

Conflict and Communication

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Traditionally, the study of conflict and conflict management has been focused almost entirely on face-to-face (FTF or F2F) conflicts. Of course, you recognize that today both conflict and conflict management also occur through media. Conflict that was face-to-face may move to a mediated mode. For example, you may have friends in a relationship who broke up by texting only. And many conflicts now originate and are resolved entirely in a mediated mode. Perhaps you have made a purchase on eBay and e-mailed a complaint to a seller to initiate dispute resolution.

In recent years, **online dispute resolution (ODR)** has emerged as the domain of dispute resolution that uses information and communication technologies, and the Internet in particular, to facilitate reaching an agreement between parties regardless of whether

Learning Objectives

After studying this chapter, you will be able to:

1. Identify the limitations of online dispute resolution
2. Identify the advantages of online dispute resolution
3. Describe the process of online dispute resolution
4. Describe dispute resolution via closed-circuit television
5. Describe dispute resolution via telephone
6. Discuss social media's experiments with online dispute resolution

the dispute originated online or offline. It includes the use of video conferencing, mobile telephones, and VoIP (voice-over Internet protocol).

Because ODR can be considered a form of computer-mediated communication, comparisons to face-to-face conflict management have largely been based on research that focused on computer-mediated communication. The first part of this chapter uses that literature to review the limitations and advantages of ODR that have been advanced. Then you'll read about ODR uses including automated and assisted negotiation, online mediation of online disputes, and online mediation of disputes that originated offline. And, finally, since closed-circuit television, telephones, and social media can be considered part of ODR, you'll review their uses.

LIMITATIONS OF ONLINE DISPUTE RESOLUTION

In the early days of ODR, skeptics compared ODR to face-to-face dispute resolution to identify what was missing in ODR. The assumption was that these missing elements would somehow make ODR less effective.

ODR is not without limitations. The major element missing in early ODR was, of course, the nonverbal cues that can be important in face-to-face meetings. This lack was thought to negatively affect the richness of the communication and contribute to its impersonality, which may in turn affect truthfulness. Finally, ODR may present new challenges to confidentiality and security. Let us look at each of these factors.

Nonverbal Cues

First, let's review the major nonverbal message codes most frequently cited as critical in face-to-face dispute resolution:

Artifactual communication means messages conveyed through objects or arrangements of objects made by human hands—in other words, our choice of physical surroundings as well as our physical appearance and clothing.

Kinesics refers to the actions, postures, movements, and expressions of our bodies. Mediators typically attend to disputants' body posture, such as whether they are leaning back from or leaning into the interaction. Gestures, facial expressions, and eye gaze also are meaningful.

Paralanguage includes elements of the voice such as intensity and pitch, *characterizers* such as laughter and crying, and *segregates* such as “uh” and “um.” Whether a disputant is speaking loudly and aggressively or softly and near tears provides important information for the other disputant and the mediator.

Silence can communicate a wide range of messages. Mediators become sensitive to the many meanings silence can have, from agreement to hostility, and respond accordingly.

Critics of ODR point out that the loss of the nonverbal information can be detrimental to the parties' rebuilding their relationship and resolving any issues. Several theories help to explain why the loss of this nonverbal information is a limitation for ODR. First is the concept of **information richness**, expressed

in **media richness theory** (Daft & Lengel, 1986). In this theory, media can be ranked by richness. Media richness is a description of a medium's reproduction of information sent over it. For example, a telephone call, which does not transmit visual nonverbal cues, is a less rich medium than video conferencing. Face-to-face interactions are the most rich. According to this theory, the more ambiguous and uncertain the task, the richer the media required. And the more equivocal a message (such as when it has multiple and possibly conflicting interpretations), the richer the media, and the more cues and data needed to understand it. Early critics of ODR contended that because conflict management is a highly ambiguous task in which communication may not be precise, media-rich face-to-face interaction is necessary.

An older theory, **contact theory**, originally devised for interracial and interethnic encounters, hypothesized that intergroup contact could lead to mutual understanding and elimination of prejudice. While over the years the theory has been questioned, a meta-analysis of 515 studies clearly showed that intergroup contact typically does reduce intergroup prejudice (Pettigrew & Tropp, 2006), and direct in-person contact can be instrumental in enhancing understanding of and empathy for others in different groups. And, in fact, face-to-face dispute resolution in practice places emphasis on the opportunity for contact. Mediators stress the importance of having each party tell his or her story in front of the other, who must listen to what is said, and the importance of joint sessions for working together to resolve the issues in dispute. The conditions central to contact theory are also central to various face-to-face alternative dispute resolution procedures to increase understanding, reduce conflict, foster the repair of relationships, and facilitate mutually acceptable solutions (see Chapter 7 for a review of ADR). Mediation textbooks (see, for example, one directed to attorneys, Boule, Colarella, & Picchioni, 2008) recommend structuring the process so that the disputants are physically present and speak in front of and directly to one another. The traditionally accepted reason that disputants rate mediation as successful in healing relationships and reaching mutually satisfying agreements has been just this in-person, face-to-face interaction.

The lack of nonverbal information in ODR was also thought to limit social information important to communication. Kiesler and Sproull (1992) explain that we use nonverbal social context cues to adapt to the communication situation. Artifacts, such as appearance, and kinesics help us adapt to the hierarchical and social needs of the situation. The lack of these cues leads us to be self-centered, unregulated, and unable to adapt. It is hypothesized that without these cues, social inhibitions are reduced, behavior becomes more uninhibited, and we display less socially desirable behaviors as we become less concerned about others and have less need to be liked by them.

