



Expert workshop

Navigating the DSA's procedural turn: lessons from consumer law for ODR

- **Date and time:** Friday, 1 December 2023 14:00-17:30
- **Venue:** Library of the Institute for Information Law, [Amsterdam Law School](#)
- **Convenors:** [Anna van Duin](#) & [Paddy Leersen](#)

Central theme and questions

The [Digital Services Act](#) (DSA) represents a procedural turn in platform regulation ([Busch and Mak 2021](#); [Ortolani 2023](#)), introducing multiple mechanisms aimed at enhancing access to justice for users seeking to report illegal and harmful content. Specifically, the DSA outlines a notice-and-action procedure (Article 16), complaint handling (Article 20) and out-of-court dispute settlement before a certified body (Article 22), along with procedural obligations for service providers.

Notably, within the context of EU law, these mechanisms are not unprecedented. Comparable procedures, particularly in consumer law, have already been regulated, as seen with online dispute resolution (ODR) under the [ODR Regulation](#). These mechanisms raise pertinent questions – questions that are also relevant to tackling illegal and harmful content, for instance how a viable pathway to redress can be provided or what standards and criteria should apply (see e.g. [BEUC 2022](#)). These questions are considered in light of empirical research into people's legal needs and (perceived) procedural justice ([Appelman et al. 2021](#); [Van Duin et al. 2023](#)), the facilitation of private enforcement of rights originating in EU law through individual or collective action ([Husovec 2023](#)), as well as the protection of fundamental rights and procedural safeguards ensuring digital due process.

This workshop aims to connect the relevant debates in the fields of procedural law, consumer law and information law by bringing together academics working in these fields to reflect on the future of platform ODR. To the extent that parallels can be drawn between content moderation and consumer law, what lessons can be learned from the experiences with, and research on, consumer ODR? A key aspect of implementation of the DSA involves the interplay between service providers – with their own set of terms and conditions ([Quintais et al. 2022](#)) – and public authorities responsible for certification of ODR bodies and the hearing of claims/complaints (Digital Service Coordinators, administrative agencies and courts). Therefore, the focus will be on digital platforms vis-à-vis other institutions (including national and European legislatures) in offering effective remedies.

This workshop assembles a diverse cohort of academics and legal experts to critically assess the DSA's framework for complaint handling and dispute resolution. It aims to contrast existing ODR procedures with new avenues for handling complaints and resolving disputes. It

also aims to identify strategies to navigate potential challenges, informed by an examination of best practices and pitfalls in consumer ODR. To this end, representatives of consumer protection organizations and technology companies will be invited to give their perspectives. Through a series of expert presentations and panel discussions, the workshop endeavors to foster a nuanced understanding of crafting effective dispute resolution mechanisms under the DSA. In doing so, it seeks not only to evaluate the DSA's procedural turn, but also to inspire collaborative solutions for its practical implementation. How can the DSA improve access to justice for online harms and provide opportunity for contestation?

Speakers and panelists will be invited to submit their contribution in the form of a blog post to the [DSA Observatory website](#).

Programme

13:30 Doors open

14:00 – 14:10 Introduction by the convenors

14:10 – 14:35 Keynote & QA on DSA framework: Pietro Ortolani

14:35 – 15:00 Keynote & QA on consumer ODR: Vanessa Mak

15:00 – 15:15 Break

15:15 – 16:00 Panel I on private enforcement
Moderator: Paddy Leerssen

In consumer law we have seen that a reliance on party initiative combined with barriers to access to justice makes it difficult to offer redress in practice, not only leaving individuals empty-handed but also leaving the problem of consumer rights violations and/or illegal and harmful content on a larger scale unresolved. Under the DSA, what can we expect from private enforcement?

Panelists: Catalina Goanta, Martin Husovec, Natali Helberger

16:00 – 16:45 Panel II on the design of ODR procedures
Moderator: Anna van Duin

Whereas online platforms can offer quick and easy solutions, this does not mean certain quality standards should not be in place – not in the least because there is a power imbalance in the relation platform-internet user, similar to consumer-trader, and because ODR procedures are less transparent than public courts or certified ADR bodies. To what extent does (perceived) procedural justice matter?

Panelists: Federica Casarosa, Marco Giacalone, Emma van Gelder

16:45 – 17:15 Plenary discussion: exploring parallels and relevant questions

17:15 Closing and drinks