
CROSSING DISPUTE AND INFORMATION TECHNOLOGY: THE EXPERIENCE OF RISOLVIONLINE www.risolvionline.com

Rinaldo Sali

Chamber of Arbitration of Milan
Sali@mi.camcom.it

abstract

A model of online mediation created in Milan will be analysed as a new method of online dispute resolution (ODR). This new model could tell if ODR improve our traditional alternative dispute resolution methods (arbitration and mediation) or radically change the way to solve our commercial disputes. The speech would also underline the need for new standards and rules, in order to avoid a lack of consumer protection in e-commerce.

1. Introduction

In 1999 and 2000 especially, we have seen a rapid growth of websites promoting Alternative Dispute Resolution (ADR), as well as offering Online Dispute Resolution (ODR) services. In some cases these are institutional websites which were already practising traditional mediation and arbitration. In others, there have been initiatives online from the start.

From this fact alone we may conclude that the web is the cross-roads between the old and the new economy of dispute resolution.

2. Description of the ODR service provided by the Chamber of Arbitration of Milan.

The Arbitration Chamber of Milan (www.camera-arbitrale.com) is a public ADR provider created by the Milan Chamber of commerce and it provides mediation and arbitration procedures both for B2B and B2C commercial disputes. In 2004 only, the Arbitration Chamber managed 105 procedures of arbitration and 206 procedures of mediation.

As many other national and international institutions, the Arbitration Chamber recognised the need for new approaches to e-commerce disputes, therefore the Chamber created in 2002 a new service for online dispute resolution: RisolviOnline (www.risolvionline.com).

3. How does it work?

In creating RisolviOnline we evaluated different options: arbitration/mediation? automated negotiation/traditional mediation? We decided to start from what we know better, we tried to “move” a traditional mediation scheme in an online environment. We think in fact, that online communication and direct exchange between the parties of a dispute should be encouraged, and the role of the third neutral mediator shall be a facilitative one, that is: to help the parties to discuss things openly.

RisolviOnline consist of an online procedure (the claimant shall fill in the

online form in the website to start the procedure; if the other party accept to enter the mediation the discussion takes place via email and/or chat-room the only step “off-line” is the signing of the agreement (in Italy digital signature systems is not very widespread).

3. Figures and trends

Since 2002:

Online mediation requests	90
Number of procedures	10
Successful procedures	6
Agreement out of procedures	15

The most frequent matters of the dispute have been online auctions, travel/tourism, purchase of hardware/software.

The most frequent online tools chosen by the parties to negotiate has been the email.

As one can see, figures are not very encouraging, so we think, we have learned a couple of things:

- the synchronous communication tool (“chat”) is not familiar enough to all the potential users, and maybe too expensive (a mediation session via chat normally takes not less than a couple of hours during which the parties shall be connected to the Internet).
- The exchange of email messages is cheaper and it allows the parties of a dispute to evaluate carefully the proposal made by the other party. On the other hand the procedure via email lasts longer (even 3 months!) than a chat session.

4. What will the “next move” be?

We think we shall move towards other schemes of ADR. Maybe mediation is not the best ADR tool to transpose online. The mediator lacks of essentials techniques in negotiation.

A different ADR scheme, where the outcome is a some kind a “decision” (e.g. ombudsman), is maybe more suitable in an ODR environment.

At the moment we are thinking about changes in the technical outline - for example to create a TDB (Threaded Discussion Board) avoiding the use of the personal email of the users so as to make them feel inside an institutional context – as well as changes in fields of intervention (in particular domain name dispute resolution).