



**Asia-Pacific
Economic Cooperation**

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Blockchain and Online Dispute Resolution - Presentation

Submitted by: Doshisha University



**Workshop on the Use of Modern
Technology for Dispute Resolution and
Electronic Agreement Management
Particularly Online Dispute Resolution
Port Moresby, Papua New Guinea
3-4 March 2018**

Blockchain and ODR

APEC Workshop on the Use of Modern Technology for Dispute
Resolution and Electronic Agreement Management

SELI Work Plan

Port Moresby, 4 March 2018

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ODR (Online Dispute Resolution)

- = **Online resolution** of disputes
cf. resolution of **online disputes**
- e.g. UNCITRAL Technical Notes on Online Dispute Resolution (2017)
Section V — ODR definitions, roles and responsibilities, and communications
24. Online dispute resolution, or “ODR”, is a “mechanism for resolving disputes through the use of electronic communications and other information and communication technology”.

Online Transactions as a Main Target

- UNCITRAL Technical Notes on Online Dispute Resolution

Section I — Introduction

Purpose of the Technical Notes

5. The Technical Notes are **intended for use in disputes arising from** cross-border low-value sales or service **contracts concluded using electronic communications**.

- Regulation (EU) No 524/2013 on Online Dispute Resolution for Consumer Disputes

This Regulation shall apply to the out-of-court resolution of **disputes ... stemming from online sales or service** contracts ...

Consumer Protection

- UNCITRAL Technical Notes on Online Dispute Resolution
Section IV — Scope of ODR process
22. ... An ODR process may apply to disputes arising out of **both a business-to-business as well as business-to-consumer** transactions.
cf. Regulation (EU) No 524/2013 does not cover B2B or C2C.
- International harmonization should **steer clear consumer protection issues**.
 - A major **stumbling block**.
 - **Flattening world of online** transactions.

