CyberEthics: The Impact of Technology on Mediator Ethics
Online Dispute Resolution

*From eCommerce to eMail*

CyberEthics: The Impact of Technology on Mediator Ethics
Mediator Ethical Standards

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Julia Morelli
The Accidental Online Mediator

Lessons in Ethics
Mediator Competence – Experience F2F
From Student to Teacher to Mediator
Explore Ethical Questions - Constantly

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Ethical Standards – the Mediator

Competence: Skills and Expectations
Conflict of Interest
Impartiality

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Ethical Standards – the Process

Quality of the Process
Self-Determination
Confidentiality
Being the Student - Competence

Training – Formal & Informal
Play With the Technology
Know the Cultures – Yours & Online

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Being the Teacher – Quality of the Process

Choose Technology That “Fits”

*Lean* and *Rich* Media

Foster Transparency

Prepare the Participants

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The Mediator's Use of Technology

The Medium is the Message (McLuhan)
Before Starting – Plan the Process
Rapport - “Remember the Human”
Agreement to Mediate – Online Factors

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Managing the Online Mediation Process

Expectations & Conflict Creation
Sync and Async Norms
Trust: Predictability/Teams/Caucuses

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Managing the Online Mediation Process

Confidentiality & Privacy - Details Matter
Be Present – No Multitasking!
The Mediation Agreement

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Ramel Nasseri

Security and Privacy

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What is Data Security?
Protection from destructive forces and unwanted actions.

Data Corruption  Malware
Data Loss  Hackers
Data Deletion  Theft
Physical Damage

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How Does It Affect Me?

The June 2012 Intelligence Report from Symantec found that SMBs are not too small to escape the notice of sophisticated attackers. 36% of all targeted attacks (58 per day) during the first half 2012 were directed at businesses with 250 or fewer employees. This is up from the 18 per cent reported in December 2011.
How Does It Affect Me?

Work Slowdown

Work Loss

Compromises Personal, Business, Client Information

Bad PR

Liability

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<table>
<thead>
<tr>
<th>Software based solutions</th>
<th>Hardware-based solutions</th>
<th>Resource Management and Training</th>
</tr>
</thead>
<tbody>
<tr>
<td>Data Encryption</td>
<td>Security Tokens</td>
<td>Account Administration and Access Restriction</td>
</tr>
<tr>
<td>Virus Protection Software</td>
<td>Biometric solutions</td>
<td>Software Training</td>
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<tr>
<td>Windows Firewall</td>
<td>Backups</td>
<td>User Education</td>
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<td>Password Protection</td>
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<td>Vendor Assistance</td>
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<td>Data Masking</td>
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<td>Data Erasure</td>
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<td>Disk Encryption</td>
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<td>File System-level Encryption</td>
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</table>
How Do I Deal With Parties?

- Explain Legal Requirements
- Business / Company Policy
- Agreement to Mediate
- Mediator’s Opening Statement
- Website Disclosure
- Liability Form

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Roslynn Almas

Online Data – Mining Mediation

CyberEthics: ODR and Data Analytics

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With ADR now adopting online technologies to conduct mediations and Dispute Resolution cases should the principles relating to party confidentiality and information sharing need to be rethought.
This engine automates the movement of customers and prospects through a process prescribed by marketing by using business logic based on advanced statistical modeling.

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### Figure 4

**Industries are using big data to transform business models and improve performance in many areas**

<table>
<thead>
<tr>
<th>Retail</th>
<th>Manufacturing</th>
<th>Financial services</th>
<th>Media and telecommunications</th>
<th>Advertising and public relations</th>
<th>Energy</th>
<th>Government</th>
<th>Healthcare and life sciences</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Customer relationship management</td>
<td>• Product research</td>
<td>• Algorithmic trading</td>
<td>• Network optimization</td>
<td>• Demand signaling</td>
<td>• Smart grid</td>
<td>• Market governance</td>
<td>• Pharmaceutical research</td>
</tr>
<tr>
<td>• Store location and layout</td>
<td>• Engineering analytics</td>
<td>• Risk analysis</td>
<td>• Customer scoring</td>
<td>• Targeted advertising</td>
<td>• Operational modeling</td>
<td>• Weapon systems and counterterrorism</td>
<td>• Bioinformatics</td>
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<td>• Predictive maintenance</td>
<td>• Fraud detection</td>
<td>• Churn prevention</td>
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<td>• Power-line sensors</td>
<td>• Econometrics</td>
<td>• Clinical outcomes research</td>
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<td>• Supply chain optimization</td>
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<td>• Health informatics</td>
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<td>• Dynamic pricing</td>
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Source: A.T. Kearney analysis

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### Pros and Cons

<table>
<thead>
<tr>
<th>Pros</th>
<th>Cons</th>
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<tbody>
<tr>
<td>Predictive Solutions</td>
<td>Confidentiality</td>
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<tr>
<td>Cost Effectiveness</td>
<td>Privacy Protection</td>
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<tr>
<td>Business Intelligence</td>
<td>Data Ownership and Access</td>
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<td>Improve Education with the field of ADR</td>
<td>Cost</td>
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<td>Lends Credibility</td>
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<td>Enhance Efficiency in Processes</td>
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Issues to Consider

- How is data being collected
- What is being done with data
- Who has access to the data
- Should party information be gathered to interpret data and is this ethical
- How do we educate mediators/practitioners on data mining when using technology in ADR
Daniel Rainey

*Ethics Examples*

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Ethics Examples

Maria has been accused of sexually harassing Doug, her former employee. They have agreed to mediation, but they now work in different cities and will find it hard to spend much time face to face. This is a sensitive case, and Doug is concerned that some pretty embarrassing things will come out if confidentiality is breached.

How would you decide whether to use ODR in this case? If you decided to use ODR technology, what kind would you suggest? If not, why not, and if so, what kind of technology would you suggest? How would you handle a mediation agreement?
You are the mediator in a case that involves a confrontation that occurred between an employee of a landscaping company and a client of the company. The client works for a software development company. The landscaper alleges that the client used abusive language and harassed him while he was working on the client's garden. They have agreed to mediation, but the landscaper has taken another job in a nearby town and would find it hard to take time to come to f2f mediation sessions.

Would you recommend using online tools in this case? If not, why not? How would you handle issues of self-determination and power imbalance?
Ethics Examples

Marvin Mediator spent $1500 to get a license to some nifty online software that he can use with his clients who have trouble getting together f2f. He wants to recoup his costs as soon as possible by building the use of the app into his fees, so in the first case that came along that seemed to be a good case for ODR, Marvin announced to the parties that they were going to use his ODR app. Because he was using it in a “real” situation for the first time, he made some mistakes in setting up the session and in running the session.

• What were his ethical obligations to the parties before using the app? Are there any other ethical issues lurking here?