Truthfulness

Another theory cited to highlight the differences between ODR and face-to-face conflict resolution is **interpersonal deception theory** (Buller & Burgoon, 1996). Is it easier to lie online than face-to-face? Does deception make a difference in dispute resolution? Buller and Burgoon (1996) define deception as “a message knowingly transmitted by a sender to foster a false belief or conclusion by the receiver” (p. 205) and identify three strategies: falsification (creating a fiction), concealment (hiding a secret), and equivocation (dodging the issue).

Many people believe that it is possible to detect deception in facial expressions and in the sound of the voice and that **nonverbal communication** is difficult to fake. These people believe that avoiding

direct eye contact and laughing nervously are evidence of lying, but interpersonal deception theory suggests that it is not that easy. Professional law enforcement researchers, however, contend that facial expressions, gestures and body language, voice, and verbal style can be reliable clues to deception (Matsumoto, Hyi, Skinner, & Frank, 2011).

Security

ODR does complicate the issue of confidentiality. While face-to-face processes have put great emphasis on the participants guaranteeing confidentiality, online media do create at least the risk that the security of the communication could be breached. Consider that when a Japanese business owner sitting in the Honolulu airport is engaged in an online mediation with a Mexican importer conducted by a mediator in London, their online communications may be routed through a dozen countries. While service providers promise security, there are no guarantees on the Internet.

In addition to these specific limitations, the widespread use of ODR has the same barriers as other new technologies. Some people resist new technology, and others are unwilling to adopt the new technology. Additionally, even today, some do not have the same level of access as others, and some lack the proficiency to use the technology. ODR, like any new technology, requires that users be proficient and comfortable with the technology.

ADVANTAGES OF ONLINE DISPUTE RESOLUTION

The critics of ODR have tended to ignore the fact that users do not find it difficult to communicate about emotions online. Discussion forums are heavily used by people with problems ranging from eating disorders to thoughts of suicide, and online matchmaking is commonplace.

Today's proponents of ODR advance offsetting advantages of ODR and, in response to critics, ask such questions as whether ODR creates a different form of closeness and contact, and even whether closeness and contact are relevant to dispute resolution online (Wing & Rainey, 2012). The major advantages that have been advanced for ODR include the opportunity to have greater control of verbal messages and to level the playing field.

Control of Verbal Messages

The benefit of ODR most often noted is the opportunity for disputants to engage in the process from their own computers, making scheduling easier because people do not need to travel to a common location. The change in location can be significant. Context, introduced in Chapter 3, refers to the environment in which communication takes place. For face-to-face mediation, that context can range from courtrooms to meeting rooms to community rooms. Each of these contexts clearly affects how people communicate and their attitudes toward mediation. A disputant in ODR may be communicating from the comfort and security of a home bedroom while dressed in leisure clothes. Does that affect the way he or she communicates? The negotiation? The party's willingness to reach an agreement?

Online communication can be synchronous or asynchronous. Synchronous tools enable real-time communication. Asynchronous tools enable communication over a period of time at the participant's own convenience and schedule. If the online process is asynchronous, the slowed-down pace allows for more control. Walther (1996) characterized online communication as **hyperpersonal communication**, arguing that it makes it easier for people to monitor and control their verbal messages. When cues are limited to verbal messages only and when there is a time delay in the communication, online communication makes it possible for communicators to engage in a process of selective self-presentation. With more time for communicators to consider the messages they send and with limited cues available, communicators can selectively self-present a more attractive presentation of themselves.

A Level Playing Field

Because online communication makes it possible to avoid having to meet in person, van Veenen (2012) argues that the online environment reduces the perception of power differences and the threat of a face-to-face confrontation. Rather than being hesitant to raise issues out of fear, people who worry that their ideas are not popular may be more likely to advance their issues in the ODR environment.

Technological Advantages

Technology itself brings with it several other advantages:

Translation from one language to others can be done quickly online. While the results do not approach the accuracy of professional human translators, they may be usable. One example in current use is Google Translate, a machine translation service provided by Google Inc., which can translate written text from one language into another.

Multichannel capability makes it easy to display multiple screens as well as voice and video. For example, a list of issues or of agreements may be displayed in a portion of the screen for all parties to see. This device makes it possible for the parties to experience working together developing a written text, which is visually displayed for all to see. Of course, in face-to-face dispute resolution, the same experience can be accomplished with a flip chart and markers, but it may have a greater impact online.

There may be advantages to keeping online disputes online. Having an ODR process keeps disputes in the process (i.e., discourages disputants from seeking out other dispute resolution processes such as litigation). Amazon, for example, makes it extremely difficult to speak to anyone by telephone. Amazon's telephone numbers are not on its website. The only way to complain and initiate a dispute is online, which keeps disputes within Amazon's process.

Proponents of ODR contend that the question whether ODR technology can support and enhance contact, facilitate breaking barriers and distances between people, and help increase parties' understandings of each other to serve the same goals as face-to-face dispute resolution has been demonstrated. And the argument is made, as well, that ODR has made totally new processes possible. ODR makes it possible to involve large numbers of individuals in a dispute resolution process. And a totally new area for dispute resolution made possible by ODR is to engage parties in early dispute resolution before the conflict has escalated and

mistrust has grown between the parties. So while ODR was originally an extension of traditional face-to-face dispute resolution, it now offers the possibilities for totally new processes (Poblet, 2011).

