Fitting the forum to the fuss
A provider perspective – ODR @ APEC

FOR:
ODR Forum 2019
Williamsburg, Virginia
USA

PRESENTED BY:
Rhys West, CEO
FairWay Resolution
New Zealand

OCTOBER 2019
First...some context about FairWay

- Largest ADR provider in New Zealand with team of 200+
- Conflict & Dispute Resolution services provided across numerous sectors including Insurance, Health, Telecommunications, Financial Services, Building & Construction, Family, Education, Real Estate sectors and more.
- Provide B2B and B2C solutions to help clients learn from, prevent, manage and resolve disputes.
- Leader in building conflict and dispute resolution services, particularly as business and consumer needs and preferences change.
- As a DR provider, this recognition has seen our commitment and investment in ODR grow significantly over recent years.
- Invited to join APEC ODR workshops – Osaka and Santiago
  - Good link with our desire to expand internationally
  - Opportunity to contribute to Collaborative Framework and Procedural rules from provider perspective
  - Assisted by emphasis from Govt placed on partnerships with private sector
  - Exciting opportunity for a private business like ours who are ready to work together
Our Strategy – Delivered via 7 Strategic Priorities

- Be an employer of choice leader
- Enhance and protect our reputation
- Create an effective ODR solution and the corresponding market
- Be an authentic Te Tiriti o Waitangi partner
- Leverage technology innovation
- Be the first choice for Government
- Grow and diversify our revenue and activity

Leading the prevention and resolution of disputes
The road to ODR capability

- Question was to develop ourselves or seek partners?
  - FairWay works with partners, not suppliers – an important distinction
  - So we had a good look around - just as we would for CRM, Financial Management or HR systems.
  - We are not a technology company, and
  - I’m yet to meet a technology company that excels at dispute resolution

- Developed a long-term relationship with Modria, and now Tyler Technologies

- First deployment is at go-live stage, with second and third closely following

- The combination of our dispute resolution expertise and this technical capability provides a compelling market proposition both in and outside of New Zealand

- Allows FairWay to provide:
  - End-to-end dispute resolution service (F2F and online)
  - Resolution services within other (non FairWay) ODR environments

- Important to FairWay, is the ability to meet our clients (and their customers) where their needs are – because they are changing rapidly, and we expect that to continue
• In meeting clients where their needs are, we are being asked to deliver our services in three different ways
• From end-to-end (technology and resolution services)
• To complimenting and completing a delivery method where clients remain involved:
  • either through their own technology platform, where we provide DR expertise
  • or by providing the ODR platform from which their own customer service / resolution service staff interact with their customer base
Application of ODR to our market

1. Aware of ODR but uninformed
2. Knowledge of ODR and related benefits
3. Develop or source capability
4. Clarity of application & placement of ODR in our services & market
5. Development of specific (client / sector) solutions
6. Deploy solution

Refine, innovate, update & improve

- Building & Construction
- Family
- Employment
- Small Claims / APEC
How and Where we are using ODR

- The temptation is to explain the process......when it’s really about the ‘Product’
- We believe users of our services think most about what we create, solve and make possible
- So once we understood ODR and where / how it fits, we had to shift our thinking and the conversation from Process... to Product

- ODR will not eliminate any existing options or processes
- But, it does need to be placed within a credible DR environment
- Requires high quality & capability of neutral to give full credibility of product & service
- But... the “Mystery Zone” generates nervousness for clients
Moving from process...

Dispute triaged as suitable for ODR

Dispute filed in ODR platform. Email to claimant for intake

Claimant completes intake & chooses resolution method (med, arb, adj)

ODR provider notified & initiates process

Negotiation

Counterparty responds

No

Mediation

Provider assigns mediator

Agreement reached

No

Online mediation

Agreement reached

No

Decision rendered

Provider assigns decision maker

Arbitration / adjudication

ODR

Settlement Reached

ODR

Agreement signed and dispute closed

Agreement signed and dispute closed
To Product

Intake & Triage (A)
Fixed admin / filing fee per party – pricing of B, C and D agreed to at intake

- Negotiation (B)
  - Ability to self-resolve
  - Low-cost, no neutral unless needed
  - Pace determined by parties
  - Fixed Fee = certainty of cost

- Mediation (C)
  - Available from intake or following Negotiation
  - Use for only matters unresolved
  - Fixed Fee = certainty of cost

- Arbitration (D)
  - Available from intake or following Negotiation and/or Mediation
  - Certainty of decision from process
  - Fixed Fee = certainty of cost

Agreement / Decision
Final cost is sum of relevant path used to reach Agreement / Decision (A, B, C & D)
Customers at the centre of what we do

We are finding there are three key components contributing to the building of trust and confidence in using ODR:

1. **The Technology** - capability and capacity of the technology provider to meet current and future demands (privacy, scale, ability to invest and continually innovate etc)

2. **Dispute Resolution expertise / Provider** – capability, capacity and coverage to ensure service delivery, neutral capability, and customer experience are high quality, seamless, reliable and relevant to Users needs

3. **The Market** – being the businesses and sectors requiring resolution of their disputes. In particular their appetite, trust and confidence to resolve disputes in an online environment

The intersection of these components is important to consider
The Intersection of what matters

- Technology & DR Expertise without market acceptance is ‘unproven’...and just a good idea

- DR Expertise servicing a market without ODR technology is our ‘current state’...what my company has done for 30 years

- Technology applied to the market without DR expertise risks credibility loss through poor resolution rates

- User trust is at the intersection of these three key components
Summary

• We expect to see our clients and their customers consume dispute resolution services differently
• Government representatives from various economies are creating space for this in approving the APEC ODR Collaborative Framework
• FairWay has invested in a solution and approach to ODR that keeps users at the centre of the process and meets clients where their needs are
• We appreciate and manage the balance between the technology, the market and provision of dispute resolution expertise
• It’s not “set and forget” - service user needs will continue to evolve and with this comes an imperative to continually refine, innovate, update and improve
Thank you
rhys.west@fairwayresolution.com