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Episode 22 InnovADR: A New Approach To Address Evolving Trends (Written By Jeremy Lack – Director And GC, InnovADR)



Introduction: The Evolving Landscape of Dispute Resolution

In 2018, the Global Pound Conference (<https://imimediation.org/research/gpc/>) (GPC) identified key trends in international commercial dispute resolution, revealing widespread dissatisfaction with existing mechanisms and a desire for more efficient, collaborative, and cost-effective alternatives. Six years later, the Singapore

International Dispute Resolution Academy's (SIDRA) 2024 report confirms and builds on these trends, providing corroborative data on the evolving needs of users in the field.

InnovADR is an example of how new products are emerging to respond to these changing needs. As a data-driven platform that emphasizes mixed-mode processes, ADR financing, financial incentives for early settlement, and holistic, user-centric dispute resolution, InnovADR aligns closely with the key insights from both the GPC and SIDRA reports.

From GPC to SIDRA. Key trends in ADR

The GPC's 2018 report brought together perspectives from more than 4,000 stakeholders, sparking conversations on how dispute resolution could better meet users' needs. Four key trends emerged:

- **Efficiency as a Central Priority:** Users highlighted efficiency as a critical factor, emphasizing the need for faster and more cost-effective processes that avoid unnecessary waste.
- **A Call for Collaboration:** There was a growing desire for a more collaborative approach among disputants and their advisors, contrasting with traditional adversarial models that often damage business relationships
- **Preference for Mixed-Mode Processes:** There was increasing interest in combining adjudicative and non-adjudicative mechanisms, such as mediation paired with litigation or arbitration, to create a more flexible and effective resolution process.
- **Role of In-House Counsel as Change Agents:** In-house counsel were seen as key drivers of organizational change, pushing for more efficient dispute resolution practices, while external lawyers were often perceived as sticking to traditional models.

The GPC's findings marked a shift towards user-centred dispute resolution that prioritized cost-efficiency, collaboration, and flexibility. However, the gap between these preferences and the current offerings in dispute resolution mechanisms highlighted the need for innovative and responsive solutions.

SIDRA's 2024 report (<https://sidra.smu.edu.sg/research-program/appropriate-dispute-resolution-empirical-research/sidra-survey-2024>) further confirms and elaborates on the trends that the GPC first identified, offering detailed insights into users' experiences and preferences in international dispute resolution. The SIDRA survey confirms several key points:

- **Cost and Efficiency Remain Top Priorities:** Both cost and time efficiency are at the forefront of decision-making when selecting dispute resolution mechanisms. Users remain dissatisfied with the high costs and lengthy timelines of traditional litigation and arbitration.
- **Preference for Mixed-Mode Resolution Grows:** SIDRA confirms an increasing preference for mixed-mode or hybrid dispute resolution mechanisms, which combine processes like mediation with arbitration. This flexibility provides users with more tailored, efficient, and confidential options
- **Emphasis on Preserving Business Relationships and Confidentiality:** Disputants are concerned about the potential damage to business relationships and exposure of sensitive information through public proceedings. There is a growing preference for dispute resolution mechanisms that protect these interests
- **Need for Control Over Process and Outcome:** Users want to have a say in procedural aspects as well as in the ultimate outcomes of their disputes. Customizable approaches that allow disputants to shape the resolution process are highly valued.

SIDRA's findings corroborate the GPC's earlier conclusions and underscore the need for more holistic solutions that address all of a disputant's concerns, including efficiency, cost, flexibility, confidentiality, and the ability to maintain business relationships.

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InnovADR: Addressing Global Trends in Dispute Resolution

InnovADR is an example of a product designed to address these unmet needs by offering a model that integrates mixed-mode resolution, ADR financing, financial incentives for counsel, and user control. While not the only option available, it serves as a demonstration of how dispute resolution is evolving to better serve the market's demands.

ADR financing is an alternative to the traditional litigation funding that is increasingly popular. While litigation funding typically supports parties through protracted legal battles, ADR financing aligns with the goal of achieving faster and more amicable settlements. InnovADR's "no settlement, no fee" model means that parties are only charged if a settlement is reached. This fee structure also caps expenses at one-third of the anticipated costs of a trial or arbitration, reducing financial risks and making dispute resolution more accessible and predictable.

By aligning its financial model with users' desire for efficient and cost-effective dispute resolution, InnovADR helps to fill the gap between the need for affordable options and the often-high costs associated with conventional processes.

