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Online Family Dispute Resolution: A Systematic Review of Current Research and Practice

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Online Family Dispute Resolution: A Systematic Review of Current Research and Practice

The exponential growth of Online Family Dispute Resolution (OFDR) means that consumers have a range of options on the market to suit their needs. As these services intend to optimise effectiveness and efficiency for their users, it is paramount that robust evidence be demonstrated for their quality to support their preferential use when compared to other forms of dispute resolution service delivery. The literature review presented in this paper was conducted to scope the current research and practice evidence for OFDR services in both Australian and international contexts since 2011. Of those programs located by the review, it was evident that while more methodologically rigorous research is required, preliminary evidence shows support for OFDR effectiveness in reaching desirable and fair outcomes. The considerations for selecting technologically-enhanced services are discussed, as are the avenues for future research and directions to further develop OFDR as a viable option for conflict resolution.

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Online Family Dispute Resolution: A Systematic Review of Current Research and Practice

Family separation is a turbulent and stressful event particularly concerning matters of child custody where law involvement and court proceedings exacerbate conflict and high-intensity emotions. Recognising a dual need to reduce pressure on the courts to be the primary avenue through which separating parents resolved their disputes as well as the need to promote the wellbeing of parents and children involved in this process, the Family Law Act in Australia was established in 1975 by the Whitlam Government to encourage out-of-court management of disputes. This change to non-adversarial processes helped to set the scene for later innovation via the implementation of a specialist family court (Nicholson & Harrison, 2000). In 2006, the Australian Commonwealth government passed legislation to make family dispute resolution (FDR) a mandatory prerequisite for most individuals.

Australia has therefore experienced change across time regarding the provision of FDR services, commencing with the development of traditional face-to-face services, to offerings of telephone dispute resolution services (Thomson, 2009), to the current emerging state of online family dispute resolution (OFDR). Online dispute resolution (ODR) was developed as a concept in 1996 to assist in e-commerce conflicts, that is, disputes originating in online environments. It was later expanded when potential was acknowledged for addressing off-line disputes. Of interest is the translation of FDR services into online formats. The remainder of this paper is dedicated to investigating the types of ODR services currently available to consumers in the global marketplace, with a focus on applications in family law.

Scope of the Current Review

The fast-advancing field of technology in the 21st century has meant that interest in and the development of ODR has grown exponentially since its introduction. This growth means that best-practices for the creation and use of online services are constantly being updated to reflect new knowledges. As it is critical that new technologies are informed by evidence-based research to ensure ethical processes and effective outcomes, there is a need to take stock and assess the current state of knowledge as it pertains to technological use in dispute resolution services. Further, the application of flexible and innovative service delivery options to family law has occurred recently, which necessitates a review of progress in the field.

The present review was conducted in August and September 2018 and was intended to contribute to an understanding of the current research and practice of OFDR in both Australian and international contexts. Future developments of OFDR services are grounded in the foundations of earlier developments and the lessons learned from such endeavours. As such, by compiling existing evidence, recommendations, and acquired knowledge over time, this review demonstrates not only the benefits of adopting online technologies into one's FDR practice, but also outlines the considerations for future innovation in this area.

This paper will first outline the method and search strategy used to locate, screen, and analyse the literature on current uses of technologies to enhance FDR service delivery. Common themes, learnings, and practices will then be extracted from the literature and presented to demonstrate the current state of OFDR practice and the potential areas for future service development. Finally, the results of a brief review of existing ODR and related services will be discussed to elucidate trends in how technologies are used.

Method

Existing Reviews

A search was conducted to locate any existing systematic reviews on OFDR and associated concepts through PROSPERO and Open Science Framework using variations on the following search strings and terms: "*family dispute resolution*", "*online dispute resolution*", and *(online OR tech* OR internet OR digital OR mobile OR telephon*) AND (mediation OR "conflict resolution" OR "dispute resolution") AND (family OR child* OR parent)*. Additional attempts involved manual searching of review and protocol documents within Campbell Collaboration's Crime and Justice Co-ordinating Group and Social Welfare Co-ordinating Group. A total of 254 records were obtained using this search strategy, with only one record appearing relevant to the field of investigation. This record, "Including children in divorce mediation: a systematic review" (Ludvigsen et al., 2016) has been registered on PROSPERO with a 'Review Ongoing' status as of May 2016. Examination of the submitted review protocol suggests that while there may be some overlap in focus between this PROSPERO record and the current literature review, the former does not appear to focus on online mediation platforms. As such, it can be assumed that the current literature review is a novelty in this area of research within the specified search parameters.

Search Strategy

Although guided by systematic methods for data searching, processing, and extraction, the current literature review is not purely systematic due to resource limitations and the inadequate availability of empirical data in this field.

A wide range of electronic sources were targeted for the review to reflect the interdisciplinary nature of the topic, with databases chosen that covered technology, psychology, law, and social sciences. Three inclusive platforms were searched (*Informit, EBSCOhost Research Databases, Web of Science*) in addition to one law database (*HeinOnline*). Key journals (*Journal of Family Studies, Conflict Resolution Quarterly, Group Decision and Negotiation, Australasian Dispute Resolution, international Journal of Law and Information Technology*, and *International Journal of Online Dispute Resolution*) and relevant conference proceedings which were manually searched (*JURIX International Conference on Legal Knowledge and Information Systems, 15th Annual ODR Conference*, and *International Conference on Artificial Intelligence and Law*). Attempts to locate grey literature included applying search strings and terms to *Open Grey, Google Scholar*, and *Directory of Open Access Journals*, as well as searching ODR-related blogs (MediateBC's *Distance Mediation Blog* and *The National Center for Technology and Dispute Resolution Blog*). Finally, seminal texts (i.e., by leading researchers in the field) on OFDR were forward-cited using Google Scholar and, where appropriate (when the text was within the search parameters), the reference lists were manually searched.

