What does it take to bring justice Online

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Measures and Metrics – Boldly Going Where the Numbers Lead

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What does it take to bring justice Online?

✓ Access to justice is a human right issue
✓ Show that justice provided online works and is not science fiction
✓ Understand why and where many initiatives failed
✓ Give access to justice online now and not in 2100
Access to Justice

✓ Impeding access to justice equates to denial of justice
✓ Giving access to justice through ODR contributes effectively to cure denials to many people who have no other means to seek remedy
✓ Providing remedy is not just a human rights issue, it impacts business, generates trust in online systems, helps establishing a long term consumer/merchant relationship
✓ Resolving a high volume of low value disputes out-of-court, through simple, swift and inexpensive channels impacts the entire society and the economy as a whole
“Arbitral Institutions must invest in technology or they will be forced to play catch up with the courts”

Some countries wisely invested in giving access to state courts online and are inspiring models (Estonia, Lithuania, UK, Singapore, British Columbia (Canada) and some States in the US)

Digitalising courts is undeniably a progress and their success will increase users’ confidence in public & private justice provided online
Why Online Justice is lagging behind?

✓ Courts’ investment do not address all needs
✓ Platforms were built but many were interrupted
✓ Hope was given but users lost confidence after the interruption of services
✓ ODR is considered science fiction
**Potential Multi-Tier Settlement**

<table>
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<tr>
<th>Step 1: negotiation</th>
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<td>Automated settlement or technology enabled negotiation where parties negotiate directly with one another online</td>
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<th>Step 2: mediation</th>
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<td>Facilitated online settlement with a neutral</td>
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<th>Step 3: arbitration</th>
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<td>Failing settlement, arbitration or court procedure</td>
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The Good and the Bad...

✓ ODR has a huge potential but is considerably under-explored
✓ Where do the problems lie?
✓ Why online justice is lagging behind?
✓ What does it take to bring it online?

To answer these questions we need to consider:

⇒ first the undeniable advantages of ODR, the “good”
⇒ second the lessons to learn from the “bad” to avoid future mistakes

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Undeniable Advantages of ODR

- Access to justice to people who have no remedy: low income, in remote locations, with disabilities, cross-border disputes
- Avoids discomfort of court rooms and being intimidated by opponents, lawyers, judges
- Offers a more neutral space for discussions between the parties
- Removes complications of forum selection (no choice of jurisdiction)
- Alleviates the huge courts backlogs in all jurisdictions
- Contributes to saving the environment (paperless procedures, no travelling)
Undeniable Advantages of ODR

✓ Resolving easily & quickly disputes arising out of online & offline transactions
✓ Flexibility and use of hybrid mechanisms: automated systems, blind-bidding, online negotiation and mediation
✓ Equal access to information: essential when parties are not represented
✓ Parties can file claims or negotiate anytime, any day and from anywhere
✓ Saves time and money, no lawyers’ costs, no travelling costs
✓ ODR, like Ombuds, are under-explored as dispute prevention in addition to dispute resolution
1) Mistake: stop thinking whether access to justice online is possible
-analysis of: 
Recommendation: do not be a bystander, dare taking initiatives, be an innovator

2) Mistake: building platforms and then interrupting services
-analysis of: 
Recommendation: continuity is essential and a good business plan

3) Mistake: limiting the project to building a platform only
-analysis of: 
Recommendation: long term business plan and proper budgeting

4) Mistake: neglecting time and effort for drafting detailed and clear specifications
-analysis of: 
Recommendation: draft clear specifications and realistic projects

5) Mistake: lack of common think tank and improper or insufficient market survey
-analysis of: 
Recommendation: share experience and conduct proper market survey

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6) **Mistake:** ignoring users and neglecting tests  
Recommendation: **involve end users and conduct intensive tests**

7) **Mistake:** lack of regular promotion of ODR and users’ education  
Recommendation: **proper communication, marketing and training**

8) **Mistake:** lack of predictability, striking or chocking differences among services offered  
Recommendation: **standardisation of some processes and centralisation of information**

9) **Mistake:** lack of hard data reporting about numbers and proven results  
Recommendation: **publish hard data to assess progress and provide analysis**

10) **Mistake:** improper technology suppliers is the beginning of a long and painful journey  
Recommendation: **invest in making a proper choice after thorough analysis of offers**
Conclusion

✓ Make online justice a priority, access to justice is a human rights issue
✓ Progress is in our hands, it is everybody’s business
✓ Convince stakeholders to use other methods for settling disputes
✓ Successful online services will help speed up transition to digitalised justice
✓ Investment made now will benefit all players for the short, medium and long term
✓ ODR is not science fiction or rocket science, it requires pragmatism and perseverance
Thank You

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