

Sceptics of the Screen: Irish Perceptions of Online Dispute Resolution

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Abstract

This article captures current trends in online dispute resolution (ODR) and its potential use in Ireland by analysing Irish practitioners' current attitudes to and awareness of ODR. Ultimately, this work provides the groundwork for future research into Ireland's use of ODR. This exploratory research will hopefully guide researchers in understanding ODR's users and consumption.

Data collection came from an online questionnaire sent to conflict intervention practitioners in Ireland who reported their experiences and perspectives of ODR. One hundred and twenty-four surveys were used in this analysis. These questionnaires produced both quantitative and qualitative data. Approximately 900 people were asked to complete the survey.

The author found that surveyed participants were sceptical regarding ODR, with very few actually using online technologies to aid in resolving disputes. A popular sentiment among participating practitioners was that ODR was not better than face-to-face meetings, but that it was worth exploring further. Finally, the author found that those who had heard of ODR are more likely to believe they could assist parties in reaching a final settlement by using video technology.

Keywords: ODR, Ireland, mediators, ADR, Internet.

1 Introduction

The Internet is a resource that goes far beyond sharing photos of puppies, tweeting, sharing articles on Facebook and buying books from Amazon. It is a portal for businesses to reach new customers and make new deals. Governments at every level are able to reach more constituents than before. Family members are able to stay in touch with people all across the world. The concept of distance is increasingly, and maybe alarmingly, becoming a thing of the past. The connected world presents new challenges and opportunities.

For those in the field of conflict resolution, the Internet provides an especially exciting prospect. How should mediators and arbitrators react to their new ability to reach new clients and resolve conflicts from greater distances? The new

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generation of mediators and arbitrators, in particular, will discover avenues of facilitating conflict that are bold and innovative. As the Internet threatens the methods of alternative dispute resolution, its implications and impact are still undetermined.

If conflict resolution and technology were in a relationship, its status would be 'complicated' and certainly, at this point, not married. The idea of alternative dispute resolution in the Internet age is just starting to shape its place in the World Wide Web. The idea is still young and forming. It will be like this for a while as technology advances and shapes the way we communicate.

Currently, conflict intervention on the Internet exists in many spaces. Dispute resolution platforms have been created by organizations and governing bodies using Web-based software to expand and support e-commerce. Alternative dispute resolution (ADR) practitioners are using technology to resolve disputes entirely online and also to supplement conflict resolution processes occurring primarily offline. Computers have enabled the use of mediation and arbitration at a distance. These methods of resolving disputes are typically called online dispute resolution (hereafter referred to as ODR).

2 What Is ODR?

ODR is a field continually shaped by new technological advancements and innovative practices that integrate technology into disputes. Owing to the evolving nature of ODR, it is difficult to find consensus around a specific definition. One definition of ODR is "[i]ntelligent application of information technology to human interaction".¹ A recent explanation captures the essence of ODR: "Think of ODR as a tree with two major branches. One branch focuses on using the algorithmic power of computers to help people resolve their issues in a fair and transparent way ... the second branch focuses on using computers to facilitate human communication."²

These two branches consist of the primary technologies used by practitioners and consumers of ODR. One of the most common tools of those using computer technology to resolve disputes is blind bidding systems. Technology allows two parties to input a range of bids that would settle the dispute for one party, while the second party does the same. If any of the matching bids are within a specific range, the case ends. If none of the bids from the two parties match, the case is not settled, and no information is revealed.³

The other branch of ODR, facilitating human communication, is defined by asynchronous or synchronous technology that disputing parties can use in tandem with a third-party neutral. Synchronous technology occurs when all parties

1 D. Rainey, personal communication, 27 March 2015.

2 F. Fowle, D. Bilinsky & C. Rule, 'Online Dispute Resolution: The Future of ADR', *Canadian Arbitration and Mediation Journal*, 2013, retrieved from <https://web.archive.org/web/20141117111407/http://www.adrcanada.ca/resources/documents/ADRIC_JOURNAL_2013_Vol22_No1.pdf>.

3 *Id.*

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are communicating simultaneously. For example, a video teleconference with a party in Kathmandu, Nepal, may include a second party in Cape Town, South Africa, while the neutral is in London, United Kingdom. Asynchronous platforms allow parties to log in at their leisure, and answers are archived.⁴ An example of this would be Modria.⁵

There is limited empirical research examining the application and effectiveness of these two ODR branches. This article begins peeling back the complex, thick onion-like layers of ODR's consumption, application and perceptions by practitioners in Ireland. With this study, more questions will ultimately be asked, leading to more specific discoveries about the largely unknown world of ODR.

3 Research Questions

This study addresses a void within the literature on ODR, specifically relating to contemporary practitioners and their use of it.

- What are the current trends in ODR in Ireland and other parts of the world that are being discussed in the literature?
- How do current practitioners in Ireland view and use ODR in their current work? How do they perceive ODR within the context of their practice?
- What are the best available ODR practices mediators are using in Ireland?

These questions will guide the following research.

3.1 Definitions of Terms

For the purpose of this study, ODR is defined as using Internet technology in some capacity to facilitate a conflict resolution using either synchronous technology, such as video conferencing and Skype, or asynchronous e-commerce platform or text-based communication such as Modria or Youstice.

4 Literature Review

ODR is a blossoming field that intrigues conflict resolution and legal researchers, along with practitioners.⁶ Ethan Katsh and Janet Rifkin have dubbed technology's role in conflict management as "the fourth party".⁷ This role suggests it may replace the third party and may also be a mechanism to assist the third party through the process.

4 *Id.*

5 Modria, <www.modria.com>.

6 M.C. Tyler & S.S. Raines, 'The Human Face of Online Dispute Resolution', *Conflict Resolution Quarterly*, Vol. 23, No. 1, 2005, pp. 333-342.

7 E. Katsh & J. Rifkin, *Online Dispute Resolution: Resolving Conflict in Cyberspace*, Jossey-Bass, San Francisco, 2001.

4.1 History of ODR

Katsh and Rifkin, writing in 2001, classify the history of ODR in three periods: pre-1995, 1995-1998 and 1998 to the future.⁸ The pre-1995 era of ODR was described as having no specific institutions dedicated to ODR. Many disputes that arose were addressed informally and in certain contexts. From 1995 to 1998, universities and foundations started to explore ways of resolving disputes. This period recognized that cyberspace organizations had to focus on the increasing number of disputes in an organized way. Finally, post-1998 witnessed the birth of ODR organizations when governmental and commercial interests began using online technology to solve problems sprouting from cyberspace.⁹ While much has changed in the landscape of ODR since Katsh and Rifkin's book was published in 2001, and will continue to change, ODR's understanding has taken many paths that include the recognition of ethical limitations.

