



The Dialogue™

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Response

# **SUBMISSION IN RESPONSE TO ONDC CONSULTATION PAPER**

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# ABOUT THE DIALOGUE

The Dialogue™ is recognised as one of the top 10 think tanks to be watched out for by the University of Pennsylvania.

The Dialogue™ is a public-policy think-tank with a vision to drive a progressive narrative in India's policy discourse. Founded in 2017, we believe in facilitating well-researched policy debates at various levels to help develop a more informed citizenry, in areas around technology and development issues. Our aim is to enable a more coherent policy discourse in India backed by evidence and layered with the passion to transform India's growth, to help inform on public-policies, analyse the impact of governance and subsequently, develop robust solutions to tackle our challenges and capitalise on our opportunities. To achieve our objectives, we deploy a multi-stakeholder approach and work with governments, academia, civil-society, industry and other impacted stakeholders.

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# GENERAL INPUTS

It is important, at the outset, to emphasise the timely nature of the present consultation. India's most ambitious digital public good project - the Open Network for Digital Commerce (ONDC)- is expected to be a blueprint for open networks in all forms of digital commerce in the coming years. Following in the footsteps of the Aadhaar and Unified Payments Interface projects, ONDC is now well into its testing phase and on the cusp of a public launch. Operational and policy clarity at this stage will pave the way for building a repository of institutional knowledge to be able to decentralise and democratise value creation and innovation in various sectors without stifling business choice, product quality or user experience. A core component of the path forward will be through trust - across the lifecycle of each transaction - towards which this consultation paper has solicited inputs. We are grateful for this opportunity to suggest improvements to this public technology platform. In doing so we will first be offering general inputs in this section, while in the next section we will be referring to specific questions on each part of the transaction lifecycle.

Openness as a network protocol objective cannot be abstract in respect of who it is open for. Indeed, a major focus of the ONDC project has been on sellers on e-commerce platforms in a bid to reverse the winner-takes-all dynamic of these platforms and create sustainable value at all nodes of the supply chain.<sup>1</sup> Thus, an impact assessment of the success of the network must be benchmarked through charting the value gain for sellers per transaction. At the same time, it is commendable that in its medium term planning ONDC remains committed to being 'participant-centric'<sup>2</sup> and investing resources in nurturing relevant communities in the network.<sup>3</sup> In the medium term, as Network Participants get used to the protocols and policy, ONDC must ensure that stakeholders who are not necessarily covered under the definition of Network Participants are able to communicate their needs to the network management. ONDC also envisages an open data platform for disseminating anonymised high quality data sets to the public domain which would help more informed decisions in the ecosystem.<sup>4</sup> These initiatives should be strengthened before the next phase of its roll-out.

While ONDC's technical design will ensure that 'on-network' activity is compliant with the operational mandate, there is not much visibility of the Network Participants' behaviour behind the walls of their own application and in their interactions with the end-user. This blind-spot can be shored up by a clear statutory brightline which provides the legal backing for many of the best practices that ONDC may already view positively, such as a bar on predatory discounting, bar on self-preferring, the bar on mis-use of transaction data to introduce copy-cat products and the reciprocal obligations on Network Participants. An effective and statutory e-commerce regulator along with updated e-commerce rules would go a long way in fulfilling the objectives of trust that ONDC is trying to build into the network.<sup>5</sup>

Finally we would like to bring attention to the three paradigmatic shifts the ONDC attempts - interoperability, decentralisation and the unbundling of the e-commerce value chain<sup>6</sup> and the tools it chooses for the purpose - rule making through network policy, dynamic contracting through transaction level contract and capacity building through a number of network wide initiatives.<sup>7</sup> Our specific inputs have been provided with this context in mind.

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<sup>1</sup>See Principle - Sustainable, page - 37.

<sup>2</sup>See Principle - Participant Centric, page - 37.

<sup>3</sup>See Principle - Participant Centric, page - 37 ('shall encourage the formation of communities').

<sup>4</sup>Section 4.6.1, page - 29.

<sup>5</sup><https://botpopuli.net/can-public-goods-be-the-answer-to-fixing-e-commerce/>

<sup>6</sup>Section 5, Page - 34.

<sup>7</sup>Section 5, Page - 34.

