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
Digitalising Courts

✓ “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</td>
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<td>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
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
Lessons to learn & Lessons for the future

1) Mistake: stop thinking whether access to justice online is possible

Recommendation: do not be a bystander, dare taking initiatives, be an innovator

2) Mistake: building platforms and then interrupting services

Recommendation: continuity is essential and a good business plan

3) Mistake: limiting the project to building a platform only

Recommendation: long term business plan and proper budgeting

4) Mistake: neglecting time and effort for drafting detailed and clear specifications

Recommendation: draft clear specifications and realistic projects

5) Mistake: lack of common think tank and improper or insufficient market survey

Recommendation: share experience and conduct proper market survey
Lessons to learn & Lessons for the future

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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