

## **Seventy-six and Counting: An Analysis of ODR Sites**

A Report of Research Conducted for the Department of Justice, Victoria, Australia  
by  
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### Abstract

This paper will present a survey of the current state of online alternative dispute resolution (online ADR) through an analysis of 76 ODR sites from around the world.

Research was conducted as part of an investigation of online ADR conducted for the Department of Justice, Victoria, Australia between February and March 2003.

The paper will present statistical information and trend analysis of the 76 online ADR sites assessed, including services offered, communication methods used, type of disputes dealt with, fee structure, privacy and security measures and current operations.

The focus of this paper will be on the results of site analysis conducted. The process of research will only be covered briefly. A paper being delivered at the 2nd Annual UNECE Forum on ODR in Geneva on 30 June focuses on the methodological aspects of the study in more depth.

Further information on the project, including copies of the research reports produced, is available at [www.justice.vic.gov.au](http://www.justice.vic.gov.au) and [www.psych.unimelb.edu.au/icrc](http://www.psych.unimelb.edu.au/icrc).

### **Key Terms**

The term "online ADR" is used in this paper in accordance with Australian practice to date which emphasises the continuity between the growth of alternative dispute resolution (ADR) and the development of similar techniques online.

ADR refers to processes other than judicial determination in which an impartial person assists those in a dispute to resolve the issues between them. Online ADR refers to ADR processes assisted by information technology, particularly the internet.

A full outline of terminology used is included in the glossary in **Appendix 1** to this report.

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## 1.0 Background

The Government of Victoria, Australia's second most populous state, is committed to bringing the benefits of information technology to all its citizens.

In 1999, the Victorian Government issued *Connecting Victoria*, a blueprint for growing the State's information and communications technology sector. One of the key commitments in this policy was to have all suitable government services available online by 2001. This goal was achieved. In March 2002 the Victorian Government released its eGovernment strategy, *Putting People at the Centre*, to maintain leadership in this area.

On 30 October 2002, the Department of Justice (Department) requested quotes for Research into Online Alternative Dispute Resolution (Project). The International Conflict Resolution Centre (ICRC) submitted a proposal and was selected to undertake the Project. Work on the Project commenced on 16 January 2003.

Three deliverables were requested:

- An evaluation of current Australian and international online ADR schemes, including identification of best practice principles (Exploration Report)
- A needs assessment of likely demand focusing on potential providers and consumers of online ADR (Needs Assessment Report)
- A recommendation for proceeding or not proceeding with online ADR including cost and benefits and preferred options (Feasibility Report).

The Exploration Report was completed on 7 March 2003. The Needs Assessment was completed on 16 May. This paper summarises the results of the Exploration Report.

## 2.0 Methodology

The Exploration Report was prepared using the following methodology:

- Comprehensive literature review of research on online ADR
- Analysis of 76 online ADR sites
- Analysis of five illustrative case studies chosen from these sites
- Liaison with online ADR researchers and the expert community.

A literature review was first undertaken to provide a comprehensive summary of online ADR systems. A key focus of the review was to identify "best practice" principles and key learnings. Detailed information on online ADR was identified and reviewed, including evaluations of online ADR websites where available. A total of 128 books, articles, reports and other resources were reviewed.

Following the literature review, 76 past and current online ADR sites were surveyed. Online ADR sites were identified through internet indices and search engines, academic indices, informational sites and literature review. Detailed information on these sites was then gathered from site visits, results of international surveys and the literature review. A list of sites surveyed is included in **Appendix 1**.

## 3.0 Research Results

### 3.1 Location, Date of Launch and Activity Levels

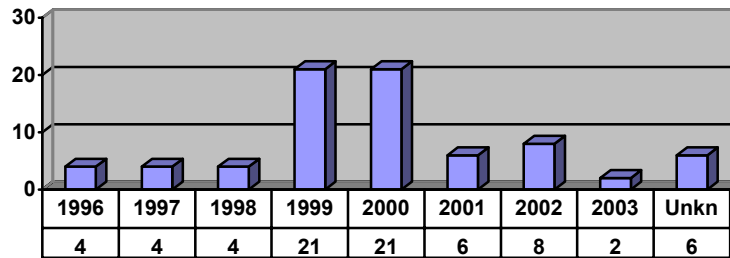
#### 3.1.1 Date of Launch

Online ADR has been available since 1996. Its development can be defined as passing through three broad stages:

- a "hobbyist" phase where individual enthusiasts started work on online ADR, often without formal backing
- an "experimental" phase where foundations and international bodies funded academics and non-profit organisations to run pilot programs
- an "entrepreneurial" phase where a number of for-profit organisations launched private online ADR sites (adapted from Katsh and Rifkin 2001:47-72).

From the launch dates of the 76 sites assessed, it appears that the hobbyist phase lasted until around 1996, the experimental phase was around 1997 and 1998 and the entrepreneurial phase was marked by the many sites launched in 1999 and 2000.

**Year of Launch**



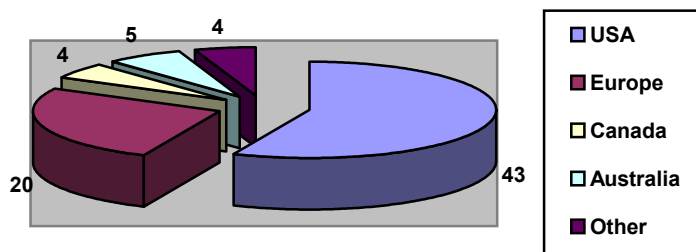
Online ADR appears to now be entering a fourth "institutional" phase where it is piloted and adopted by a range of official bodies.