In summary, our general response is as follows -

- a) ONDC is a blueprint for the rest of the digital economy and not just e-commerce and its learnings must travel in that context.
- b) Seller interests are paramount to protect in this phase of ONDC but other interests are also important such as that of buyers, delivery personnel, worker organisations, consumer rights groups and civil society.
- c) Statutory changes must be considered alongside the technical regulation through protocol that the ONDC is undertaking.
- d) Care must be taken to constantly remove incentives that optimise mechanics of centralisation of the network.

## 2. INPUTS TO SPECIFIC QUESTIONS

No.	Relevant Section	Input	Action
01.	4.1.2 (a) - What more can ONDC do to make the process of search and discovery fair for both the buyer and seller?	<p>-Monitoring of legal relationships between Gateway entities and Buyer/Seller App entities as well as reciprocal participation must be done through a reliable and transparent process.</p> <p>-Gateway records should be available to Network Participants within a reasonable timeframe upon request. This incentive to self-monitor will push stakeholders to consistently provide feedback to ONDC to ensure fairness of the search and discovery mechanism.</p>	<p>- Guidelines regarding monitoring of legal relationships, reciprocal participation etc. to be updated in the Network Policy.</p> <p>- Gateway Records can be provided through an update in the Network Policy. Further anonymised aggregated data can be published through ONDC's Open Data Initiative.</p>
02.	4.1.2 (b) - What is the best way for ONDC to enforce its algorithmic accountability requirements from Buyer Apps?	<p>There must be a scope for AI audits which can be triggered by aggrieved Network Participants as well as other affected parties (such as customers and service delivery personnel) for ONDC's management to consider. ONDC has the scope for conducting audits built-in to enforce the Network Policy - thus guidance relating to AI audits can be part of the recertification process and Network Policy.</p>	<p>Network Policy (Chapter: Network Technology Governance) and Protocol Specification to be updated to include scope for audits based on complaints regarding AI outcomes are rights-violating.</p>
03.	4.3.2 (a) - What are the concerns around the linked orders and on-network logistics that ONDC should be aware of?	<p>ONDC should consider the recurrent labour issues that have raised their head globally in the logistics sector of the platform economy. An essential part of the value chain of e-commerce are delivery personnel who undertake a large portion of the transaction risk. Without the right incentives, in a booming logistics sector, the risk for these vulnerable personnel may increase. In the interests of sustainable growth in a safe workplace, ONDC should open consultations in line with NITI Aayog's report on the gig and platform economy, to provide some basic benchmarks of risk apportionment that Network Participants should abide by.</p>	<p>Consultations on major labour issues should be done in conjunction with relevant ministries and nodal research bodies like the NITI Aayog.</p>
03.	4.3.2 (b) - How can both the buyer and seller's interests be fairly protected in such	<p>ONDC should consider the recurrent labour issues that have raised their head globally in the logistics sector of the platform economy.</p>	<p>Consultations on major labour issues should be done in conjunction with relevant</p>

<sup>8</sup> [https://www.niti.gov.in/sites/default/files/2022-06/Policy\\_Brief\\_India%27s\\_Booming\\_Gig\\_and\\_Platform\\_Economy\\_27062022.pdf](https://www.niti.gov.in/sites/default/files/2022-06/Policy_Brief_India%27s_Booming_Gig_and_Platform_Economy_27062022.pdf)