For database searching, the following search string was developed and subsequently adapted to fit different requirements:

tech* OR internet OR online OR on-line OR phone AND family AND ("conflict resolution" OR "mediation" OR "dispute resolution" OR "conflict management" OR "border abduction" OR "family dispute resolution" OR "family law" OR "child custody")

Where a search string was not required, the titles of the records were screened for relevance. All database entries were imported into EndNote X8.

Inclusion criteria. To be considered eligible for inclusion in the current review, records needed to be published between 2011 to 2018 with the lower limit reflecting the last comprehensive review conducted on OFDR. Database searches were limited to full-text resources only, journals, reports, and conferences. As the objective of the review was to investigate the use of OFDR internationally, English restrictions were not applied at this stage.

Regarding content, a record was considered appropriate for inclusion if it related to or made mention of: family law, online dispute resolution, online family dispute resolution, acceptance and uptake of technology for dispute resolution, family dispute resolution using technological tools, and/or child custody. Additional inclusion criteria -- which were not directly related to OFDR but had bearings on its practice -- included: training in ODR platforms, online meetings or therapy for separating parents, and/or online divorce education programs. Well-known papers published prior to 2011, and more general ODR papers (which did discuss FDR) were also examined.

Exclusion criteria. Record were excluded if they did not in some context describe legal proceedings or online mediation procedures not related to child welfare issues.

Search Results

The results of the search were examined with reference to PRISMA guidelines (see Figure 1 for the PRISMA flow diagram). One author reviewed the articles for relevance and sought second opinions from the other authors when relevance was uncertain. The search strategy yielded a total of 2411 records. After the removal of duplicate records ($n = 394$), 2017 records remained. A further 1981 records were excluded after title and abstract screening revealed irrelevance according to the outlined inclusion and exclusion criteria. Of these records, 42 were not in English. Efforts were made to obtain translations of these records via Google Translate services (while acknowledging the limitations of this platform as a credible and reliable, yet accessible translation provider), with four records unable to be translated, four appearing relevant from the title and/or abstract but the translation was of poor quality, and 34 not meeting inclusion criteria. Therefore, no non-English records were accepted for full-text review. At this final screening stage, 15 records were removed due to duplicated content ($n = 3$), inadequate focus on OFDR ($n = 4$), outdated literature cited ($n = 3$), assets or property-based FDR ($n = 3$), or legal cases ($n = 2$).
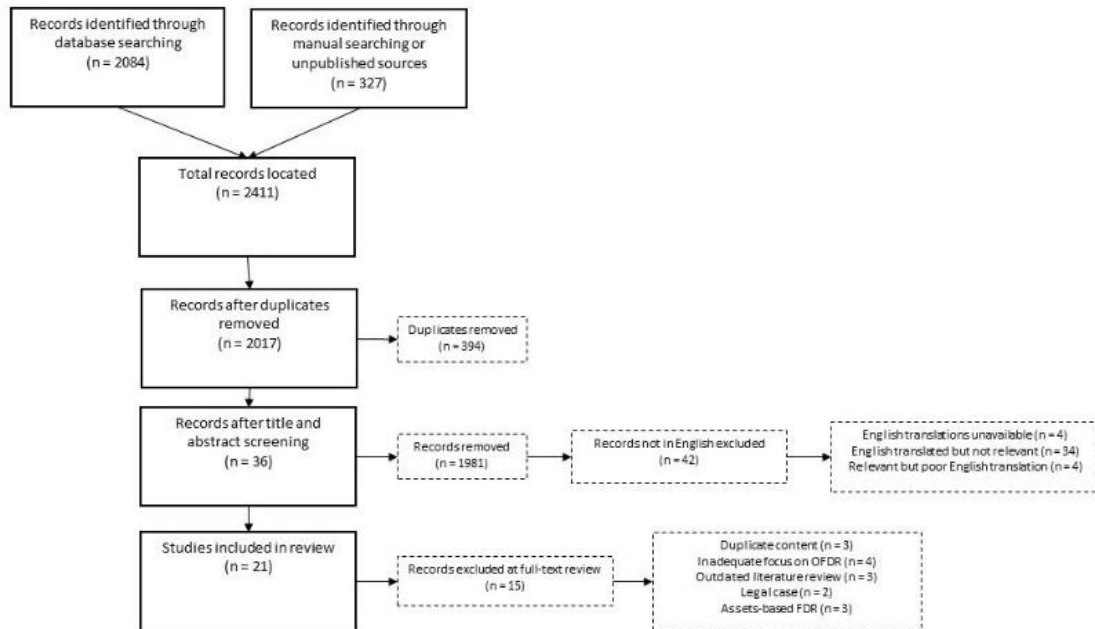
Fig. 1 OFDR literature search PRISMA flow diagram

At the conclusion of the screening process, 21 records were located for analysis. However, three of these articles (Araszkiewicz et al. (2013, 2014, 2015 [with Zurek]) were not independent (that is, the same authors present very similar content) and are considered as a 'single paper'. The final 19 records consisted of seven empirical studies (Becher et al., 2015; Bollen et al., 2014; Casey & Wilson-Evered, 2012; Cronin et al., 2017; Gramatikov & Klaming, 2012; Schramm & McCaulley, 2012; Tait, 2013), eight discussion papers (Augar & Zeleznikow, 2014; Barsky, 2016; Brennan, 2011; González Martín, 2015; LaMarca, 2012; Lavi, 2014; Rossi et al., 2017; Thomson, 2011) two reviews of OFDR programs and services (Bowers et al., 2011; Knight & Hunter, 2013), one proposal for a new OFDR system (Araszkiewicz et al., 2013, 2014, 2015), and one set of practice guidelines (Jani, 2012). Significant ODR papers that considered FDR were also reviewed. These included Lodder and Zeleznikow (2005), Bellucci and Zeleznikow (2006), Lodder and Zeleznikow (2010), Zeleznikow (2011), Zeleznikow (2014), and Zeleznikow and Bellucci (2012).