### 3.1.1 Geographic Location

Most of the early activity in online ADR occurred North America; however, Europe and Asia have now started to develop significant online ADR initiatives. The first Australian sites were launched in 2002.

Forty three sites from the USA, 20 from Europe, four from Canada, five from Australia and four from the rest of the world were reviewed.

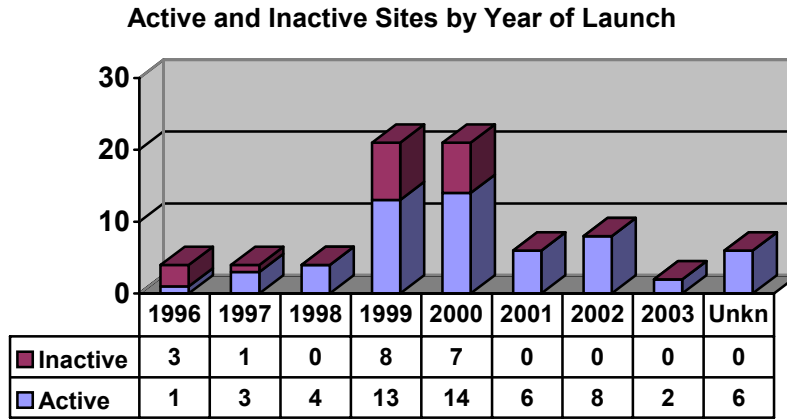
**Geographic Distribution**



### 3.1.3 Operational Status

A difficult investment environment for internet related companies throughout 2001 and 2002 saw the end of many of the entrepreneurial initiatives launched in 1999 and 2000. However online ADR sites have continued to be launched, particularly in Europe and Asia and often by more formal institutional bodies.

Of the 76 sites surveyed, 19 are no longer active.



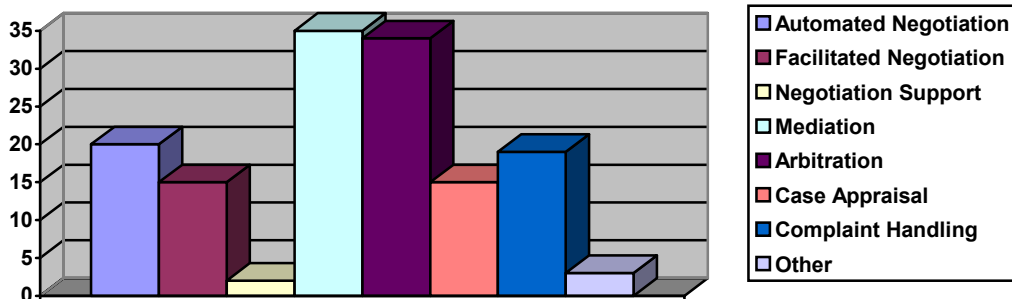
### 3.2 Types of Online ADR and Communication Methods

#### 3.2.1 Types of Online ADR Offered

Online ADR has adapted a range of traditional ADR processes for use online, including complaint handling, arbitration, mediation, facilitated negotiation and case appraisal. A description of these processes is included in the glossary in **Appendix 1** to this report.

In addition, a number of online-specific techniques have been developed to take advantage of the new technology; these include automated negotiation and negotiation support.

Mediation and arbitration have been the most prevalent forms of online ADR. The breakdown of types of online ADR among the 76 sites were as follows:



#### Key Terms

**Facilitated negotiation** is the simplest form of online ADR in which an online space is provided where parties can negotiate directly. Since the space is designed and run by rules set by the provider, the dialogue is in fact a facilitated one. The main providers of facilitated

negotiation are Square Trade, Online Confidence, ECODIR, Online Resolution, Resolution Forum and The Claim Room.

**Online mediation** can be via email or, on more modern systems, through a secure website. Many providers offer online mediation as their primary service; others offer mediation only if other processes fail. There are many providers of online mediation including Internet Neutral, e-Mediator, eNeutral, Dispute Manager, e@dr, ECODIR, JAMS, Mediation Arbitration Resolution Services (MARS), Online Resolution, WebMediate, Square Trade and Resolution Forum.

**Online arbitration** can be through submission of documents only or via videoconferencing. Some systems offer online arbitration only if other ADR processes fail. There are many providers of online arbitration including Nova Forum, MARS, JAMS, eNeutral, e@dr, Square Trade, Resolution Forum, Online Resolution, Private Judge, Online Confidence, Web Assured, Web Mediate and Word&Bond.

**Case appraisal** is where a neutral party considers a dispute and provides advice as to the facts, law and possible outcomes. Mock trials provided by iCourthouse ask a virtual "jury" to make a non-binding determination of issues through a web platform. Alternatively, a neutral evaluation ("advice" or "recommendation") can be requested from an expert or expert panel through providers of neutral evaluation include Bankers Repository Corporation, Dispute Manager, ECODIR, eNeutral, JAMS, Nova Forum, Online Resolution, Online Confidence and Word&Bond.

