

LITIGATION & DISPUTE RESOLUTION

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INNOVADR: A NEW PARADIGM IN DISPUTE RESOLUTION FINANCING

By Jeremy Lack



In the complex world of corporate disputes, traditional litigation (including arbitration) often comes with significant downsides: high costs, lengthy timelines, and the potential to damage business relationships and reputations. As companies grapple with these challenges, the demand for more efficient, cost-effective, and amicable methods of resolving conflicts is growing. InnovADR offers a distinctive approach to dispute resolution financing, presenting a compelling alternative to conventional litigation.

The challenges of traditional litigation

Corporate counsel and their clients face several key pain points when dealing with traditional litigation:

- **High costs:** Litigation can be prohibitively expensive, with legal fees, tribunal costs, and related expenses quickly escalating.

Excessive and disruptive evidence-gathering and document production can add significantly to these costs, especially in jurisdictions requiring extensive discovery. This financial burden can be especially detrimental for smaller companies or those with limited budgets.

- **Lengthy timelines:** The legal process is often protracted, with cases dragging on for years before reaching a resolution. Despite efforts for greater efficiency, decisions still tend to be aggressively appealed, sometimes more than once in the same matter. This extended timeframe can disrupt business operations and divert resources from more productive activities. By the time certain appeals are heard, the business has often already moved on, making these appellate processes particularly wasteful.

- **Relationship strain:** The adversarial nature of litigation can strain or even destroy business relationships and reputations. Maintaining positive relationships is crucial for ongoing and future business dealings, making it essential to find less contentious resolution methods.
- **Reputation damage:** Prolonged legal battles can attract negative publicity, harming a company's reputation and standing in the market. Confidentiality concerns also arise, as sensitive information may become public during litigation.

A better way forward

InnovADR seeks to address these problems by providing a faster, cheaper, and more collaborative approach to dispute resolution, which is particularly beneficial for corporate counsel, entrepreneurs, small and medium-sized enterprises (SMEs), start-ups, international companies, family businesses, private equity or VC-backed companies, and

family offices, where maintaining relationships and confidentiality are paramount. Here's how InnovADR sets itself apart:

No settlement, no fee: InnovADR advances and pays for the fees of the ADR neutrals and any institutional fees itself, operating on a "no settlement, no fee" basis. This ensures that the company only earns if the dispute is resolved amicably. It is a new model that aligns InnovADR's incentives with those of the disputing parties, ensuring they focus on achieving a mutually satisfactory settlement. InnovADR's funding of its own recommended bespoke processes distinguishes it from traditional consultants who are primarily selling conventional services. Its willingness to invest in the processes it recommends indicates its desire to align its interests with those of the disputants and its confidence in its ADR process recommendations, as it can suffer significant losses if they are incorrect.

Mixed-mode approach: InnovADR's mixed-mode approach integrates mediation with

other appropriate dispute resolution (ADR) processes. This flexibility allows for a tailored resolution process that meets the specific needs of each case, potentially including evaluative and adjudicative elements.

Cost-effectiveness: InnovADR's fees are capped at one-third of the anticipated costs of going to trial or arbitration, based on InnovADR's assessment of the risks of non-settlement of each case and the parties' answers to two questionnaires, providing a transparent and fair pricing model. This cap ensures that overall expenses remain significantly lower than those associated with traditional litigation or arbitration costs.

Speed and efficiency: InnovADR aims to resolve disputes within three to six months, a fraction of the time required for conventional litigation. This rapid resolution process helps businesses maintain continuity and focus on their core operations.

Confidentiality and security: InnovADR's proprietary software streamlines data collection without requiring the disclosure of confidential case information. This ensures that sensitive information remains protected while still providing a robust analysis of the dispute.

Alignment of interests: InnovADR's model is designed to ensure that all parties benefit mutually from a settlement, avoiding the zero-sum game often associated with litigation and arbitration.