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	back-to-back contractual arrangements?	An essential part of the value chain of e-commerce are delivery personnel who undertake a large portion of the transaction risk. Without the right incentives, in a booming logistics sector, the risk for these vulnerable personnel may increase. In the interests of sustainable growth in a safe workplace, ONDC should open consultations in line with NITI Aayog's report on the gig and platform economy <sup>8</sup> , to provide some basic benchmarks of risk apportionment that Network Participants should abide by.	ministries and nodal research bodies like the NITI Aayog.
05.	4.4.2(a) - What are the issues in the system proposed by ONDC for payments and settlements?	ONDC should clarify whether the Nodal Accounts are in the nature of escrow accounts and whether entities involved in providing such services can be part of the network as Reconciliation Service Providers or Settlement Agencies.	A clarification should be issued regarding the specific nature of Nodal Accounts and the types of entities permitted to operate them.
06.	4.5.2 (b) - What mechanisms can ONDC and Network Participants put in place to avoid issues related to returns, refunds and cancellations from escalating into disputes?	Data transparency measures that provide qualitative inputs, in addition to ratings and scores, about practices, performance and ownership of Network Participants can provide an information rich environment where Network Participants can resolve disputes pro-actively.	Consultation on specific qualitative parameters for counter-parties should be considered.
07.	4.6.2 (a) - What, if any, are the gaps or issues in the proposed IGM system?	Automated grievance redressal must be made contingent on human supervision and review if rights of the Network Participant or any network stakeholder are affected and the same is notified. Legal minimum thresholds to trigger review (such as minimum disputed amount) may be considered in this regard.	Network Participant's Internal Issue Resolution framework to be updated to include human review in automated grievance resolution.
08.	4.7.5 (c) - How can ONDC encourage better catalogue management among sellers?	Entities offering cataloguing-as-a-service (CaaS) must be ring fenced from engaging in any other Network Participant role in the network to the extent that independent actors exist in this space. This is to ensure that off-network arrangements between dominant entities and sellers do not spring up to offer a sub-par service which hurts the value creation at the seller node.	Specific guidelines to ensure CaaS entities remain independent and sustainable.

No.	Relevant Section	Input	Action
09.	4.7.5 (d) - What mechanisms should be put in place in the scoring and badging system to avoid/remove fake reviews and scores?	The focus of scoring and badging should be to enable the structured flow of useful information to the Network Participants and users rather than their gamification. Rating systems online have a tendency to have a positive skew <sup>9</sup> which renders them less useful as a differentiator in the medium-term. Alternatives such as stress tests of Network Participants' operations and mandating disclosure of specific performance data in real time in addition to the extant mechanism may provide some protection against this risk. Further, it is important the demonstrable experience (as part of the score) of Network Participants is fully transferable across the network in addition to a right to correct inaccurate data.	De-gamify the scoring and badging system as well as add qualitative information to the composite score to ensure that ratings remain a source of useful differentiation for Network Participants.
10.	4.8.1(b) - What kinds of data should ONDC publish to cultivate transparency and trust?	Understanding the relationship between counter-parties and Network Participants and performance would be useful to establish the baseline expectations of performance. One way could be to clearly demarcate connected entities in regular updates of network participants. Another update could be that the aggregate transaction data should clearly show fulfilment parameters and statistics for when on-network logistics are used as compared to various in-house logistics. This kind of data will build trust by demonstrating meaningful choice in structuring transactions.	Specific types of data could be trialled to ensure a better public view of performance of network entities.
11.	4.9.1 (b) - What other functions should the User Council perform for greater participation and responsiveness?	User Council composition should be based on updated understanding of bargaining power between various stakeholders. It is expected that the technological design of the network will provide broad level views of trends in value capture by various Network Participants. This must be reflected in the proportional representation that various types of Network Participants and other stakeholders receive in the User Council. The User Council must also be held accountable to the Network Participants through regular engagements.	Detail the composition and the rules around representation in the User Council.

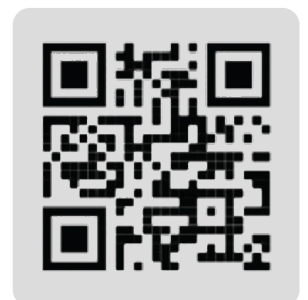
<sup>9</sup><https://www.nature.com/articles/s41562-021-01098-5>

No.	Relevant Section	Input	Action
12.	<p>4.8.1(a) and 4.9.1 (a) - How can ONDC streamline policy compliance monitoring and enforcement without centralising responsibilities and power within itself?</p> <p>- How can ONDC better engage with stakeholders, bearing in mind that it is a small organisation?</p>	<p>Priority should be given to development of both compliance and social audits simultaneously. Audits are not as effective when they are standalone exercises- they should be as part of an overall scheme of network participant rights that can be enforced predictably through the IGM.</p> <p>The main policy task is to provide guidance for a broad range of trusted actors who can provide these services. By monitoring the performance of these actors, ONDC's team will not be limited by its small size but yet be able to influence the creation of a trusted feedback mechanism for the behaviour of Network Participants.</p>	<p>Define the contours of compliance and social audits in the Network Policy.</p>





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