Flattening World of Online Transactions

(still dominant)
**Hub-and-Spoke
Model**

Individual Traders vs Consumers

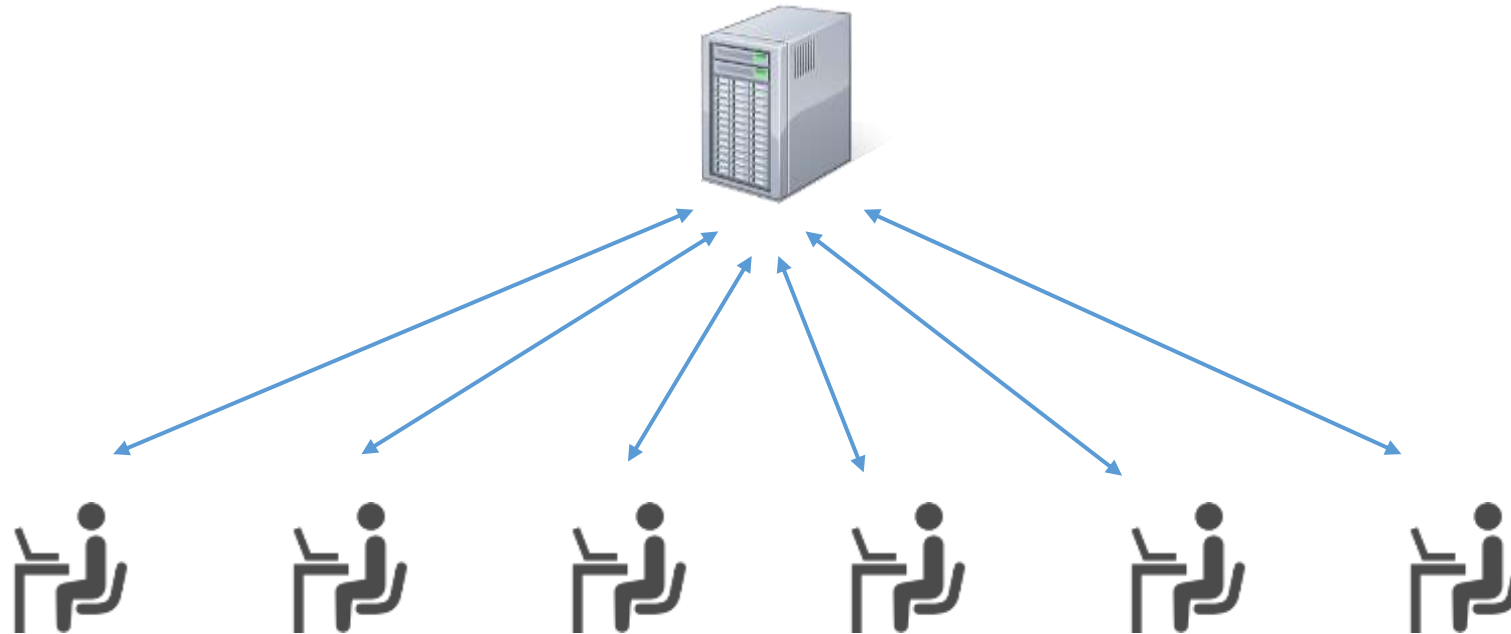
(emerging)
**Sharing Economy
Model**

Consumers vs Consumers

(future)
**Blockchain-Based
P2P (Peer to Peer)
Model**

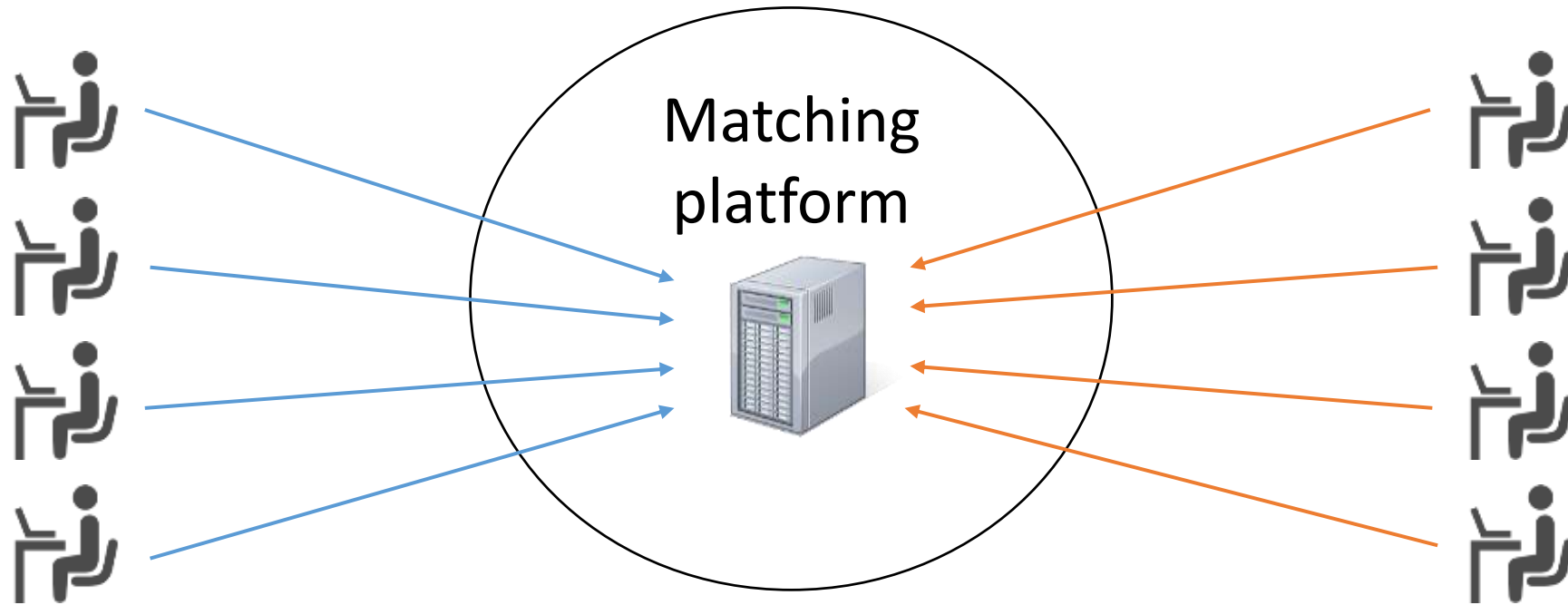
Hub-and-Spoke Model

(often powerful) **Corporate** Trader



Consumers

Sharing Economy Model



Consumers

(often powerful)
Corporate Trader

(often small)
Individual Traders

Definitions of “Consumers” and “Traders”

- e.g. Council Directive 93/13/EEC on unfair terms in consumer contracts

Article 2 For the purposes of this Directive: ...

