

ONLINE DISPUTE RESOLUTION

By

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ABSTRACT

If the world could be crystallized into one space-it is the virtual world of 'cyberspace', devoid of territorial boundaries where conventional offline laws may have little or no application! With the growth of Internet & e-commerce, disputes of diverse nature have surfaced including social, commercial, intellectual property related and cultural or political conflicts, often involving entities/individuals from multiple territorial jurisdictions. The parties to a dispute, who may belong to different jurisdictions, are wary of submitting to the courts of another jurisdiction to adjudicate upon the dispute(s) in question. In such a scenario, 'Online Dispute Resolution', automated by software or by appointing a neutral third party/panel and conducted exclusively online seems to be the most viable and practicable solution. In case of online disputes, few subject areas such as domain name disputes, B2B, B2C transactions have already been identified wherein online dispute resolution has been efficient in resolving e-disputes with minimal time and cost. In this Paper, I aim to discuss the meaning and scope of application of ODR, its methods, efficiencies of ODR and pertinent concerns drawing examples of successful models of ODR and current practices. The role of international organizations in developing ODR techniques will also be elucidated. Several pertinent issues such as resolving jurisdiction and enforcement issues, privacy and confidentiality concerns interlinked with successful adoption of ODR techniques will be considered and recommendations made to eliminate the possible hurdles for effective deployment of ODR practices.

Introduction- Meaning of ODR

The virtual world of Cyberspace has become our preferred means of social interaction and a powerful medium to transact cross border business. Internet has proven itself as one of the most dependable means of assimilating and disseminating information, a

hi-tech platform for business opportunities and efficient means of communication. According to the E Bay Census Guide, 2009, India has experienced a broad shift in e-commerce activity and online shopping has gained wide acceptance.¹ In United States, online retail activity increased in the second quarter of 2009 constituting 3.6% of total retail sales.² When the cyberspace experienced a flurry of social and commercial activity, disputes of varied nature arose between parties including disputes concerning defamatory speech, invasion of privacy, breach of e- contracts, domain name disputes, cyber crimes including identity thefts, data, cyber terrorism amongst other disputes. The e-disputes not only involve new kinds of disputes that are peculiar to the internet but also include traditional disputes relating to sale and purchase of goods or unfair trade practice, defamation, intellectual property infringements amongst other conventional disputes where internet has a role to play . The disputes could arise between individuals and/or corporate entities or involve the government of a particular State. Whenever two parties belong to different jurisdictions, the parties are wary of submitting its disputes to the courts of different jurisdiction that will decide the disputes based on a different governing law. Contrary to the conventional litigation process, ODR provides a practicable solution to parties to e-dispute where they need not submit their disputes for adjudication before the courts within the jurisdiction of a particular state. In ODR, independent set of laws/rules of an ODR service provider may apply to resolve disputes and an independent panel of judges could be appointed on request of the parties for settling their disputes.

¹ India Reports, Future Potential and Direction of e-commerce in India at <http://indiareports.in/internet-advantage/future-potential-and-direction-of-ecommerce-in-india/>

² Second Quarter, 2009 online sales up 2.2% September 12,2009; <http://www.suite101.com/content/second-quarter-2009-online-sales-up-22-a14771>

Farah defined 'Online Dispute Resolution' to mean utilizing information technology to carry out alternative dispute resolution.³ Schiavetta explained that the online dispute resolution comprises of a process to resolve dispute exclusively online and also other dispute resolution process that use internet.⁴ In ODR, not only e disputes are resolved online but also traditional disputes such as commercial or social disputes are capable of being resolved by use of information technology. In ODR, sometimes automated software may also be used for transparent and fair resolution of disputes. The equipment that one may employ includes scanners, computers, web camera, cell phones, fax machines and other communication devices. According to Katsh and Rifkin⁵, the three important factors, namely convenience, trust and expertise forms the essence of ODR. In my view, particularly in the developing countries , there are many other factors which are equally essential to an ODR process, such as affordability, accessibility and infrastructure, flexibility, transparency amongst other factors.

ODR procedure

The ODR procedure entails filing of e-documents wherein the parties may use encryption or electronic signatures to safeguard the integrity of the documents and authentication of the transactions. Generally, the parties seek the assistance of an ODR service provider for appointing a neutral panel of judges or panelists to resolve disputes through online means. Parties prefer structured and clear procedure where resolution process is simple and definite. Institutions such as WIPO,SIAC and ICC have an established

³ Farah C, Critical analysis of online dispute resolution :optimist, realist and the bewildered, Computer Telecommunications Law Review, 11(4), 123-128. Zondag and Lodder defined online dispute resolution as using internet for alternative dispute resolution, constructing computer assisted dispute resolution system by developing generic language to analyse information exchange in conflict discourse, International Review of Law, Computer and Technology, 21(2), 191-205.