Hybrid Mediation

Face-to-face mediation and online mediation should not be viewed as mutually exclusive. In fact, there are several programs that combine the two. For example, some mediations are conducted almost entirely by e-mail. Only when the mediator or the parties themselves feel it is necessary is a face-to-face meeting scheduled. Another example of hybrid mediation is mediations that are conducted face-to-face to the point of a verbal agreement. At that point, developing the written agreement is done online using programs such as Google Docs.

THE PROCESS OF ONLINE DISPUTE RESOLUTION

For the first 25 years or so, there were relatively few disputes associated with Internet use. Those that may have occurred were handled informally. By the mid-1990s, courts were beginning to deal with jurisdictional questions concerning disputes between parties in different physical places who interacted only online. It wasn't until 1996 that the first articles about ODR appeared in law journals (Katsh). As more and more people acquired Internet access, and as e-mail and web access became easy to use, it was inevitable that the number of online disputes would grow.

In this section, we will consider automated and assisted negotiation, online mediation of online disputes, and online mediation of disputes that originated offline. Because online arbitration is a quasi-legal process, it is outside the focus of this text.

Negotiation Support Systems

As you learned in Chapter 5, negotiation refers to attempts to reach settlements through bargaining. Negotiation support systems consist of software that assists parties in a negotiation process. The most typical of automated negotiation is “blind bidding,” which can be used for disputes where the only issue is the monetary settlement.

In **blind-bid negotiation**, disputing parties submit the amount they would consider fair in an agreement. Because the submission is confidential and only in the software, other parties are not aware of the submissions. If the figures coincide or overlap, the software informs the parties that an agreement can be reached on such an amount. Case Study 8.1, based on an example from Smartsettle, illustrates the process. Smartsettle was developed by the Canadian company iCan Systems led by Ernest Thiessen.

Other software systems can deal with multiple issues. The **adjusted-winner procedure** developed by Brams and Taylor (1996) uses game theory techniques to develop solutions in which all disputants' desires are equally met. It is assumed that the items or issues are divisible; for example, couples dividing a retirement account could divide it equally, or 20%/80%, if they chose. Each disputant assigns a value to each of the

Example of Online Blind-Bid Negotiation

Joe owes the telephone company TelCo \$2,800. He receives an e-mail inviting him to the Smartsettle One web page where he reads TelCo's position. Joe is given the opportunity to enter his response. This is followed with a series of questions to help prepare him for negotiation.

Joe then sees a screen with TelCo's proposal of 12 equal payments with the amount to be negotiated. Joe accepts TelCo's proposal and enters a visual offer of \$100 a month. TelCo's proposal of \$220 a month is then revealed on a panel or scale along with Joe's offer. Joe then enters his hidden acceptance amount of \$200 a month. As Joe's proposal overlaps TelCo's hidden acceptance amount, Smartsettle One reveals the settlement amount of \$190 a month.

Source: The eNegotiation Channel. (2013, August 21). *Introduction to Smartsettle One—Debt resolution example*. <https://www.youtube.com/watch?v=RL0pQ5DCB1g>

DISCUSSION:

1. Compare the online negotiation in this case with the process you learned for single-issue positional bargaining in Chapter 5.
2. What are the advantages of Smartsettle's negotiation support system?

items or issues in dispute for a total of 100 points. The adjusted-winner procedure determines a fair outcome based on the premise that items or issues go to whomever values them more and the rule that each party must end up with the same number of points (Wilson-Evered, Macfarlane, Zeleznikow, & Thomson, 2011).

The adjusted-winner procedure has been applied to the Panama Canal treaty and the Camp David Accords (see Chapter 7). Brams and Togman (1998) applied the procedure to the issues between Israel and the Palestinians. They argued that “the actual agreement matches fairly closely the advice given by the Adjusted Winner procedure” (Lodder & Zeleznikow, 2012, p. 88).

A similar program, also designed to assist separating couples to rationally divide their assets, is Family Winner. Each individual lists the items in dispute and assigns a value to each item to indicate how important that item is to him or her. The basic premise of the software is that items are allocated to whomever values them more in what face-to-face negotiators call **logrolling**; that is, the parties are willing to concede items they value little. The software incorporates a number of techniques in the process, including an issue decomposition hierarchy, a compensation and trade-off strategy, and an allocation strategy (Bellucci & Zeleznikow, 2006).

Smartsettle Infinity is able to handle multiple-party and multiple-issue disputes. Disputing parties provide information about their preferences and priorities beyond what they are willing to share with each other.

Case Study 8.2 illustrates the adjusted-winner process.

CASE STUDY 8.2

Adjusted Winner

Adjusted Winner [AW] starts with the designation of goods or issues in a dispute. The parties then indicate how much they value obtaining the different goods, or “getting their way” on the different issues, by distributing 100 points across them. This information, which may or may not be made public, becomes the basis for fairly dividing the goods and issues later. Once the points have been assigned by both parties (in secret), a mediator (or a computer) can use AW to allocate the goods to each party, and to determine which good (there will be at most one) that may need to be divided.

Let’s illustrate the procedure with an example. Suppose Bob and Carol are getting a divorce and must divide up some of their assets. We assume they distribute 100 points among the five items as follows:

Item	Carol	Bob
Retirement Account	<u>50</u>	40
Home	20	<u>30</u>
Summer Cottage	<u>15</u>	10
Investments	10	10
Other	5	<u>10</u>
Total	100	100

Adjusted Winner works by assigning, initially, the item to the person who puts more points on it (that person’s points are underlined above). Thus, Bob gets the home, because he placed 30 points on it compared to Carol’s 20. Likewise, Bob also gets the items in the “other” category, whereas Carol gets the retirement account and the summer cottage. Leaving aside the tied item (investments), Carol has a total of 65 (50 + 15) of her points, and Bob a total of 40 (30 + 10) of his points. This completes the “winner” phase of adjusted winner.