Expertise and customisation: InnovADR leverages deep expertise and a highly customisable approach to address the unique circumstances of each case, ensuring that

the resolution process is both effective and efficient.

Supporting ESG and SDG compliance:

Working with InnovADR aligns with corporate social responsibility (CSR) goals, including adherence to the United Nations' Sustainable Development Goals (SDGs) and robust Environmental, Social, and Governance (ESG) practices. InnovADR facilitates efficient dispute resolution by proposing Online Dispute Resolution (ODR) options, which reduce unnecessary travel, carbon emissions, and paper waste. This approach not only promotes compliance with ESG criteria but also directly contributes to key SDGs – particularly Goals 8 (sustainable economic growth), 16 (peace and justice), and 17 (partnerships for achieving these goals). By integrating sustainability into the dispute resolution process, InnovADR helps companies and investors meet their broader CSR and reputational objectives.

Our seven key drivers

InnovADR's approach is underpinned by seven key drivers that ensure a successful and efficient resolution process:

1. **Costs:** Reducing the costs of reaching an effective outcome.
2. **Time:** Optimising the time needed to reach an outcome.
3. **Relationships:** Providing for the parties' desire to maintain or repair relationships, and setting a cooperative tone for resolving the dispute (including reputations and third-party stakeholders).
4. **Control of Process:** Accounting for the parties' desire to control procedural matters (e.g., discovery, submissions, lawyers, witness testimonies, etc.).
5. **Control of Outcome:** Meeting the

parties' desire to control the outcome of the process (e.g., final findings of fact, law, liability, damages, reimbursement of attorneys' fees, etc.).

6. **Confidentiality:** Providing for the parties' desire to keep the dispute and/or its outcome confidential, to the extent permitted by law.

7. **Enforceability:** Addressing the possible need to have the outcome recognized and enforced domestically or internationally.

A systematic six-step process

InnovADR's software is designed to be thorough, systematic, and user-friendly, ensuring that disputes are resolved efficiently. The six-step procedure from case initiation to resolution is as follows:

1. Submission of application forms:

A party initiates a case by submitting an application form via InnovADR's portal (<https://innovadr.com/our-portal>). This can also be done by InnovADR itself, if so requested. An application form may be filed as the requesting party, anonymously or as a responding party, where all parties are considered to be "responding parties" who will only proceed if all other parties are willing to do so as well. An application form submission triggers invitations to the other parties, inviting each of them to participate as well.

2. Submission of due diligence

questionnaires: Once all parties agree to participate, they are asked to fill out a more detailed due diligence questionnaire. This questionnaire focuses on procedural preferences, prior experiences with disputes, the parties' procedural interests and concerns, and the importance of applying

laws strictly or general principles of fairness.

3. **Analysis and proposal:** InnovADR analyses the submissions and proposes a customised ADR strategy designed to settle the dispute within three to six months. This proposal includes InnovADR's investment and success fees based on the likelihood of settlement.

4. **Signing the agreement:** Upon acceptance of InnovADR's proposal, the parties sign an ADR Facilitation & Investment Agreement. They pay a nominal administrative fee and commit to the settlement process.

5. Selection of the first ADR neutral:

The parties select a first ADR neutral, an experienced commercial mediator, to facilitate the process. InnovADR assists in the selection and setup, ensuring a smooth start to the mediation. Additional ADR neutrals can be appointed as needed.

6. **Settlement and success fees:** If the dispute is settled, InnovADR invoices each party based on the agreed success fees. The entire process aims to achieve resolution within three to six months, providing significant cost savings and efficiency.