⁴ Schiavetta S., Relationship between e ADR and Article 6 of European Convention of Human Rights pursuant to case law of European Court of Human Rights, Journal of Information Law and Technology, 2004 (1) JILT.

⁵ Katsh E, Online Dispute Resolution : some implications have emergence of law in cyber space, Lex Electronica, vol.10n.3,hiver/winter2006, <http://www.lex-electronica.org/articles/v10-3/katsh.htm>

reputation in resolving online disputes through mediation or other alternative disputes resolution methods. By filing the complaint, the complainant seeks compensation or other remedies and the respondent if consents to take part in the process submits its detailed replies. The process may or may not involve oral hearing by use of teleconference or video conference facilities. Sometimes automated software could resolve a dispute without the necessity of appointing any third party. In case the claimant's offer falls within an acceptable range, the disputes between parties is resolved. Generally, an ODR service provider serves function of an administrator and infrastructure provider and not a judge that decides the disputes. ODR is known for its efficient and cost effective dispute resolution that also reduces acrimony between parties.

Origins of ODR

The origins of ODR can be traced back to 1996 when the Virtual Magistrate project was established to offer online arbitration system to resolve e defamation matters. The Online Ombudman's office at University of Massachusetts resolved a dispute of a website owner with a local newspaper owner involving a copy right infringement issue which was settled through mediation.⁶ Since 1999, many ODR service providers have actively resolved disputes both in the public and private domain involving government and commercial entities.⁷

In India, ODR germinated from ADR when in the early days family related disputes were resolved by Kulas, Srenis (Businessmen who conduct the same business), Parishads (group of men who possess legal knowledge). In other jurisdictions as well, ODR was based on ADR practice wherein technology was added to the ADR process to make it more

⁶ See Centre for Technology and Dispute Resolution, Online Ombud's narrative 1 :website developer and the newspaper at www.ombuds.org/narrative 1.html

⁷ See United States ODR provider at www.adr.org . In Australia ADR online at www.adr.online.org etc.

efficient and convenient to the parties. In India, use of ADR techniques is explicitly encouraged through Nyaya Panchayat System, Lok Adalat, Arbitration and Conciliation Act, 1996 based on UNCITRAL Model law of arbitration, provision of statutory arbitration amongst other initiatives. The Indian legal framework supports ODR including Section 89 of Code of Civil Procedure, 1908 that promotes use of alternative dispute resolution between parties. Similarly, Order X Rule 1A confers powers on the court to direct the parties to a suit to choose any ADR method to settle its disputes. In addition, the Information Technology Act, 2000 grants legal recognition to use of electronic signatures and electronic records. Recently, in *State of Maharashtra vs Dr. Praful B. Desai*⁸, the Supreme Court of India established that the Video conferencing is an acceptable method of recording evidence for witness testimony. In *Grid Corporation of Orissa Ltd. vs. AES Corporation*,⁹ the Supreme Court held-

“when an effective consultation can be achieved by resort to electronic media and remote conferencing, it is not necessary that the two persons required to act in consultation with each other must necessarily sit together at one place unless it is the requirement of law or of the ruling contract between the parties”.

Thus, the legal framework aswell as the precedents laid down by the Supreme Court of India support use of technology for dispute resolution and encourage use of ODR practices.

Scope of ODR

⁸ *Maharashtra vs Dr. Praful B. Desai* (2003) 4SCC 601

⁹ *Grid Corporation of Orissa Ltd. vs. AES Corporation* 2002 AIR SC 3435

ODR is used to resolve diverse nature of disputes including civil, commercial, industrial and banking disputes through banking Ombudsman scheme, construction or partnership disputes, product liability and insurance related disputes. In Australia, family disputes are required to undergo mediation which is made mandatory.¹⁰ However, criminal law or constitutional law issues fall mainly within the domain of litigation process and largely stand excluded from the ODR domain. New subject areas such as telecommunications law or labour law are being added to the scope of application of ODR. For instance, in United States the Federal Mediation and Conciliation Service is using ODR to settle labour disputes. In e-governance many government departments are also using ODR to settle consumer grievances.

