and diminished user agency further reinforce this need for caution. AI systems trained on historical dispute data may replicate structural imbalances, such as favouring standard industry practices over individual consumer narratives. In the context of travel disputes, this could systematically disadvantage consumers seeking refunds or compensation due to travel disruptions. Without safeguards, increasing reliance on automated recommendations may marginalise human judgment and reduce opportunities for contextualised dispute resolution.

Thus, while the potential benefits of integrating AI into dispute resolution mechanisms are substantial, the findings of this study indicate that AI-assisted ODR in tourism disputes must be approached with caution. Although AI technologies can improve efficiency, accessibility, and cost-effectiveness in dispute resolution processes, their increasing use raises important concerns regarding transparency, procedural fairness, accountability, consumer autonomy, data protection, and the enforceability of dispute outcomes (Sourdin, 2021; Rajendra & Thuraisingam, 2022). These concerns are particularly significant in tourism disputes, which frequently involve cross-border transactions, multiple legal jurisdictions, digital platforms, and asymmetrical relationships between consumers and service providers. Consequently, the effectiveness of AI-assisted ODR cannot be evaluated solely based on technological performance; it must also be assessed in light of its ability to safeguard consumer rights and maintain public confidence in digital dispute resolution processes.

The analysis further demonstrates that significant regulatory and doctrinal uncertainties remain. In particular, questions persist regarding the extent to which AI-generated recommendations should influence dispute outcomes, the level of transparency required in automated decision-making processes, the adequacy of existing safeguards against algorithmic bias, and the legal status of settlements reached through AI-assisted mechanisms. Furthermore, the increasing reliance on automated technologies in dispute resolution highlights the need to balance technological innovation with established legal principles, including procedural fairness, informed consent, accountability, and access to justice (UNCITRAL 2017). These challenges are compounded in the tourism sector, where disputes often involve diverse factual circumstances that may require contextual evaluation and human judgment beyond the capabilities of purely automated systems.

From a regulatory perspective, the comparative analysis undertaken in this study reveals that while the European Union has progressively developed a more integrated framework addressing consumer protection, data governance, transparency, and automated decision-making, Malaysia's existing legal framework remains fragmented and does not specifically regulate AI-assisted dispute resolution. Although legislation such as the Electronic Commerce Act 2006 and the Personal Data Protection Act 2010 provides a degree of legal recognition for electronic

transactions and data processing activities, important gaps remain in algorithmic accountability, human oversight, transparency obligations, and the enforceability of AI-assisted dispute resolution outcomes. These gaps may create uncertainty for consumers, tourism operators, and dispute resolution providers seeking to utilise AI-enabled technologies to resolve travel-related disputes.

The findings of this study suggest that the successful integration of AI into tourism dispute resolution requires a balanced approach that recognises both the opportunities and limitations of emerging technologies. While AI has the potential to enhance the efficiency and accessibility of ODR mechanisms, its implementation must be supported by appropriate legal safeguards that can protect consumer rights and ensure the legitimacy of dispute resolution outcomes. The identification of these regulatory and operational challenges provides the basis for the policy recommendations proposed in the following section.

6. Policy recommendations and future regulatory directions

The findings of this study demonstrate that while AI-assisted ODR offers significant potential to improve the resolution of tourism-related consumer disputes, its implementation must be accompanied by an appropriate legal and regulatory framework. The analysis reveals that Malaysia currently lacks a dedicated framework governing AI-assisted dispute resolution, particularly in terms of transparency, procedural fairness, data protection, and the enforceability of AI-assisted settlements. Accordingly, the following policy recommendations are proposed:

6.1 Establish a hybrid AI-human ODR framework for tourism disputes

Malaysia should adopt a hybrid AI-human ODR framework specifically designed for travel and tourism disputes. Under this model, AI systems should be limited to preliminary functions, such as complaint intake, dispute classification, document analysis, scheduling, and settlement recommendations, while the final decision-making authority remains with human mediators.

This approach is consistent with the principles outlined in the UNCITRAL Technical Notes on Online Dispute Resolution, which emphasises fairness, transparency, accountability, and access to justice in ODR systems (UNCITRAL, 2017). Furthermore, maintaining human oversight helps preserve procedural fairness and reduces concerns related to algorithmic bias, automated decision-making, and erosion of consumer autonomy (Sourdin, 2021).

As an initial step, the Ministry of Tourism, Arts, and Culture (MOTAC), in collaboration with the Ministry of Domestic Trade and Cost of Living (KPDN), should establish a pilot tourism ODR platform capable of handling disputes involving flight cancellations, accommodation services, package tours, refund claims, and cross-border tourism transactions.

6.2 Introduce statutory requirements for algorithmic transparency and accountability

The legitimacy of AI-assisted dispute resolution depends heavily on public trust. Consequently, regulatory standards should require ODR providers to disclose when AI is used, explain the role of AI in generating recommendations, and provide meaningful opportunities for users to challenge or review automated outcomes.

Transparency obligations are particularly important because opaque algorithms may undermine informed consent and procedural unfairness. Existing scholarship emphasises that explainability and accountability are essential safeguards in AI-enabled decision-making systems (Coglianese & Lai, 2021; Yeung, 2018). Accordingly, ODR providers should maintain documentation of

algorithmic processes, undertake regular independent audits, and implement procedures for identifying and mitigating algorithmic bias. Such measures would strengthen consumer confidence while ensuring that AI-assisted dispute resolution remains consistent with the objectives of consumer protection and access to justice.