Within the ODR field, there are many ongoing discussions about ethical standards. A 2009 guide for ODR practitioners was released entitled "Online Dispute Resolution Standards of Practice".¹⁰ These guidelines suggest principles all practitioners should adopt with regard to issues of fairness, transparency and the role of third parties. Practitioners are also advised to become familiar with the technology they are using and its security features in order to share information safely and securely with disputing parties.¹¹ The third party has to be able to develop a way to express the risks to ensure parties have self-determination. Above all, changes in ethics will be evolutionary, not revolutionary.¹²

4.2 Dispute System Design and ODR

Some suggest that information technology should be an ally for dispute system design.¹³ Dispute system design (DSD) is seen as a useful tool and lens to view ODR's future development. DSD originated in 1988 in the book *Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict*, shifting the discourse from an individual to a structural perspective.¹⁴ The book examined wildcat strikes in the mining industry in the United States, finding that communication between management and miners was most successful in resolving conflict.¹⁵ The communication focused on each party's interests, which yielded lower costs and greater beneficial outcomes for each party. This research led to further research on sys-

8 *Id.*

9 *Id.*

10 National Centre for Technology and Dispute, 'Online Dispute Resolution Standards of Practice', 2009, retrieved from <www.icann.org/en/system/files/files/odr-standards-of-practice-en.pdf>.

11 D. Rainey, 'Third-Party Ethics in the Age of the Fourth Party', *International Journal of Online Dispute Resolution*, Vol. 1, No. 1, 2014, pp. 37-46.

12 *Id.*

13 O. Rabinovich-Einy & E. Katsh, 'Technology and the Future of Dispute Systems Design', *Harvard Law Negotiation Law Review*, Vol. 17, No. 151, 2012, pp. 1-58.

14 W.L. Ury, J.M. Brett & S.B. Goldberg, *Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict*, Jossey-Bass, San Francisco, 1988.

15 *Id.*

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tem-wide learning and prevention of conflict.¹⁶ Much research has been added to system-wide conflict resolution since, including some that discusses ODR.¹⁷

Interest in the relationship between ODR and DSD has been growing. In the late 1990s, Bordone wrote about the lack of information involving ODR options and insufficient motivations for disputing parties to participate in ODR.¹⁸ However, the increasing size of institutions, desire to find systematic solutions and geographical dispersion may provide some motivation.¹⁹ Online corporations understand the importance of both responding to disputes and analysing, anticipating and addressing conflict.²⁰

Much attention has focused on resolving disputes online and offline, especially confronting the idea of dealing with parties at a distance.²¹ Distance learning, for example, has been well researched. Thomas Russell's research is most notable for examining hundreds of studies that found no significant differences between face-to-face and distance learning among students.²² These studies may provide insight into effective communication in online settings, especially critical for the savvy ODR user.

Research also points to the theoretical questions impacting ODR. Lipsky and Avgar suggest important negotiation and bargaining theories to ODR, drawing from Richard Walton and Robert McKersie's landmark work in the 1960s.²³ While they did not carry out the research required to test their hypothesis, they proposed ways in which practitioners may find it easier or more difficult for integrative and distributive bargaining to work in ODR. They make a noteworthy claim that current analysis of ODR does not examine dispute resolution "in the physical world" and treats ODR as a singular phenomenon rather than as a "wide umbrella" of resolution tools.²⁴

4.3 Availability of ODR

One of the most comprehensive research undertakings of ODR was conducted in Australia by two researchers who analysed seventy-six ODR websites.²⁵ They

16 C.A. Costantino & C.S. Merchant, *Designing Conflict Management Systems: A Guide to Creating Productive and Healthy Organizations*, Jossey-Bass Publishers, San Francisco, 1996.

17 D. Lipsky, R. Seeber & D. Fincher, *Emerging Systems for Managing Workplace Conflict: Lessons from American Corporations for Managers and Dispute Resolution Professionals*, Jossey-Bass, San Francisco, 2003.

18 R.C. Bordone, 'Electronic Online Dispute Resolution: A Systems Approach-Potential, Problems, and a Proposal', *Harvard Negotiation Law Review*, Vol. 3, 1998, pp. 175-211.

19 Rabinovich-Einy & Katsh, 2012.

20 *Id.*

21 *Id.*

22 T.L. Russell, *The No Significant Difference Phenomenon*, North Carolina State University Press, Raleigh, 1999.

23 D.B. Lipsky & A.C. Avgar, 'Online Dispute Resolution through the Lens of Bargaining and Negotiation Theory: Toward an Integrated Model', *University of Toledo Law Review*, Vol. 38, No. 1, 2007, pp. 101-142.

24 *Id.*

25 M.C. Tyler & D. Bretherton, 'Seventy-Six and Counting: An Analysis of ODR Sites', in *Workshop on Online Dispute Resolution at the International Conference on Artificial Intelligence and Law*, Edinburgh, 2003, pp. 13-28.

found that most of the ODR providers came about in 1999 and 2000 during the “entrepreneurial phase”. Most providers existed in the United States, with forty-three organizations; Europe was second, with twenty organizations. Nineteen of the seventy-six websites are no longer active. The prevailing forms of ODR used by these websites were mediation and arbitration. Automated negotiation and complaint handling were the next most popular services provided. Many websites were not entirely based online, and some integrated traditional methods such as phone and face-to-face meetings. Videoconferencing was used by 17% of the surveyed providers.²⁶

Only twenty-four websites had data available about the number of cases they had attracted. These included SquareTrade as the most known popular company, with 200,000 cases by February 2002. However, the known outcomes of these cases were rarely revealed: only eight companies provided statistics. The range of advertised successful settlement was from 40%-95%.²⁷ Since this study was conducted, companies have changed along with advancements in information technology, yet this study continues to be relevant in terms of setting parameters for ODR examination.

Part of the researcher’s challenge is accessing organizations’ internal information, in particular, dispute resolution systems data. Much of this is undocumented.²⁸ Moreover, research is limited in the government. In collaboration with the University of Massachusetts and the United States National Mediation Board (NMB), experiments with students and NMB mediators using an asynchronous, text-based ODR platform have been performed. The participants were able to adapt easily to the ODR platform and move towards a solution.²⁹ Participants found the massive amounts of text a barrier to effectiveness and complained about the anonymity of posts. However, the mediators who supervised the project found the platform to be promising.³⁰

4.4 Initiatives and Ventures

The popular online bidding website, eBay, is one of the most cited examples of ODR.³¹ SquareTrade, a private entity, handled the ODR operations for eBay until 2003. eBay sellers were offered a seal that signalled to buyers that SquareTrade actually existed and would engage in dispute resolution if there was a problem.³² The dispute resolution system first implemented a software-based process (with no human third-party intervention), and if the dispute was not resolved at that stage, it would then go to a human mediator. This process relied on “communica-

26 *Id.*

27 *Id.*

28 H. Gadlin, ‘The Ombudsman: What’s in a Name?’, *Negotiation Journal*, Vol. 16, 2000, p. 37.

29 E. Katsh *et al.*, ‘Experimental Application of Process Technology to the Creation and Adoption of Online Dispute Resolution’, Presented at the 7th Annual International Conference on Digital Government Research, San Diego, CA, 2006.

