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ONLINE DISPUTE RESOLUTION PART I

The "Cans," "Shoulds," and "Musts" in the New Virtual Arbitration Environment

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ABSTRACT

This article reviews the integration of information and communication technology (ICT) into dispute resolution modes, focusing on the increasing use of ICT in arbitration, and the looming presence of artificial intelligence (AI) as an element affecting the future of dispute resolution practice. The authors discuss approaches and questions of which arbitrators should be aware in order to achieve a process that builds trust and delivers expertise as the third party neutral uses technology to manage the communications process.

1 CONTEXT: PRESENT AND FUTURE

In 2018, one of us co-authored a chapter in a book entitled "Arbitration in a Digital Age."[1] We were confident that information and communications technologies (ICT) had a growing and important role to play in the future of arbitration. We were, however, cautious about predicting what the pace of change would be. The famous communications theorist Marshall McLuhan once wrote that "once a new technology comes into a social milieu it cannot cease to permeate that milieu until every institution is saturated."[2] We thought that there was truth to this observation but, at the same time, it said nothing about how fast new processes would be upon us. Nor, as one looks at our very varied landscape of dispute resolution processes, practitioners and institutions, does it suggest what is

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1 Mohamed S. Abdel Wahab and Ethan Katsh, "Revolutionizing Technologies and the Use of Technology in International Arbitration: Innovation, Legitimacy, Prospects and Challenges" in Maud Piers and Christian Aschauer, Eds, *Arbitration in the Digital Age* (Cambridge University Press, 2018).

2 Marshall McLuhan, *Understanding Media: The Extensions of Man* (New York, McGraw Hill, 1964) p. 161.

Katsh, Ethan & Rainey, Daniel, 'The "Cans," "Shoulds," and "Musts" in the New Virtual Arbitration Environment'. *BCDR International Arbitration Review* 8, no. 1 (2021): 19–32.

likely to change first or last, quickly or slowly, broadly acceptable or seriously controversial, and many other details of a complex process of adapting to a new environment.

It is not very controversial today to assert that arbitration is in a different place technologically in 2023 than it was five years ago. The pandemic made the use of online processes and hearings acceptable and even routine. Over the next five years, we expect change in the adoption and use of technology-assisted arbitration to accelerate. But it is not simply that what is resisted, questioned and challenged today will become acceptable tomorrow. Rather, new processes with different expectations and assumptions will surface, some becoming commonplace and others contested. This article represents our current thinking about these issues.

The path of arbitration over the next five years should not be expected to be direct, linear and non-controversial. Quite the opposite, though the route which will be taken that will lead to a new model or new models of arbitration and dispute resolution and how they might further generate more new processes and practices is, admittedly, not very clear. Change in the near term, which is the focus of most of this article, will be more visible to the arbitration community, but there is reason to think that what is currently below the surface may have more impact over the longer term.

One of the significant background changes that seems to us to be likely to come to the forefront as time and technology move forward is a heightened emphasis on dispute prevention. Fisher and Ury's claim, over forty years ago, that "conflict is a growth industry,"[3] is even more true today. As we experience growth in the use of arbitration in new online environments, pressure to change will be faced by those whose practice relies on approaches and assumptions that still derive from the face-to-face model.

Fisher and Ury had hoped that conflict *resolution* would become a growth industry, but conflict resolution in the forms of arbitration and mediation, even online dispute resolution (ODR) that can process millions of cases, can never match the growth industry of disputes. This ever increasing generating of disputes is linked to an explosion of transactions and relationships, online and offline. The displacement of the physical by the virtual may bring with it goals and even processes that look familiar. This is, however, occurring in environments in which trust needs to be rebuilt, value takes a new form and innovation accelerates, all ingredients for an enhanced "growth industry" of disputes. This has occurred most obviously in the e-commerce sector, but what has occurred first in ecommerce is a

[3] Roger Fisher and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In* (Houghton Mifflin, 1981).

forerunner of challenges that will occur in many other domains, as is now becoming evident in healthcare.