6.3 Strengthen data protection safeguards for cross-border tourism disputes

Given the inherently international nature of tourism transactions, AI-assisted ODR platforms frequently process personal data in multiple jurisdictions. Therefore, Malaysia should strengthen the application of the Personal Data Protection Act 2010 (PDPA 2010) to AI-enabled dispute resolution mechanisms. Specific regulatory guidelines should require ODR providers to implement data-minimisation practices, cybersecurity safeguards, encryption measures, and transparent consent procedures. Particular attention should be paid to the management of personal data belonging to foreign tourists and the transfer of information across borders.

Malaysia may also draw lessons from Article 22 of the European Union General Data Protection Regulation (GDPR), which provides safeguards against decisions based solely on automated processing, where such decisions significantly affect individual rights (European Union, 2016). Adopting similar protections would enhance consumer trust and strengthen Malaysia's readiness for AI-assisted dispute resolution.

6.4 Clarify the legal status and enforceability of ai-assisted settlements

Uncertainty regarding the legal validity of AI-assisted settlements may discourage both consumers and businesses from using ODR mechanisms. Therefore, legislative clarification is necessary to confirm the enforceability of settlements reached through AI-assisted dispute resolution platforms. Malaysia already possesses a foundation for digital transactions through the Electronic Commerce Act 2006, which recognises the legal validity of electronically concluded agreements. However, additional guidance is required to address issues related to AI-generated recommendations, informed consent, accountability, and the role of human oversight. Clear legislative provisions would reduce legal uncertainty and provide greater confidence to tourism service providers, consumers, and ODR operators seeking to utilise AI-assisted dispute resolution processes.

6.5 Develop a national roadmap for AI-assisted tourism ODR

The successful implementation of AI-assisted Online Dispute Resolution (ODR) in Malaysia requires a structured and phased policy roadmap that balances technological innovation and legal safeguards. A gradual implementation strategy would allow policymakers, regulators, and industry stakeholders to evaluate the effectiveness of AI technologies while addressing the legal and ethical concerns that may arise during deployment.

In the short term, Malaysia should focus on establishing the institutional and regulatory foundations necessary for AI-assisted tourism dispute resolution. This may include the development of a pilot ODR platform dedicated to tourism-related consumer disputes under the supervision of relevant agencies such as the Ministry of Tourism, Arts, and Culture (MOTAC) and the Ministry of Domestic Trade and Cost of Living (KPDN). During this stage, regulatory guidelines should be introduced to govern the use of AI in dispute resolution, particularly with respect to transparency, human oversight, procedural fairness and consumer protection. Stakeholder consultations involving consumer associations, tourism operators, technology providers, legal practitioners, and regulatory authorities are essential to ensure that the framework reflects practical industry needs and public expectations.

In the medium term, legislative and regulatory reforms should be undertaken to address issues related to algorithmic accountability, data protection, and the legal status of AI-assisted settlements. Existing consumer dispute resolution mechanisms can be enhanced by integrating AI-assisted mediation services that can improve efficiency while maintaining appropriate safeguards. Simultaneously, accreditation and compliance standards should be developed for ODR providers to ensure consistency, reliability, and adherence to established legal principles. Strengthening cooperation with regional and international dispute resolution bodies would further support the development of best practices for handling cross-border tourism disputes in the future.

In the long term, Malaysia should consider adopting a comprehensive statutory framework specifically governing AI-assisted ODR. Such legislation should establish clear standards regarding algorithmic transparency, human oversight, procedural fairness, and the enforceability of settlements. The framework should also promote interoperability with international ODR platforms and align with emerging global standards, including the UNCITRAL Technical Notes on Online Dispute Resolution and international best practices relating to AI governance (UNCITRAL, 2017). By adopting a phased roadmap, Malaysia would be better positioned to harness the benefits of AI-driven dispute resolution while preserving consumer trust, legal certainty, and access to justice in the tourism sector.

This recommendation addresses the current absence of a coordinated national strategy for AI-assisted tourism dispute resolution and provides a practical pathway for future legal and regulatory developments in Malaysia.

7. Conclusion

This study examines the legal and regulatory implications of integrating AI into ODR mechanisms for travel agency disputes. Through a doctrinal analysis of international instruments, comparative regulatory frameworks, and relevant legal principles, this study identified both the opportunities and challenges associated with AI-assisted mediation in the tourism sector.

The findings indicate that AI can substantially improve the accessibility, speed, and efficiency of dispute resolution, particularly in cross-border travel disputes involving cancellations, refunds, accommodation services and package tour arrangements. However, significant concerns remain regarding transparency, informed consent, procedural fairness, data protection, accountability, and the enforceability of AI-assisted settlements. Existing legal frameworks provide partial safeguards but do not comprehensively address the unique challenges of algorithmic decision-making in ODR systems.

The principal contribution of this article lies in its doctrinal examination of AI-assisted ODR, specifically within the context of travel agency disputes, and its proposal of a hybrid AI-human mediation model. Rather than viewing AI as a substitute for human decision-makers, this study argues that AI should function as a decision-support tool operating alongside human mediators. Human oversight remains essential because empathy, contextual understanding, ethical judgment, and procedural fairness cannot be fully replicated by automated processes.

Looking ahead, this study provides a foundation for future regulatory developments concerning AI-enabled dispute resolution in the tourism sector. As digital travel transactions continue to expand globally, policymakers should prioritise the development of governance frameworks that promote innovation while safeguarding consumer rights. The successful integration of AI into cross-border ODR ultimately depends on achieving an appropriate balance between

technological efficiency and the enduring principles of justice, accountability, and human-centred dispute resolution.

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Consumer Rights Act 2015 at <https://www.legislation.gov.uk/ukpga/2015/15/contents>,

OECD guidelines at <https://mneguidelines.oecd.org/mneguidelines/>,

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