30 *Id.*

31 Rabinovich-Einy & Katsh, 2012.

32 *Id.*

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tion, management and processing of information”.³³ SquareTrade designed the software to shape the communication of information towards reaching a consensus-based outcome by discovering preferences of parties through selecting choices on a form. Additionally, SquareTrade was able to collect data on the type of conflict, ultimately enhance its dispute resolution process and build more trust online. In five years, SquareTrade handled over 2 million disputes. Eventually, eBay developed an internal ODR system. It found that most conflicts arose from miscommunication.³⁴ Many of the questions prompted in the DSD literature were confronted by eBay’s ODR system, and its answers differed from what some might expect from an offline dispute resolution process, such as “broad confidentiality and individualized tailoring of process structure”.³⁵

Other websites, such as the Mediation Room and Modria, have allowed disputing parties to have discussions online. The Mediation Room is a secure platform that allows mediators to manage communication, yet the network does not have the capabilities to move the parties towards resolution.³⁶ Modria is a growing website that is used by a wide range of organizations, including schools and governments.³⁷

A private arbitration system used for car accidents was Benoam.³⁸ Established in 2002, the Web-based model offered a quick process using written communication and avoiding large amounts of paperwork.³⁹ Most cases were resolved online on the basis of submissions of pleadings and evidence. Very few face-to-face meetings took place. Detailed rules helped to make the system more efficient, making it more predictable and consistent.⁴⁰ Additionally, precedents emerged to protect fairness. Arbitrators adhered to the previous rulings, whether they agreed with them or not.⁴¹

Benoam’s system is notable for two additional reasons. First, the procedures were transparent. Departing from typical ADR procedures, the Benoam database stored all the rulings and communications in addition to sending a copy of the proceedings to the insurance company if it was a party.⁴² This allowed for some information to be released to the public. In addition, professional arbitrators were employed by Benoam to ensure fairness. People familiar with arbitration and the system assisted in creating a level playing field for the participants.⁴³ Benoam transformed certain perceptions about dispute resolution. Rather than

33 *Id.*

34 *Id.*

35 *Id.*

36 *Id.*

37 Legal Insider, ‘Dispute Resolution Biz Gets \$5m Series a Investment – and Targets UK’, 2013, retrieved from <www.legaltechnology.com/latest-news/dispute-resolution-biz-gets-5m-series-a-investment-and-targets-uk/>.

38 O. Rabinovich-Einy & R. Tsur, ‘The Case for Greater Formality in ADR: Drawing on the Lessons of Benoam’s Private Arbitration System’, *Vermont Law Review*, Vol. 34, No. 529, 2010.

39 *Id.*

40 *Id.*

41 *Id.*

42 *Id.*

43 *Id.*

creating a closed mechanism to resolve individual disputes, Benoam “had created a system that has generated common norms and clarified existing rules”.⁴⁴ Additionally, flexibility, an important and traditional component of ADR and DSD, was not prominently featured in this software-based approach. In order to create the software, the designers had to think through to the smallest detail to ensure smooth operation and process, making Benoam significant software in ODR.⁴⁵

4.5 *Surveying Users*

While there is a broad understanding of the platforms available, little research exists on the practice of ODR.⁴⁶ However, Susan Raines attempted to capture the emotions and cognitive limitations of ODR by surveying ten ODR practitioners (mostly from SquareTrade), using her personal experiences as an ODR practitioner and gathering feedback from a 2004 conference in Sacramento, California, where many ODR practitioners convened.⁴⁷ She discovered that many in the ODR field were nontraditional workers who enjoyed the convenience of ODR to work at home. She also found that those in ODR typically encounter parties who are angrier in their opening statements. Especially in asynchronous environments, it is critical for the third-party neutral to take the appropriate time to de-escalate the anger and, throughout the conflict, to remind parties where they are in the process. Trust building was identified as another critical area for ODR practitioners. Trust is hard to establish in offline conflicts and can be especially difficult with conflicts online. Practitioners reported building positive relationships and joint creation of ground rules, encouraging parties to look into each other’s reputations or briefly introduce themselves with a biography and photo. When building relationships was not conducive to the topic, some neutrals used calculus-based trust.⁴⁸ Calculus-based trust engages the party to do what he or she promises or what is expected from him or her to avoid a penalty. This trust is not based on empathy.⁴⁹

4.6 *ODR in the European Union*

There is little legal research on ODR in the European Union as compared with that in the United States.⁵⁰ The lack of research may be due to different legal cultures and various languages across the EU. The EU has few initiatives on ADR and ODR, and some reports show only “9% of traders and 3% of consumers have used

44 *Id.*

45 *Id.*

46 S.S. Raines, ‘Mediating in Your Pajamas: The Benefits and Challenges for ODR Practitioners’, *Conflict Resolution Quarterly*, Vol. 23, No. 3, 2006, pp. 359-369.

47 *Id.*

48 *Id.*

49 *Id.*

50 P. Cortés, *Online Dispute Resolution for Consumers in the European Union*, Routledge, United States, 2010.

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an ADR scheme”.⁵¹ Despite this, ODR is growing, especially in e-commerce.⁵² European Small Claims Procedure was created in 2007 with the purpose of settling cross-border claims of less than €2,000.⁵³ Additionally, the EU has invested in some ODR projects, including the Electronic Consumer Dispute Resolution scheme (ECODIR) and Euro-Label trustmark, aiming to resolve conflicts between sellers and consumers.⁵⁴ The European Consumer Centres Network (ECC-Net) is another EU-led initiative aiming to build confidence in consumers by informing them of their rights and avenues of resolving cross-border disputes.⁵⁵ This serves to create a database on conflict resolution providers. These organizations may not offer ODR services, although some do. Consumers can submit queries to the ECC-Net and then get a recommendation on how to resolve their dispute. ECC-Net is still running as of the date of this publication.⁵⁶ However, this process is voluntary, meaning the company or seller has no obligation to use the ADR or ODR services recommended by the ECC.⁵⁷ Specifically in Ireland and the United Kingdom, their two ECCs have worked as clearing houses for business-to-consumer “disputes between UK web traders and Irish consumers and vice versa”.⁵⁸

Most recently, the European Commission has released a new consumer ADR directive and consumer ODR regulation.⁵⁹ The regulations aim to let consumers resolve conflict without going to court, in an inexpensive and easy way.⁶⁰ The ADR directive mandates member states to ensure they have by July 2015 at least one ADR entity, meeting the European Commission requirements, available for consumers in cross-border and domestic consumer disputes. The ODR regulation creates an EU-wide online platform for resolving online disputes and will operate using every EU language by 2016. ADR entities are obligated to have electronic communications and websites with links to ODR.

4.7 Ireland’s Small Claims Procedure

The district court in Ireland hears small claims on the basis of Rules 1997 and 1999, creating the Small Claims Procedure.⁶¹ Eligibility to use this procedure is limited to consumers who purchased goods or contracted services, including

51 P. Cortés, ‘The Impact of EU Law in the ADR Landscape in Italy, Spain and the UK: Time for Change or Missed Opportunity?’, in *ERA Forum*, Vol. 16, No. 2, pp. 125-147, Springer Berlin, Heidelberg, 2015.

52 *Id.*

53 M. Poblet & G. Ross, ‘ODR in Europe’, in M.S. Abdel Wahab, E. Katsh & D. Rainey (Eds.), *Online Dispute Resolution: Theory and Practice*, Eleven International Publishing, The Hague, 2011, retrieved from <www.ombuds.org/odrbook/poblet_ross.pdf>

54 Cortés, 2010.

55 *Id.*

56 Cortés, 2015.

57 Cortés, 2010.

58 *Id.*

59 European Commission, ‘Alternative and Online Dispute Resolution (ADR/ODR)’, 2015, retrieved from <http://ec.europa.eu/consumers/solving_consumer_disputes/non-judicial_redress/adr-odr/index_en.htm>.

