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Developments in online ADR

More than 1.5 million disputes resolved online

Melissa Conley Tyler

ADR practitioners have a reputation for being somewhat 'touchy feely', so some initial scepticism about technology is understandable. Given this, it is notable how widely and how quickly new information and communication technology is being taken up world-wide as a tool for dispute resolution.

A Global Forum on ODR

The growth in the field of online dispute resolution (ODR) since its beginnings in 1996 can be measured by a recent event in Melbourne. The University of Melbourne's International Conflict Resolution Centre hosted the Third Annual Forum on Online Dispute Resolution on 5 and 6 July 2004, in collaboration with the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP).

The Forum brought together more than 200 people from 25 countries to analyse the current development of ODR worldwide. Papers delivered at the forum covered all aspects of technology and dispute resolution, including technical aspects, culture and language, access and equity, legal issues and ODR practice. Full proceedings of the Forum will be available at <www.odr.info> from August 2004.

State of ODR 2004

I presented research at the forum on the 'state of the art' of ODR today that identified 115 sites and services launched throughout the world. Together these 115 have settled over 1.5 million disputes online.

In assessing these sites, I used the definition of ODR as referring to dispute resolution processes, whether

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facilitative, advisory or determinative, assisted by information technology, particularly the internet. This can include online mediation, online complaints-handling, online arbitration, and online adjudication.

ODR services identified offer examples of using technology to resolve everything from eBay disputes to commercial litigation, and from family disputes to the Sri Lankan peace process. There are now ODR services in all regions of the world.

Seven ODR services have been launched in Australia, making Australia one of the leaders in this field.

ODR in practice

ODR uses a range of tools and can be used for almost any type of dispute. Practitioners are using tools such as email, voice conferencing, instant messaging, bulletin boards and video facilities to enable them to resolve disputes where it would be impossible or inadvisable to meet in person.

Some examples of ODR in practice include:

e-Commerce and other consumer disputes

- Square Trade <www.squaretrade.com>, a US service that offers facilitated negotiation and mediation of mainly online disputes, including problems from eBay, Google, Yahoo! and other online marketplaces.
- ECODIR <www.ecodir.org>, the European Union's prototype online consumer dispute resolution site.

Internet disputes

- Asian Domain Name Dispute Resolution Centre <www.adndrc.org>, based in Hong Kong, which arbitrates internet domain name disputes.

Commercial disputes

- The Claim Room <www.theclaimroom.com>, a UK company that provides mediation for mainly commercial litigation disputes.
- SmartSettle <www.smartsettle.com>, a Canadian company that helps people prepare for negotiation by analysing their preferences and the potential options on the negotiation table.

Courts and justice

- The Federal Court of Australia eCourt <www.fedcourt.gov.au> which enables electronic filing and document management and offers a 'virtual courtroom', including videoconferencing, particularly for Native Title hearings in remote areas.
- Justica Sobre Rodas <www.tj.es.gov.br>, a mobile court in Brazil that uses an artificial intelligence program to analyse witness statements and assessors' reports and assist a judge to make a judgment at the scene of a vehicle accident.

ADR providers

- Federal Mediation and Conciliation Service <www.fmcs.gov>, a US Government service that brings laptops and other mobile technology to the workplace to help conciliate labour/management disputes.
- Family Mediation Canada <www.fmc.ca>, a service that provides web-broadcast teleconferencing and joint document collaboration for parties in family disputes.

Peace and conflict

- Info-Share <www.info-share.org>, a tool for bringing the parties in the Sri Lankan peace process together electronically in a situation where it would be impossible for them to meet in person.
- Cultures of Peace News Network (CPNN) <www.cpnn.org>, a global network of sites created by UNESCO to enable people to exchange information to promote a culture of peace.

No longer science fiction

What is striking about these developments is the number and variety of situations where people are choosing to resolve their disputes online.

Online dispute resolution can be a convenient, quick and low-cost option. For some disputes, there is no other option for resolving them: you are not going to fly around the world for an online transaction that went wrong.

In other cases the choice can be because of travel costs, time or inclination. Sometimes people in dispute simply prefer not to meet. Technology can also be useful where parties would be in physical danger if they came together.