Because Bob trails Carol in points (40 compared to 65) in this phase, initially we award the investments on which they tie to Bob, which brings him up to 50 points (30 + 10 + 10). Now we will start the “adjusted” phase of Adjusted Winner. The goal of this phase is to achieve an equitable allocation by transferring items, or fractions thereof, from Carol to Bob until their points are equal.

What is important here is the order in which items are transferred. This order is determined by looking at certain fractions, corresponding to the items that Carol, the initial winner, has and may have to give up. In particular, for each item Carol won initially, we look at the fraction giving the ratio of Carol’s points to Bob’s for that item:

(Number of points Carol assigned to the item)/(Number of points Bob assigned to the item)

In our example, Carol won two items, the retirement account and the summer cottage. For the retirement account, the fraction is $50/40 = 1.25$, and for the summer cottage the fraction is $15/10 = 1.50$.

We start by transferring items from Carol to Bob, beginning with the item with the smallest fraction. This is the retirement account, with a fraction equal to 1.25. We continue transferring goods until the point totals are equal.

Notice that if we transferred the entire retirement account from Carol to Bob, Bob would wind up with 90 ($50 + 40$) of his points, whereas Carol would plunge to 15 ($65 - 50$) of her points. We conclude, therefore, that the parties will have to share or split the item. So our task is to find exactly what fraction of this item each party will get so that their point totals come out to be equal.

We can use algebra to find the solution. Let p be the fraction (or percentage) of the retirement account that we need to transfer from Carol to Bob in order to equalize totals; in other words, p is the fraction of the retirement account that Bob will get, and $(1 - p)$ is the fraction that Carol will get. After the transfer, Bob's point total will be $50 + 40p$, and Carol's point total will be $15 + 50(1 - p)$. Since we want the point totals to be equal, we want to choose p so that it satisfies

$$50 + 40p = 15 + 50(1 - p)$$

Solving for p we get

$$90p = 15$$

$$p = 15/90 = 1/6$$

Thus, Bob should get $1/6$ of the retirement account and Carol should get the remaining $5/6$.

Recall that initially Bob is receiving: (1) the home (30 points), (2) the "other" items (10 points), and (3) the investments (10 points). Together with $1/6$ of the retirement account, Bob's point total is now

$$30 + 10 + 10 + 40(1/6) = 50 + 40(1/6) \approx 50 + 6.67 = 56.67$$

Recall that initially Carol is receiving: (1) the summer cottage (15 points). Together with $5/6$ of the retirement account, Carol's point total is now

$$15 + 50(5/6) \approx 15 + 41.67 = 56.67$$

Thus, each person receives exactly the same number of points, as he or she values their allocations.

Note: \approx means approximately equal to.

Source: <http://www.nyu.edu/projects/adjustedwinner/awProcedure.htm>

DISCUSSION:

1. Compare the adjusted-winner procedure to multiple-issue positional bargaining in Chapter 5.
2. What are the advantages of the adjusted-winner procedure?



iStockphoto.com/Anna Bryukhanova

If they reach an agreement on their own, the software provides an analysis of their agreement to determine whether it maximizes each party's gains and, if not, to provide a suggested improved solution.

Online Mediation of Online Disputes

The first uses of ODR for disputes that arose online typically based the process on experiences with face-to-face mediation. Online technologies such as chat rooms and instant messaging offer synchronous communication; e-mail and forum discussion posts provide asynchronous communication. Both types of communication were used to enact traditional

► Online dispute resolution—handling disputes now and in the future

face-to-face processes. Typically, a disputant would contact an ODR service and complete an online form describing the dispute and outcomes. A third-party mediator would then e-mail the other party to secure his or her willingness to participate and to complete the same online form. Both parties would then be able to access and read each other's statements. The mediator could continue the process in a chat room or through e-mails to aid the parties in reaching an agreement.

A major stimulus for the development of ODR was the need to build trust in online shopping (e-commerce). In 1995, eBay was launched, and in 2002, PayPal became a wholly owned subsidiary. As the number of sellers, buyers, and transactions increased at these sites, so did the number of disputes. In 1999, eBay sponsored a pilot program to mediate disputes between buyers and sellers. With the success of the pilot, eBay initially contracted with an Internet startup, SquareTrade, to handle the program. All communication was by e-mail. The complaining party explained the issue and possible solutions. The defending party would also use e-mail to counter. If no settlement was reached, a mediator would

"ODR is becoming a priority for governments eager to promote e-commerce."

—Daewon Choi, Chief of ICT Policy for the United Nations Economic and Social Commission for Asia and the Pacific

"I see ODR as becoming the predominant form for dispute resolution in e-commerce."

—Sir Brian Neill, QC, Kt, former Lord Justice of Appeal and Past President of the Civil Mediation Council

From presentations made at the 5th International Forum on Online Dispute Resolution hosted by TheMediationRoom.com in Liverpool, April 2007. <http://www.themediationroom.com/#!/whymediateonline/c13z2>

intervene. eBay later took over the program itself and in 2010 claimed to have handled over 60 million disputes (Katsh, 2012) with an 80% settlement rate for its automatic processes.

