Virtual Mediation and Arbitration: from 2002 to 2020

Marie-Claude Asselin, Chief Executive Officer
Sport Dispute Resolution Centre of Canada
Problem Statement

“Due to a lack of fair and consistent policies, or to the improper administration of those policies, athletes and other participants in sport are being disciplined, harassed and denied opportunities without proper recourse to a hearing or appeal.”

Statutory Mandate

“...to provide to the sport community a national alternative dispute resolution service for sport disputes and expertise and assistance regarding alternative dispute resolution.”

Physical Activity and Sport Act (S.C. 2003, c.2)
SDRCC at a Glance

S.C. 2003 c.2

Dispute Resolution and Prevention

60+

Not-for-Profit

45
Far From the Games, a Canadian Skater Says Russia Cost Him a Spot

By TARIQ PANJA    FEB. 18, 2018

PYEONGCHANG, South Korea — It will be in the predawn hours in western Canada when William Dutton settles in to watch the men’s 500-meter speedskating event at the Winter Olympics. That Dutton is on the couch and not at his second Games owes in part to the long legal drama rooted in the complex aftermath of the Russian doping scandal.

Dutton, 28, considers himself a “Canadian hockey player who happens to be a speedskater.” He is a University of Southern California graduate student and aspiring Olympic medalist.
Average Length of Proceedings by Type of Dispute

- Selection
- Doping
- Other
2013 CANADA GAMES CASE TIMELINE

- Request Received: 11:30
- Arbitrator Appointed: 11:39
- Notice of Appeal Served: 12:08
- Access to all 19 reps and parties to online case files: 12:35 - 12:41
- NSO Request to Intervene: 12:43
- Documents Produced: 12:58
- Production Order: 1:02
- Oral Decision: 1:02 - 2:38
- Hearing: 2:38
Virtual Proceedings
Challenges in Case Management

1. Time-sensitive Proceedings
2. Geography and Linguistic Duality in Canada
3. Clients:
   - Limited financial resources / unrepresented
   - Travelling worldwide extensively
   - Mostly comfortable with technology
4. Limitations of email and conference calling...
Virtual Proceedings 1.0 (2002-2007)

1. Communications by Email:

Undeliverable: Greetings from Roman
☐ postmaster@exchange.domain.local
Sent: Mon 11/17/2014 4:35 PM
To: [redacted] Technical Support (TS)

Delivery has failed to these recipients or groups:

E. [redacted] E. [redacted]

The recipient's mailbox is full and can't accept messages

2. Standard Conference-calling:
Web Conference Calling (from 2007)

1. Web Interface to Manage Conference Calls
2. Sub-Conferencing
3. Control Participants:
   - Rename
   - Increase / decrease sound individually
   - Mute / disconnect
4. Dial Participants Into the Call
5. Toll-Free Numbers from 60+ Countries / Skype
6. Record / Playback & Videoconferencing
Virtual Proceedings 3.0 (2011)
Case Management Portal

1. 24/7 Online Access From Anywhere in the World
2. All Documents on the Record:
   - Party filings (submissions, evidence, etc.)
   - Administrative correspondence
   - Orders and awards
3. Highly Secure
4. Interactive Calendar of Proceedings
5. Compatible with Mobile Devices
Benefits of the CMP

1. For Travelling Parties:
   - No Need to Carry Paper Files
   - Calling Numbers, Event Calendar at Fingertips
   - Automated Reminders of Events
   - Intuitive and User-Friendly

2. For Case Managers:
   - No More Bulky emails to Send
   - No Parties Misfiling emails or Documents
   - Reduced Risk of Errors
Virtual Proceedings 4.0 (2012)

1. Basic Requirements:
   - Internet connection
   - Free add-ons required
   - Web-cam

2. Meeting Invitations Sent by Email
3. Participants Join in a Click / Mobile-Friendly
4. Document Sharing for References to Evidence
5. Toll-Free Numbers from 60+ Countries
First Case 100% by Videoconference (2016)

CCES v. Barber

CCES
Guelph / Montreal / Ottawa

Athlete
Texas

Lawyer
Maine

Expert
witness
France

Arbitrator
Ottawa

SDRCC
Montreal / Montebello

Material
witness
Edmonton

COC
Brazil

Athletics
Canada
Ottawa
Technology-enabled DR to render faster and more affordable results

Not to replace the DR Professionals to make them better

Carbon footprint
Disadvantages / Ethical Considerations

1. Mediator/arbitrator needs to develop new skills
   - Master technology
   - Adapt practice

2. Less control of remote environment
   - Distractions / disruptions
   - Unknown presence of others

3. Security / confidentiality matters
   - Important to choose proper tools
   - Always keep security top-of-mind
Questions?

www.sdrcc.ca /
www.crdsc.ca