



Alternative Dispute Resolution (ADR) in E-Commerce

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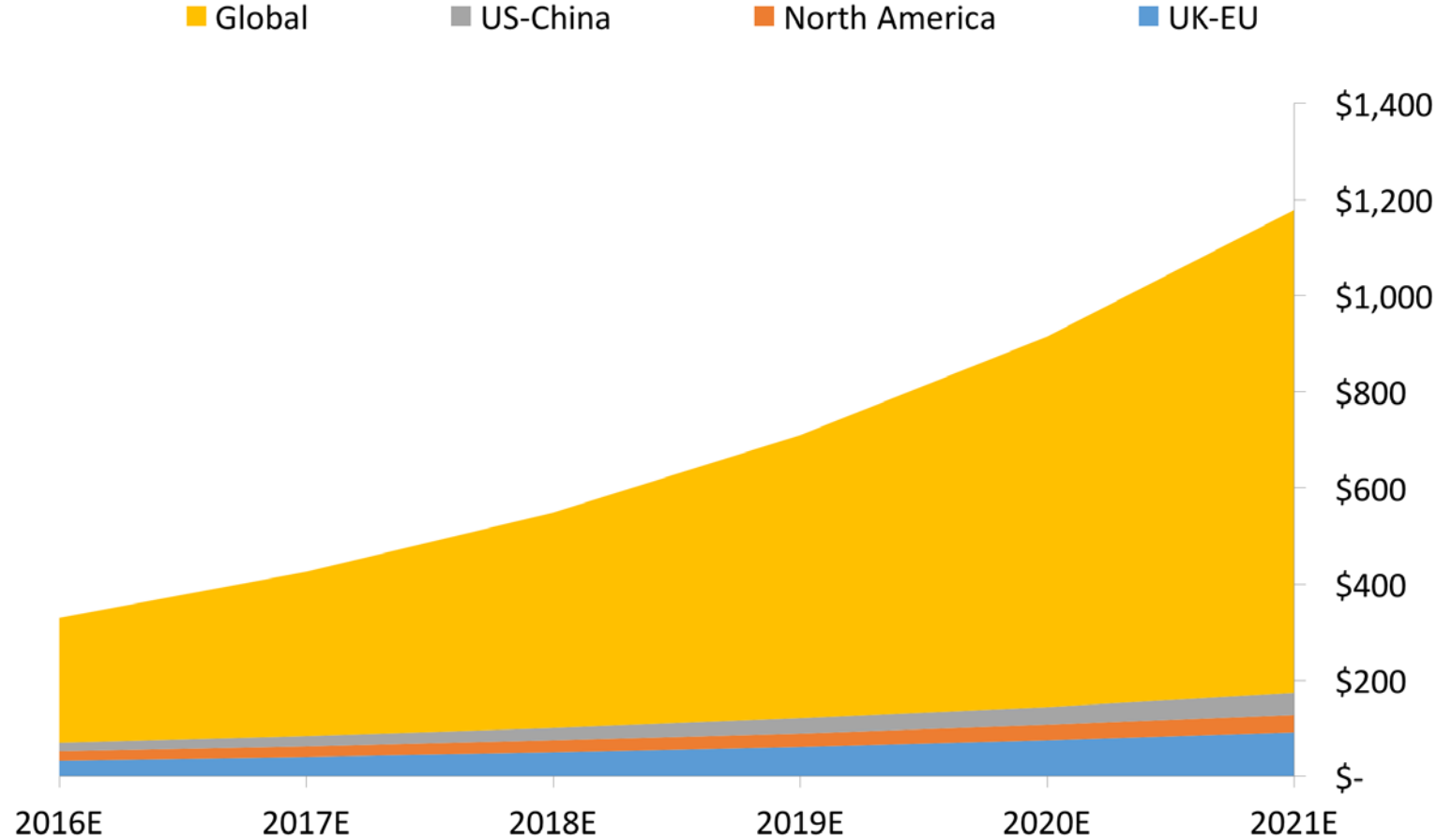
- Development of transnational e-commerce
- Common types of e-commerce disputes
- When online technology meets ADR
- Current problems and opportunities for future growth

- China: According to the China Electronic Commerce Research Center's report, the total value of e-commerce transactions in 2016 was 22.97 trillion yuan (\$3.41 trillion)
- United States: In a 2014 report released by the U.S. Department of Commerce Economics and Statistics Administration, it was revealed that the United States exported \$357.4 billion in digitally-deliverable services in 2011
- European Union: The projected value of the EU e-commerce industry is €602 billion (\$685 billion) at the end of 2017

Transnational E-Commerce in the PRC: 2011 – 2016



Global Cross-Border E-Commerce Market



Source: BI Intelligence estimates, 2017

- Contractual disputes: B2B disputes (manufacturer–supplier), B2C disputes (non-payment of goods, non-performance of contract, etc.)
- Non-contractual disputes: Infringement of IP rights, privacy disputes, domain name disputes

- E-Negotiation: two or more parties seek an agreement through negotiation for their online transactions, e.g., Cybersettle (blind-bidding), Smartsettle , eBay’s assisted negotiation process
- E-Mediation: probably the most common type of dispute resolution service offered online, e.g., JAMS online mediation
- E-Arbitration: probably the most successful example is ICANN’s UDRP process; e-arbitration clauses can also be included in B2C/C2C agreements

- Background: a mandatory online administrative procedure concerning abusive registrations; each domain name holder is required to submit to this procedure if a claim is initiated against it by a third party
- Major service providers: WIPO, HKIAC, NAF, CIETAC
- Case study: HKIAC Case no. DCN-1700742, www.airbnb.cn



Example: arbitration clause in B2C agreements

- 10.4 Other Disputes. In case a Dispute arises between you and Alibaba.com in any other circumstances, if the Dispute is not resolved between you and Alibaba.com, you and Alibaba.com agree that the Dispute shall be finally resolved by arbitration with the HKIAC.

(Taken from Alibaba.com Transaction Service Agreement, updated as of March 25, 2016, available at <https://rule.alibaba.com/rule/detail/2054.htm>)



- Enforceability: lacking a universal regulatory scheme
- Limited choice of remedies : easier to obtain injunctive reliefs and more difficult to obtain monetary awards
- Technology compatibility : the use of electronic documents as evidence, changes in hearing and decision implementation processes
- Data security : data safety issues

- Further regional and international cooperation: the UNCITRAL ODR Working Group, the EU Consumer ADR Directive, the US – OAS Proposal
- Mature technologies: the use of AI, safer data transmission, friendlier user interface
- Greater development of dispute avoidance techniques: less reliance on external ADR providers

Thank you!



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