Another major site for disputes handled online is Wikipedia. Wikipedia editors, the overwhelming majority of whom are volunteers, are the contributors to the online encyclopedia well known to all students. During the month of December 2011, users numbering 33,948 each made more than 5 edits, and 3,489 made more than 100 edits. Disputes arise among editors over content (Wikipedia, 2014). Wikipedia's online dispute resolution process is described in Case Study 8.3.

Wikipedia Mediation

Wikipedia offers an online dispute resolution process for disputes that arise online with editors over content. Wikipedia encourages that complaining parties first approach the editor concerned and explain the objections in a civil and polite fashion and, if necessary, open a talk page to discuss changes (see <http://en.wikipedia.org/wiki/Wikipedia:Talk>). Wikipedia encourages "communication, courtesy and consideration" on talk pages that can lead to compromise.

If a resolution is not developed through a talk page discussion, parties may move onto Wikipedia's other venues of online dispute resolution. These include third opinion (3O), dispute resolution noticeboard (DRN), request for comment (RFC), and request for mediation (RFM). 3O is informal and voluntary where disputing editors request an outside opinion (<http://en.wikipedia.org/wiki/Wikipedia:3O>). At the DRN, an editor may post an overview of the dispute. Then those directly involved in the dispute post their summaries. Posts by others follow (<http://en.wikipedia.org/wiki/Wikipedia:DRN>). The RFC is a way to request outside input on disputes (<http://en.wikipedia.org/wiki/Wikipedia:RFC>).

If a resolution cannot be reached through these informal modes, parties may request voluntary formal mediation as the final stage in content disputes. The mediation guides the parties to a mutually acceptable resolution (<http://en.wikipedia.org/wiki/Wikipedia:RFM>).

The following page illustrates the Wikipedia process:

WIKIPEDIA: REQUESTS FOR MEDIATION/PURE HEROINE

Editors involved in this dispute

1. Fruitloop11 (talk · contribs)—*filing party*
2. Andrzejbanas (talk · contribs)
3. Helptottt (talk · contribs)
4. Adabow (talk · contribs)

Articles affected by this dispute

1. Pure Heroine (edit | talk | history | links | watch | logs)

Other attempts at resolving this dispute that you have attempted

- https://en.wikipedia.org/wiki/Talk:Pure_Heroine
- https://en.wikipedia.org/w/index.php?title=User_talk:Andrzejbanas&diff=592759707&oldid=592564098

Issues to be mediated

Primary issues (added by the filing party)

The issue with the Pure Heroine article is rather or not it should be tagged simply as pop or another genre such as Art pop. The main problem is Andrzejbana keeps insisting that his source (originally used to source art pop) concluded that the album is only pop.

I disagree for one because pop is too vague and simplistic, another user agreed that having the album only listed as pop is too simplistic. I tried to compromise with the user by suggesting that we remove the genre from the infobox kind of like on Tennis Court (song) he didn't respond directly to what I suggested. Instead he told me to comment on his discussion (https://en.wikipedia.org/wiki/Wikipedia_talk:WikiProject_Music#Genre_in_the_infobox). The user has given me the impression, based on his responses, that no matter what source I add he will remove it cause only his sources are reliable.

Mediation, I ask you to help me or us come to a resolution, so there will be no more arguing over who's right or wrong.

Additional issues (added by other parties)

I agree with Fruitloop, there needs to be a more specific description, at least two subgenres or fusion genres of pop/or some other genre of music should be listed in the infobox.—Helptottt (talk) 02:54, 7 February 2014 (UTC)

The thing is, we don't even have two genres. The article in question refers to the artist as a "art pop artist" but the album is labeled as a "pop album". If we do what you suggested, we are going against what the source says, which is against several rules I don't think I need to list here. Andrzejbanas (talk) 15:12, 11 February 2014 (UTC)

Additional issue 2

Parties' agreement to mediation

1. Agree. Fruitloop11 (talk) 01:01, 7 February 2014 (UTC)
2. Agree. Helptottt (talk) 02:54, 7 February 2014 (UTC)
3. Agree. Andrzejbanas (talk) 16:48, 17 February 2014 (UTC)
4. Agree. Adabow (talk) 20:13, 17 February 2014 (UTC)

Decision of the Mediation Committee

We are still awaiting the agreement of two of the parties to participate in the mediation. Reminders have been given on their respective talk pages. Sunray (talk) 16:43, 17 February 2014 (UTC)

- **Accept.** Mediator to be assigned. For the mediation committee Sunray (talk) 07:31, 18 February 2014 (UTC)
- **Mediator assigned.** Hello! I'm Tristessa, your friendly neighbourhood mediator, who will be helping you out with this case. There's nothing scary or difficult about this; I reckon we should be able to sort this out pretty quickly. Let's get down to it.—Tristessa (talk) 21:04, 23 May 2014 (UTC)
- **Left nudge talk page messages** as I've received no replies from the parties since my message on 23:19, 26 May 2014. If this case is inactive, could the parties please inform me of this?—Tristessa (talk) 02:38, 16 June 2014 (UTC)
- **Confirmed still active.**—Tristessa (talk) 19:56, 17 June 2014 (UTC)
- Discussion is now taking place on Talk:Pure Heroine regarding an article text compromise; waiting for response.—Tristessa (talk)16:20, 21 June 2014 (UTC)

Mediation

Please find the mediation discussion for this article at:

https://en.wikipedia.org/wiki/Wikipedia_talk:Requests_for_mediation/Pure_Heroine

Would all mediation parties please read my most recent comments there, and reply at their convenience? Thank you! Your friendly neighbourhood mediator,—Tristessa (talk) 01:56, 27 May 2014 (UTC)

...