Data Analysis

The quality of the empirical studies was assessed using the Effective Public Health Practice Project Quality Assessment Tool for Quantitative Studies as all were quantitative, excluding Tait (2013) which was mixed-method. The results revealed weak quality because they lacked randomised controlled trials and thorough and transparent methodological reporting. Despite the low quality reported, the decision was made not to remove any records based on quality assessment as there would be no records left for analysis.

Due to the large variation in resource type and content, no consistent data analysis approach was applied. Instead, themes were observed throughout the records and will be discussed.

Results

Differences by Location

Most of the records (*n* =14) discussed ODR services in the United States (with one also citing examples from Mexico), nine in Australia, two in Canada, two in the Netherlands, one in Poland, and one was undetermined. Although the sample size is not large enough to support confident conclusions, there were minimal differences observed across international OFDR applications. The main differences tended to be legal, with regards to the different laws in each country around child welfare and the family court. However, most studies that mentioned legal procedures emphasised that the court, mediators, and any developed programs should always work in the best interest of the child. While most programs also note that parents' interests should also be considered in any negotiations and child welfare decisions, Araszkiewicz and colleagues (2013, 2014, 2015) go further to argue consideration of the society in general, noting that decisions on how to raise a child will ultimately affect how they function as a member of society, although this may be idiosyncratic to Polish law.

Program and Services

Online tools were used for a variety of programs and services for FDR and family-related issues. There were tools to assist in drafting legal divorce documents (i.e., the Parent Plan Support System; Araszkiewicz, et al., 2013, 2014, 2015), online mediation services (Bollen et al., 2014; Gramatikov & Klaming, 2012; Lavi, 2015; Rossi et al., 2017; Tait, 2013; Thomson, 2011), online counselling services (Augar & Zeleznikow, 2014; *MoodGYM,* Knight & Hunter, 2013), co-parenting apps (*mymob*, Knight & Hunter, 2013), virtual visitation arrangements (LaMarca, 2012), pre-mediation programs (Augar & Zeleznikow, 2014), informative resources (*Raising Children Network*, Knight & Hunter, 2013), and divorce education programs (Becher et al., 2015; Bowers et al., 2011; Cronin et al., 2017; Schramm & McCaulley, 2012).

Of interest is this last category, in which Bowers et al. (2011) reviewed six online divorce education programs the purpose of which is to help parents and children cope with divorce. They found that programs required the use of more active and engaging strategies, more focus on specialised cases (i.e., domestic violence), more content educating parents about legal processes, an accommodation to lower reading levels, and an explicit citing of the theoretical frameworks and empirical evidence by which the programs were developed. All divorce education programs located to date also appeared to be brief, one-off sessions. Two conducted follow-up testing (Becher et al., 2015 and Cronin et al., 2017) for evaluative purposes without any additional skill training. Cronin and colleagues (2017) argue the need for 'booster' sessions that help to consolidate information and newly learned skills.

Effectiveness of OFDR

In evaluating MediateBC's *Distance Mediation Project Phase III*, Tait (2013) found that 85% of the OFDR cases completed (of which there were 46) ended in settlement, with higher settlements reported for cases that used videoconferencing tools[1] in their mediation sessions (88%) compared to those cases that used telephone tools (80%). Clients also reported that they were satisfied with both the mediation outcome (59%) and the mediation process

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[1] Videoconferencing in ODR allows synchronous face-to-face communication between disputants and the neutral via the use of video camera technology on a computer or phone device.

(70%) while mediators reported that ODR was more effective than shuttle mediation[2]. Bollen et al. (2014) found similar settlement rates (84%) for their study on a pilot online divorce mediation program while Gramatikov and Klaming (2012) found slightly lower settlement rates (76%) for their pilot online divorce mediation program.

One study that examined the effectiveness of the *Parents Forever* online divorce education program reported decreases in parental conflict, increases in parental coping ability, and increases in controlling negative communication with the co-parent (Becher et al., 2015) at a six-month follow-up. However, the second study that assessed *Parents Forever* two years later (Cronin et al., 2017) reported that 40% of parents experienced increases in conflict at the six-month follow up, and that while decreases in conflict were associated with decreased negative co-parenting behaviours, it was also associated with decreases in positive co-parenting behaviour.

In only one study was the online program compared for effectiveness against an equivalent face-to-face program. Schramm and McCaulley (2012) found a single significant difference between participants' experiences of the online and the face-to-face *Focus on Kids* divorce education program; this difference being that the latter was reported as more worthwhile. Across both formats, there was high agreement that the program affected behavioural intentions and increased knowledge and skills in supporting children through the divorce process.

Suitability of Cases for OFDR

The literature provides some recommendations for what cases are considered most appropriate for management by ODR process. Tait (2013) recommends that thorough screening of potential clients at the intake stage can help to determine suitability, as disputes must be assessed on a case-by-case basis. Mediators in her evaluation of the Distance Mediation Project identified the following criteria for assessing suitability: parties' and mediator's level of comfort and proficiency with technology; domestic violence presence (severity, whether it is ongoing, whether parties will feel equal in mediation, the geographical proximity between the parties and between the parties and the mediator, whether technology was used to enable violent behaviour), case complexity, and cooperation of parties. Tait did find that level of conflict was not a factor in suitability assessments, such that both low and high conflict cases benefitted from technology-enhanced mediation. Jani (2012) also recommends that mediators should constantly monitor the ongoing suitability of the platform for the case and the parties in question beyond the intake stage.