**Automated negotiation** is an innovative form of online ADR that does not have an exact offline analogue. The key difference between this and other online ADR is that it is fully automated and software driven. No human intervention is involved. Automated negotiation includes processes such as "blind bidding" where parties submit confidential settlement offers for a number of rounds. A computer program automatically notifies them of a settlement at the arithmetic mean once the amounts are sufficiently close. Main providers are ClickNsettle, Cybersettle, Intersettle, e-settle.co.uk, MARS, Settlement Online, WeCanSettle, The Claim Room, WebMediate and Dispute Manager.

**Negotiation support systems** have also been designed to take advantage of the online medium. They are expert systems that allow manipulation of negotiation variables by one or both parties to help them plan and conduct negotiations. Primary players are SmartSettle and SettleTheCase.

**Complaint Handling** is a process where a party can make a complaint to a third party who will communicate a demand for redress to the respondent. Complaints can then be handled by processes such as facilitated negotiation, mediation, case appraisal or arbitration. Complaint handling is often used to resolve consumer disputes. A number of providers provide online complaint handling, including Nova Forum, iLevel, Online Confidence, IRIS Médiation, NotGoodEnough.com.au, Complain.com.au and FSM.

### 3.2.2 Communication Methods Used

The communication tools used in online ADR have changed as online technology has developed. Early online ADR sites tended to rely mainly on email meaning that communication was asynchronous, text based and insecure. By contrast, the most common technology for services launched in the last two to three years is a secure web site encrypted by Secure Socket Layers (SSL) technology where parties are given a password to access a web site area dedicated to their dispute.

See **Appendix 1** for a description of the basic online communication methods and their main characteristics.

Sites can either allow asynchronous communication through threaded discussion (bulletin boards) or real time chat facilities. Instant messaging is being used by some sites to enable both synchronous and asynchronous communication, as is "secure email" via an encryption program. Caucusing (the ability for one party to meet among themselves or with the neutral without the other party) is a basic feature in newer systems. Some sites often offer facilities such as case tracking and document editing.

A number of providers integrate online ADR methods with traditional tools such as phone, fax, teleconference and face-to-face meetings.

Videoconferencing is offered by 13 of the 76 sites (17%). clickNsettle offers videoconferencing through installing equipment at its clients' offices, while JAMS has videoconferencing facilities available at 23 U.S. offices and eNeutral suggests providers if parties do not have their own facilities. Cibertribunal Peruano offers videoconferencing in a less developed environment. There are bandwidth issues for broadcast-quality videoconferencing, which also requires specialised facilities; however lower quality videoconferencing is becoming more affordable and may be the next phase in technological development (NADRAC 2002).

### 3.3 Issues Dealt With

The range of disputes covered by online ADR has been broad: from family law to internet domain name disputes; from consumer transactions to insurance disputes. Online and offline consumer disputes have been a major focus of online ADR sites.

#### 3.3.1 Online and Offline Disputes

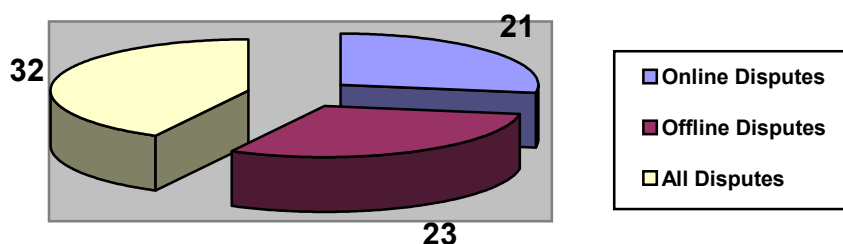
Given that the need to resolve online disputes was one of the key drivers for the development of online ADR, it is not surprising that many sites were established mainly to resolve disputes arising through or because of online communication. Providers such as Square Trade (eBay auction disputes), IRIS Médiation (internet service provider disputes), e@dr (e-commerce disputes) and Cyberlaws.net (virtual community disputes) have built their business on resolving online disputes.

However, a number of online ADR sites have instead focused on offline disputes. Most automated negotiation sites specialise in insurance and commercial claims while some mediation sites have focused only on offline disputes.

While some have questioned the value of online ADR for offline disputes, there is no evidence that it is generally less appropriate than traditional ADR. In fact, there have been cases where offline disputants have demanded that online methods be extended to them even when the provider had intended only to deal with online disputes (Rule 2002:222).

It is becoming more common for providers to offer services for both online or offline disputes. This includes some providers who launched exclusively dealing with online disputes. For example, Square Trade has broadened its operations from online marketplaces and now offers services for offline real estate disputes.

**Issues Dealt With By Sites**



### 3.3.2 Consumer Disputes

Consumer dispute resolution has been a major area of activity for online ADR because of the need to build e-commerce through increasing consumers' "e-confidence." Twenty of the 76 sites assessed (26%) focus on consumer disputes. Other sites offer facilities for resolving any disputes, including consumer disputes.

A range of methods have been used to increase consumer confidence, including ratings based on consumer feedback, trustmarks certifying compliance with standards, insurance, escrow and money back guarantees.

Sites such as BBBOnline, the Consumers Association of Iceland, European Advertising Standards Alliance, FSM, ECODIR, Web Trader and Online Confidence work exclusively or almost exclusively in consumer disputes.