The uniqueness of InnovADR. Our main characteristics

The analysis of the trends let us reflect on the following points:

- A key theme in both GPC and SIDRA reports is the move toward mixed-mode processes, combining elements of mediation with adjudicative procedures like arbitration. InnovADR embraces this approach by offering tailored dispute resolution mechanisms that adapt to the needs of each case. By allowing the integration of evaluative, facilitative, and adjudicative processes, InnovADR creates a flexible pathway to resolution. This mixed-mode approach meets users' preferences for a process that not only saves time and costs but also better serves the specific nature of their disputes, supporting collaboration and more effective outcomes.
- InnovADR introduces a unique compensation structure for legal counsel, providing a financial incentive for early and effective settlement. Counsels can receive an early settlement bonus of up to one-third of the savings achieved by avoiding a trial or arbitration. This bonus is determined at the client's discretion based on their appreciation of counsel's role in reaching a swift and amicable settlement. This structure significantly enhances the potential revenues and profitability for lawyers and law firms by offering a share of the savings that would have otherwise been spent on protracted litigation or arbitration. It aligns the interests of both counsel and clients with InnovADR's commitment to efficient dispute resolution, encouraging all parties to work collaboratively toward swift settlements.
- The SIDRA report confirms that disputants value confidentiality and the preservation of business relationships, which can often be damaged by adversarial proceedings. InnovADR's focus on collaborative processes, secure data management and minimal information about each case addresses these needs by fostering an environment that encourages cooperation and discretion. The use of proprietary software ensures that sensitive information is protected, offering parties privacy throughout the resolution process. This level of confidentiality and relationship preservation aligns with the growing

global preference for mechanisms that resolve disputes amicably, without causing undue harm to ongoing commercial relationships

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- The GPC and SIDRA reports emphasize that users desire more control over how their disputes are resolved. InnovADR's customizable approach allows disputants to have significant input into procedural matters, such as timelines and the selection of neutral professionals, as well as the structure of the resolution process itself. By empowering parties to shape their own resolution journey, InnovADR responds to users' preference for flexibility and tailored solutions, ensuring that the process aligns with their interests and goals.
- InnovADR leverages data and technology to streamline dispute resolution, employing a proprietary software system to efficiently collect and analyze information about each case's propensity to settle while maintaining confidentiality. This data-driven approach supports informed risk-assessment and decision-making and ensures that the resolution process is efficient and adaptable to the needs of each case. Incorporating technology and data analysis allows InnovADR to deliver timely outcomes that align with users' desire for efficiency, as identified by both the GPC and SIDRA.
- As businesses increasingly adopt sustainable and socially responsible practices, dispute resolution processes must also reflect these values. InnovADR's approach to Online Dispute Resolution (ODR) supports Environmental, Social, and Governance (ESG) principles by minimizing unnecessary travel and reducing environmental impacts, including paper waste. This approach helps companies meet their CSR goals and align with the United Nations Sustainable Development Goals (SDGs), enhancing the overall value of the resolution process.

InnovADR's Seven Key Drivers for Dispute Resolution

InnovADR's approach is underpinned by seven drivers that resonate with the themes highlighted in both the GPC and SIDRA reports:

- **Cost-Effectiveness:** By capping fees and offering ADR financing, InnovADR addresses the need for cost-efficient solutions.
- **Timeliness:** Aimed at resolving disputes within 3-6 months, InnovADR optimizes the resolution timeline, responding to users' desire for faster outcomes.
- **Maintaining Relationships:** The process fosters collaboration and relationship repair, ensuring that disputes are resolved without compromising ongoing business interests.
- **Process Control:** Disputants can shape the proceedings to suit their preferences, enhancing satisfaction and aligning with users' desire for a customizable process.
- **Outcome Control:** InnovADR enables parties to have input over final decisions, ensuring that the results are tailored to their needs and preferences.
- **Confidentiality:** Privacy is prioritized throughout the process, addressing disputants' need for security and protection of sensitive information.
- **Enforceability:** The model ensures that outcomes are enforceable and recognized, ensuring that resolutions are both effective and meaningful.

These drivers collectively support a comprehensive approach to dispute resolution, aligning with the broader trends identified in global surveys.

Conclusion: InnovADR as an Example of Evolving Solutions

The trends identified in the GPC's 2018 report and confirmed in SIDRA's 2024 findings highlight a need for faster, more cost-effective, and collaborative approaches to dispute resolution. InnovADR is an example of the emerging solutions designed to

meet these needs offering an efficient and adaptable model that integrates ADR financing, financial incentives for early settlement, mixed-mode processes, and user-driven design.

While InnovADR represents a key example of this new approach, it is part of a broader movement towards more holistic and flexible dispute resolution offerings. As the market continues to evolve, solutions like InnovADR play an important role in meeting the growing demand for efficient, tailored, and effective ways to resolve disputes.

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