What connects the generation of disputes and the increasing need for the resolution of disputes is the storage, communication and processing of data. Once data is in digital form, the goal becomes to transform it into something of value. Extreme examples of this are artificial intelligence applications that mimic what a human can do. As this article was being written, an AI application, ChatGPT was receiving a great deal of attention for its ability to engage humans in "intelligent" conversations. That mistakes would occur seems to us to have been inevitable and, when we asked the Chatbot about one of us, the Chatbot replied, "Unfortunately, that person passed away in 2014." All of the questions that the world asks about human-generated disputes may surface as AI-generated disputes. Perhaps even more. As a result, pressure to be aware of and resolve disputes at early stages is important. Responding to a single mistaken report of a death is much easier to correct than a report that has been widely circulated.

2 THE PAST AND PRESENT OF ICT AND ARBITRATION

As background to considering the three areas in the title to this article, it is helpful to briefly consider three time periods in which issues related to technology-related arbitration have been discussed and, eventually, implemented. The first, occurring in the late 1990s and early 2000s, often involved overt resistance to the idea of employing ICT in arbitration practice.[4] The second, consisting of much of the 2005 to 2020 period, opened up some of the practice of arbitration to technologies that brought convenience, speed and efficiencies as the capabilities of online communication became clear. From 2020 to the present, implementation of some facets of technology-assisted arbitration have become widely used and others are on the horizon.

2.1 The Late 1990s and Early 2000s

Arbitration's acceptance of Internet-based technologies, particularly when compared with Online Dispute Resolution in the form of technology-assisted mediation and negotiation, has been slow and cautious. Part of the reason for this were rules that were in place at the time that made change in practice difficult. The New York Convention, for example, requires that awards be in writing. This

[4] A list of challenges is enumerated in Nicolas de Witt, "Online International Arbitration: Nine Issues Critical to its Success," American Review of International Arbitration, vol. 12, no. 3-4 (2001); An argument for broad interpretation of the New York Convention is found in Richard Hill, "On-line Arbitration: Issues and Solutions," Arbitration International, vol. 15, no. 2 (1999) pp. 199-207.

was widely interpreted in the late 1990s as not including online awards in spite of the fact that what came out of the printer had, at some point, been in digital form. Similarly, opponents of virtual hearings pointed out that the Convention required that there be a "seat" of the arbitration and a form of "digital seat" did not qualify.

Interpretations of this kind reflect as much a general and not infrequent resistance to institutional change as an awkward interpretation of language. U.S. Supreme Court Justice Oliver Wendell Holmes, once famously wrote "[I]t cannot be helped, it is as it should be, that the law is behind the times."[5] Arbitration may not be as resistant to change as, for example, rules of evidence or courts that still do not allow televising legal proceedings but change in practice may require change in rules and official action in addition to a change in attitudes. This did gradually occur, but over a decade.

An example of resistance to the mere the idea of arbitration being a somewhat flexible process was reflected in questions raised about the Uniform Dispute Resolution Process (UDRP) process established by the Internet Corporation for Assigned Names and Numbers (ICANN). The growing population of Internet users during the 1990s also led to an extraordinary increase in the registration of domain names. A domain name is a kind of address and, in the days before search engines, was very helpful in locating a particular Web site. The number of .com domain names increased from 1151 in October 1990 to 1,301,000 in July 1997, and to more than twenty million in November 2000.[6] Today, there are over 350 million domain names and registering one can cost as little as five dollars.

A relatively simple system for addressing disputes over domain name trademark violations was established by ICANN. To all appearances, this was an arbitration process with one or three persons ruling on whether a trademark had been infringed. Yet, this process allowed appeals of the ruling to a court and, therefore, the UDRP was not considered an arbitration under the Federal Arbitration Act.[7]

2.2 2005-2020: Coming to Terms with the Idea of Virtual Arbitration

Throughout much of the first two decades of the 21st century, a common topic for discussion among mediators and arbitrators centered around whether it was possible to conduct fair and effective dispute resolution processes online: essentially asking the question, "will ODR work?" The technology was available but could

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5 Oliver Wendell Holmes, *Speeches* (Boston, Little Brown, 1954) p. 102.