## 3.4 Cases Attracted and Outcomes Achieved

### 3.4.1 Cases Attracted

Statistics on cases attracted were available for 24 of the sites surveyed. Lack of information for the other sites makes it difficult to make comprehensive judgements (Consumers International 2001). However it is fair to assume that sites that do not include this information have attracted fewer cases, since services that have attracted a large number of cases probably wish to publicise this fact (Schultz et al 2001).

There is very wide variability in the number of cases dealt with by online ADR systems to date: from only one case to more than 200,000 cases.

The sites that have settled the most disputes appear to be the following:

- Square Trade - 200,000 cases worth more than US\$120m from February 2000 to February 2002
- Cybersettle - 68,000 cases from June 1998 to December 2002
- clickNsettle - 2,000 cases from June 1999 to August 2001
- SettleOnline - 2,000 cases from June 1999 to October 2001
- iCourthouse - 600 cases from November 1999 to November 2001
- together, the five services dealing with UDRP domain name disputes have dealt with thousands of cases.

Some complaint handling sites have also been successful at attracting complaints:

- BBBOnline had 1.3m complaints filed (but not handled) online in 2000
- TRUSTe has handled thousands of complaints from 1997 to 2003
- iLevel has handled thousands of complaints from 1997 to 2001
- Web Trader in the UK resolved over 2,000 disputes in three and a half years
- FSM (a German internet complaints site) handled 1,179 complaints in 2001
- Nova Forum resolved 100 cases in 2000.

Remaining services have attracted under 200 cases each, including Online Ombuds Office, AllSettle, CyberTribunal, IRIS Médiation, e-Mediation, USSettle.com, Online Resolution. The least successful sites are The Virtual Magistrate and InternetNeutral recording one case each in over 4 years.

### 3.4.2 Outcomes Achieved

Unfortunately there is little data on settlement rates for the sites surveyed with only eight sites including these statistics. International surveys of online ADR sites have been unable to gather significant data on this issue (Consumers International 2001; International Chamber of Commerce 2001).

The following settlement rates have been advertised:

- WebAssured - over 95% success in getting complaints against member firms resolved, 76% success rate against non-members
- Square Trade - 85% of cases settled through facilitated negotiation, as well as further cases settled through mediation and case appraisal
- IRIS Médiation - 53 of 61 mediations (87%) successfully settled in its pilot year
- Resolution Forum - 75% of cases successfully resolved
- Bankers Repository Corporation - 60% settlement rate with 5% annual variation
- clickNsettle - 50% settled
- Online Ombuds Office - 50% settled
- USSettle.com - 40-50% success rate

This is broadly comparable to settlement rates for ADR generally which range from 60% to over 85% (Hazlehurst 1989).

User satisfaction is rarely tracked; however one site that collects this information has positive data. 80% of Square Trade users say they would use the service again.

## 3.5 Durability and Cost Effectiveness

### 3.5.1 Compliance with Settlements

Even less data is available on the durability of online settlements. For example WebMediate states that "generally, when parties to a dispute reach an agreement as to how a matter is to be resolved, compliance with the terms of the settlement is not an issue". However no figures for compliance are offered.

This mirrors lack of information for traditional ADR methods where settlements are rarely tracked to see if parties comply with their agreement or not. It is generally presumed that parties do comply since very, very few cases involving non-compliance with an ADR agreement have ever ended up in court.

The same factors that make it likely that traditional ADR agreements will be complied with also apply for online ADR. The only question would be whether parties to online ADR saw this in some sense as less "final" than other agreements. There is no evidence that this is the case.

### 3.5.2 Cost Effectiveness

Cost comparisons between online ADR and other methods of dispute resolution are difficult. None of the sites surveyed offered cost comparisons for online and offline ADR and none of the literature surveyed has been able to directly compare costs.

After comprehensive study, NADRAC 2002:7 concluded that "rapidly decreasing costs, increasing competition and increased capacity in many relevant technologies prevent firm cost comparisons" between online and traditional ADR.

While face-to-face meetings include the cost of a venue, travel costs and time lost in travel, online ADR costs include line rental, software and equipment costs. As technology costs change rapidly, so to does the calculus of providing online ADR.

NADRAC 2002:7 identified the following issues to consider in estimating costs:

- Information technology may create new markets and new demands, rather than replace existing services
- Technology may lead to a doubling up of resources
- New methods require a period of adjustment and initial increased inefficiency may be expected while people adjust to change
- Considerable training, marketing, consumer education and capacity building may be required for online ADR to be accepted
- Low uptake may prevent sufficient economies of scale
- Use of technology may shift costs - for example from consumers to practitioners

A number of sites which provide both online and offline services have chosen to have the same fee structure for both (for example e@dr, e-Mediator and Michigan Cybercourt). It is unclear whether this is because costs are similar or whether it is because the provider does not wish to disadvantage either of its services. The clearest evidence of cost savings is disputant time saved through quick resolution of disputes.

Overall, experience suggests that early claims about cost savings should not be overstated for online ADR as a whole. While some techniques such as automated negotiation and facilitated negotiation can be delivered at a very low cost, others such as mediation remain time intensive for the neutral involved. Online ADR is not inevitably a low cost option but may offer cost savings in many cases.