The mediator asked,

“Dear editors of Pure Heroine: It seems you've got a bit of an issue regarding nomenclature of your article's category—specifically, whether or not it should be tagged as being 'Art pop' or 'Pop' for your music article. Firstly, I'd like to point out that article categorisation can be a little bit of a dark art; there is often no clear way of finding precisely the right category for a particular article topic, and these things happen quite frequently. So therefore, I have a question to all of you: could the article both be classed as 'Pop' and as 'Art pop' based on the available reliable sources? —Tristessa (talk) 21:09, 23 May 2014 (UTC)”

The parties accepted the compromise, and the mediation was closed.

Source: Wikipedia:Requests for mediation/Pure Heroine. http://en.wikipedia.org/wiki/Wikipedia:Requests_for_mediation/Pure_Heroine. This page was last modified on 13 October 2014 at 19:42. Creative Commons license: https://en.wikipedia.org/wiki/Wikipedia:Text_of_Creative_Commons_Attribution-ShareAlike_3.0_Unported_License.

DISCUSSION:

1. Did the mediator ask a question or decide for the parties?
2. Is the agreement one of compromise or collaboration?
3. How has Wikipedia adapted dispute resolution to the online environment?
4. How is the Wikipedia dispute resolution process consistent with Wikipedia's culture?

Case Study 8.3 demonstrates that Wikipedia understands how ODR shapes the nature of the dispute resolution process for disputes that originate online. Having an established online process for dispute resolution contributes to early handling of disputes on an informal basis. Its online process is then employed for those disputes that cannot be handled informally (Rabinovich-Einy & Katsh, 2012). Wikipedia's process has active participation from its users and is open; that is, there is no confidentiality, and records are easily available. This is more in line with the culture of the Internet than with the culture of professionals in dispute resolution. It is possible that this openness has led to the perceived fairness and effectiveness of the process.

Online websites also use **crowdsourcing**, a process of obtaining services by soliciting contributions from an online community. If a seller on eBay India believes a review from a buyer is not justified, the seller logs into the Community Court and presents a case and can attach evidence. The Community Court automatically contacts the buyer, who can read the buyer's statement and then present a response with evidence. Once the submissions are complete, the Community Court submits the case to a randomly selected panel of 21 experienced eBay users who have applied to be jurors. The jurors read the submissions and vote. A simple majority determines whether the buyer or the seller prevails (Rule & Nagarajan, 2011).

Online Mediation of Offline Disputes

Several other Internet startups offered online dispute resolution. Smartsettle, Cybersettle, Modria, and Juripax remain active. These companies were originally formed to deal with disputes that originated online but have now expanded to deal with disputes that originated offline as well.

Cybersettle was founded in 1996 and claims to have settled \$1.9 billion in disputes for medical billing, insurance claims, and municipalities. Generally in Cybersettle, the health care provider, for example, posts three demands. The patient is notified by e-mail, fax, or telephone and invited to participate. If the patient agrees to participate, he or she posts three counteroffers. If the patient's offer equals or exceeds the health care provider's demand, the case settles. If the two monetary figures are close, Cybersettle will recommend an amount the parties can accept or reject. If no settlement is reached, the parties are offered participation in a second round. They may also elect to use a "telephone facilitator" to help them reach an agreement (Exon, 2014). Cybersettle is limited to monetary claims and offers no opportunity to discuss creative solutions.

Modria was founded in 2011 by leading ODR experts. It provides a range of services including negotiation, mediation, and arbitration. Juripax, which was acquired by Modria in 2014, operates out of the Netherlands and provides negotiation and mediation services either entirely online or with face-to-face meetings. Juripax is available in English, German, and Dutch. All communication is through a mediator. The system displays information from disputants side by side for the mediator to review. Juripax uses a Discussion Forum in which the mediator manages dialogue among the disputants and a Document Agreement Creator that allows the parties to work on the same document and view each other's edits.

Anne-Marie Hammond (2003) conducted a study of asynchronous online mediation using simulation disputes. Her study provides some critical insight. Mediators who used a hybrid of the facilitative and

evaluative mediation styles (see Chapter 7) reported being able to utilize this style online. However, mediators who used a more facilitative style of mediation reported that online they felt they needed to become more directive and evaluative. Some felt the shift was necessary in order to maintain a momentum in the session. Consistent with that finding was that the individuals role-playing the disputants indicated preferring that the mediators were more proactive and directive. The question raised was whether there is something in the online environment conducive to mediators becoming more directive in problem solving and disputants becoming more accepting of that approach. Hammond concluded that the asynchronous nature of the mediations encouraged the mediators to focus on the text messages and on the conflict itself, rather than giving attention to factors such as controlling interruptions.

Hammond's research highlights how the online environment changes the mediator's communication behavior:

- **Listening**—It may seem that the text environment makes listening irrelevant because speaking has been replaced with reading and rereading as necessary. Reflecting back may in fact be easier because pasting and editing make paraphrasing easy. But active listening, letting the other party know he or she is being heard, still is critical online. The online mediator is encouraged to demonstrate online listening skills in his or her own messages with phrases such as “I read your message carefully” and “Reading your e-mail again last night, I realized . . .” (Ebner, 2012, p. 379).
- **Questions**—In face-to-face interactions, questions most often follow immediately after a statement. In asynchronous online mediation, there may be a time delay. Ebner (2012) suggests using the advantages of word processing to modify the way questions are asked. Rather than asking “When do you want the money paid?” reference previous communication such as “In your last e-mail, you wrote that you are pressed for money; can you tell me more about your timeline?” (p. 380).
- **Reframing**—Online communications may create a record that parties can reference. A strong statement that might be forgotten or discounted in face-to-face interactions in online interactions might be brought forward and quoted. Online mediators tend to monitor and interject reframing messages before such a record is created.

