

## CJC ODR – Additional Case Studies

### 1. Smarter Complaints<sup>1</sup>

This is an automated ‘complaint builder’ which helps resolve consumer disputes by providing legal advice. The system is split into two stages; a ‘guidance’ stage and an ‘action’ stage. During the first stage, the consumer answers a series of questions about the product they have purchased and the problem they are experiencing, in order to receive guidance on their legal rights. This might include whether they have a right to a replacement or a refund, or whether they should approach their credit card company for a refund. If the guidance stage indicates that the consumer has a right to complain, the second stage will assist them to do so, by providing template complaint letters or by complaining to enforcement organisations.

The system’s designers state that it is intended to recreate the feeling of receiving advice from a “knowledgeable friend” although, as it is automated, the system can be used 24 hours a day as human input is not required, other than at the set-up stage<sup>2</sup>. It is currently focused on advice regarding faulty products, although its designers say they intend to expand this scope to other complaints, and then beyond into areas other than consumer complaints. Additionally, they intend to provide services direct to companies to assist with their complaints-handling.

The project is still in development at present.

### 2. eQuibbly<sup>3</sup>

This is a system whereby parties can elect to resolve their dispute via binding arbitration. Matters are assigned to former judges for resolution.

The steps in the process are:

- Claimant provides information about the case, such as how the dispute came about and how it could be resolved (the latter is significant as the arbitrator can only resolve the dispute by ruling that one of the parties’ resolutions should be adopted);
- upload any evidence which supports the case;
- the Defendant is invited to respond;
- the Judge assigned to the case then asks further questions, if needed;
- the Judge then hands down a arbitral award.

The system operates in the US, although the website notes that the arbitral awards are enforceable in 149 countries. A key requirement is that the Defendant agrees that the dispute be resolved via these means; hence, the website provides guidance on how to persuade a Defendant to agree to resolve a dispute via eQuibbly, and also sample contractual wording to include agreements to ensure future disputes are resolved via eQuibbly.

A flat fee is payable by the plaintiff – this varies depending on the complexity of the matter, from the cheapest (\$298, which allows up to 5 pages of documentary evidence to be uploaded and no witnesses), up to the most expensive (\$1498, which allows up to 40 pages of evidence and two witnesses).

### 3. Basketball Arbitral Tribunal<sup>4</sup>

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<sup>1</sup> <http://smartercomplaints.com/>

<sup>2</sup> <http://www.innovatingjustice.com/innovations/smarter-complaints-resolve-consumer-disputes> - note that case studies 1-4 are all flagged on Innovating Justice’s website – this is a collaborative organisation which aims to improve the Rule of Law by providing a platform to transform ideas into sustainable solutions.

<sup>3</sup> <https://www.equibbly.com/>

This tribunal was established in 2006 by FIBA (the International Basketball Federation). It resolves disputes between players, agents and clubs via an online arbitration system<sup>5</sup>.

The arbitrator is appointed by the President of the BAT and the seat of the arbitration is Geneva. The arbitrator decides matters *ex aequo et bono* (i.e. without reference to any particular national law, but rather on the basis of general considerations of justice and fairness). The arbitral award can then be enforced in the ordinary course through the New York Convention, as well as additionally via industry-specific mechanisms

BAT publishes statistics on how many cases have been referred to it, how many have been heard and the outcome of those matters. Between 2007 and 2013, 500 requests for arbitration were filed with the BAT; of these, 309 have led to an award or termination order, 89 were settled, 20 were withdrawn and 82 are still pending<sup>6</sup>.

#### **4. Legal FaceOff<sup>7</sup>**

Legal FaceOff provides a platform via which parties can conduct mediations and arbitrations online. Parties can plead their case and upload the evidence - using pictures, documents and videos – which the arbitrator can then view. The actual resolution process is conducted using a live streaming web-based video conferencing facility, with the parties being able to view and discuss the previously-uploaded material during the process.

The system is currently being tested via pilot programmes in the US and Europe.<sup>8</sup>

#### **5. Arbitration Resolution Services (ARS)<sup>9</sup>**

Using cloud-based software, ARS provides a dispute-resolution service via mediation or binding arbitration. They detail three categories, or “programs,” of disputes which they can help resolve: vehicle/property damage; business and individual; or business to business.

The stages are broadly similar to those described by eQuibbly above, i.e. the claimant (or rather, applicant) in the proceedings initiates the process and uploads their supporting evidence; a mediator or arbitrator is assigned to the case; the respondent provides their feedback and evidence; and then the decision is made. This will be a binding decision if made by an arbitrator, whereas a mediator will attempt to find a resolution acceptable to both parties.

The software, as well as hosting the material submitted in the proceedings, provides parties with reminders of upcoming deadlines and tasks needing attention.

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<sup>4</sup> <http://www.fiba.com/BAT>

<sup>5</sup> <http://www.innovatingjustice.com/innovations/Basketball-Arbitral-Tribunal>

<sup>6</sup> [http://www.fiba.com/downloads/v3\\_expe/bat/BAT%20Statistics%2031%20December%202013.pdf](http://www.fiba.com/downloads/v3_expe/bat/BAT%20Statistics%2031%20December%202013.pdf)

<sup>7</sup> [http://www.innovatingjustice.com/innovations/legal-faceoff-fast-simple-justice?view\\_content=details](http://www.innovatingjustice.com/innovations/legal-faceoff-fast-simple-justice?view_content=details)

<sup>8</sup> <https://www.youtube.com/watch?v=UC8Unr13WP0>

<sup>9</sup> <https://www.arbresolutions.com/>