

# Online Consumer Contract Dispute Resolution

From Perspective of Jurisdiction and Online Dispute Resolution (ODR)

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Selected Topics

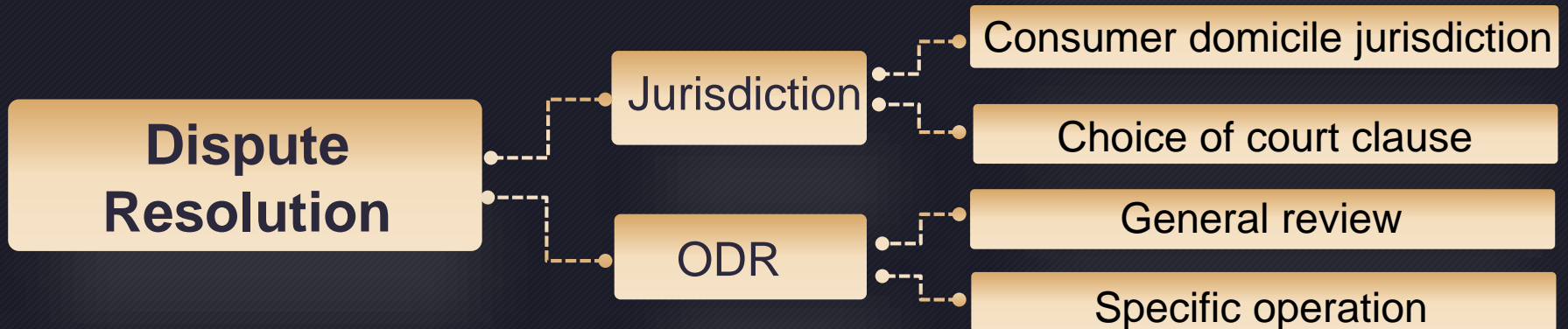
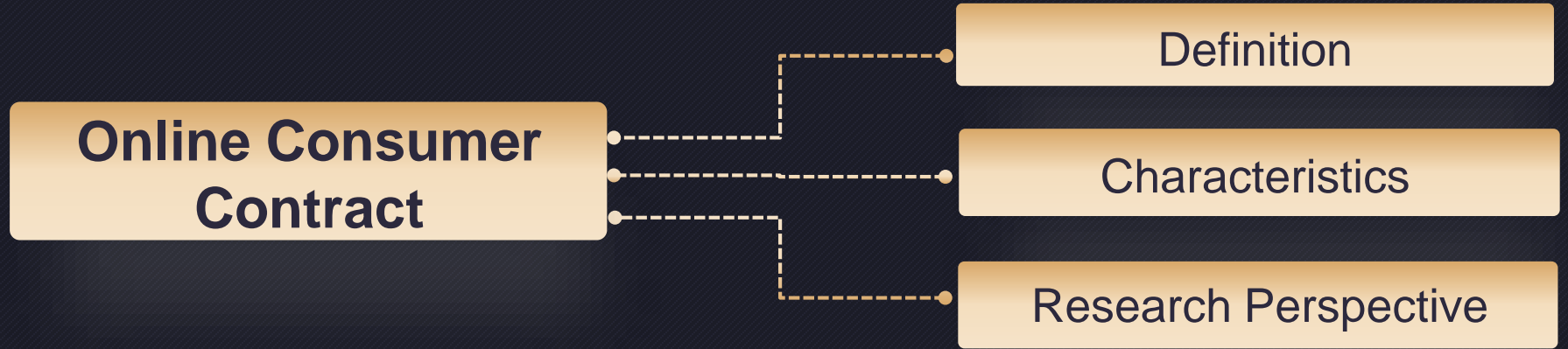
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# General Introduction