6 "History of gTLD Domain Name Growth," http://www.zooknic.com/Domains/counts.html.

7 *Dluhos v. Strasberg*, 321 F.3d 365 (2003); Balough Law Office, In the News Blog, "UDRP Is Not Federal Arbitration," https://www.balough.com/udrp-not-federal-arbitration/.

only be employed with some effort and with the acceptance of all parties. During this period, technology was more discussed than actually used. Simple applications involving communication, such as email, were beginning to be employed broadly and some widely available software applications were adapted to the arbitration process. In general, however, the use of technology during this period was more an experiment than a routine part of practice.

2.3 2020 – Present: Why and How Technology Can Support Arbitration

The COVID pandemic and the attendant necessity to hold sessions online, if at all, put an end to the debate of whether ODR could work. COVID provided what has been called the "Big Bang for ODR," a seminal event that forced dispute resolution practitioners of all kinds, including arbitrators, to move their work online. As Rainey and Bridgesmith argued:

> Early in 2020 the emergence of the COVID-19 pandemic served as a "big bang" for online dispute resolution (ODR) development and use. We are, in 2021, well along the road towards full integration of technology into the courts and every other dispute resolution system, worldwide.[8]

Arbitration might have resisted technology for years but it should be recalled that the use and communication of information has always been at the heart of all non-violent dispute resolution methods. Managing the flow of information, which is what software does, is the core idea behind arbitration, mediation and even court-based processes. As an example, while one of the authors was the Chief of Staff for the National Mediation Board (NMB), the Board managed hundreds of arbitration cases for railroads and their unions under the Railway Labor Act (RLA). Prior to COVID, none were conducted online, even though ODR technology was available. After COVID, all were conducted online. One of the primary advocates for a major union involved in the arbitrations reflected on the success of online arbitration for his organisation:

> Online arbitration, at least the appellate style that occurs under RLA Sec 3, is efficient and effective. I would not advocate returning to in-person hearings for most, if not all cases. In my experience, there were no downsides.[9]

In other venues, the impulse to convert sessions to an online environment as the preferred mode of working may not be as strong, but it is the case that, across

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[8] Daniel Rainey and Larry Bridgesmith, "Bits, and Bytes, and Apps, Oh My! Scary Things in the ODR Forest," International Journal of Online Dispute Resolution, vol. 8, no. 1 (2021) p. 4.

[9] Marcus Ruef, comments during CyberWeek 2022, November 3, 2022: "ODR and Relationship Repair: ODR and the Arbitration of Labor Grievances."

the board, some use of information and communication technology (ICT) has now become an integral part of arbitration practice.

The logistics of online arbitration are, of course, important, and that is where much of the rest of this article will concentrate. But researchers have noted that:

> … paperless arbitration goes beyond logistics: cost-efficiency, data security and protection of the environment are key aspects that must be taken into account ... [and] the generational gap between practitioners and the difficult access to the Internet and technology in some countries …. could prevent paperless arbitration from becoming the new trend.[10]

In addition, technologies that go beyond serving as channels of communication are either available now or will soon be available to practitioners. As Amy Schmitz has argued regarding online arbitration (OArb):

> There's so much more that we need to be talking about with respect to OArb and what it can include. You can build in solution explorers, data analytics, perhaps using AI.[11]

As an example of the potential value of AI, consider the next paragraph summarising the nature of arbitration. It was "written" by the ChatGPT AI program, mentioned earlier, in response to a request to "Write a short paragraph explaining how AI can assist arbitrators."

