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'But I Can't See Them': the Theory and Practice of Resolving Disputes Online

This paper will present a survey of the current state of online alternative dispute resolution (ADR) and will look at its implications for conflict and dispute resolution practitioners.

ADR refers to processes other than judicial determination in which an impartial person assists those in a dispute to resolve the issues between them. Online ADR refers to ADR processes assisted by information technology, particularly the internet.

Online ADR has been available since 1996 and has gone through three broad stages of development:

- A "hobbyist" phase where individual enthusiasts started work on online ADR, often without formal backing
- An "experimental" phase where foundations and international bodies funded academics and non-profit organisations to run pilot programs
- An "entrepreneurial" phase where a number of for-profit organisations launched private online ADR sites.

The authors believe that online ADR is now entering an "institutional" phase where it will be increasingly adopted by governments and other institutions around the world.

The paper will present the findings of the most comprehensive study of online ADR undertaken to date. Conducted for the Department of Justice Victoria in February to March 2003, the study included:

- Completion of a literature review including 128 books, articles and online resources
- Analysis of 76 online ADR sites, including services offered, communication methods used, type of disputes dealt with, fee structure, privacy and security measures and current operations
- Selection and further analysis of five illustrative case studies of current online dispute resolution schemes
- Public surveys and user focus groups
- Consultation with government agencies to assess their interest in online ADR.

The paper will briefly present the process undertaken by the Department of Justice in considering whether or not to introduce online ADR in Victoria as a model for other organisations considering online methods. Factors considered included public need for this service, fit with current ADR services and implications for practitioners.