ODR vs litigation

In ODR, cost and time efficiency are typical characteristics as opposed to a judicial process which consumes substantial time and cost for adjudication of disputes. Tyler and Bretherton aptly stated-

“the difficulty of utilizing traditional dispute resolution methods in low value cross border disputes has led to interest in low cost cases, cross jurisdictional dispute resolution methods”.

ODR denotes greater flexibility as it can be initiated at any point of a judicial proceeding or even before a judicial proceeding begins. ODR can also be terminated if the parties mutually decide that it is not leading to a workable solution. The parties have the autonomy to decide the mode and procedure for online dispute resolution in case disputes arise from a particular e- contract. Even in the absence of a written contract declaring ODR as method of dispute resolution, the parties may adopt ODR methods to resolve their

¹⁰ Towards an online family disputes resolution services in Australia, Elizebeth, Wilson Evered, Deborah Macfarlane, Johnzeleznikow, Mark Thompson, http://www.odr.and.consumers2010.org/wp-content/uploads/2010-06/3.2-wilson_towards_online-1.pdf

disputes when such disputes arise. Contrary to litigation, the parties are free to choose their governing law of contract, the procedure to resolve disputes, decide on an ODR service provider and provide for other incidental matters. Use of ODR also allows selection of neutral third party from an experienced panel of mediator/arbitrators which means greater impartiality and parties may present their case on their own without apprehension that their private disputes will flow into the public domain through judicial precedents. The disputes and the negotiations that ensue between parties remains confidential at all times. In B2C transactions, ODR encourages customer loyalty, in C2C transactions it minimizes acrimony and risk of fraudulent transactions between concerned parties.

Different ODR techniques

ODR can involve varied methods of dispute resolution including Negotiation, Conciliation, Mediation, Arbitration and hybrid mechanisms including Last offer arbitration, Medola, Mini trial, Med Arb and Neutral Evaluation. ODR may adopt either adjudicatory or non-adjudicatory process. An example of an adjudicatory process is an arbitration where the award passed by the arbitrator is binding on both parties. To the contrary, in a non-adjudicatory process, the principal aim is to arrive at a settlement of the disputes between the parties without deciding on the merits of the matter. In mediation, the neutral third party suggests solutions to settle disputes between parties and actively takes part in the dispute resolution process. In Med Arb, initially mediation is used and if unsuccessful, arbitration is used. In Mini trial, the parties file summaries of their cases for assessing their cases on merits and negotiate a settlement with a neutral advisor which involves a non-binding procedure. In fast track arbitration, a time frame is allocated to resolve the parties disputes through arbitration. In a Neutral listener agreement, the parties discuss their offers with a neutral third party in private and after the third party has heard both sides, he recommends the best

offer for settlement. In Rent a Judge, the parties submit their dispute for adjudication before an appointed neutral Judge.

ODR service providers

In Canada, the Cyber Tribunal in Montreal has successfully resolved e disputes using ODR, in U.S the Online Ombudsman office uses e –mediation. Square Trade is a well known ODR provider that resolves disputes between sellers and buyers that use the e-bay services by adopting negotiation and mediation methods. In U.S, financial disputes are resolved through CyberSettle and ClicknSettle resolves insurance related disputes. Other ODR services providers include www.mediate.com, www.novaforum.com, www.icourthouse.com , www.etricunal. SmartSettle uses a negotiations software to settle disputes after the parties allocate priority to various interests which are affected by the disputes. In Europe, the European Small Claims Procedure was established with effect from 1st January, 2009 and in Netherlands, the NMI Mediation uses the mediation by experts to settle online disputes.¹¹ In many ODR systems such as Adjusted Winner (Brams and Taylor, 1996)¹², SmartSettle (Thiessen and Mac Mahon, 2000)¹³ adopt ‘*Bargain and Gain theory*’ for dispute resolution. In SmartSettle, an automated software renders assistance to parties to discuss multiple options to arrive at a settlement. In AdjustedWinner, the two parties assign values to each article in dispute on a 100 point range, whereas in Split up (STRANIERITAL, 1999)¹⁴ assist parties to distribute property after a divorce. BBB Online set up an online dispute resolution service to

¹¹ See www.nmi.mediation.nl/en/nmi/mediationframed.htm

¹² Brams, S.J. and Taylor, A.D. 1996, Fair division from cake cutting to dispute resolution, Cambridge university press, Cambridge, U.K

¹³ Thiessen and Mac Mahon, J.P. 2000 Beyond Winwin in cyberspace Ohio state Journal on Dispute Resolution, 15, 643

¹⁴ Stanieri A Zeleznikow, J, Gawler M and Lewis B, 1999 A hybrid-neutral approach to automation of legal reasoning in the discretionary domain of family law in Australia, Artificial intelligence and law, 7(2-3) :153-183

resolve consumer disputes in United States using conciliation and if unsuccessful mediation through engaging online resources.