> Artificial intelligence (AI) can assist arbitrators in a number of ways. For example, AI can be used to help analyze large amounts of data, such as legal documents, contracts, and court cases, to identify patterns and draw conclusions. This can help arbitrators to make more informed decisions, as they will have access to a greater amount of information and insights. AI can also be used to automate certain tasks, such as scheduling and document management, which can free up arbitrators' time to focus on more important tasks. Additionally, AI can be used to help predict outcomes of cases based on past experiences, which can be useful for arbitrators in making decisions.

It does not take a lot of imagination to think of ways this AI program and others could assist with doing drafts of messages, making communication on text platforms quicker and easier, and even creating rough drafts of awards. But, as noted earlier, it does not take a lot of imagination to think of ways in which the current iteration of ChatGPT falls short.

One way of visualising the different strengths and capabilities of technology is to envision a triangle. with three sides identified as trust, convenience and expertise.

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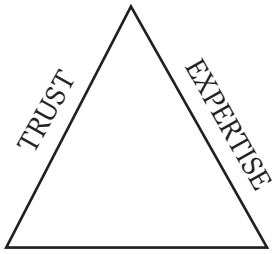
[10] William Brillat-Capello, Laura Canet, Gillian Carmichael Lemaire, Yulia Mullina, Sebastián Partida, Sarah Tulip and Serghei Alekhin, "Paperless Arbitration: The New Trend?," The International Journal of Online Dispute Resolution, vol. 7, no. 2 (2020) pp. 184-194.

[11] Amy Schmitz, comments during CyberWeek 2022, November 3, 2022: "OArb: The Future of Arbitration," at https://www.youtube.com/watch?v=lt5aqxRFBwU – last accessed on January 4, 2023.



The use of ICT in arbitration should be acceptable if all three qualities are present, but the value of ICT and particular processes will depend on the shape of the triangle and, more specifically, on the length of one or more of the sides. ChatGPT is, at least currently, almost wholly lacking on the trust side of the triangle and, therefore, of almost no value to any existing dispute resolution process. On the other hand, almost any online process will satisfy, to some extent, the convenience side. Expertise, largely in the form of how well the technology can moderate interactions among the parties and evaluate arguments presented can vary in capabilities and will undoubtedly become more "intelligent" over time as novel AI applications appear. Applying this model to Zoom, it was accepted with little controversy because it was highly convenient, presented negligible risk, and enabled the expertise of the mediator or arbitrator to be readily apparent even though Zoom alone did not provide any expertise.[12] Zoom was invented in 2011 but it was not until the need for it and a population that had sufficient online skills emerged that it became widely used.[13]

Even though there is increasing availability of advanced technology for use by arbitrators, it is still the case that for most practitioners ICT is used to offer basic communication channels for exchanging language and data among arbitrators, parties, and witnesses. The significance of technology used to supply communication channels lies in the impact that the use of ICT has on three major elements of any communication channel: the verbal element, the non-verbal element, and the environmental element. When choosing technology to use with parties, arbitrators are also choosing communication advantages and disadvantages in each of the elements.

As a general example, using a web video platform such as Zoom probably does not greatly affect the verbal element, the actual words used during the

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12 Chris Stokel-Walker, "How Skype lost its crown to Zoom," Wired, 12 December 2020, https://www.wired.co.uk/article/skype-coronavirus-pandemic.

13 "When was Zoom created?," https://yoo.rs/when-was-zoom-created-1639493230.html.

interchange among the parties and the arbitrator. But it does affect the non-verbal element. In full screen or in postage-stamp squares with multiple individuals on screen, what the arbitrator gets in terms of non-verbal messages is affected. On the plus side, it may be that if the speaker is on full screen it is possible to get even more facial non-verbal information than if she or he is sitting across a conference table, but even then one loses the full body non-verbal, and the attendant non-verbal that comes from the others involved in the case. Using a text platform may influence the verbal element – we don't always talk the way we write, but it will certainly cut off the non-verbal element, leaving the receivers of the messages to infer non-verbal sub-texts to messages. And, for both video and text, the environment in which the hearing is being held is greatly affected. All of this means that the arbitrator must take steps to counteract the impact of the technology on the elements of communication, both in preparing the parties for the session, and during the session as the arbitrator manages the communication flow.[14]

Clearly, the least challenging question for this article is not whether ICT *can* become an integral part of international arbitration practice. Indeed, thanks to COVID and the inexorable inclusion of technology in every aspect of social interaction, the process of integration is well underway. The focus of the rest of this article, therefore, is on what expectations arbitrators and parties should have of the technology: what *should* it do, and what *must* it do?