Advantages of OFDR

Identified benefits in the research for using online rather than face-to-face methods for dispute resolution include: options for asynchronous (communication is delayed between parties) and synchronous (communication is instantaneous between parties) communication (Araszkiewicz et al., 2013, 2014, 2015); programs and services are more accessible for geographically isolated families (Becher et al., 2015); suitable for both high (Bollen et al., 2014; Tait, 2013) and low (Tait, 2013) conflicts; a more formal tone may be adopted, leading

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[2] Shuttle mediation is the process of mediators assisting the parties involved in a conflict to reach agreement without both parties being present in the same room at a mediation meeting.

to enhanced focus on the issue as opposed to the emotion (Gramatokiv & Klaming, 2012); convenience, flexibility, and cost-effectiveness (Schramm & McCaulley, 2012); time-efficiency, netrocracy, and minimisation of aggravating or distracting non-verbal cues (Brennan, 2011); enhances parent self-determination and increases family privacy (González Martín, 2015); maintains a record of communication and written expression may be more suitable for some people than verbal expression (Knight & Hunter, 2013); increased safety (Rossi et al., 2017); and environmental benefits, ease of document sharing, accommodation of time-zone differences, and reduction of conflicts of interests and privacy concerns within small communities (Tait, 2013). Asynchronous communication is a unique component of ODR systems, with advantages including the ability for delayed communication to allow for reflection, considered responses, moderated emotions, and active listening or reading (Bollen et al., 2015; Lavi, 2015).

Brennan (2011) also argues that ODR can facilitate 'therapeutic jurisprudence', that is, the potential for law procedures to promote wellbeing. Brennan suggests that one way to increase therapeutic jurisprudence is to provide spaces for parent empowerment in a process that has largely been court-driven. However, Knight and Hunter's (2013) review on the *Raising Children Network*, an educational website for parents in Australia, is the only ODR service in the literature that encouraged parental autonomy by actively collaborating with parents to develop service content.

Disadvantages of OFDR

Challenges unique to online platforms as compared to face-to-face methods include: limited awareness of ODR systems for both professionals and the public (Araszkiewicz et al., 2013, 2014, 2015; Knight & Hunter, 2013); potential for dishonesty (Augar & Zeleznikow, 2014); concerns about confidentiality of information (Bollen et al., 2014); lack of room for emotional expressivity (Gramatokiv & Klaming, 2012); disengagement from the mediation process, 'thin' information regarding verbal and nonverbal cues, and less therapeutic (Brennan, 2011); disempowering due to low computer literacy or no accommodations for cultural differences or hearing or visually impaired individuals (González Martín, 2015); can take a while to incorporate technology into existing dispute resolution services, poor quality technology in disadvantaged or geographically isolated areas, difficulty in verifying the qualifications of the mediator, and security concerns (Knight & Hunter, 2013); frustration from delayed responses and technology fatigue (Jani, 2012); rapport may take a while to develop and communication may be misinterpreted (Lavi, 2015); technical failures and inequality if one partner is more proficient with technology than the other (Tait, 2013).

Some of the research, however, presents solutions to overcome these challenges. In general, Jani (2012) proposes that mediators collaboratively develop and enforce guidelines for how parties should conduct themselves during the mediation process (i.e., an 'Agreement to Mediate'). For instance, both Bollen et al. (2014) and Gramatokiv and Klaming (2012) describe enforcing 48-hour deadlines in responding to the other parties' message on their asynchronous online mediation platforms.

To overcome the problem of verifying the credentials of the mediator, Jani (2012) recommends that mediators set up a professional website where their qualifications are listed. Both Bowers et al. (2011) and Augar and Zeleznikow (2014) emphasise the importance of

clients having access to valid information, and the responsibility of ODR program developers and mediators in making sure that this information is accessible.

The gap in public consciousness about the existence of ODR services requires investment in marketing and promotion. Tait (2013) describes how social media was used to promote the *Distance Mediation Project* in Canada while Augar and Zeleznikow (2014) detail Relationship Australia Victoria's commitment to employing staff who monitor and maintain the organisation's website, Twitter, and Facebook pages.

Technology

Tait (2013) recommends that the selection of technology – email, telephone, videoconferencing, etc. -- should be appropriate for the case (e.g., text communication methods for high-conflict couples), that every party has access to the same technology, and that the technology offers satisfactory confidentiality. MediateBC's *Distance Mediation Guidelines* (2nd Edition) also implore the mediator to consider the security, limitations, capabilities, costs, complexity, and reliability of the technology (Jani, 2012).

Others (e.g., Augar & Zeleznikow, 2014; González Martín, 2015; Jani, 2012; Knight & Hunter, 2013) argue that online systems should only be used to complement face-to-face services rather than substitute for them entirely. To illustrate, LaMarca (2012) describes how some U.S. states have granted virtual visitation rights to noncustodial parents, however it is often the case that courts rule for this type of visitation not to replace face-to-face contact.

When technology is used, Lavi (2015) suggests that it be employed in innovative ways, rather than simply transferring face-to-face mediation online. Both Bowers et al. (2011) and Schramm and McCaulley (2012) found that online divorce education programs under-utilised the capabilities of the technology, with a consistent recommendation being that program developers create online discussion boards to facilitate connection among parents.

Finally, Bellucci and Zeleznikow (2006) introduce the Family Winner system[3] to support mediators to suggest trade-offs to their clients. Such software has the potential to provide support in preparing parenting plans. Our Family Wizard[4] (Barsky, 2016) is used by both U.S. separated parents and courts to ensure cordial conversations between parents.