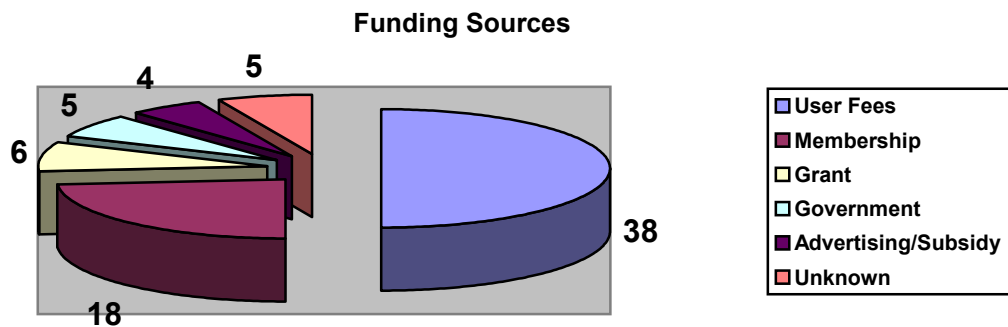
### 3.6 Funding

Online ADR sites have grown from a number of environments, including government and international bodies, academia, consumer organisations, business organisations and entrepreneurial start-up dom.coms. They have been motivated by both business opportunities and a sense of social need.

Online ADR sites make use of a number of funding mechanisms including:

- grant funding
- government funding
- user fees for one or both parties
- membership fees
- advertising revenue
- subsidy from other services.

The funding profile of the 76 sites assessed is as follows:



User fees have been the predominant funding mechanism for online ADR. User fees can take a number of forms including:

- a filing fee
- an hourly rate for mediators', arbitrators' and evaluators' time
- an administration fee or online "room" rental
- a standard service fee, usually for a set number of hours
- a percentage of settlement reached
- a per round bidding fee (automated negotiation only).

Experience to date suggests that the fees charged are attractive compared with other dispute resolution methods. For those providers that have not attracted business, the fees charged do not appear to be the problem: their fees are not notably more than for successful enterprises. However providers that do not advise their fees or set them on a "case by case basis" appear less likely to be successful.

Membership is a strategy that has been used both for commercial and consumer disputes. Online ADR can be funded by consumer membership or businesses membership. A trustmark or logo can be used to show adherence to standards.

There has been criticism of business membership providers as potentially compromising their independence in dealing with consumer disputes (Consumers International 2001). However the same critics usually demand that online ADR services be low cost or free to the consumer: two demands in conflict with each other.

Some commentators accept the loss of independence of online ADR services funded by business as a trade-off for consumer access: the key is to maintain transparency and put in place mechanisms to ensure impartiality (Federal Trade Commission 2000). Consumers International 2001 has found that most online ADR sites do not presently give adequate assurance of the impartiality of their services.

A number of services have offered online ADR for no cost, usually on a pilot basis while they were supported through philanthropic or University funding. These include Mediate-net, Cybertribunal, Online Ombuds and The Virtual Magistrate. These services have tended to cease once the initial funding was exhausted. However at least one non-profit service, Cibertribunal Peruano, has managed to continue operations.

Government online ADR services have offered at least a pilot phase with reduced or no user fees (ECODIR and Dispute Manager) or, where services are associated with a court, have applied the same filing fees as for a standard court process (e@dr, Michigan Cybercourt).

### 3.7 Access

There are three issues that may limit use of online ADR services:

- access to a computer with minimum hardware and software support
- accessibility of sites to people with disabilities and slow online connection speeds
- language of services offered.

#### 3.7.1 Access to Computing Equipment

None of the sites surveyed has any mechanism for making basic computing infrastructure available to disputants. However some providers who employ videoconferencing make this equipment available (JAMS) or help arrange installation (clickNsettle and eNeutral). The U.S. Federal Mediation and Conciliation Service (FMCS) provides laptop computers on site for its union and management consultations (Rule 2002:179-181).

In response to perceived equity issues, ideas have been raised for increasing disputants' access to basic computer technology. For example, King 2000 suggests encouraging solicitors to provide internet facilities for their clients to use and NADRAC 2001 suggests use of existing community facilities, such as libraries.

While these are ideas which should be pursued, such measures will be needed less as rates of private internet access continue to grow. For example, in Australia by March 2002, 4.2 million households had internet access, as well over 500,000 businesses covering millions more (ABS 2002). 51% of households used the internet in 2002, up from 46% in 2001 (Australian Communications Authority 2002).

Access to computer facilities is only a key issue if online ADR is proposed as a substitute for existing services. If online ADR is an additional mechanism, the same equity concerns do not apply.

#### 3.7.2 Accessibility of Services

Accessibility for those with computer equipment may be a more important issue and is something that can be completely managed by online ADR system design. NADRAC 2002a suggests that online ADR systems should use appropriate and accessible bandwidth (currently 128 kps), low requirements for computer capacity and should comply with guidelines for disability standards (NADRAC 2002).

Most early online ADR sites meet these criteria; however many more recent sites employ programming that does not appear to comply with disability standards. For example, Flash is increasingly used to enable moving elements; however a number of sites do give the option of a non-Flash version.

Tools are available to bring websites into compliance with level A of the W3C Accessibility standards (for example [www.mmv.vic.gov.au/accessibility](http://www.mmv.vic.gov.au/accessibility)).