(b) ‘consumer’ means any natural person who ... is acting for purposes which are outside his trade, business or profession;

(c) ‘seller or supplier’ means any natural or legal person who ... is acting for purposes relating to his trade, business or profession

- e.g. Japanese Arbitration Act

Role of Sharing Economy Intermediaries

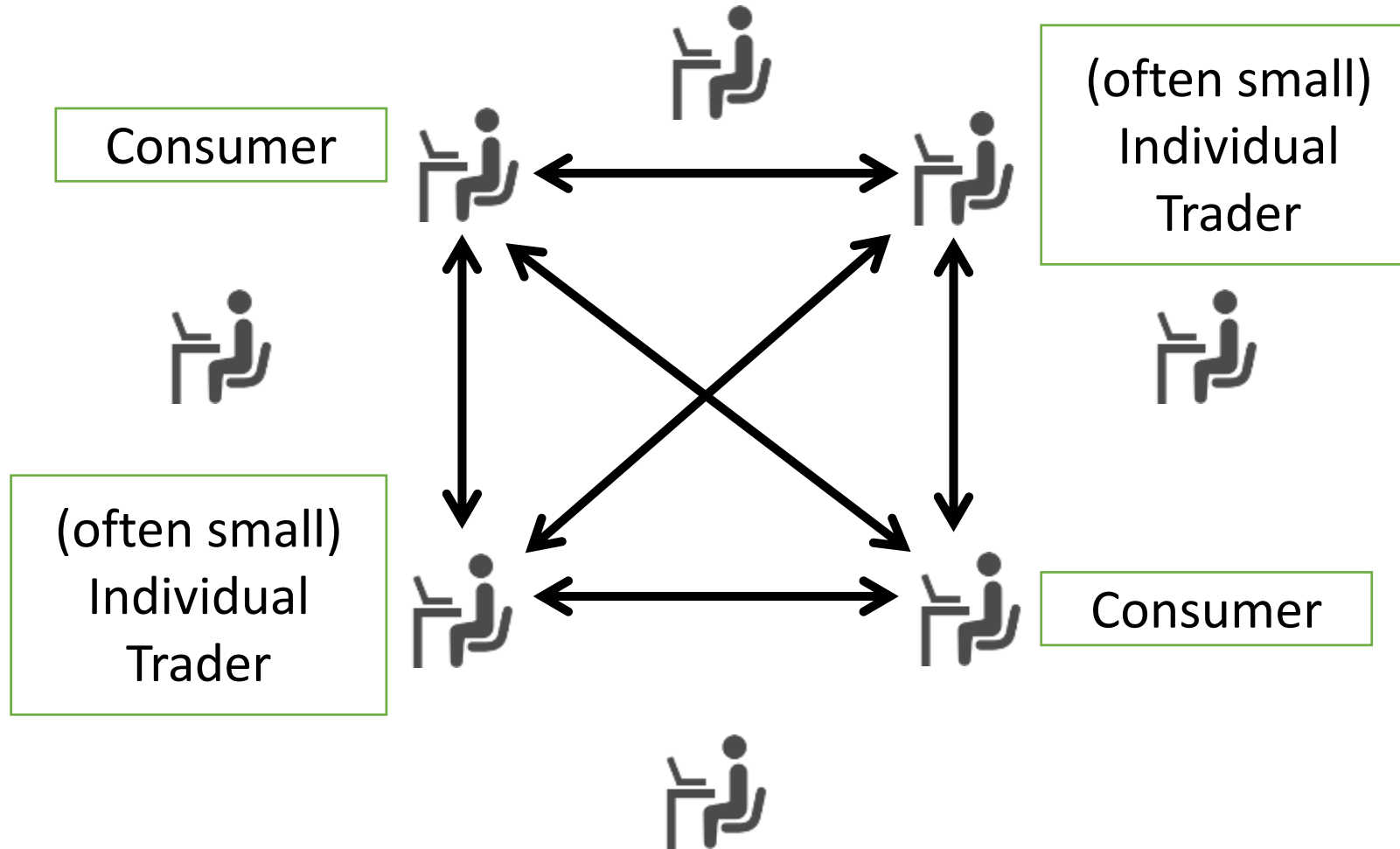
e.g. AirBnB Terms of Service

1.2 ... When **Members** make or accept a booking, they are entering into **a contract directly with each other**. Airbnb is not and does not become a party to ... any contractual relationship between Members

1.3 ... **Airbnb ... does not guarantee** (i) the existence, quality, safety, suitability, or legality of any Listings or Host Services

6.1 Airbnb may charge fees to Hosts ("Host Fees") and/or Guests ("Guest Fees") (collectively, "Service Fees") **in consideration for the use of the Airbnb Platform**.

Blockchain-facilitated P2P Model

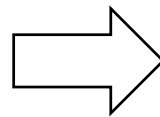
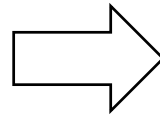


Legislative Priority

ODR = **Online Resolution** of Disputes

Technology

- Online “blind bidding”
- Artificial intelligence (AI) and big data
- Cryptocurrencies and other tokens on blockchain



Implications for

- Due process requirement
- Applicable law to substantive issues
- Enforceability under the New York Convention.
- Executory jurisdiction for seizure