60 *Id.*

61 Cortés, 2010.

torts, from a private business.⁶² It is possible to file a claim online. The complainant reads the rules and completes an application on a secure website. A district court clerk examines the claim and determines whether it is appropriate for the procedure. If the claim is rejected, an email is sent notifying them of the decision and outlining the reasons. If accepted, it is processed, and the complainant is notified by email with a case number and pin number to track the progress of the case online.⁶³

The respondent has three options: ignore, accept or contest. If the respondent ignores the claim, after a certain period of time the claim is declared undisputed, and the district court will make an order requiring the respondent to pay. Another option for the respondent is to accept the claim. This leads to the district court, again, ordering the respondent to pay and close the case. Finally, if the respondent challenges the claim, the clerk will negotiate with both parties and try to reach an agreement. With the aid of the clerk, over half of cases are settled.⁶⁴ The key advantage of this procedure is its accessibility to consumers, allowing tracking of its progress at any time.⁶⁵

Dispute resolution research in Ireland is increasing. Workplace mediation is increasing in Ireland; however, more research is required.⁶⁶ Empirical research on Ireland's workplace and its relationship to mediation is limited, but Margaret Bouchier conducted a study surveying human resource managers and external mediators.⁶⁷ Her study aimed to understand the efficacy and quality of external mediation in the workplace. She collected thirty-two completed questionnaires and found generally high satisfaction with the process and results. Additionally, a high settlement rate was found among those surveyed.⁶⁸ There is no known research on ODR in Ireland.

4.8 Gaps in Research

Empirical research on ODR is limited, especially in understanding its current use by practitioners. While there are attempts to measure its effectiveness and usefulness, most ODR knowledge exists within the industry. Data from private companies is limited by what the companies decide to reveal. The European Union has various government initiatives aimed at encouraging consumer use of ODR.⁶⁹ In Ireland, the Small Claims Procedure utilizes ODR in its procedure. Raines made some attempts to capture practitioners' thoughts on the field of conflict resolu-

62 Ireland Statutory Instrument No. 519, Order 53A, 2009.

63 *Id.*

64 Cortés, 2010.

65 *Id.*

66 D. Curran, 'Workplace Mediation in Ireland: Bridging the Research-Practice Gap', *Journal of Mediation & Applied Conflict Analysis*, Vol. 1, No. 3, 2015.

67 M. Bouchier, 'External Mediation: A Study of a Conflict Resolution Mechanism in the Irish Workplace', A Dissertation Submitted as Part of the Requirements for the PgD/MSc in Work-Based Learning (Mediation Studies) in the School of Education, Queen's University Belfast, 2013.

68 *Id.*

69 European Commission, 2015.

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tion and ODR.⁷⁰ However, research is incomplete regarding practitioners' understanding of ODR. Especially in Ireland, there is a need within the literature to begin exploring ODR.

This pilot research aims to fill the void in ODR by understanding practitioners' views, beginning the conversation in Ireland and gaining knowledge of the demographics of practitioners who use these tools. This article adds to the growing body of literature in dispute resolution regarding awareness of ODR and the various ways it is used by practitioners.

5 Methods

The primary research method used in this study was an online questionnaire sent to practitioners in Ireland and Northern Ireland. The survey consisted of multiple choice and free-response questions regarding ODR. Approximately 900 people received the URL link to complete the survey.

5.1 Questionnaire for Practitioners

A self-selected pool of participants was used in this study. Only practicing mediators, arbitrators or conflict interventionists were permitted to participate in this study. Selected email listservs were utilized for this research. The research link was not posted to any social media websites. No one mailed in results.

There are an unknown number of conflict interventionists in Ireland and Northern Ireland. Many specific organizations may claim a certain number, but it is hard to estimate given private practices, law firms and academics that are involved in conflict resolution. This prevented the research study from conducting a simple random sample. A non-probability sampling, specifically a judgmental sample, was utilized for this study.

Qualtrics software was used to design and deliver the questionnaire. In order to access the survey, the participant needed to have the Qualtrics link (<https://cornell.qualtrics.com/SE/?SID=SV_2rVP6Tv4XPf6RhP>), which was active from 18 February to 1 April 2015. The survey link is no longer active, however, the complete text of the questionnaire is found in Appendix A.

The Kennedy Institute at the Maynooth University, Mediators' Institute of Ireland (MII) and the author of this article delivered the questionnaire via email. The survey was sent to associated practitioners and lecturers of the Kennedy Institute on 19 February 2015. This email listserv had eighty-five practitioners. Subsequently, using the MII online database, individual emails were sent from the author to every name during the period 3 March to 5 March 2015. The email list from MII included 216 practitioners with email addresses. On 12 March 2015, MII sent an email to 760 practitioners, asking for their participation in the questionnaire. Those receiving an individual email, 216 practitioners, were included in the MII mass email to 760 people. Practitioners on this list included mediators in

70 S.S. Raines, S. Kumar Pokhrel & J. Poitras, 'Mediation as a Profession: Challenges That Professional Mediators Face', *Conflict Resolution Quarterly*, Vol. 31, No. 1, 2013, pp. 79-97.

Ireland and Northern Ireland. Owing to the uncontrollable nature of tracking whether the survey link was forwarded to other mediators and conflict interventionists not on the original listserv, the author estimates approximately 900 people were invited to participate in the questionnaire.

5.1.1 *Questions in Survey*

The survey began with instructions and a question asking for consent to participate in the survey. Once the participant had agreed to the terms of the questionnaire, he or she provided basic demographic information including age group, ethnicity and gender. Information was collected on his or her experience as a mediator or arbitrator. Data on the number of years as a professional in the field and the specific type of work they did, for example mediation, peacemaking and arbitration, were collected.

Participants were then asked if they had heard of ODR. They could answer with a 'Yes' or 'No'. The next question, also giving a 'Yes' or 'No' option, was whether they had used ODR previously. These two questions were required, and if a respondent attempted to skip one or both and move on, the survey prevented them.

The next question asked participants whether they had conducted mediation when the parties were separated by distance. Three options were presented: 'Yes, and I used ODR', 'Yes, and I did not use ODR', and 'No'. They were asked what kind of ODR tools they had used, allowing them to select many options including 'Video conferencing', 'Skype or Google Hangout' and 'E-Commerce Platform'. The answer 'None' was also available.

How the participant responded to the question concerning his or her previous use of ODR determined the next three questions. If the participant said 'Yes', three questions would appear on the survey. If the participant said 'No', three different questions would appear. For those people who responded 'Yes', the questions asked the participants to draw on their experiences using ODR. The questions had five response options: 'Strongly Agree', 'Agree', 'Neither Agree nor Disagree', 'Disagree' and 'Strongly Disagree'. The first question read: 'To what extent do you agree or disagree with the following statement? ODR enhances my effectiveness as a mediator in reaching a resolution'. The next question asked participants to respond to 'ODR inhibited my ability to manage information sharing to the disputing parties'. Finally, the respondents were asked to share their thoughts on 'From my experience, ODR is more effective than face-to-face conflict intervention'.