3 WHAT *SHOULD* BE KEY GOALS OF TECHNOLOGY-ASSISTED ARBITRATION?

ChatGPT inherently possesses many of the information processing and communication tools of the arbitrator. It can communicate, process, take in and distribute information, and evaluate and make decisions about the use of data. In the following illustrative list of informational activities, there are none that AI cannot be trained to deal with.

> Deciding, diagnosing, evaluating, explaining, discussing, advising, reporting, identifying, defining, organizing, clarifying, aggregating, simulating, measuring, calculating, linking, proposing, arranging, creating, publishing, circulating, reminding, scheduling, monitoring.

As with human arbitrators, however, the quality of the decisions and the decision-making process can always be questioned. On the other hand, evaluating

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[14] For a detailed discussion of communication using ICT, and best practices for ensuring maximum success in preparing for and conducting online sessions, see: Daniel Rainey, *Integrating Technology into your Dispute Resolution Practice: Making Friends with the Fourth Party* (The Hague, Eleven Publishers, 2022).

a decision that reaches a conclusion using an algorithm can be extremely difficult if the nature of the algorithm is not open. This is an ongoing, serious and fundamental issue in an algorithm environment that can influence the trust side of the triangle.

It is obvious that online arbitration can save money and time, but much of what ICT should do for arbitration and for other forms of dispute resolution is connected to two of the primary human needs that affect both the attitude and performance of participants: the need to feel safe and secure and the need to feel that there is an orderly, non-chaotic flow to the proceedings.

On a very basic level, conducting hearings online provides a level of convenience that is not possible with most in-person hearings. For example, instead of having to find three days that multiple individuals have to block out for hearings (one for travel on either side of the hearing, plus a day for the hearing), one just has to find a block of hours on a single day that fits with everyone's schedule. Also, for the arbitrator it means that it is possible to increase the number of cases being heard, therefore increasing income. And, of course, the ability to work online without travel reduces the cost of arbitration for the parties in addition to offering convenience. Further, as an added bonus, reduced travel generally means less stress on the environment and is more eco-friendly.

Arbitration is, by its nature, an orderly process, but working online brings some challenges related to order that are a bit different. Participants generally know how the hearing will progress in terms of sequence and standard practice, but working online introduces the need for the parties and the arbitrator to manage the technology in such a way that it is not perceived as introducing uncertainty. If preparation is done properly, practicing sharing documents, using breakout rooms to caucus, and even something as simple as muting and unmuting can lend an air of order to the process. Having to learn how to navigate around the technology while during a live hearing is a sure way to damage faith in the process, and, conversely, preparing the participants so that everyone can do everything necessary with no glitches during the process has the effect of increasing comfort and trust in the process. Best practice would, we believe, involve a test session with the parties to make sure that all of the technology is accessible and workable, and if possible, the use of a tech-savvy second chair or assistant with no duties beyond making sure the technology is working smoothly.

On an interpersonal level, using ICT can create a sense of safety or security for the participants. Arbitration is by definition a confrontational process, and confrontation is, for many people, stress-producing. Assuming that the arbitrator has set up the online environment well, the ability to participate from home, or from an office with counsel, may provide a sense of security and ease that it is very

hard to duplicate in a face-to-face process, with one's adversary sitting just across the table.