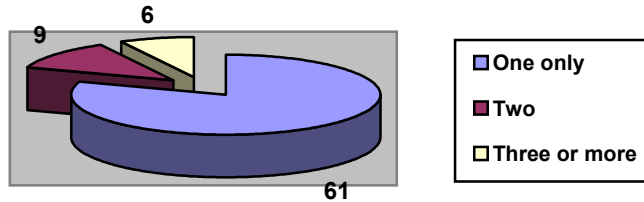
#### 3.7.3 Languages Offered

Out of the 76 sites surveyed:

- 61 offer their services in only one language (53 of these are English only)
- nine offer services in two languages (English plus Spanish, French or Chinese)
- six offer services in three languages or more

- the most languages are covered by the business-membership organisation Nova Forum (French, English, Spanish, German, Italian and Mandarin, with others by translation). Some consumer ADR sites offer services across a number of states in each official

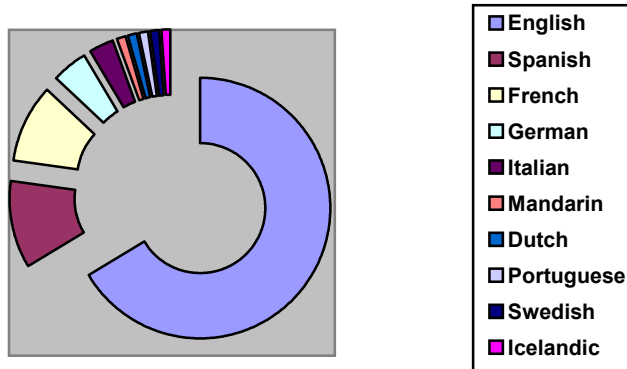
**Number of Languages Services Offered In**



language, such as the consumer association consortium WebTrader or Eurochambers Online Confidence (cf the European Commission's ECODIR which is currently offered only in English and French). Both Singapore sites are offered in English only.

The most common languages for services to be offered in, apart from English, are Spanish and French.

**Languages Offered on Online ADR sites**



### 3.8 Privacy and Security

Privacy and security are issues in an online environment as they are for traditional ADR services. Bonnet et al 2002 suggest that online ADR systems must be able to meet the following minimum security standards:

- identifies the author of each message
- shows evidence that documents have been completely sent
- ensures the integrity of submitted information (ie that the repository has remained unchanged since it was sent)
- protects information stored on an online ADR database from unauthorised parties
- distinguishes an original from a copy.

Online ADR technology is definitely coming closer to this point (Bonnet et al 2002). However it is important to note that no communication method can provide for absolute security. Security is always a question of risk management. For example paper documents can be intercepted, copied or otherwise accessed (Hörnle 2002).

Much of the early resistance to online ADR probably came from the fact that email is not secure. The conventional wisdom is that unencrypted email is about as secure as a postcard (Schultz et al 2001). While encryption options such as S/MIME and Pretty Good Privacy exist, these are not in general use. The current estimate is that only 0.5% of email is encrypted in any way (Rule 2002:246). Security issues surrounding email have not yet been solved (Hörnle 2002).

However, probably because of this, email is not the main communication method used by modern online ADR systems. Most systems instead allow parties to communicate on a secure web page or platform. The most common mechanism is Secure Sockets Layer (SSL): this is indicated by a website beginning with "https" or a lock symbol on the user's screen. Some systems use encrypted email instead of a secure web page.

Like any other sites, online ADR sites are also at risk of virus infections, intrusions or disk crashes. Firewalls, backup policies and intrusion detection systems are the standard mechanisms used to reduce these risks (Schultz et al 2001). Currently active online ADR sites appear to make use of these mechanisms.

In line with increasing privacy regulation worldwide, most online ADR sites have explicit policies on privacy that tell users what use can be made of their personal information. Some sites delete all information on a case from their database once settlement has been reached (Bankers Repository Corporation) while others can store it in case of the disputant losing their own data (Intersettle). Some sites such as Square Trade display a privacy seal.

### 3.9 Policies and Procedures

Most online ADR sites have formal policies and procedures, including dispute management protocols, privacy and confidentiality policies, standards of conduct and codes of practice.

Almost all sites explicitly state a set of procedures for handling disputes. These can be as formal as an arbitration procedures manual or as simple as a flow chart. However, none of the 76 online ADR systems themselves had a dispute handling mechanism if procedures were not followed (Consumers International 2001).

A number of the sites surveyed explicitly bind their online mediators, arbitrators and evaluators to a set of rules for conduct such as:

- rules of the American Bar Association (ABA)
- American Arbitration Association (AAA) Code of Ethics
- ethical standards of the Association for Conflict Resolution (formerly the Society for Professionals in Dispute Resolution)
- Model Standards of Conduct for Mediators jointly defined by ABA, ACR and AAA
- the Institute for Responsible Dispute Resolution Code of Ethics
- in house standards of conduct.

The American Bar Association established a task force to look at ways of ensuring that online ADR services remain effective and ethical (Rule 2002:116). The Online Sector of the Association for Conflict Management has prepared draft Proposed Guidelines for Online Dispute Resolution (Wiener 2001:4). In Australia, NADRAC 2002a has created a draft updated statement of practitioner standards for online ADR.

## 4.0 Conclusion

While there remain many people who are sceptical about the benefits and potential of online ADR, one of the things that these sceptics find most convincing is the number of online ADR sites launched to date and the volume of settlements achieved by some of these services.

The 76 online ADR sites analysed in this paper form a solid base for further development in this dynamic area.