If the participants responded 'No' to their use of ODR previously, they were asked similar questions and provided exactly the same five responses. The first question posed to the participant inquired, 'To what extent do you agree or disagree with the following statement? If I did use ODR, I believe it would enhance my effectiveness as a mediator in reaching a resolution'. The next two questions asked whether they thought ODR would inhibit their ability to manage information and whether they believed ODR was more effective than face-to-face conflict intervention.

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The next question was posed to everyone participating in the survey. It asked whether 'ODR should be taught to every new mediator entering the field'. The same five response options were provided. The following question asked participants whether they had mediated either an entire or a part of a mediation session over video teleconference. They could respond 'Yes' or 'No'. If they responded, 'Yes', two additional questions were presented: what problems they encountered with video teleconference, and how they would describe their experience with the online technology.

Additionally, practitioners were asked whether they had taken a course or seminar on ODR. They were also asked whether they 'could adequately assist parties in a dispute if [they] could only interact over video teleconference'. Next, the survey asked whether practitioners had been involved in a conflict where the parties never met face to face. If someone responded, 'Yes', a second free-response question would appear. It inquired whether they had used ODR, and what the outcome of that conflict was.

The remaining questions were all free-response fields. The free-response questions asked participants to discuss some of the advantages and disadvantages of using ODR. Practitioners were then asked, 'If you are not using ODR in your current practice, would you consider using it? Why? If you were using ODR, would you recommend it to other practitioners? Why?' Finally, respondents had space to write additional comments.

5.2 Data Analysis

Excel and DataDesk were the primary applications of quantitative data analysis. While Qualtrics provided updated summary statistics as surveys were submitted, the author used DataDesk to verify all results. Logistic regressions were run on DataDesk as well. The author used two p -values, 0.15 and 0.05. A p -value below 0.15 but above 0.05 was significant. A p -value below 0.05 was statistically significant. The p -value, 0.05, follows the conventional level of significance; the 0.15 follows a higher p -value gradually being accepted by critics.⁷¹ It is noteworthy that p -values do not matter for non-random sampling (this study) as it defeats the normal distribution and central limit theorem.⁷² This research follows the tradition of Ronald Fisher, who introduced p -values – statistical analysis in this article is not a definitive test, but points to areas of research "worthy of a second look".⁷³ Excel was used to clean and code the data. The author completed all statistical analyses.

This methodological choice is not common for dispute resolution. Following Raines' international survey of practitioners, the sampling and distribution of questionnaires were similar to that research.⁷⁴ There is no model in the literature to create questions on ODR for practitioners, especially with research emphasis

71 R. Nuzzo, 'Scientific Method: Statistical Analysis', *Nature*, 2014, retrieved from <www.nature.com/news/scientific-method-statistical-errors-1.14700>.

72 D.B. Figueiredo Filho *et al.*, 'When Is Statistical Significance Not Significant?', *Brazilian Political Science Review*, Vol. 7, No. 1, 2013, pp. 31-55.

73 Nuzzo, 2014.

74 Raines, 2013.

Table 1: Sex of Practitioners (n = 124)

	Practitioners
Male	65 (52%)
Female	59 (48%)

Table 2: Age Group of Practitioners (n = 124)

	Practitioners
30-39	10 (8%)
40-49	26 (21%)
50-59	55 (44%)
60-69	31 (25%)
70 or older	2 (2%)

on e-commerce and ADR. These questions were designed to provide a preliminary understanding of what is emerging, if anything, in the field of ODR.

5.3 Results

One hundred and sixty-three people opened the survey link. One hundred and fifty-two respondents answered the preliminary question asking if they agreed to the terms of the survey. From this, only 124 questionnaires were completed and used for data analysis.

5.4 Experience and Demographics

Table 1 demonstrates that most of the practitioners who took this survey were male (52%). Forty-eight percent of the respondents were female. The median age group was 50-59 years old. Most people were above the age of 50, as seen in Table 2. Two people were aged 70 years or older, while the two largest age groups were 50-59 (44%) and 60-69 (25%). The youngest reported respondents were in the group of 30-39 years old (8%). Twenty-one percent of the respondents made up the 40-to-49-year-old age group. No one was in the age group of 19-29.

The years of experience ranged from one to forty years. The most common number of professional years spent in conflict resolution was five (15%). After that, first-year and third-year professionals were common (both 13%). Compiling the years of experience, the majority of practitioners had ten years or less (70%). Five years of experience was the median. A text box provided each participant with the chance to denote his or her ethnicity. An overwhelming number wrote 'Irish', 'Caucasian' or 'White' (n = 112).

The types of dispute resolution practised by the respondents were captured in the survey. Practitioners could select more than one field (n = 124). Workplace and organizational mediation was the most common area (69%). Family mediation (45%) and community mediation (37%) followed as popular fields of practice. Less popular fields included commercial mediation (22%), conflict resolution

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Table 3: *Had Heard of ODR (n = 124)*

	Practitioners
Yes	76 (61%)
No	48 (39%)

Table 4: *Had Used ODR Previously (n = 124)*

	Practitioners
Yes	10 (8%)
No	114 (92%)

Table 5: *ODR Tools Practitioners Had Used (n = 188)*

	Practitioners
Video teleconferencing	8 (7%)
Online text-based mediation website	2 (2%)
Skype	14 (12%)
Other	5 (4%)
None	96 (81%)

in education (19%) and restorative practice (16%). Arbitration (10%) and peace-making (4%) were represented as well.

5.5 Perspectives on ODR

Practitioners gave details of their experience with ODR (this can be found in Table 3). Most of the practitioners had heard of ODR (61%). It is important to note a definition of ODR was provided at the beginning of this survey.

However, those who had used ODR were few, with only ten people in the survey having previously used ODR. A large majority had not used ODR previously in their experience. These results are found in Table 4. Another question asked whether they had conducted mediation where the parties were separated by distance. Seven people responded that they had mediated a session and used ODR. Twenty-three people said they had not used ODR but had mediated parties separated by distance. This could be explained by people using the telephone or fax, or who drove around the country (Ireland is similar in size to the State of Indiana). So nearly 25% of the respondents had mediated parties from a distance. The remaining participants reported not having mediated from a distance ($n = 123$).

The type of ODR tools that had been used in the past or were being currently used is found in Table 5. Participants were asked to select all of the tools that applied. Most of them had utilized Skype (12%) and video teleconferencing (7%). No one had used an e-commerce platform.

Those who had used ODR were asked a series of questions to explain their experiences. Forty percent of practitioners, which admittedly is only four people,

Table 6: *Practitioners' Perceptions on ODR Who Had Used It (n = 10)*

Question	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
Enhances effectiveness	1 (10%)	4 (40%)	5 (50%)	--	--
Inhibited ability to manage information to parties	--	1 (10%)	3 (30%)	5 (50%)	1 (10%)
ODR is more effective than face-to-face meetings	1 (10%)	1 (10%)	2 (20%)	4 (40%)	2 (20%)

Table 7: *Practitioners' Perceptions on ODR of Those Who Had Not Used It*

Question	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
Enhances effectiveness (n = 112)	4 (4%)	20 (18%)	53 (47%)	26 (23%)	9 (8%)
Inhibited ability to manage information to parties (n = 113)	6 (5%)	34 (30%)	39 (35%)	29 (26%)	5 (4%)
ODR is more effective than face-to-face meetings (n = 113)	--	--	14 (12%)	57 (50%)	47 (37%)

agreed that ODR enhanced their effectiveness, as Table 6 demonstrates. However, most had neutral feelings (50%).