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# Online Consumer Contract

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## Definition

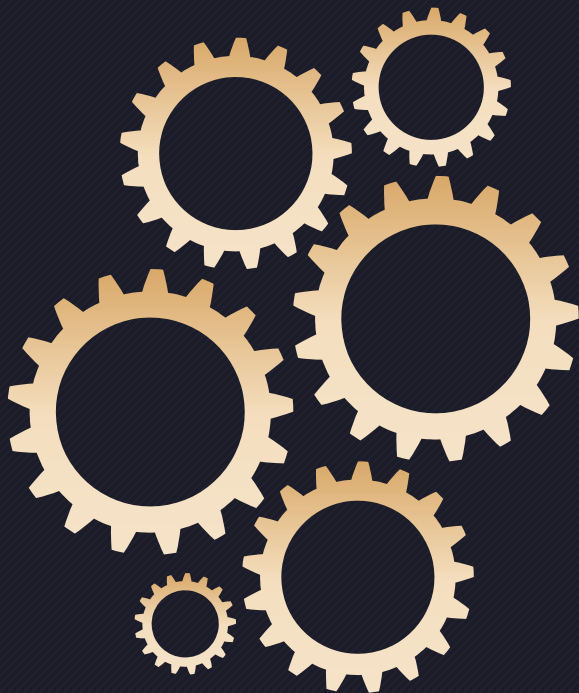
### Contracting Parties

- Consumer
  - Always the weaker party
  - Natural person
  - End-user of the product (two behaviors)
- Seller
  - Natural or legal person
  - Acts within his trade, business and profession (frequency)
  - Others: profit-seeking motive; level of turnover...

### Objects of the Contract

- Goods, Services, Digital Contents
- Modest amount of product value
- Fulfill everyday use

## Characteristics



01

Non-boundary

Cross-border disputes



Foreign elements; PIL research perspective

02

Virtuality

Risk in absence of physical presence  
Protection of the weak (consumer)

03

Intelligence

New subject involved  
Electronic agent: liability and identification  
Useful tools (e.g. live chat room)

## Conclusion

Internet

Application of current criteria on  
parties' behaviors

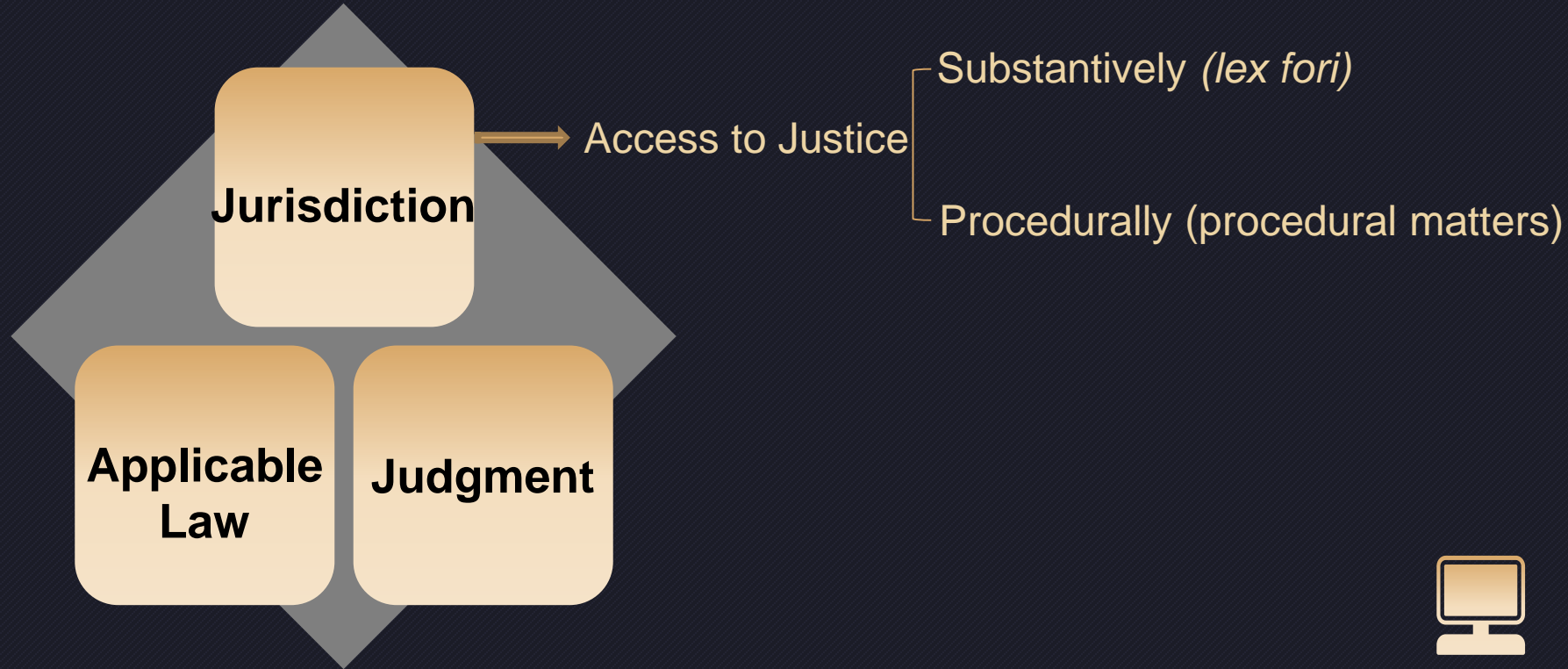
Reconsideration on relationship  
between parties