We also suggest that one of the most significant potential advantages involved in the use of ICT and one that can also be managed by the arbitrator and/or software, is that the technology can help rearrange time. On the simplest level, the ability to share information online ahead of the hearing, and the ability to have information available in real time during hearings can affect scheduling. On the most extreme level, working at separate times, i.e., asynchronously, in text can literally remove the time constraints imposed by travel to a face-to-face session and the necessity to deal with every issue in real time while gathered around a physical table.

Given the fact that the digital divide has not completely disappeared, the most important thing that ICT should do for arbitration is to offer an easily available venue for hearings. In essence, when the arbitrator chooses technology to use with the parties, she or he is creating a virtual meeting space into which the participants are invited. Instead of having just one choice of technology that is expected to serve everyone equally, the arbitrator should have a set of applications, some of which may be restrictive and require a higher level of expertise to use, and some of which exist at a basic level, available for novice users and users in places where Internet connectivity is unstable or unavailable. The arbitrator's ICT choices should offer elements of a virtual space that can be customised to work with a variety of parties.

Regardless of the specific type of technology being used, the process should be easy for the participants (and the arbitrator) to understand and use in practice. A designer who has worked for years in the online dispute resolution space once said, "If I have to resort to using a manual to understand how to use a piece of software, it's probably bad software." ICT should create a virtual meeting space that is as comfortable and functional as the traditional conference room.

The choice of ICT should match potential risk with potential damage. All online platforms offer some risk that information shared with the arbitrator and the parties may be inadvertently shared with individuals who should not have access, or that a malevolent hacker may gain access to sensitive information. The questions that the arbitrator should ask have to do with the relative risk and damage. Some technology has a high risk of being accidentally misused. Most people have probably sent email to someone who should not have received the email, and most people have probably received an email not intended for them. Email would be considered a high risk technology. Using an encrypted email system, such as ProtonMail, reduces the risk, and using a proprietary message platform that is restricted by password reduces the risk even more. If the technology being used is one that is easily misused or through which information

can be mistakenly shared with the wrong persons, and the information being shared is highly sensitive and would cause great damage if it were improperly shared, another technology or no technology should be used. If the information is benign and would do little harm if published, the risk level for those using the technology becomes less critical. In short, ICT for arbitration should: be available, be easy to use, and should match the level of risk and damage involved in sharing information.

4 WHAT *MUST* ICT DO FOR ARBITRATION?

Technology that is used for arbitration must comply with the standards of practice that apply to technology used in any ODR practice.[15] In order to be compliant, ICT for arbitration must be *accessible* not only in the technical sense of being available *via* an online connection, but accessible in terms of user comfort and functionality for individuals of varying abilities. ICT for arbitration must be *accountable* to the community it serves, both through open audits of use and transparent developmental processes. This becomes ever more important as decision trees, data analytics, and AI become part of the landscape of dispute resolution generally and arbitration specifically. ICT for arbitration must be used by individuals who are *competent* to understand the impact of using the technology and who can operate the technology in a way that serves the interests of the parties. Judgements regarding competence are difficult in any circumstance, but the use of technology offers an additional element: a perfectly competent arbitrator or mediator may have difficulty adapting to and using ICT. At a minimum, it is advisable for practitioners to engage in training that addresses the impact of technology on dispute resolution, even if arbitration is not the primary focus of the training. To the extent that applicable law allows, ICT for arbitration must be *confidential and secure* and must ensure that information exchanged during arbitration is not compromised or shared inappropriately, in transit, in use, and in storage. ICT for arbitration must be *equal, fair, and impartial* offering access to all parties and creating virtual spaces and processes that do not advantage or disadvantage individual parties. ICT for arbitration must be *legal* and used in accordance with laws and regulations affecting the venue or venues involved in the arbitration. ICT for arbitration must be *transparent*, explained to and understood by the parties in a way that allows for self-determination.

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[15] Standards of practice developed by the National Center for Technology and Dispute Resolution (NCTDR) and the International Council for Online Dispute Resolution (ICODR) can be found on the ICODR web site at https://icodr.org/standards/.