In the last section of this chapter, we'll briefly examine the use of closed-circuit television and telephones as they are used to support traditional face-to-face mediation. Then you'll read about some wholly new uses of mobile phones in dispute management.

CLOSED-CIRCUIT TELEVISION

Closed-circuit television (CCTV) is the use of video from and to specific places. It differs from broadcast television in that the signal is not openly transmitted. Commonly used for surveillance, CCTV can also transmit the audio and visual interaction of two or more parties all at different locations. The same interaction can be supported less expensively on Skype.

As an example, in instances of spousal abuse, face-to-face mediations are not acceptable, so several family court mediation programs have used CCTV to conduct them. One spouse is directed to a location in the city; the other is directed to appear at another location. To ensure safety, neither spouse knows where the other one is. The mediator will be either with one of the parties or at a third location. Both spouses and the mediator can hear and see each other in real time. In cases where even the sight of the offending spouse is threatening to the other spouse, the offending spouse's image is covered. CCTV makes it possible to conduct the mediation session while guaranteeing the safety of the abused spouse. It is also helpful for divorcing spouses who cannot agree on child custody and visitation.

TELEPHONE

In July 2015, the estimated world population was 7.3 billion people. The number of landlines worldwide in 2014 was estimated to be 1.1 billion, while the number of mobile phones that year was 7 billion (Central Intelligence Agency, 2014). There has been some limited use of both in conflict management. We discuss landlines first.

One long-used application of the telephone to dispute management is hotlines. Perhaps the best known is the Moscow–Washington hotline, which provides direct communication between the governments of the United States and Russia. This hotline was never an actual telephone. It was first a teletype, then a fax, and now a secure computer link for e-mail.

The everyday use of the term *hotline* refers to a call center that is reachable by telephone 24/7. Hotlines range in use from police tip hotlines to customer service and counseling hotlines. And some are set up to interact with callers to resolve disputes. For example, community mediation centers may provide mediation by telephone to seniors and other individuals for whom transportation is difficult (review mediation in Chapter 7).

Telephonic mediation is conducted in the same way as face-to-face mediation (SchWeber, 1989). Australia's Family Law requires that separating parents can apply to court only after a genuine effort to resolve their disputes through a family dispute resolution (FDR) process. Couples are offered telephonic mediation after it has been determined that it is more appropriate than face-to-face mediation. Considerations include physical distance between the parties, work hours, and restraining orders that restrict face-to-face contact. Telephonic mediation is not permitted if one or both parties do not communicate well over the telephone or if one or both have experienced domestic violence involving the telephone. Experience with these mediations has shown that the mediator must be skilled in active listening, rapport building, silences and tones, verbal acknowledgements, controlling all language use, and time keeping. Since the mediator has no control of the callers' environment, he or she must be prepared to deal with all manner of unanticipated situations, from a child who demands immediate attention to a knock on the door and even undisclosed people in the caller's room (Thomson, 2011).

Mobile telephone use has seen dramatic growth in developing countries. One explanation is that the cellular framework is far less expensive to build than traditional telephone lines. Traditional web surfing

and e-mail are solo activities consistent with low-context, individualistic cultures (refer to Chapter 4). Voice-based and real-time text messaging are more social activities and consistent with high-context, community-focused societies (Rule & Nagarajan, 2011).

The mobile phone has become the dominant avenue for communication beyond face-to-face communication (International Telecommunication Union, 2014). However, the use of mobile technologies in conflict and conflict management is still on the horizon.

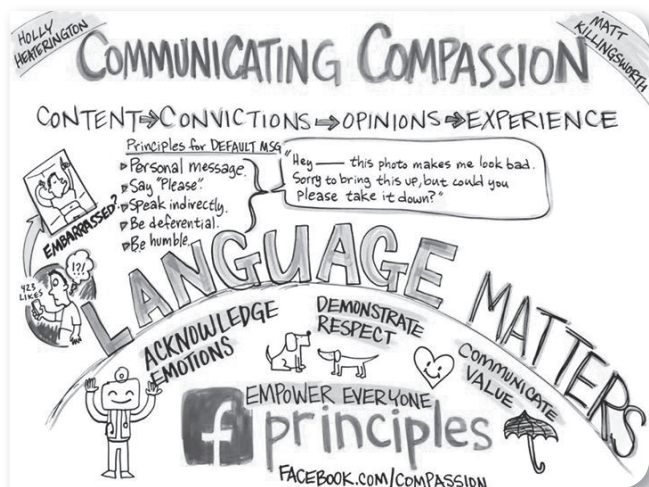
One example comes from Afghanistan, where a process known as *jirga* is used to resolve disputes. One or both parties invite tribal elders to convene. The number invited depends somewhat on the nature and seriousness of the issue. Usually, half are drawn from one side of the dispute and half from the other side; the panel is almost always all male. The panel meets in a mosque and is provided a meal. It is understood that the atmosphere is to be calm and respectful. Every member is entitled to speak and make suggestions. Discussion among the elders continues until a decision has been reached and given orally to the disputants. In practice, the views of the most influential and respected members are given preference. The *jirga* is an example of crowdsourcing. Rule and Nagarajan (2011) proposed using mobile technology so disputants could record their statements. Panel members could call in on their mobile phone to hear the statements of both sides and record their decision.