As online ADR practice continues to expand its breadth and depth in coming years, there will be additional experience to woo new users to try these services.

## Appendix Glossary of Terms

1

**Online ADR** is the term used in this paper for ADR processes conducted with the assistance of information technology, particularly the internet. In many countries the most common term is "ODR" for "online dispute resolution" (which potentially includes online court-based processes). Other terms used are "eADR", "iADR", "virtual ADR", "cyber mediation" and "cyber arbitration." Simply providing information about ADR on a website is not online ADR.

**ADR** refers to processes other than judicial determination in which an impartial person assists those in a dispute to resolve the issues between them (NADRAC 1997). Processes can be divided into determinative, advisory and facilitative types.

The main determinative process is **Arbitration**: a process in which the parties to a dispute present arguments and evidence to a neutral third party who makes a determination (NADRAC 1997). The arbitration judgment is binding on parties.

Advisory ADR processes include expert appraisal, case appraisal, case presentation, mock trial and neutral evaluation. In each process, an ADR practitioner considers and appraises the dispute and provides advice as to the facts, law and possible outcomes (NADRAC 2002d). **Case Appraisal** in this paper refers to all of these processes.

Facilitative processes include **Conciliation**, **Mediation** and **Facilitated Negotiation**: in each case the parties to a dispute, with the assistance of a neutral third party, identify the issues in dispute, develop options, consider alternatives and endeavour to reach an agreement (NADRAC 1997). **Complaint Handling** is a facilitative process where a party can make a complaint to a third party who will communicate a demand for redress to the respondent, usually for consumer disputes. It may or may not include the power to make a non-binding decision.

**Online** is a colloquial term that refers to communication through an electronic medium, especially the internet. The **Internet** is a global network of computers that carries exchanges data and communication messages. Online communication includes:

- **Email** - a virtually instantaneous transfer of text messages
- **Instant Messaging** - a variant on email that can be used asynchronously and also allows synchronous online chat
- **Online Chat** - a synchronous, text-based exchange of information
- **Threaded Discussion** (also known as bulletin boards) - an asynchronous, textual exchange of information organised into specific topics
- **Video/Audio Streams** - asynchronous transfer of recorded messages
- **Videoconferencing** - synchronous transfer of video information.

**Online Disputes** are any disputes that arise through or because of online communication methods. For example, a dispute between a consumer and a website that sells products online, or between a buyer and a seller over an internet auction.

**Offline Disputes** are any disputes that arise in the "real world" outside of cyberspace. These include family disputes, neighbourhood disputes and employment disputes.

**Appendix**  
**Online ADR Sites Assessed By Region**

2

**Australia (5)**

ADRonline	<a href="http://www.adronline.com.au">www.adronline.com.au</a>
Complain.com.au	<a href="http://www.complain.com.au">www.complain.com.au</a>
NotGoodEnough.com.au	<a href="http://www.notgoodenough.com.au">www.notgoodenough.com.au</a>
Retail Tenancy Unit Online Mediation	<a href="http://www.retailtenancy.nsw.gov.au">www.retailtenancy.nsw.gov.au</a>
The Hearing Room	<a href="http://www.auscript.com.au">www.auscript.com.au</a>

**Canada (4)**

CyberTribunal	<a href="http://www.cybertribunal.org">www.cybertribunal.org</a>
eResolution	<a href="http://www.eresolution.ca">www.eresolution.ca</a>
Nova Forum	<a href="http://www.novaforum.com">www.novaforum.com</a>
Resolution Canada	<a href="http://www.resolutioncanada.ca">www.resolutioncanada.ca</a>

**Europe (20)**

Arbitraje y Mediación (ARyME)	<a href="http://www.aryme.com">www.aryme.com</a>
Camera Arbitrale di Milano	<a href="http://www.camera-arbitrale.com">www.camera-arbitrale.com</a>
Chartered Institute of Arbitrators	<a href="http://www.arbitrators.org">www.arbitrators.org</a>
Consumers Association of Iceland	<a href="http://www.ns.is">www.ns.is</a>
Cybercourt	<a href="http://www.cybercourt.org">www.cybercourt.org</a>
Electronic Consumer Dispute Resolution (ECODIR)	<a href="http://www.ecodir.org">www.ecodir.org</a>
e-Mediator	<a href="http://www.consensusmediation.co.uk">www.consensusmediation.co.uk</a>
e-Settle.co.uk	<a href="http://www.e-settle.co.uk">www.e-settle.co.uk</a>
European Advertising Standards Alliance	<a href="http://www.easa-alliance.org">www.easa-alliance.org</a>
FSM	<a href="http://www.fsm.de">www.fsm.de</a>
Internet Ombudsman	<a href="http://www.internetombudsmann.at">www.internetombudsmann.at</a>
Internet Ombudsman	<a href="http://www.internetombudsmannen.se">www.internetombudsmannen.se</a>
Intersettle	<a href="http://www.intersettle.co.uk">www.intersettle.co.uk</a>
IRIS Médiation	<a href="http://www.iris.sgdg.org/mediation">www.iris.sgdg.org/mediation</a>
Online Confidence	<a href="http://www.onlineconfidence.org">www.onlineconfidence.org</a>
The Claim Room	<a href="http://www.theclaimroom.com">www.theclaimroom.com</a>
Web Trader	<a href="http://whichwebtrader.which.net/webtrader/">whichwebtrader.which.net/webtrader/</a>
WeCanSettle	<a href="http://www.wecansettle.com">www.wecansettle.com</a>
Word&Bond	<a href="http://www.wordandbond.com">www.wordandbond.com</a>
World Intellectual Property Organisation (WIPO)	<a href="http://www.wipo.int">www.wipo.int</a>