One of the most successful ODR initiatives is the WIPO Domain name Dispute Resolution Policy adopted by ICANN 26th August, 1999. It provides for an administrative proceeding to resolve domain name related disputes through accredited service providers that follow the UDRP policy along with their own supplemental rules. WIPO, National Arbitration Forum, Asian Domain name Dispute Resolution Centre are amongst the accredited ODR service providers. The administrative proceeding stipulates that the disputes ought to be resolved within a particular time frame and the procedure may be invoked prior to a court proceeding. The decision of the administrative panel may be challenged within 10 days of the date of decision by any affected party. The disputes resolved through UDRP policy lead to transfer of the domain names which are registered by a respondent in bad faith and in which it has no legitimate interest, if the subject domain name is deceptively similar or identical to the trade mark of the Complainant. In *Tata Sons Ltd. vs the Advanced Information Technology Association*¹⁵, WIPO directed that the domain name Tata.org should be transferred to the complainant Tata Sons Ltd. as all the three criterias of the UDRP policy were established in the case.¹⁶

Challenges in ODR-

In an online dispute resolution, many complex issues emerge and implications follow. There are different challenges including commercial and legal. Generally, for invoking ODR process the mutual consent of parties is essential, whether through an explicit

¹⁵ Case No.D2000-0049 at <http://www.wipo.int/amc/en/domains/decisions/html/2000/d-0049.html>

¹⁶ See also *Maruti Udyog Ltd. vs Maruti Software Pvt. Ltd.* Case No.D2000-1038 at <http://www.wipo.int/amc/en/domains/decisions/html/2000/d2000-1038.html>.

clause in a contract or by mutual agreement between parties subsequent to a dispute which may have arisen. In the absence of such mutual consent, no decision rendered by an ODR service provider shall be legally valid or enforceable. Most jurisdictions acknowledge and enforce standard ODR clause in a B2B website but in case of B2C contracts, particularly in European Union, consumers cannot be deprived of additional rights available to them by the law of the place of their residence through an agreement that limits the jurisdiction of a court to the country of ODR service provider if it provides lower protection standards which a consumer is entitled to in the country of its residence.¹⁷

Preserving confidentiality and privacy of negotiations and any transactions that ensue between parties in dispute resolution is one of the paramount concerns of parties world wide. Internet is still viewed as insecure media as cyber criminals may employ techniques to intercept data and communications between parties and any information flowing through internet network could be unauthorisedly stored or misused by cyber criminals. In this regard, sophisticated techniques for enhancing internet security such as use of digital signatures, electronic signatures are being used to conduct ODR process. Use technology to combat any loopholes in internet security will strengthen ODR process. Katsh and Rifkin also considered technology to be the fourth party in an ODR process and observed that ODR will not only effectively resolve online disputes but also strengthen the trust in the virtual space.¹⁸ Use of cookies often breach the privacy of individuals and raise security concerns. The electronic court house uses multiple security layers including sophisticated server, complex pass word and software which backs up complete data of its servers and

¹⁷ See European Union, 1968 Brussels convention of jurisdiction and environment of judges in civil and commercial matters and EU Council Directive, 1993 on unfair terms in consumer contracts at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31993L0013:EN:HTML> which provide strict rules on waiver of consumers' rights to access the courts having jurisdiction in the place of residence of the consumer.

¹⁸ Katsh E, Online Dispute Resolution : some implications have emergence of law in cyber space, Lex Electronica, vol.10n.3,hiver/winter2006, <http://www.lex-electronica.org/articles/v10-3/katsh.htm>.

stores information submitted by the parties in a protected environment. Such technical infrastructures is required to alleviate any concerns a breach of privacy, confidentiality in the ODR process. Many paralegal rights such as money back guarantees and buyer protection clauses and authentication seals are becoming popular on most e commerce websites. This is only to generate more trust and promote e commerce and bring consumer confidence in ODR practice.

Another issue that most parties consider important is that the panelists that decide their disputes ought to be independent and impartial in their decision making. To this end, they prefer institutionalized ODR which is more structured and transparent and reduces the chances of bias affecting decision making of panelists.