When using ODR, respondents found it was a useful tool for managing information (50%). Only one person found that ODR stood in the way of effectively managing information. Most people did not agree that ODR was more effective than face-to-face meetings. Forty percent of practitioners disagreed with the statement that ODR was more effective, and 20% strongly disagreed.

In Table 7, practitioners' perceptions of ODR are reported even though these practitioners had never used ODR. The results are mixed. Most participants were neutral when asked whether ODR enhanced effectiveness (47%) and whether ODR inhibited the ability to manage information (35%). When asked whether ODR was more effective than face-to-face meetings, practitioners overwhelmingly disagreed. No one responded favourably. One must keep in mind, however, that these practitioners were commenting on a process that they had never used. Yet their responses are still helpful because, if nothing changes, they indicate these practitioners' willingness to use ODR in the future.

Participants in the questionnaire responded to their experiences of mediating sessions when the parties had never met face to face. This can be seen in Table 8. Respondents were asked whether they had used ODR when the parties had never met in person. Shuttle mediation was the most common response. Most of them had come to a resolution. A minority of practitioners had mediated a session

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Table 8: *Had Mediated Sessions with Parties Never Meeting Face to Face (n = 123)*

	Practitioners
Yes	39 (32%)
No	84 (68%)

Table 9: *Believed They Could Adequately Assist Parties on ODR (n = 122)*

	Practitioners
Yes	70 (57%)
No	52 (43%)

Table 10: *Had Attended an ODR Course (n = 123)*

	Practitioners
Yes	9 (7%)
No	114 (93%)

wherein the parties had not met in person (32%). Very few people had used ODR in this situation.

Practitioners' use of video teleconference technology in mediation had occurred rarely. Very few people had conducted a mediation session, either entirely or partly, using video teleconference technology (11%, $n = 123$). Those who had used it reported confidentiality concerns, saw the platform as impersonal and had accessibility issues for one or both parties (45%, $n = 11$). Practitioners also found it hard to manage information sharing and had to have additional face-to-face meetings (36%, $n = 11$).

In Table 9, most practitioners expressed a belief that they could adequately assist parties by exclusively utilizing ODR in resolving conflict. Fifty-seven percent believed they could use information technology only, and forty-three percent did not agree.

Most people had not taken a course or professional development seminar on ODR. Only 7% of the practitioners had attended an educational course focused on ODR, as is evident in Table 10. There was a general belief that ODR should be taught to mediators (Table 11). However, a sizeable number of people did not think ODR should be taught to new mediators in the survey.⁷⁵

5.6 Qualitative Analysis

Free responses ranged from one-word answers to paragraphs discussing the benefits and disadvantages of incorporating ODR into practitioners' current work. There were also some additional comments. The first free response focused on the benefits of ODR. One respondent summarized the overall theme very well:

75 This would be interesting to explore in future research.

Table 11: Teaching ODR to New Mediators (n = 123)

	Practitioners
Strongly agree	6 (5%)
Agree	60 (49%)
Neither agree nor disagree	31 (25%)
Disagree	22 (18%)
Strongly disagree	4 (3%)

'Enables process where parties are geographically separated ... cost savings ... [and] where parties would be uncomfortable in room with other'. Many people suggested the benefit of saving money on travel and facilities. The idea of emotionally charged cases, such as child abduction, was brought up numerous times. When the parties could not meet in person, ODR was seen as a viable alternative. One person suggested, 'anxiety can be reduced' when the parties are separated. Some suggested that ODR was 'timesaving' and 'presumably a speedier result'. Additionally, ODR was sometimes seen useful for 'non-continuing relationships, consumer rights issues'.

The topic of accessibility was mentioned a few times. Some thought ODR benefitted older populations and those who could not meet 'for financial reasons'. Moreover, it was felt that using ODR in pre-mediation and in the early stages of the process would assist the parties in resolving their conflict. Overall, convenience, safety and cost savings were the most cited benefits of ODR. Ninety-one people responded to this section.

Numerous disadvantages associated with ODR were mentioned, such as 'face to face hard to beat' and 'parties can't eyeball'. Many of the comments discussed the various 'impersonal' components of ODR. Conflict interventionists noted, 'Body language lost' multiple times. ODR was seen as losing the 'real human connection' and caused mediators to 'lose the feel for the situation' and have difficulty being able to 'identify the dynamic'. ODR was seen to hinder mediators picking up non-verbal cues as well. Many people concluded, 'face to face is the best option'. Confidentiality concerns and trust building were mentioned a few times by respondents.

Some touched on the fact that 'one or both parties may not be proficient or equally proficient in its use'. One participant worried that ODR would be 'used as a reductionist process, called mediation, and consist of drop-down menus' that would completely lose the human touch. This person cited Vancouver as an example, where court mediation service went through cost-cutting. Technology glitches, with an emphasis on connectivity, were seen as a drawback to ODR.

Respondents were asked to describe their video teleconference experiences. Nine people provided comments on the platforms they used and when it was utilized. Two people used Skype solely for the pre-mediation phase of mediation. Three people mentioned they used video teleconference technology when the parties were separated by distance. Additionally, a few people discussed connectivity issues when conducting a session over video teleconference. The question did

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Table 12: *Assist Parties over Video*

	Coefficient	SE
Age under sixty	0.1498*	0.1392

* $p < 0.15$.

elicit positive responses on how successfully they were modifying their process to incorporate ODR.

When asked whether practitioners would consider using ODR if they did not currently use it, answers ranged from 'no' to 'only as a last resort' to 'definitely'. However, a majority of people were open to trying ODR in their practice. Some people who said 'no' often mentioned a recurring theme from previous responses: face-to-face is ideal. One hundred people responded to this question.

Finally, additional comments were recorded. For those who did comment, some mentioned they did not know much about ODR and would explore it for the future. Many still expressed concern over losing interpersonal skills and the 'personal touch' of an in-person mediation session. One person noted, "Technology has not been a feature of Irish industrial relations dispute resolution practices to date ... not to my knowledge has the deployment of technology ... [been considered] by main players.'

5.7 *Linking Age*

A series of logistic regressions were run to understand the complex relationships between the variables in this questionnaire. One relationship examined was age and perception of ODR (found in Table 12). The perception of ODR was established by using the 'assist parties over video' variable, which captured practitioners' thoughts of completing a mediation session exclusively using video teleconference technology. This variable was used because of the question's dichotomous nature, requiring either a 'yes' or 'no' answer, and attempts to understand respondents' perspective on relying on technology. The 'age under sixty' variable was created by grouping ages 19-59 together and 60 and above. The relationship between those under the age of 60 and believing they could assist parties only using video teleconferencing was significant with a coefficient of 0.1498. This means those who believe they could assist parties exclusively using video technology are more likely to be under the age of 60. While this does not suggest correlation or causation, it is important to note the role of age in using technology.

