



**Dispute settlement mechanisms of sharing economy platforms
Effective tools for access to justice?**

SUMMARY

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The use of online sharing economy platforms (OSEPs) has become increasingly widespread in a wide range of sectors. It is therefore ever more important to consider the remedies available to consumers in the event of problems. Our research proposes to address this issue by first, examining the application of the fairness and transparency measures provided for in Canada's consumer protection legislation with regard to facilitating consumer access to justice in OSEP user agreements, and second, by examining consumers' perceptions and experiences of the complaint resolution mechanisms available to them.

Our analysis takes into account both the objective dimension of access to justice, which relates specifically to the contracts, and its subjective dimension, which relates to the consumers' own experience and perceptions. This approach allows our study to shed light on discrepancies between the redress offered by the OSEPs and the users' own sense of equity and competence. In addition, it compares the potential barriers to access to justice identified in our documentary analysis with the actual barriers faced by the participants in our study.

Analysis of the agreements of ten online sharing economy platforms revealed the presence of clauses likely to limit access to justice. These are choice of court clauses, which determine in advance which tribunal has jurisdiction in the event of a complaint, mandatory arbitration clauses, and clauses that waive recourse to class action. We also noted that internal mechanisms or recourse to the credit card issuer (these are the remedies participants used most often) sometimes provide only partial redress because they do not enable consumers to claim the full value of any damage incurred, and often make it difficult to terminate or cancel the contract. Despite such factors, participants seemed satisfied with their experience.

Would they have been better served from the standpoint of equity if they had used external mechanisms such as mediation and arbitration or if they had taken their complaints to court? Our study of the consumer protection laws of Quebec, Ontario and British Columbia as well as of the jurisprudence persuades us that this is doubtful.

In terms of transparency, our analysis revealed a lack of clarity in the information provided as well as a tendency to assume consent on the part of the consumer using the platform or purchasing the service, which can result in participants being unaware of their rights and remedies. In addition to lack of knowledge, other barriers to access to justice include lack of guidance, insufficient compensation and non-use of certain remedies, which might be ascribable to cost limitations. The respondents, for their part, complained of technical difficulties and the problems they had finding information or managing to talk to someone.

Briefly stated, the major barriers to access to justice with regard to shared economy platforms are the complexity of the complaint handling processes and access to information.