Fairness and Justice

Two studies examined how different types of justice were realised in online divorce mediation pilot programs using cross-sectional survey designs. Both Bollen et al. (2014) and Gramatikov and Klaming (2012) assessed the extent to which the participants of their programs perceived different types of justice to have occurred. Overall, both programs received high ratings across all types of justice although Bollen et al. reported that women perceived their program as facilitating more procedural (the perceived fairness of the process) and interpersonal (the perceptions of respect between and by all parties throughout the process) justice than did men. Gramatikov and Klaming, on the other hand, found a non-significant difference between men and women for both types of justice, although men did rate procedural justice higher. In addition, Gramatikov and Klaming found that men reported spending more on out-of-pocket costs during the process than women, while women reported higher levels of

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[3] See https://www.youtube.com/watch?v=YOZczuvrou4 last viewed 22 February 2019
[4] See https://www.ourfamilywizard.com last viewed 22 February 2019

frustration and anger than men. Summarising their findings, Bollen et al. suggest that OFDR can be an empowering platform for women, while Gramatikov and Klaming argue that women may be disadvantaged and distressed by OFDR systems, at least when relying on asynchronous means of communication.

Ebner and Zeleznikow (2015) claim that for ODR systems to be acceptable to users, they must address issues of fairness, trust and security. Zeleznikow and Bellucci (2012) have developed a set of important factors that should be incorporated into "fair" negotiation support processes and tools. These factors include: Transparency Highlighting and clarifying the shadow of the law and Limited discovery.

Netocracy

Online mediation and dispute resolution services are commended for their ability to foster equality between parties and 'levelling the playing field'. Specifically, technology is suggested to increase justice and fairness in FDR processes and outcomes due to the removal of physicality and the added feeling of safety (particularly relevant in physically abusive domestic violence situations), the objective of achieving win-win solutions, and the potential for overcoming mediator biases that may inadvertently favour one party over the other. However, Barksy (2016) cautions that power imbalances between parties can still occur, and that a mediator needs to avoid the assumption that online processes are inherently fair because of geographical distance. He further argues that mediators should assess for power imbalances in OFDR by examining whether both parties are equally proficient in using the technology, whether they can both easily afford the technology, and whether they are both comfortable expressing themselves in the selected mode of communication.

Ethical Considerations

Barsky (2016) discusses how mediators must be cognisant of ethical challenges unique to OFDR systems, such as ensuring that an app is valid and appropriate prior to referring it to, or using it with, a client, evaluating one's competencies in using technology, ensuring that clients are properly informed about a technology before they make a decision whether or not to use it, ensuring technology is secure and private, and developing boundaries between professional and personal use of technology.

Additionally, both Ebner and Zeleznikow (2016) and Lavi (2015) consider the governance of ODR. Unless there is appropriate governance of ODR, users may have very little trust in the processes and hence be reluctant to engage with them. Ebner and Zeleznikow liken the ODR environment to the 'Wild West'; ODR generally knows little or no regulation, authority, standards, or monitoring. No body monitors quality control, no well-recognized and accepted standards of practice exist, and no-one deals with complaints or investigates bad practices. Because ODR practice is by nature Internet-based, any external supervision, such as that stemming from consumer protection laws, is weak, and subject to jurisdictional shortcomings.

Most of the early ODR providers, and many of the current ones, have chosen the organizational/commercial model of "*service provider company*." In this model, the management team behind the company is not personally identified (or even named at all). Many service providers do not relate substantively to the identity, qualifications, or training of their

neutrals. They do not share their code of practice, even if they have one; they do not share whether they subscribe to codes of practice formulated by organizations in other fields.

They claim there are four potential governance models:

1. *A no-governance model*
2. *A self-governance model*
3. *An internal governance model:* by industry groups. Whilst there are professional bodies in Australia that could offer governance in IT (such as Australian Computer Society) and ADR (the Resolution Institute) there is no appropriate body for ODR.
4. *An external governance model:* should and would the courts or governments regulate ODR?

Lavi (2015) argues for regulation rules in the form of a professional body that would supervise OFDR services. She posits that organisations could regularly submit data (e.g., percentage of cases ending in agreement, average duration for cases) to the regulatory body as a form of accountability and, in turn, receive quality indicators.

Mediating Competencies and Needs

The literature shows that online mediation is a complex process that can easily overwhelm inexperienced or inadequately supported mediators. Unique mediator skills for online platforms include: managing multiple online meeting rooms, assisting parties in using technology, and building rapport and trust online (Lavi, 2015); translating mediation skills to the online environment and technological proficiency (González Martín, 2015); managing distractions, technical difficulties, and silences (Thomson, 2011); being aware of the different laws governing each state or country (LaMarca, 2012); staying on top of advances in technology (Barsky, 2016; Jani, 2012); and being aware of the different resources and referral agencies available in each state or country (Jani, 2012). Tait (2013) notes that the move to online mediation can result in a high cognitive load during the learning stages, and consequently emphasises that a professional *must* first have robust skills in mediation prior to moving to online platforms.

Interviews with mediators for the *Distance Mediation Project Phase III* evaluation (Tait, 2013) found that there was a need to support professionals both in technical aspects of systems (via a technical support team) and in using mediation on these systems (via a peer support group). There is also a need to ensure that professionals are ready to engage with technology.

In their research with Relationships Australia Queensland staff preparing to develop and adopt an OFDR system, Casey and Wilson-Evered (2012) recommended that organisations offer staff training, assess staff readiness, and target any distrust in the technology prior to system implementation. To this end, the authors extended Venkatesh and colleagues' (2003) unified theory of acceptance and use of technology (UTAUT) model to include trust toward the system and personal web innovativeness (that is, exploratory behavior with technology). They then tested the modified model with 127 RAQ staff to elucidate the relationship between attitudes and behavior intention to adopt the system. Staff reported positive attitudes towards OFDR, as well as high perceptions of OFDR usefulness and trustworthiness. Casey and Wilson-Evered also found that performance expectancy (the belief that the system will contribute to positive outcomes), effort expectancy (perceived ease of use), and trust in

technology were related to intentions to adopt the system and therefore should be targeted in staff training and preparation for the implementation of new system. These findings demonstrate the necessity of pre-contemplation staff assessments to maximise uptake of new technology.