Early settlement incentives for counsel

InnovADR acknowledges the crucial role that legal counsel plays in dispute resolution. To encourage early and effective participation, InnovADR proposes to the disputants a unique compensation structure for participating lawyers and law firms. This is provided as a bonus that is calculated by each client as a percentage of the total savings it has achieved by avoiding trial or arbitration costs, after deducting InnovADR's success fees. The specifics of this bonus incentive are outlined in Section 6 of InnovADR's investment agreement:

- **Eligibility:** Lawyers or law firms assisting the parties are eligible for a bonus if a settlement occurs as a result of the mediation and if they have participated in good faith throughout the process.
- **Calculation:** The bonus can amount to up to 30% of the total savings compared to the estimated costs of going to trial or arbitration, which can equate to more than one year's worth of fees. Each party determines the bonus amount itself, based on its appreciation of their lawyer's contribution to achieving the settlement.
- **Confidentiality:** The details of the bonus are kept confidential, and the precise amount need not be disclosed to the other parties.

This incentive structure encourages counsel to actively work towards a swift and amicable resolution, aligning their efforts with the mutual goals of their clients and InnovADR. It is formulated to be acceptable in both common law and civil law jurisdictions, where lawyers are sometimes forbidden to enter into success fee agreements themselves.

Simple messages

For clients who may be reticent to try ADR, InnovADR's approach can be summarised in a few key messages that resonate with corporate counsel, entrepreneurs, SMEs, start-ups, international companies, family businesses, private equity or VC-backed companies, and family offices:

- Do you have a dispute? Is it taking too much of your time and resources? InnovADR can solve and pay for it.
- How is this possible? It takes a success fee only if the case settles to the satisfaction of all parties.



- InnovADR will design the best process for the disputants based on their particular needs in each case.
- It designs every case to settle in less than three to six months. That's a fraction of the time it typically takes before a court or tribunal.
- Does it work? Yes. More than 80% of the time.
- It works for domestic and international cases.
- InnovADR's success fees are capped. Clients only pay less than one-third of the costs of going to trial.
- Why do we propose this? Litigation usually takes too long, is too expensive, and/or destroys relationships.
- InnovADR offers faster, more cost-effective, and better solutions, with significantly reduced risk.

Benefits for corporate counsel and disputants

All disputants and their representatives will find InnovADR's approach particularly beneficial. Here's how:

- **Risk mitigation:** InnovADR's "no settlement, no fee" model minimises financial risks, ensuring that there are no upfront costs unless a settlement is reached.

- **Value generation:** By facilitating early, cost-effective resolutions, InnovADR helps convert business risks into commercial opportunities, generating value from disputes. This allows companies to reallocate resources more effectively and enables legal teams to contribute directly to their client's bottom line.
- **Preservation of relationships:** InnovADR's approach fosters collaboration and communication, helping to preserve crucial business relationships or improve them.
- **Incentives for early resolution:** The early settlement bonus incentivises counsel to seek swift resolutions, potentially resulting in significant cost savings.

addressing the key pain points of traditional litigation. By providing a faster, more cost-effective, and collaborative process and covering the upfront costs of the ADR neutrals and institutions, InnovADR helps companies resolve conflicts efficiently, maintaining important business relationships and safeguarding reputations, all while aligning its interests with those of the disputants. For corporate counsel, entrepreneurs, SMEs, start-ups, international companies, family businesses, private equity or VC-backed companies, and family offices, InnovADR presents a compelling solution to the challenges of dispute resolution. It aligns incentives and fosters mutually beneficial outcomes.

For more information on InnovADR and its services, please visit InnovADR's website at www.innovadr.com.

Conclusion

InnovADR provides a transformative approach to dispute resolution financing, directly



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A certified IMI mediator and practicing arbitrator, Jeremy is ranked by WHO'S WHO LEGAL as a Global Elite Thought Leader (2019-2024). He holds an MA (Oxon) from Oxford University and works in English, French, and Spanish. He lives in Geneva, Switzerland, and designs bespoke international commercial dispute resolution processes. Jeremy holds Swiss, British, U.S., and Israeli citizenships. For more information, please visit: www.lawtech.ch and www.innovadr.com.