5.8 *Linking Video Teleconferencing*

Another logistical regression was run to examine the relationship between practitioners who had previously engaged in video teleconference sessions and those who believed they could assist parties in resolving conflict entirely with video teleconference technology. While a positive relationship between the two may sound intuitive, it is important to test those with previous experience to see if they would use the technology again. Because the practitioners who did use the

Table 13: *Previous Videoconference User*

	Coefficient	SE
Assist parties over video	0.0873	0.1175

* $p < 0.15$.

Table 14: *Had Taken an ODR Course*

	Coefficient	SE
Used ODR	0.1385*	0.0853

* $p < 0.15$.

technology before could have used video teleconference technology only for a part of the entire session, the question in the survey was too broad. Despite this, the relationship did have a positive and significant relationship. Table 13 presents a positive coefficient of 0.0873. This suggests practitioners who have used video teleconferencing previously are more likely to believe they could assist parties reach a settlement only using this technology. Again, this result is only examined for further exploration as this study had a sample of thirteen people who had specifically used video teleconferencing technology either entirely or at some point during a mediation session.

5.9 Linking ODR Education

There is a relationship between those who took an ODR course and those who used ODR. It is interesting to see whether ODR courses encourage mediators to use ODR in their practice. A positive relationship was found with a coefficient of 0.1385, as seen in Table 14. The p -value was 0.10. This means those who took an ODR course were more likely to use ODR. While it is unknown whether these mediators took the course before or after they started using ODR, this is an intriguing result. More research is required.

5.10 Linking Perspectives

The final examination looked at the relationship between people who have heard of ODR and those who believed they could assist parties entirely on video teleconference. This analysis is important in understanding practitioners' confidence in ODR. While ODR is still a budding field, practitioners who have heard of ODR may be likely to have greater confidence in and openness to trying these tools. If ODR is not well understood, there may be greater hesitation in attempting to use these tools. It is important to note that the questionnaire had defined ODR in the beginning, so the participant knew what ODR was before answering any questions. A logistic regression was used for the 'Assist Parties over Video' variable, which was statistically significant. The variable had a coefficient of 0.3675 (seen in Table 15). This model suggests that practitioners who had previously heard of

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Table 15: Practitioners Heard of ODR

	Coefficient	SE
Assist parties over video	0.3675***	0.0631

*** $p < 0.05$.

ODR are more likely to believe they are able to assist parties using video teleconferencing technology.

6 Discussion

The research findings provided an interesting, though limited, view of ODR in Ireland. Very few people in this study have used ODR in Ireland. This study was able to offer only some indications of what practitioners think of ODR's usefulness, effectiveness and weakness. Despite the fact that few people use information technology tools in conflict resolution, this survey increases our understanding of practitioners' perceptions. These perceptions provide insight into potential barriers to entry and help predict the future of ODR.

This study reveals that very few people have used ODR. Barriers to entry may include a lack of awareness of training programmes. Only a small number of people surveyed had taken an ODR course. Among those surveyed, those who had taken a course were more likely to use ODR. Although it is not known whether the ODR course or using an ODR tool came first for this small sample, the results provide a unique insight into why mediators may start to use ODR. Moreover, the scepticism regarding ODR could be an entry barrier to this field. Assumptions and stereotypes, such as poor video quality and requiring a high degree of technical knowledge, about certain technology could also undermine interest in ODR.

Interestingly, no Irish practitioners had previous experience with e-commerce platforms. This number may change with the upcoming EU regulations due to be implemented shortly after the publication date of this article. It is surprising that no one had used an e-commerce platform, especially in light of the large amount of research on the topic.

The population of the survey was generally older and not highly experienced, with the median age being five years of experience. It would be interesting to continue tracking them to see whether their views on ODR change. Nearly everyone identified as Caucasian in the study. Respondents in this survey were more likely to work in workplace mediation.

Those people who had used ODR responded differently from those who had not. Generally, those surveyed who had used ODR found it to be practical and valuable. The perception of ODR, among those who have not previously used it, had a consistently slightly negative view. An overwhelming group found ODR no better than face-to-face communication, whereas a few people who had used it thought it might be better. Many thought it did inhibit managing information sharing between parties, while most people who had used ODR did not think so.

Most people who had used ODR disagreed that it prevented good communication between parties. Finally, people with experience in ODR tended to agree it heightened effectiveness, while those with no experience in ODR tended to disagree with that statement. Despite the small sample of ODR users, the viewpoint of those with no experience presents a possible lack of understanding of ODR's positive components, which could be a potential barrier to profiting from ODR's benefits. More research is required, however.

There was an overall sentiment that ODR deserves attention in the future. While mediators in the survey tended to think face-to-face is better, there is not a strong sentiment that ODR should not be embraced. Mediators, despite the majority of them not having used ODR before, recommended it be taught to novices and trainees. The confidence of mediators in using the technology was mixed, approaching an even split. Mediators were unsure whether they could lead an entire session over videoconference.

The relationships established in this study cannot be equated with causation or correlation. That those who had heard of ODR previously were more likely to believe they could serve as third parties through video teleconference technology is interesting on many levels. A possible explanation comes from a perception that ODR is easy to access and use. In spite of people's lack of experience in ODR, they have a great deal of confidence in using technology: this is another explanation.

A glance at the free-response answers shows scepticism was an overarching theme. Many mediators made a scale of human touch using a cost-benefit analysis. Many viewed options like Skype and video teleconference as less of a cost on what many would label the essence of mediation – the human touch. These products seemed to still have some costs because they are not face to face and cannot get the best reading of body language. Text-based platforms, such as those using drop-down menus, were seen as bearing the highest cost. For those unfamiliar with ODR, these means of resolving conflict nearly or completely removed the human side of mediation.

ODR was also seen as a wrench, not a toolbox. Just as a wrench is of use only in certain situations, ODR is limited for only a few types of disputes – it is particularly useful when the parties are separated and when they are not comfortable with each other in the same room. Most respondents did not see the wide array of ODR tools and their flexibility as a benefit within the mediation process. Many placed ODR outside of the mediation context, not viewing it within the field. Participants did not see ODR as offering many tools to aid them, but rather viewed it as an end. This perspective is interesting for developers of ODR platforms and for consumers hiring mediators.

An undercurrent of positive interest surfaced from the qualitative data, with many mediators expressing a reserved curiosity about ODR. Their willingness to experiment with it in their own practice was apparent. However, there were strong reservations, with many still expressing concerns about losing the human touch. Nonetheless, there was a prevailing sense of embracing technological advances in small increments.

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6.1 *Research Questions Answered*

This research answered some questions and left some unanswered. Above all, many of these questions require further research for complete answers. Discovering current trends in Ireland and elsewhere in the literature was the first question. In the literature review, no research in Ireland pertaining to ODR was found. Across Europe, some research was found. The United States had the most research on ODR.

The second question asked about practitioners' current views and use of ODR, along with their perception of it within the context of their practice. The research presented found that mediators in Ireland who participated in this study viewed ODR with suspicion and do not use it. However, there is a general sentiment of being open to use it despite the narrowly drawn ways in which ODR would be helpful.