There are no existing homogenous laws for ODR in cyber space which poses a challenge on account of application of substantive and procedural law to resolve e- disputes. To decide on the jurisdiction applicable to an e dispute, the *effects test*¹⁹ and the *zippo sliding scale approach*²⁰ may be used. In private international law, the place of performance of a contract is a significant parameter to decide substantive law or the jurisdiction which will apply to the facts of a case. The law of consumer protection grants stronger protection to the consumers in Europe and application of mandatory rules of law at Lex Situs are some challenges that emerge due to lack of homogenous cyber laws. Could there ever be an International Court of Justice that decides e disputes of all nature adopting homogenous cyber laws in ODR process and procedure ? At this point I draw an analogy to Lex Mercatoria applicable to international trade.It will be beneficial if at least a homogenous

¹⁹ United States Supreme Court in [Calder v. Jones, 465 U.S. 783 \(1984\)](#)

Read more: http://ecommercelaw.typepad.com/ecommerce_law/2007/12/calder-effects.html#ixzz16Cp2wPII

²⁰ ... *Zippo Manufacturing Co. v. Zippo Dot Com, Inc.*, 952 F. Supp. 1119 (W.D. Pa. 1997)

ODR law or core legal principles for law and practice of ODR could be framed. Major International Legislative Texts, Treaties and Conventions and National initiatives could bring definiteness to the law and practice of ODR in cyber space. Infact, the mission is half accomplished as some land mark initiatives have been made to bring more clarity in ODR .These initiatives include the Recognition and Enforcement of foreign arbitral awards,1958, Brussels Convention on Jurisdiction and Enforcement of Judgments in Civil and Commercial matters,1968, the Rome Convention on law applicable to Contractual Obligations,1980 . In 1999, the OECD published its guidelines for Consumer Protection in the context of Electronic Commerce.²¹ The Guidelines provide that the consumer ought to be rendered fair, and cost effective means of dispute resolution and explain the significance of information technology while using ADR systems ²². In European Union, the E commerce Directive,²³ provides in article 17 that in case of an e-dispute, the member states are required to ensure that the parties are not hindered from using ADR process for dispute resolution ‘including appropriate electronic means’. The National Alternative Disputes Resolution Advisory Council drafted standards for ADR in 2001 and laid down the principles for ODR in 2002.²⁴ Thus , we have some legal initiatives already made to promote ADR and use of technology to bring speedy dispute resolution services. It is a matter of infusing new ideas and solutions to promote and streamline body of laws for ODR while also incorporating the legal principles enunciated by international initiatives by fair adaptation that will lead to unification in ODR law and practice.

²¹ <http://www.oecd.org/dsti/sti/it/ec/index.htm> ,

²² Guidelines for a consumer protection in the context of electronic commerce principles VIB(Sub iv).

²³ Available at http://europa.eu.int/eur-lex/en/dat/2000/c_128/c_12820000508en00320050.pdf

¹⁹ See NADRAC, Disputes Resolution and Information Technology : principles for good practice, draft of March, 2002, www.law.gov.au/aghome/advisory/nadrac/technology-ADRno.2.htm

Certain critics such as Drake and Moberg²⁵ and Wilson, Aleman and Leatham²⁶ have expressed an apprehension that lack of personal interaction between the parties to a dispute. reduces the chances of resolving disputes . Physical presence and body, language and tone of conversation is important to resolve a dispute. Similarly Goffman²⁷ declared the ‘*face theory*’ that explains that a dispute resolution process and its success is directly dependent on the communications held between the parties and any negative or positive statements made during communications. However, in my view, in ODR cases mostly parties are not known to each other and bringing parties face to face may in fact reduce the chances of dispute resolution. In ODR, sometimes few technical rules such as automated software settle a party’s disputes and the parties may not be required to participate in face to face or even video conference hearings where any negative remarks could be exchanged between parties. If the face theory is true in ODR the acrimony between parties is reduced as in many cases, automated online processes aid in dispute resolution. In any difference in language and cross cultural variations exists, general practice is to avail the services of translators and interpreters during ODR.

On the aspect of enforcement, critics may hold a view that when ODR is non-binding, it is futile . However, in my view if a non-binding ODR is successful and leads to a binding contract of settlement, it is legally enforceable in a court of law. ODR also offers fair decisions as it considers and adopts principles of equity and natural justice in addition to the statutory rules to decide a dispute.