In research conducted last year the International Conflict Resolution Centre found that public demand for ODR appears to be strong. In a Needs Assessment conducted using hard copy and online surveys and focus groups, more than 70 per cent of respondents reported that they were willing to try ODR to settle a dispute. The main factors were cost, speed and convenience. This suggests that the field of ODR is only likely to grow.

ODR is already with us. As technology is increasingly adopted by traditional dispute resolution mechanisms such as courts, ODR will become a topic of relevance to those involved in dispute resolution, law, e-commerce, industry, information technology and government.

The message from the Forum is that ODR is no longer conjecture. New technologies for dispute resolution have been taken up worldwide. ●

Melissa Conley Tyler is Program Manager of the International Conflict Resolution Centre, University of Melbourne. She has 10 years' experience in conflict resolution in the US, South Africa and Australia.

Melissa is the only Australian member of the United Nations Expert Working Group on ODR and edits the ODR Library at www.odr.info. She can be contacted at mconleytyler@unimelb.edu.au.

diary and happenings

- The **European Union** launched a **European Code of Conduct for Mediators** at the European Commission Justice Directorate conference in Brussels on 2 July 2004. The Code is supported by the Commission, but is not intended to represent its official position. For more information visit <europa.eu.int/comm/justice_home/ejn/adr/adr_ec_en.htm>.
- The **Mawul Rom Project** will be conducting a series of half-day seminars on **Cross Cultural Mediation Training** in each of the Australian capital cities throughout September 2004. The national seminar tour will be in Brisbane on 6 September, Sydney on 7 September, Melbourne on 8 September, Canberra on 9 September, Adelaide on 13 September, Darwin on 15 September, and Perth on 27 September. Contact paultolliday@mawul.com for more information.
- **LEADR** is hosting a one-day micro skills course to be delivered by **Bradley Chenoweth** on **Breaking the Deadlock: Issue Exploration** in Perth on 7 September 2004, Sydney on 19 October 2004, and Melbourne on 16 November 2004. See <www.leadr.com.au> for more information.
- The **Australian Institute for Relationship Studies**, the professional training division of Relationships Australia, is offering a post graduate course in mediation. The **Graduate Certificate in Mediation** consists of four units and the first unit will be commencing in October 2004 and February 2005. This course provides opportunities for students to choose from two specialities – Workplace Dispute Resolution and Family Dispute Resolution. Please contact (02) 9806 3288 or visit <www.relationships.com.au> for more information.
- The WA Chapter of the **Institute of Arbitrators and Mediators Australia** is seeking expressions of interest from individuals who would like to attend the 5 day mediation training course - **Practitioner's Certificate in Mediation & Conciliation** to be conducted in Perth during October/November 2004. Contact the WA Chapter Administrator to register your interest by email: wa.chapter@iama.org.au or phone: (08) 9368 4755. See <www.iama.org.au/index.html> for more details.
- The **Australian Centre for International Commercial Arbitration** is hosting a conference dealing with all aspects of international arbitration in the Asia-Pacific region to be held on 3 November 2004 at Doltone House, Sydney. Visit <www.acica.org.au>, email Mary Mamootil at mm@mandmevents.com or phone (02) 9024 5273 for more information.
- **LEADR** is holding its **8th Australasian Dispute Resolution Conference** on 10 -11 March 2005 at the Swiss Grand Hotel, Bondi, Sydney. For more information, or to express interest, visit <www.leadr.com.au>.
- As part of its conflict resolution program, La Trobe University is hosting a symposium on **Victim Offender Dispute Resolution – Restorative Justice and Conferencing** followed by a **3-day workshop**, led by **Peter Condliffe**, focusing on the process and skills of conferencing in a variety of contexts. The symposium will be held on 6 October 2004 at the Bundoora campus of La Trobe University. The 3-day workshop will be held from 3-5 November. For information contact Sandra Padova on phone (03) 9285 5201, fax (03) 9285 5231, email profstudy@latrobe.edu.au. Enrolled students wishing to attend the workshop should contact Sandra Stone on ph (03) 9479 5059, fax (03) 9479 1607, or email s.stone@latrobe.edu.au.

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