Dispute resolution methods





# Research Perspective



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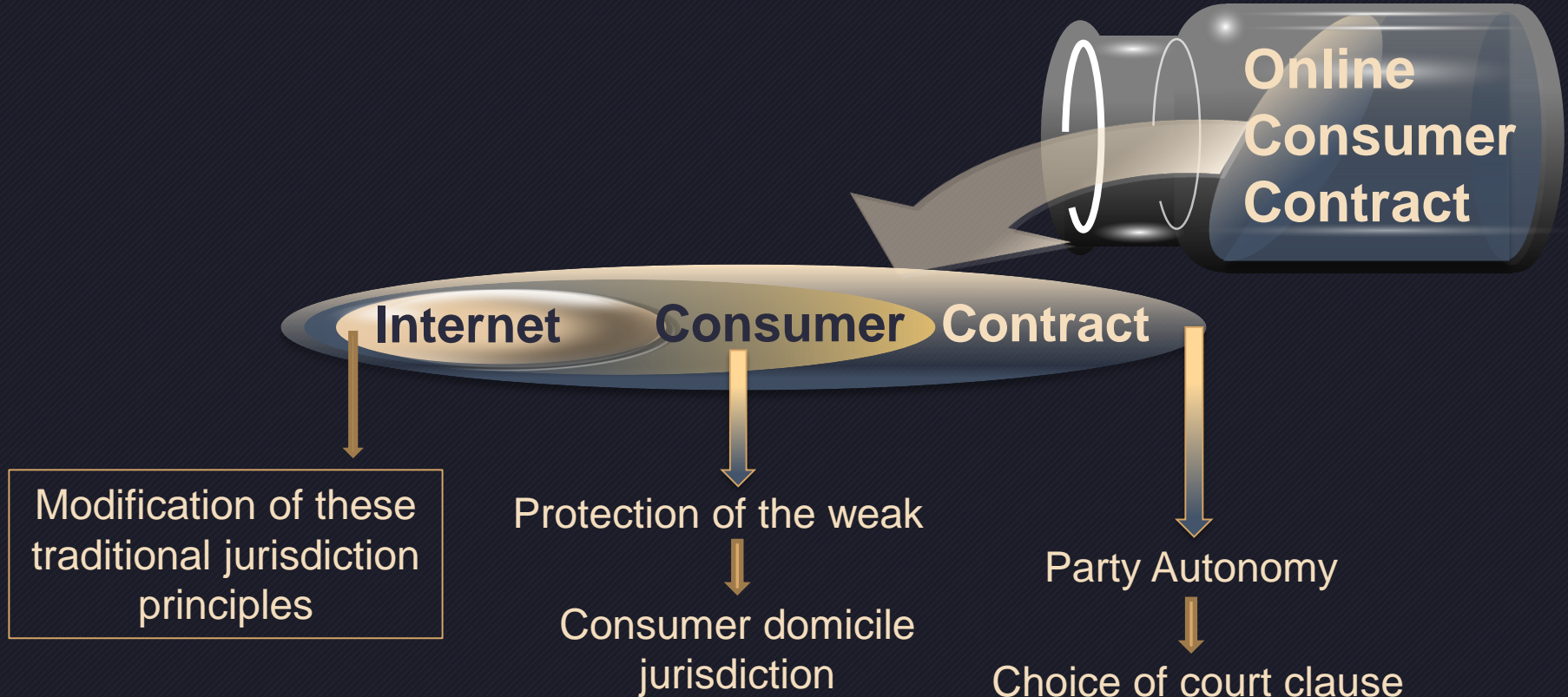
## Selected Topics