²⁵ Drake, B. H., & Moberg, D. J. 1986. Communicating influence attempts in dyads: Linguistic sedatives and palliatives. *Academy of Management Review*, 11:567–584.

²⁶ ²⁶ Wilson, S. R., Aleman, C. G., & Leatham, G. B. 1998.. *Human Communication Research*, 25(1): 64–96

²⁷ Goffman, E. 1967. *Interaction ritual*. Garden City, NY:Doubleday.

A debate which has evolved with time is ‘self regulation vs government intervention’ in ODR. Self regulation was questioned by consumer groups for lack of authority and trust which brought in the government’s role in ODR process. Initially American Board Association , ICC, Better Business Bureau laid down principles to regulate ODR and use of trust seals was emphasized. Entities such as Verisign and Trust e were established and Square Trade and BBB online executed the trust marks concept as a self regulation initiative in ODR practice. At a government level, ECODIR and other ODR projects were initiated as part of e governance as ODR proved as efficient means to resolve disputes. Schultz²⁸ was of the opinion that government’s role is more important as compared to the self regulation approach. According to Schultz, the ‘symbolic capital’ i.e. the social reputation of an ODR provider renders credibility and authenticity to an ODR process which a government is capable of providing. The government also grants financial aid to ODR projects and assists in creating the technical and administrative infrastructure required to set up an ODR process. In addition, Schultz suggests that accreditation is an essential function played by an ODR service provider who acts as a certifier, a clearing house that assists parties in choosing a service provider and facilitating e filing of forms and supervising an ODR process. He also advocated an online appeal system for reviewing decisions made by an ODR service provider which will impart greater transparency and accountability in ODR system. Similarly, Colin Rule states –

“To a large extent, government is the ideal host for dispute resolution, because government has a strong incentive to resolve disputes to keep society functioning smoothly. Government is also a good host for

²⁸ Thomas Schultz, Does Online Dispute Resolution Need Governmental Intervention? The Case for Architectures of Control and Trust, **NORTH CAROLINA JOURNAL OF LAW & TECHNOLOGY VOLUME 6, ISSUE 1: FALL 2004.**

*dispute resolution because it usually has no vested interest in the outcome of most of the matters it is incharge of deciding.*²⁹

On analyzing the two approaches , I am of the view that the growth ODR can be achieve its full potential using public private partnership. The role of government will be to impart trust and authority and the private sector will contribute advanced technology. In public-private partnership, best practices in ODR can be successfully established and implemented , greater awareness and participation in ODR process can materialize . In USA, Australia, New Zealand, Singapore, Canada, U.K. special funding is being granted by the government to initiate ODR projects. In Netherlands, the electronic commerce platform is a joint initiative of the business community and the Dutch ministry of Economic affairs that drafted the Code of Conduct for electronic commerce.³⁰ In Singapore, e ADR was launched which is jointly operated and supervised by Singapore Subordinate Courts, Ministry of Law, Singapore Mediation Centre and Singapore International Arbitration Centre, the Trade Development Board and Economic Development Board to resolve e commerce disputes. E courts in India also aim to promote ODR and deal with litigation and court based ODR using online resources and CBI (Central Bureau of Investigation) is in the process of establishing e courts.³¹

²⁹ See Colin Rule, Online dispute resolution for business :B2B, e commerce, consumer, employee, insurance and other commercial conflicts Jossey-Bass. 1st Edition. (September 2002)

³⁰ <http://www.ecp.nl/english/index.htm>

³¹ MSN News,CBI to have e-courts , 22-11-10 at <http://news.in.msn.com/national/article.aspx?cp-documentid=4608040>

ODR will gain maximum acceptance with public- private partnership , when the technical, commercial and legal challenges have been adequately addressed and satisfactory solutions have been provided for an ideal ODR regime. ODR process needs to be affordable, accessible, convenient, flexible, transparent, infrastructure equipped , secure, efficient and enforceable.

ODR process requires mass awareness, manpower training in technology, funding for projects and codification of ODR law and practice (akin to lex mercatoria or Internationally accepted principles in arbitration) to effectively resolve e disputes. In short, ODR has all the attributes of becoming efficient method to resolve e disputes that will bring long term benefits including secure e commerce and build greater trust and confidence in cyber space. I hope this conference on International Commercial Arbitration organized by CIAC in association with UNCITRAL will be fruitful in initiating the work and study required to take ODR at the desired level of sophistication and world wide acceptance.

I sincerely thank the organizers of the Conference for providing me an opportunity to express my views on the subject.
