



# Online Dispute Resolution (ODR) Opportunities and Challenges


Is it a fit for you?


## BCAMI SYMPOSIUM

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# What is Online Dispute Resolution?

- ODR refers to the application of online (internet) technology to dispute resolution
  - ODR is understood to involve dispute resolution platforms and processes
  - ODR is either technology-based or technology-assisted
  - ODR can be synchronous or asynchronous
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# Dispute Resolution: Online, Offline, Blended?

- Emotion
- Distance/time zones
- Literacy and language
- Speed
- Complexity/taking time to consider
- Client or audience characteristics (sociocultural)
- Safety and anonymity
- Policies & Procedures (adapt to the digital environment)
- Preference



# Downsides to Technology in DR

- Lack of nonverbal communication
- Comfort with technology / power imbalance
- Faster typist leveraging the advantage
- Fear of incorporating something new (self-doubt)
- Powerful computer with fast internet connection / slow dial-up
- Confidentiality and record keeping (paper trail)
- New technologies stimulate skepticism




# Benefits of ODR

- Accessibility and convenience, speedy resolution
- Reduced strain on the legal system
- Geographic distance (too expensive to travel)
- In e-commerce, possibly the only feasible option for DR
- Access to expertise not available locally (DR professionals)
- Electronic data storage and retrieval, recordings, appts.
- Synchronous and asynchronous (IM) communication
- Less visual cues to avoid negative emotions
- Disrupts limitations based on physical appearance



# Benefits continued

- Easier to overcome socio-economic differences
  - Change ingrained conflict dynamics, including dominance and intimidation
  - Minimizes jurisdictional issues
  - Security – can keep location secret
  - Learning environment for parties to learn rational communication skills
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# Experience in Online Mediation



Online Mediation Explained in 9 Minutes

by Giuseppe Leone

<http://www.virtualmediationlab.com/virtual-mediation-lab-usa-international/online-mediation-explained-in-9-minutes/>



# Insights



- Facilitation skills
- Pre-mediation with technology
- Plan B
- Signatures
- Payments
- Agreement to Mediate clauses for online




# Tribunal Dispute Resolution Stages






# ODR in Practice

- For ADR professionals interested in exploring new service offerings, ODR may be an interesting consideration
  - ADR professionals with knowledge and experience in ODR will be well placed to make the transitions into these future areas of practice, if not lead them
  - ADR professionals might consider ways to leverage these technologies without waiting for them to become mandated by the justice system
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# ODR in Practice continued

- ▶ It is currently possible to
    - ▶ Use video or text-based ODR processes to consult more efficiently with clients (if they live some distance away)
    - ▶ Exploit technology-based tools to streamline processes, even if they are only used as preliminary steps before an ultimate face-to-face mediation or arbitration
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# ODR in Practice continued

- ▶ The goal of ODR is to pull together these functions into a single application – easy to manage within a centralized, structured virtual ‘place’
  - ▶ ODR can be a very effective vehicle for doing DR, even if it is not the only way - it is nevertheless valuable and important in its own right
  - ▶ Confidentiality, security, and underlying trust issues in ODR are points that need to be addressed appropriately.
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# Where to go for training?

<http://csonline.royalroads.ca/moodle/course/view.php?id=144>






# Conclusions

- It is reasonable to expect ODR will eventually become part of the justice “mainstream”.
- Instead of full-scale court reform, change could be transformational.
- Formalized justice systems can unlock significant improvements in terms of speed, cost and accessibility through technology.



# Conclusions continued

- ▶ In BC, if the CRT approach proves successful for small claims and Strata disputes, it is reasonable to expect that ODR will be considered for higher value cases and other types of disputes.
  - ▶ The benefits of remote, text-based, asynchronous communication in the DR process are changes that stand to create new services that increase access to justice and unlock other, yet undiscovered, benefits for clients and professionals alike.
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Questions and personal experience?

*Thank you !*

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