In the United States, there have been early attempts at mediation apps. For example, one law firm offers both a Mediate Android app and a Mediate iOS app that make it possible for disputants to participate in a mediation with a mediator using only their mobile phones (see www.paddockmitchell.com/home.html).

SOCIAL MEDIA

Just as social media allow people to create, share, and exchange information, ideas, and images in virtual communities, they can also be a platform for conflict.

On Facebook, users can report pornography, threats, graphic violence, and other content that violates its terms of service. However, if there are conflicts between users, such as insults and embarrassing photos, rather than becoming involved, Facebook wants users to address the conflict themselves through the tools it has offered since 2013, such as a series of message templates that provide people with appropriate language to engage one another in conflict (O'Toole, 2014). Users upset about questionable content are given options, such as "It's embarrassing," "It shows inappropriate behavior," or "It's a bad photo of me," to express their requests. Users are also given options to express how the post in question makes them feel, such as "afraid," "angry," "sad," or "embarrassed." Facebook tailors the message templates based on the intensity of the emotion expressed. Users also have the option to un-friend, block, or un-follow the person who made the post. Optional follow-up surveys suggest that providing users with appropriate language choices increases the likelihood that the person who receives the message will respond (O'Toole, 2014).



https://www.facebook.com/compassion/photos

► 5th Compassion Research Day Graphic Artwork

Facebook hosts an annual Compassion Research Day, consisting of conferences designed to explore “how friction in relationships impacts life online, across dozens of languages and hundreds of cultures, all with different values, social cues and definitions of respectful behavior” (Cohen, 2013).

At its 2013 conference, Facebook revealed six trends in ODR:

1. Using the message templates Facebook provides, people can create a more respectful environment. For example, when asked to remove photos that others find embarrassing, users do so 85% of the time, while 65% of message recipients report feeling positive and 25% report feeling neutral about the request.
2. People welcome feedback. Facebook reported that 63% of users who receive messages about controversial posts reacted positively, and 62% said they had no problems being asked to remove the posts in question.
3. Offending users most likely didn't mean to offend anyone. Only 10% of users who were asked to remove controversial status updates or links said their posts were made to provoke other users.
4. Offered the right tools, people will use them. Earlier, when Facebook provided only an empty message box to aid users in alerting others about questionable content, only 20% of offended users used it to send messages. Now, with the message templates, some 3.9 million weekly conversations occur, and there has been a tenfold increase in users sending messages to someone who posts a status update they don't like and a fivefold increase for shared links (O'Toole, 2014).
5. Emoticons give people familiar ways to express themselves. Facebook reported that emoticons seem particularly useful in South America and northern Africa.
6. Facebook announced its Bullying Prevention Hub (Cohen, 2013), approaching an old problem with new tools. The site provides victims with information about what they can do when they see harassing content, provides recommendations to adults who want to help, and provides guidance to people who have been accused of bullying (see www.facebook.com/safety/bullying).

Social Media Dispute Resolution Stumps Some Companies

With Facebook users numbering about a billion and Twitter drawing 200 million, why would any retail enterprise not use social media for dispute resolution? Advocates for the use of social media say it presents an opportunity for businesses to show they are responsive to complaints and care about their customers.

Charter Communications, the third-largest cable operator in the United States by revenue, with 5.9 million customers in 29 states, used “Umatter2Charter” for its social media customer service and dispute resolution. In December 2012, Charter closed it.

These moves, which might seem to counter the growing use of social media, highlight the difficulty some businesses are having with free-flowing, round-the-clock social media, its public nature, and the expectation of immediate responses.

Source: Lipka, M. (2013, January 17). Social media dispute resolution stumps some companies. Reuters. <http://www.reuters.com/article/2013/01/17/net-us-consumer-complaints-socialmedia-idUSBRE90G0XQ20130117>.

DISCUSSION:

1. Should businesses provide structured templates such as Facebook does?
2. If businesses do not have the staffing for prompt social media responses, should they be on social media? What are the disadvantages?

DISCUSSION QUESTIONS

1. Compare the advantages of online dispute resolution to its limitations. Do you think the advantages outweigh the limitations? Why or why not?
2. Do negotiation support systems offer participants neutrality and fairness of process? If so, how, and if not, why not?
3. Is online dispute resolution suitable for all types of disputes? Are there any that are particularly suited for ODR? Explain your answer.
4. Do you think providing people with a structured process and prepared language facilitates dispute resolution? In all circumstances, or only in some? Why?

5. Have you ever encountered an uncomfortable situation on Facebook? How did you handle it? Were you satisfied with

your options and with the resolution of the situation? Why or why not?

KEY TERMS

Adjusted-winner procedure (p. 178)

Artifactual communication (p. 174)

Blind-bid negotiation (p. 178)

Contact theory (p. 175)

Crowdsourcing (p. 186)

Hyperpersonal communication (p. 177)

Information richness (p. 174)

Interpersonal deception theory (p. 175)

Kinesics (p. 174)

Logrolling (p. 179)

Media richness theory (p. 175)

Nonverbal communication (p. 175)

Online dispute resolution (ODR) (p. 173)

Paralanguage (p. 174)

Silence (p. 174)