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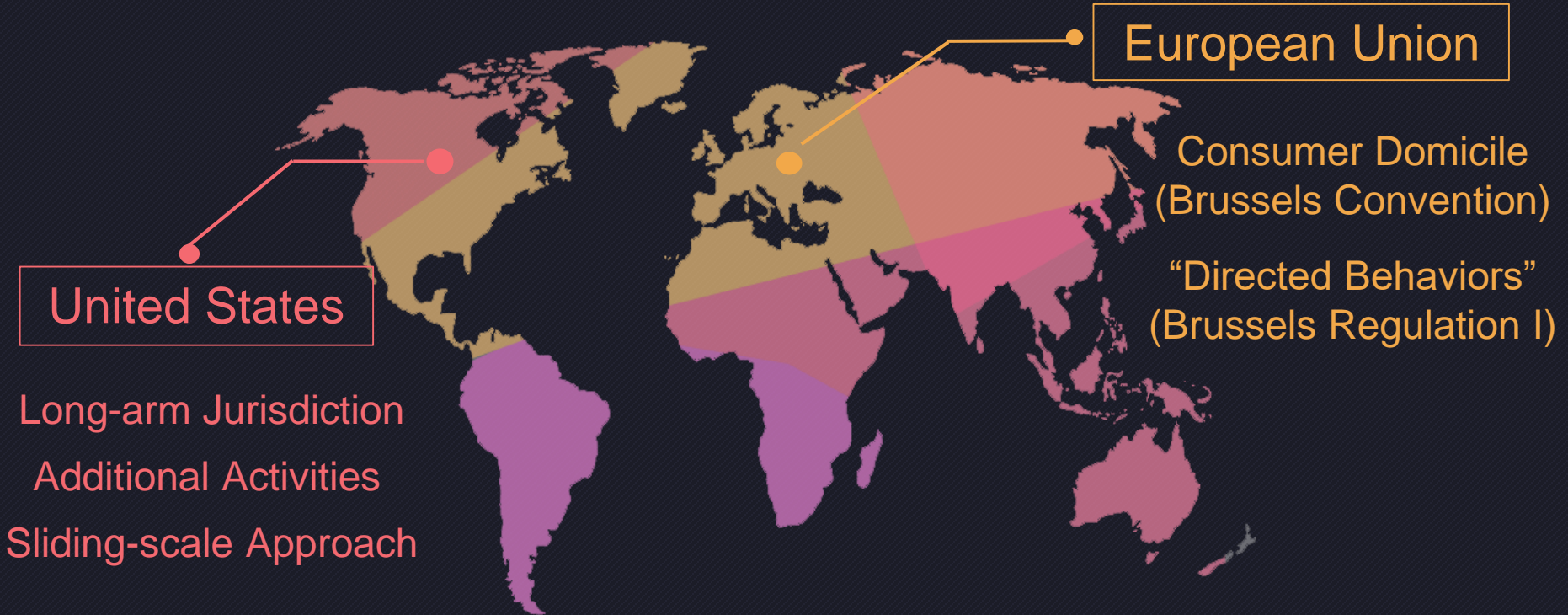
# Dispute Resolution

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## Jurisdiction



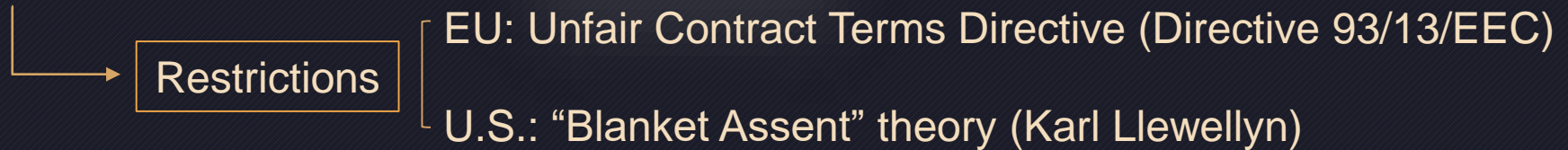
## Protection of the Weak – Consumer Domicile Jurisdiction





“Click Here if you Agree”

## Party Autonomy – Choice of Court Clause



↓  
“Law creates presumption assent to standard terms unless unreasonable or indecent are found.”