Client Characteristics

Of the seven empirical studies, the average age of participants was approximately 38 years old, women were more likely to be involved (56%), almost all individuals were in heterosexual relationships (Gramatikov and Klaming [2012] reported that there may have been two same-sex couples in their sample), and most participants were white (91%). However, these data are partial as the quality of information collected and reported among studies was variable. Knight and Hunter (2014) reported that young people are more likely to engage in online services, although Tait (2013) reported a higher participation rate in the *Distance Mediation Project* from individuals 30 to 39 years of age. Tait also found that older age groups (i.e., 40 to 49 years) were more likely to use telephone services than videoconferencing and that telephone services were under-utilised by clients earning higher incomes.

In their research comparing online and face-to-face versions of the *Focus on Kids* program, Schramm and McCaulley (2012) noted that far more men were utilising the online system than the face-to-face option. Similarly, Knight and Hunter's (2013) case study review of the *mymob* app developed by Stepfamilies Australia observed that the app was well received by male parents, who indicated that they preferred the anonymity of technology.

There is also minimal discussion in the literature about why clients discontinue or avoid OFDR services. Tait (2013) collected evidence on the reasons why individuals who inquired about the *Distance Mediation Project* did not proceed with the service, with responses indicating that either one or both parties were not interested, or parties preferred face-to-face mediation. Only one respondent indicated that they were not comfortable using technology[5]. Tait does caution for self-selection biases in the data, however, and the sample size was small.

Considering Children

There is limited discussion in the OFDR literature about the role of children in child welfare disputes, however in MediateBC's *Distance Mediation Guidelines* (2nd Edition), it is strongly advised that children are not involved during the mediation process (Jani, 2012). In fact, parents are instructed to ensure that their children are completely removed from the location in which the online mediation is to take place so that the likelihood of children over-hearing the process is minimised. However, in a passing comment in his discussion paper, González Martín (2015) suggested that technology can be used to engage a child in the mediation process in certain U.S. jurisdictions, depending on the age and maturity of the child. LaMarca (2012) also addressed the role of the child in his work reviewing the literature of 'virtual visitation' by stating that even though parents and the courts may approve online tools to connect non-resident parents with their children, the children themselves need to express interest in engaging with technology and this process. In Australia, children rarely directly

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[5] Probably because most parents of children involved in parenting disputes are under 50.

participate in child welfare mediations. Rather their views are sought by and presented by children's representatives. So OFDR is not directly used by children.

Discussion

The intent of the current literature review was to understand the current research and practice on online family dispute resolution systems within Australian and international contexts. From the 19 records located through a systematic search protocol, it is clear that despite the growing interest in, advancement of, and access to technology there remains a lot to be done in regard to the empirical investigation of ODR effectiveness as it is applied to family law. Most research to date appears to originate from the United States, although Australia is also an identified leader in OFDR. Cross-culturally there appears to be a bias towards communicating the benefits of using technology in FDR, although a predominant theme identified was that OFDR should complement, but not replace, existing traditional services. Indeed, Zeleznikow (2017) noted that there is an increasing trend to move from fully automated ODR to approaches where human decision making is supported.

The ability to make any conclusive statements about the utility and impact of online technologies for family dispute resolution is limited, however several key themes that may assist in future program development and research can be identified. There is first and foremost a prioritisation of the child(ren)'s wellbeing in any child welfare matters, over and above the particular interests of the parents.

There are also a wide range of services available to support separating families throughout their transition, however the appropriateness of different types of online services, or even the decision to use an online platform at all, should be determined on a case by case basis. Not all disputes will be suitable for technological intervention and several factors beyond mere convenience need to be considered by the mediator prior to using OFDR platforms. More quality empirical research on existing and developing programs will assist mediators to make informed decisions about which services are likely to be effective for a particular case.

When technology is used, mediators and program developers should take advantage of the unique capabilities that the technology offers, rather than transferring face-to-face practices online. This new environment also adds original challenges of which a mediator must be cognisant, particularly those challenges relating to privacy and security of information, proficiency of use, and development of trust and rapport.

In general, the evidence reveals that technologies can enhance FDR practice and contribute to family wellbeing during a stressful life event. However, potential users of technology should acknowledge that online programs and services are not without their disadvantages. With adequate training, a respect for the system's limitations, and an appreciation for the needs of different disputing parties, OFDR platforms can help separating families obtain equitable and just outcomes.

Gaps in the Research

As aforementioned, there were no randomised controlled trials located during this literature review. Although one article (Rossi et al., 2017) cited a forthcoming study using a RCT design to compare the effectiveness of shuttle and online mediation approaches to family disputes presenting with family violence, the lack of methodologically rigorous research in this field requires amendment. Family law is an area in which parents and children already

experience high vulnerability and elevated emotions, so it is critical that services have demonstrated effectiveness and quality to be ethical. The seven empirical studies in this review had substantial limitations in collecting, analysing, and reporting their data, including but not limited to: no control or comparison group, small effect sizes reported, reliance on self-report, homogenous participants (i.e., high proportions of white parents reported), small sample sizes, selection biases, low response rates, invalid measures used, no follow-up data collected, and poor description of sampling procedures and subsequent participant attrition. Barsky (2016), Bowers et al. (2014), and Rossi et al. (2017) have all identified the need for more rigorous empirical research in the field of OFDR.

ODR-Related Services and Programs

Method

A search was also conducted in September 2018 to locate existing and active ODR and online mediation services in Australia and internationally. Conley Tyler and Bretherton (2003) conducted a similar extensive search for existing services, however due to the rapid development of technology since 2003 it was considered pertinent and timely to perform an updated search. Additionally, Conley-Tyler and Bretherton conducted a general search of ODR services, noting few that specialized in family-oriented disputes. Later, Conley Tyler and McPherson (2006) completed a review of services specific to OFDR, however this review was not comprehensive of all services available in the market at the time. As such, this search was conducted with the intention of locating those services catering to OFDR, in addition to ODR. Services were located via open Google searching (i.e., using search terms such as "online family dispute resolution services"), blogs dedicated to ODR, Conley-Tyler and Bretherton's paper on ODR, and recommendations from leaders in the field. No comprehensive or separate search was conducted for online divorce mediation services, co-parenting solutions, or e-courts/online juries although some of these services were identified using these search methods.