5 WHAT QUESTIONS SHOULD ARBITRATORS ASK BEFORE USING ICT?

Questions Related to Self Determination

- Have I exerted overt or subtle pressure on the parties to engage in an Oarb process?
- Have I adequately explained the process and the technology so that the parties can make a truly informed decision about engaging in Oarb?

Questions Related to Impartiality

- Does the choice to use a platform for which I have paid a license fee risk giving the appearance of bias?
- Does the choice of a platform with which I am familiar risk putting one of the parties at a disadvantage because of proficiency or access?
- Does a party's decision to reject an Oarb process or platform risk suggesting a bias as arbitration goes forward? (Would the arbitrator appear to be biased against a party who refused to use the suggested platform or refused to engage in Oarb?)

Questions Related to Conflict of Interest

- Do I have a relationship with a platform provider that risks the appearance of a conflict of interest?
- Have I posted on social media in a way that would indicate a bias or conflict (e.g., "friends" lists or membership in online groups)?
- Have I revealed any financial or consulting relationship to developers or providers of Oarb services?

Questions Related to Competence

- Have I accurately described my level of experience working in an Oarb environment?
- Have I taken training or certification courses in Oarb or ODR?

Questions Related to Confidentiality and Security

- Have I acquired basic knowledge of ICT security?
- Have I investigated the security protocols of the platforms or apps that I have recommended to the parties, and can I describe the nature of the security offered by the platform I am recommending?

- Does the platform I am recommending meet minimum ICT security standards?
- Have I explained, in plain language that the parties can understand, the security measures that will be used to protect their information?
- Have I done an adequate risk/damage assessment of the technology I am recommending and the nature of the information the parties will be sharing?
- Do I have in place an agreement that adequately explains my choice of technology, the security risks associated with that technology, and the parties' willingness to use the technology?

6 CONCLUSION

Working online can offer obvious advantages for both the arbitrator and the parties: cost and time savings, feelings of comfort and security, and flexibility in scheduling and process. The advantages, the "cans" for arbitration, are easy to envision and easy to operationalise – one could simply get a Zoom license and wade into cyberspace. But the "shoulds" and "musts" for technology-assisted arbitration bring along some responsibilities that require arbitrators to think differently about how they work with parties, and to prepare themselves and the parties to work in the virtual spaces that online work creates.

Using technology to provide online communication channels can be challenging, but adapting to ICT used in this basic way involves adapting what arbitrators already do to a slightly new environment – we simply do what we've always done, we just do it using email, document sharing, and web video. As more assertive technology, like solution explorers and AI, come into more common use, exploiting the advantages in ICT use, avoiding the disadvantages of ICT use and being aware of opportunities to both resolve and prevent further disputes, will become much more complicated.

Ultimately, there are many reasons why arbitrators should want to step into a more ICT intensive sphere of practice. As a final word, here's how our AI assistant responded when asked, "Why should arbitrators want to work online?"

> There are a number of reasons why arbitrators might want to work online, including:
>
> Flexibility: Online arbitration allows arbitrators to work from anywhere, at any time, as long as they have an internet connection. This can be especially appealing to arbitrators who have other commitments or who live in remote areas.
> Efficiency: Online arbitration can be faster and more efficient than in-person arbitration, as it can eliminate the need for travel and reduce the time required for face-to-face meetings.

> Cost savings: Online arbitration can be less expensive than in-person arbitration, as it can eliminate the need for travel and accommodation expenses.
> Convenience: Online arbitration can be more convenient for parties, as it allows them to participate from anywhere, at any time.
> Accessibility: Online arbitration can increase accessibility for parties, as it allows them to participate from anywhere, at any time.
>
> Overall, online arbitration can offer many benefits for arbitrators, parties, and the arbitration process as a whole.

Notably, however, there is no mention here about improving the quality of the arbitration process or opportunities on the expertise side of the triangle. These will be much larger challenges.