**United State of America (43)**

1-2-3 Settle	<a href="http://www.123Settle.com">www.123Settle.com</a>
AllSettle	<a href="http://www.allsettle.com">www.allsettle.com</a>
American Arbitration Association Web File	<a href="http://www.adr.org">www.adr.org</a>
Bankers Repository Corporation	<a href="http://www.thebrc.com">www.thebrc.com</a>
Better Business Bureau Online	<a href="http://www.bbbonline.org">www.bbbonline.org</a>
CPR Institute for Dispute Resolution	<a href="http://www.cpradr.org">www.cpradr.org</a>
ClaimChoice	<a href="http://www.claimchoice.com">www.claimchoice.com</a>
Claim Resolver	<a href="http://www.claimresolver.com">www.claimresolver.com</a>
clickNsettle	<a href="http://www.clicknsettle.com">www.clicknsettle.com</a>
Cyberlaws.net	<a href="http://www.cyberarbitration.com">www.cyberarbitration.com</a>
Cybersettle	<a href="http://www.cybersettle.com">www.cybersettle.com</a>
eNeutral	<a href="http://www.eneutral.com">www.eneutral.com</a>
Global Arbitration Mediation Association (GAMA)	<a href="http://www.gama.com">www.gama.com</a>
iCourthouse	<a href="http://www.i-courthouse.com">www.i-courthouse.com</a>
iLevel	<a href="http://www.ilevel.com">www.ilevel.com</a>
IntelliCOURT	<a href="http://www.intellicourt.com">www.intellicourt.com</a>

InternetNeutral	<a href="http://www.internetneutral.com">www.internetneutral.com</a>
JAMS	<a href="http://www.jamsadr.com">www.jamsadr.com</a>
Mediate-net	<a href="http://www.mediate-net.org">www.mediate-net.org</a>
Mediation America	<a href="http://www.mediationamerica.com">www.mediationamerica.com</a>
Mediation Arbitration Resolution Services (MARS)	<a href="http://www.resolvemydispute.com">www.resolvemydispute.com</a>
Michigan Cybercourt	<a href="http://www.michigancybercourt.net">www.michigancybercourt.net</a>
National Arbitration Forum	<a href="http://www.arbitration-forum.com">www.arbitration-forum.com</a>
New Court City	<a href="http://www.newcourtcity.com">www.newcourtcity.com</a>
Online Ombuds Office	<a href="http://www.ombuds.org">www.ombuds.org</a>
Online Public Disputes	<a href="http://www.publicdisputes.org">www.publicdisputes.org</a>
Online Resolution	<a href="http://www.onlineresolution.com">www.onlineresolution.com</a>
Private Judge	<a href="http://www.privatejudge.com">www.privatejudge.com</a>
Resolution Forum Inc	<a href="http://www.resolutionforum.org">www.resolutionforum.org</a>
Resolve It Now	<a href="http://www.resolveitnow.com">www.resolveitnow.com</a>
SettleOnline	<a href="http://www.settleonline.com">www.settleonline.com</a>
SettlementNOW	<a href="http://www.settlementnow.com">www.settlementnow.com</a>
Settlement Online	<a href="http://www.settlementonline.com">www.settlementonline.com</a>
SettleSmart	<a href="http://www.settlesmart.com">www.settlesmart.com</a>
SettleTheCase	<a href="http://www.settlethecase.com">www.settlethecase.com</a>
SmartSettle	<a href="http://www.smartsettle.com">www.smartsettle.com</a>
Square Trade	<a href="http://www.squaretrade.com">www.squaretrade.com</a>
The Virtual Magistrate	<a href="http://www.vmag.org">www.vmag.org</a>
TRUSTe	<a href="http://www.truste.com">www.truste.com</a>
USSettle.com	<a href="http://www.ussettle.com">www.ussettle.com</a>
WebAssured	<a href="http://www.webassured.com">www.webassured.com</a>
WEBdispute	<a href="http://www.webdispute.com">www.webdispute.com</a>
WebMediate	<a href="http://www.webmediate.com">www.webmediate.com</a>

**Other (4)**

Asian Domain Name Dispute Resolution Centre	<a href="http://www.adndrc.org">www.adndrc.org</a>
Cibertribunal Peruano	<a href="http://www.cibertribunalperuano.org">www.cibertribunalperuano.org</a>
Dispute Manager	<a href="http://www.disputemanager.com">www.disputemanager.com</a>
e@dr	<a href="http://www.e-adr.org.sg">www.e-adr.org.sg</a>

The following sites reported to offer online ADR were no longer operating in February 2003 and there was insufficient description of their services to include them:

- BeachFire
- EZResolve from LaborMate
- MyClaim.com
- OnlineDisputes, Inc.
- Rent-a-Court.com
- Self-settle.com
- Settlex
- Web Dispute Resolutions

No online ADR services were located at the following sites: A Commercial Initiative for Dispute Resolution (ACI), Centre for Dispute Resolution (CEDR) and Mosten Mediation.

**Appendix  
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