Results

A total of 102 services were located, with 67 rejected after preliminary reviews. Reasons for rejection include inaccessible or inactive websites ($n = 41$), no online services offered ($n = 10$), irrelevant ($n = 8$), and duplicates ($n = 3$). Five resources were found to be marginally relevant to ODR including: online training in conflict management (Brav), management tools and software for ODR (*CaseloadManager, Conflict Resolution Software*), general information for ODR (*Cyber Arbitration*), and a directory to find online mediators (*OnlineMediators.com*). This process left 36 services for further review: eight were found to be based in Australia (*Family Resolve, Guided Resolution, interMEDIATE, Life Mediation, The Mediation Experts, MODRON, Reboot Resolve, Resolve Disputes Online*), fourteen in the United States (*Conflicteam, Endispute[6], It's Over Easy, Legal Faceoff, Mediation-On-The-Go, Modria, Matterhorn ODR, OurDivorceAgreement, Peopleclaim, Rapid Rulings, Settle Today, SettlementIQ, UptoParents, Virtual Courthouse*), four in Canada (*Civil Resolution Tribunal,*

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[6] There is an Australian company with the same name that has traditional dispute resolution (and not online) as its focus. See http://www.endispute.com.au/our_mission last viewed 22 February 2019.

The International Court for Online Conflict Resolution, MediateBC, Smartsettle), two in the United Kingdom (*Graham Ross, Resolve Disputes Online* [dual bases in the United Kingdom and Australia]), one in Italy (*RisolviOnline*), one in Germany (*judica*), one in the Netherlands (Rechwijzer) one unidentified online-only service (*Agree Online*), and five mobile applications (*2houses, mymob, ODR 4 Refugees, Otter, Our Family Wizard*. An overview of each service is provided in Table 1.

Table 1 Types of ODR and related services available for varying disputes

Service	Type	Location	Price	Dispute Type
2houses	Collaboration Software (App)	-	$13.25CAN p/month	Family disputes
Agree Online	Facilitated Negotiation	Online	Free	Online disputes (Children)
CDMC National	Facilitated Negotiation	Australia	Case by case basis	Range of dispute types
Civil Resolution Tribunal	Facilitated Negotiation	Canada	Varies.	Range of dispute types
Conflicteam	Automated Negotiation	United States	Free for first offer then $19.99USD p/month	Range of dispute types
Endispute	Facilitated Negotiation	United States	Varies. Starts at $500USD pp	Range of dispute types
Family Resolve	Facilitated Negotiation	Australia	Varies. Starting at $275AUD pp	Range of dispute types
Guided Resolution	Facilitated Negotiation	Australia	Varies. Starting at $280AUD	Range of dispute types
Graham Ross	Facilitated Negotiation	United Kingdom	Not specified	No data
ICOCR	Facilitated Negotiation	Canada	Not specified	Range of dispute types
iudica	Facilitated Negotiation	German	Free	Online disputes
interMEDIATE	Facilitated Negotiation	Australia	Entire process estimate $1600AUD	Range of dispute types
It's Over Easy	Facilitated Negotiation	United States	Varies. Starts from $750USD	Family disputes
Legal FaceOff	Facilitated Negotiation	United States	Free (public trial) or $100USD (private trial)	Range of dispute types
Life Mediation	Facilitated Negotiation	Australia	$300AUD intake, $150 pp/hr mediation	Range of dispute types
Matterhorn ODR	ODR software	United States	Not specified	For professional use
MediateBC	Facilitated Negotiation	Canada	Not specified	Range of dispute types

Table 1 (continued) Types of ODR and related services available for varying disputes

Service	Type	Location	Price	Dispute Type
The Mediation Experts	Facilitated Negotiation	Australia	Not specified	Range of dispute types
Mediation-On-The-Go	Facilitated Negotiation	United States	$180USD intake; total cost estimated between $3900USD and $7500USD	Family disputes
Modria	ODR software	United States	Not specified	For professional use
mymob	Collaboration Software (App)	Australia	Free	Family disputes
ODR 4 Refugees	Facilitated Negotiation (App)	-	Free	Range of dispute types (Refugees)
Otter	Facilitated Negotiation (App)	-	$1.99 pp/pa	Range of dispute types (Children)
OurDivorceAgreement	Facilitated Negotiation	United States	$149USD	Family disputes
Our Family Wizard	Collaboration Software (App)	-	$119.97USD pa	Family disputes
Peopleclaim	Facilitated Negotiation	United States	Free (but premium options available)	Range of dispute types
Rapid Rulings	Facilitated Negotiation	United States	$250USD per page submitted and $500USD deposit	Range of dispute types
Reboot Resolve	Facilitated Negotiation	Australia	Not specified	Family disputes
Resolve Disputes Online	ODR software	Australia and United Kingdom	Not specified	Range of dispute types
RisolviOnline	Facilitated Negotiation	Italy	Varies. Starting from €30	Online disputes
Settle Today	Facilitated Negotiation	United States	$1000USD annual membership and $200USD for each case	Range of dispute types
SettlementIQ	ODR software	United States	Not specified	For professional use
Smartsettle	Negotiation Support System	Canada	Not specified	Family disputes
UptoParents	Facilitated Negotiation	United States	Free	Family disputes
Virtual Courthouse	Facilitated Negotiation	United States	Varies. Depends on individual mediator rates	Range of dispute types

All data that could be obtained for each service were collected and then coded into themes, the development of which was guided by Conley Tyler and Bretherton's (2003) ODR service review. Pre-determined themes included: type of service offered, geographic location, service/program price, dispute types eligible for service, targeted consumers of services, communication type, synchronicity of communication, and the presence of a third party in dispute resolution. All information was obtained via publicly accessible means whereby information was readily available on the service provider's website and/or social media. In some cases, service characteristics were inferred (i.e., unless 'instant messaging' was specified, services that used email as their ODR communication method were classified as 'asynchronous').