### Time of Conclusion

Art. 19 (1) of Brussels Regulation I (recast): entered into after the dispute has arisen

# Dispute Resolution

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## ODR



## In general

|   |  |
|---|--|
| Extension of ADR in Internet age ?      | <del>Online Alternative Dispute Resolution</del><br>(cyber courts) |
| An isolated dispute resolution system ? | A parallel one<br>(with ADR and judicial system)                   |
| ICT being as the “fourth party” ?       | Metaphor that illustrate the<br>significance of ICT                |

Main Challenge

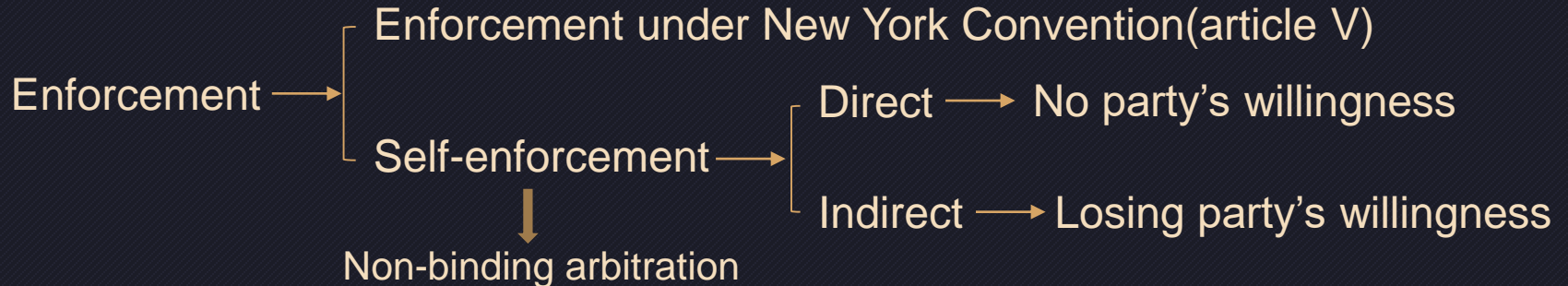
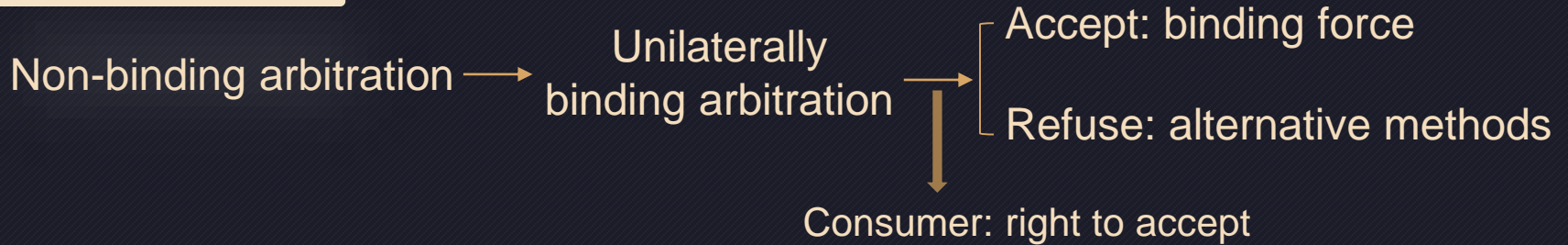


Lack of trust and diverse perceptions toward it

In specific



Online Arbitration



## Cyber Court

Type of contract under governance

→ Initiation and conclusion of contract be both conducted by distance communication

Hangzhou Internet Court

Pre-trial online mediation

→ A collective information platform

Enforcement → Direct apply online

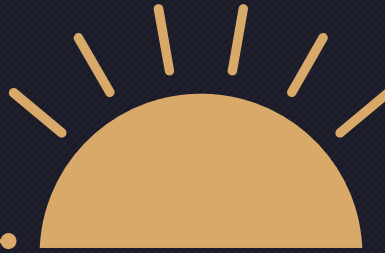
↓  
Hangzhou Litigation Platform

↓  
Legal basis: Civil Procedural Law of P.R.C.



1. The ideal solution for solving online consumer contract disputes in the future, a unified system?

2. Feasibility and challenges for applying ODR to solve online consumer contract dispute in your country



DISCUSSION  
TIME

3. Solutions that help avoiding being sued globally for entities (especially SMEs) when adopting consumer domicile jurisdiction.

4. Restrictions on applying choice of court clause for solving online consumer contract disputes.



**THANKS**