The third question, to learn more about best practices, could not be answered, as this questionnaire had a very small sample of ODR users. Future research will have to disclose best ODR practices Irish and other mediators are using.

This study also investigated ODR in the context of workplace and family mediation, whereas most of the current literature focuses on commercial ODR. Most of the respondents to the questionnaire came from those workplace and family practices and provide exciting new insights into ODR. As ODR grows, research will need to examine all components of ADR, not just commercial, workplace and family mediation areas. Hopefully, the Irish workplace research beginning to flourish will observe and build on this article. While this study cannot make any generalizations about Irish mediators compared with others across the world, it suggests Irish usage of ODR is limited. Further research in Ireland and around the world must be promoted to discover who is using ODR and how it is perceived. However, there is considerable potential in this growing field. In what follows, key limitations are highlighted along with future directions in research.

6.2 *Limitations*

Administering a survey presents many challenges. Typical concerns include dishonesty, along with participants' interpreting questions differently. Response bias was also a concern, as respondents may want to tell a researcher what he or she wants to hear. Even more issues arise when the survey did not follow a specific sampling method, such as cluster, random or stratified sampling, which would have strengthened the validity of the survey. However, this is difficult in the mediation field, as there is no known comprehensive list of Irish mediators. A more demarcated and accessible group would provide more reliable results. As this survey reached people through closed listservs, selection bias occurred.

Because the literature on ODR lacks consensus on a definition, it is very likely that mediators were using ODR without knowing it. Some in the field consider aiding parties in resolving their conflict over email as a form of ODR. While the author attempted to define it for the purposes of this study, many may disagree with it. As technology continues to evolve and become integrated into daily life, the line between ODR and ADR may become blurry.

The content of the questionnaire could have been vastly improved, specifically in regard to questions on barriers to entry, years involved with ODR, number of cases engaged with ODR and settlement rate of cases using ODR versus no ODR. The format of some questions could have had minor adjustments to create more flexibility for data analysis. Respondents were asked whether future mediators and conflict interventionists should have knowledge in ODR, with five options ranging from strongly agree to strongly disagree. This should have been a dichotomous affirmative or negative answer. Additional questions could have sought particular details of a session using ODR, such as where the parties were located when using ODR, how many times the parties met on an online platform, whether the parties spoke the same language, how ground rules were established and how emotion was managed.

Simple questions could have made the questionnaire stronger, building on the content already included. For example, the question asking respondents who had taken a course on ODR could have included where it was located and what organization administrated it. Moreover, there was not a question to ask whether those who had used video teleconference technology found it helpful or not. Many of the questions allowed people to hide behind a 'Neither Agree or Disagree' option. This option may provide some respondents an outlet to hide their true feelings.

Furthermore, this study cannot claim any generalizations about mediation and conflict resolution, Irish practitioners or participants involved in ODR. While statistical significance was found between some variables, these results cannot be applied to a wider population without additional research and supplementary examination. However, this study does represent a step in trying to define and capture a specific population. It also tries to understand the important questions in ODR. Hopefully, more researchers will continue to pursue this area, and some ideas are noted below.

6.3 Further Exploration

ODR is ripe for discovery and closer examination in Ireland and around the world. Building on this scholarship, those people who have used ODR should be interviewed. It would be interesting to gather all perspectives – the designers of the platform, the parties in conflict and the third party. Similarly, others should attempt a national survey of Irish mediators and their experiences around ODR. Ireland is an ecosystem bursting with mediators and conflict interventionists where a national survey is possible.

Another approach to understand the efficiency and satisfaction of ODR is to interview parties who engaged in a conflict resolution process using online tools. Their perspectives would provide powerful insight into making products consumer friendly and accessible. Researchers may consider observing sessions using ODR and collecting quantitative data, such as settlement rate. However, one of the most important areas of further research is bringing ODR to a controlled laboratory setting.

ODR's effectiveness compared with face-to-face meetings will provide the basic framework for future ODR research. As Lipsky and Avgar suggested, a labo-

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ratory test of college students using ODR and others engaged in face-to-face meetings is imperative to examine (2007). Sophisticated experiments would add variations to the ODR component, such as testing the effectiveness of mediation when the parties have never met in person or when faced with language barriers. These language barriers would be interesting to examine within the European Union, as there are a wide variety of languages spoken. These studies should also assess the value of relationships – are long-term relationships more likely to be adversely impacted by ODR? Is ODR more suited for resolving disputes when the parties do not value relationships?

For the European Union, with the new regulations and policies coming in place for member states in 2016, countless avenues will arise for research. One of the first questions of the regulations is simple – does it increase the popularity of ODR as a means of resolving cross-border commerce disputes? How are conflict interventionists (especially in Ireland) responding to this? What are the most common tools consumers and practitioners are using? What platforms do they prefer?

Specifically in Ireland, there may be a market for ODR programmes and trainings. Very few respondents in the questionnaire had attended a training or professional course on ODR. Further research on how to train people in ODR is worthy of researchers' time. How do generational differences impact the training programme? Do younger people need training in ODR as much as older people? Where are training programmes being offered? These questions have yet to be answered.

When Katsh and Rifkin called ODR the 'fourth party', they believed that information technology would one day replace the third party.⁷⁶ At this point, it is hard to imagine removing humans completely from the equation of resolving conflicts. There may never be conflicts that can be resolved without human intervention. Yet in the near future, Ireland has abundant opportunities to incorporate ODR into their ADR practice.

7 Conclusion

As an exploratory piece of research, the findings provide a glimpse into the bright future of ODR. It makes a small dent in what Lipsky and Avgar refer to as a lack of understanding of dispute resolution in the "physical world".⁷⁷ Research in the field is limited to specific tools and dispute system design. Within the context of the European Union and Ireland, ODR literature becomes even more narrow and difficult to find. With no ODR research in the Irish context, this study starts the conversation, especially bridging the gap between research and practice. Ideally, practitioners will be able to use this data and apply it to their practice. Emails were sent back to the author and listserv administrators, indicating a desire to retain copies of the final report and requesting more information about ODR.

⁷⁶ Katsh & Rifkin, 2001.

⁷⁷ Lipsky & Avgar, 2007.

ODR may be a field Irish practitioners wish to explore further or to avoid in their own practice. Moreover, researchers in Ireland and abroad may scrutinize and potentially find inspiration in this study.

The method used to collect data provided a unique insight into Irish mediators. Out of an estimated 900 surveys, 124 were returned and compiled for analysis. It was a non-random sample survey electronically sent via mediation listservs. Access to the survey could occur only if the person obtained the unique URL address. There were no major ethical concerns as the author selected a secure and reliable survey provider.

The survey revealed many interesting results. Although most of the surveyed respondents were aware of ODR, very few used the technologies to aid in resolving disputes. A popular sentiment among participating practitioners was that ODR was no better than face-to-face meetings, but that it was worth exploring further. Those who had heard of ODR are more likely to believe they could assist parties in reaching a settlement entirely with the use of video technology. Practitioners expressed a great deal of scepticism, yet recognized it was useful in limited situations.