The quality and quantity of information available varies for each service, with only half of the websites providing extensive detail about their mediation process ($n = 17$). Only eight websites also provide a 'Frequently Asked Questions' page to assist potential consumers in understanding their service while 11 elected not to provide estimations of the cost for service use. Pricing varies considerably, with free ($n = 5$), partially free ($n = 3$), per-case pricing ($n = 14$), and payment-plan ($n = 3$) options. The level of information available about a service is important as it may be posited that an inadequate amount of information may hinder a consumer's ability to make an informed decision and, consequently, may deter engagement with the service.

Regarding target population, most services ($n = 29$) are advertised towards people requiring mediated solutions with the remainder of the services ($n = 4$) aimed at professionals and courts or providing services for both types of users ($n = 2$). Two services (*Peopleclaim* and *Agree Online*) are online community dispute resolution platforms whereby members of the public can post disputes to be solved and any individual (with or without qualifications in mediation) can posit solutions. For those requiring mediation, services are either self-directed online platforms whereby the two parties attempt to resolve their dispute without external intervention ($n = 12$), mediator or third-party intervening platforms ($n = 17$), or a combination of both ($n = 2$). The presence or absence of this feature, and the following, are depicted in Table 2.

Table 2 Features of ODR and related services

Service	User		Facilitator		Synchronicity		Communication Type			
	Disputing Party	Professional	Self-Guided	Third-Party Guided	Synchronous	Asynchronous	Text	Videoconferencing	Telephone	In-person
2houses	X		X		X	X	X			
Agree Online	X		X			X	X			
CDMC National	X			X	X	X	X	X	X	
Civil Resolution Tribunal	X		X	X		X	X			
Conflicteam	X		X			X	X			
Endispute	X			X	X		X	X	X	
Family Resolve	X			X	X			X	X	
Guided Resolution	X		X		X	X	X			
Graham Ross	X			X	N/D	N/D	N/D	N/D	N/D	N/D
ICOCR	X			X	N/D	N/D	N/D	N/D	N/D	N/D
Iudica	X			X		X	X			
interMEDIATE	X		X			X	X	X	X	X
It's Over Easy	X		X			X	X			
Legal FaceOff	X									
Life Mediation	X			X	X		X	X	X	X
Matterhorn ODR	X	X		X	X	X	X	X		X
MediateBC	X			X	X		X		X	X
The Mediation Experts	X			X	X		X		X	
Mediation-On-The-Go	X			X	X	X	X		X	X
Modria		X	X		N/D	N/D	N/D	N/D	N/D	N/D
Mynmob	X		X	X	X	X	X	X		
ODR 4 Refugees	X			X	X		X			
Otter	X		X		N/A	N/A	X			
OurDivorceAgreement	X		X		N/A	N/A	X			
Our Family Wizard	X	X	X		X	X	X			
Peopleclaim	X		X	X		X	X			
Rapid Rulings	X			X	X	X	X			
Reboot Resolve	X			X			X			
Resolve Disputes Online		X		X	N/D	N/D	X	X		
RisolviOnline	X			X		X	X	X		
Settle Today	X		X	X		X	X			
SettlementIQ		X		X		X	X			
Smartsettle	X			X	N/D	N/D	X			X
UptoParents	X		X		N/A	N/A	N/A	N/A	N/A	N/A
Virtual Courthouse	X	X		X	N/A	X	X			N/A

Note. N/D = no data available, N/A = not applicable

Of the 31 services directed towards mediation assistance, the majority ($n = 18$) provide support for a range of disputes (i.e., tenant, commercial, family, workplace, and general disputes), while a substantial minority ($n = 10$) focus solely on family-related issues, and only a few ($n = 3$) target online-originating disputes. However, it should be noted that these results are unlikely to be an accurate reflection of the proportion of services targeting family disputes in comparison to other dispute types due to the biased search focus on OFDR.

Exclusive use of videoconferencing software and telephone communication is rare ($n = 3$), with most services ($n = 17$) opting for online communication methods (i.e., email, chat messaging), a combination of all three approaches ($n = 6$), or a combination of technological and face-to-face mediation options ($n = 5$). Regarding the timing of communication, ten services provide asynchronous mediation, nine provide synchronous mediation, and four offer both. It is perhaps a surprising finding that so few services utilize 'rich' forms of communication (i.e., both auditory and visual information) and instead predominantly rely on text-based communication. This finding may reflect the early and continued development of videoconferencing abilities in OFDR and general ODR platforms, or it could reflect a consumer preference for written and asynchronous forms of communication, the benefits of which have already been described in this paper.

Araszkiewicz and colleagues (2013, 2014, 2015) and Knight and Hunter (2013) argued that ODR services need to be better promoted in the public consciousness; this review has demonstrated that such promotion might be better served by having more detailed and up-to-date service information available to consumers. The information in this review was difficult to locate through publicly-accessible means which may hinder engagement with online services, particularly since one of the expected benefits of ODR services is the ease with which it is used. It may be recommended that future research assesses what information the potential users of these services require in their decision-making processes and how they locate such information to better understand why consumers choose ODR over alternative options, and how they choose between different ODR services. Since Conley Tyler and Bretherton's (2003) review, the number of ODR services available for family disputes has increased across time, thereby reflecting the market growth required to meet public need. It is expected that more OFDR options across the globe will being to enter the market as either an adjunct to previously existing services or as a stand-alone, exclusively online service.

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