

Roadblocks to Effective C2C Dispute Resolution		
Barriers to negotiations and areas for Improvement	Concerns and difficulties	Recommendations/options for C2C
1) Difficult or conflicted negotiations	<ul style="list-style-type: none"> <li>• Highly competitive nature of industry</li> <li>• Different negotiation approaches</li> <li>• Win-lose approaches</li> <li>• Imbalance of power</li> <li>• Low trust, high scepticism</li> <li>• Right issues – wrong approach</li> <li>• Concern about unknown new process</li> </ul>	<p>Recognize there may be more effective approaches to negotiations and dispute resolution:</p> <ul style="list-style-type: none"> <li>• Support early face-to-face assessment and planning meeting (PADR/SAM)</li> <li>• Explore options as early as possible (PADR/SAM)</li> <li>• Improve understanding of available tools and techniques</li> <li>• Support revisiting the balance between collaboration and competition</li> <li>• Realistic cost-benefit information</li> <li>• Recommend improvements to JP 90/95</li> </ul>
2) Expectations placed on negotiators to be skilled and to produce results	<ul style="list-style-type: none"> <li>• Frustration with positions</li> <li>• No communication – no response</li> <li>• Time – need quick results</li> <li>• Pride and being right</li> <li>• Refusal to meet face to face</li> </ul>	<p>Be more receptive to an open dialogue with other parties:</p> <ul style="list-style-type: none"> <li>• Encourage interest-based approaches</li> <li>• Encourage early assessment and planning</li> <li>• Offer training and coaching</li> <li>• Encourage face-to-face meetings</li> </ul>
3) Nondisclosure of information or simple lack of data or information	<ul style="list-style-type: none"> <li>• Withholding information</li> <li>• Must not give up my advantage</li> <li>• Cost to obtain</li> <li>• Battle of experts</li> <li>• Questionable application of JP 90/95</li> </ul>	<p>More complete information is shared between the parties:</p> <ul style="list-style-type: none"> <li>• Encourage early disclosure</li> <li>• Assess what, how, and when for info exchange as early as possible</li> <li>• Raise and deal with issues of trust</li> <li>• Encourage appropriate use of JP 90/95 tools</li> <li>• Recommendations on how EUB can support early info exchange</li> </ul>
4) Positional correspondence-based communication	<ul style="list-style-type: none"> <li>• Need to document everything</li> <li>• Need to know other sides</li> <li>• Memo haven</li> <li>• No face-to-face communication</li> <li>• Unable to get at the real issues</li> </ul>	<p>Open and effective communications:</p> <ul style="list-style-type: none"> <li>• Industry adopt new contractual clauses</li> <li>• Create new precedents and guides</li> <li>• Encourage early face-to-face meetings to at least assess and plan (PADR/SAM)</li> </ul>

5) Delays and lengthy timelines	<ul style="list-style-type: none"> <li>• Use to delay process</li> <li>• Failure to respond or engage</li> <li>• Use as a tactic</li> <li>• Delay hurts applicant</li> <li>• Need fair system</li> </ul>	<p><b>Shorter timelines and limit delays:</b></p> <ul style="list-style-type: none"> <li>• Industry adopt guidelines for timelines</li> <li>• EUB set tighter timelines</li> <li>• Introduce cost impacts for delay tactics</li> <li>• Deal within contracts</li> </ul>
6) Decision-makers reluctant to engage	<ul style="list-style-type: none"> <li>• How to get real authority</li> <li>• Are long-term relationships important?</li> <li>• Need to get at real issues</li> <li>• Negotiation tactic</li> </ul>	<p>Involve decision-makers in the negotiations:</p> <ul style="list-style-type: none"> <li>• Recommend changes to contractual provisions</li> <li>• Recommend guidelines on who should attend</li> <li>• Use ADR professionals to get parties to engage</li> <li>• EUB clarify who should participate in PADR</li> </ul>
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7) Resistance to meet face to face and understand other parties' concerns	<ul style="list-style-type: none"> <li>• One party has no compelling reason to engage</li> <li>• Product of competitive industry</li> <li>• Parties have rights</li> <li>• How to get to an informed decision</li> <li>• Need support from champions</li> </ul>	<p>Willing to meet face to face and to engage:</p> <ul style="list-style-type: none"> <li>• Recommend at least a PADR/SAM meeting face to face</li> <li>• Put out clear descriptions of PADR/SAM meetings</li> <li>• Legitimize the informed "No" as an acceptable result</li> <li>• EUB set guidelines for initial meeting</li> </ul>
8) Limited understanding of ADR opportunities and how to use various tools and techniques, including the EUB ADR process	<ul style="list-style-type: none"> <li>• Want at least informed choice</li> <li>• Need credible information</li> <li>• See value of third-party help</li> <li>• Cost-benefit info needed</li> <li>• Industry association leadership</li> </ul>	<p><b>Companies aware of ADR options and what to consider in dispute resolution:</b></p> <ul style="list-style-type: none"> <li>• Offer roundtable opportunities to industry</li> <li>• Support training and coaching</li> <li>• Create tool box with clear information packages about tools and techniques</li> <li>• Explain when and how to use ADR tools</li> <li>• Create cost-benefit analysis</li> </ul>
9) EUB regulatory process may be	<ul style="list-style-type: none"> <li>• Frivolous objections</li> </ul>	EUB regulatory process more responsive and supportive of

<p>abused and must be more responsive to frivolous objections</p>	<ul style="list-style-type: none"><li>• Unnecessary applications</li><li>• Perceived abuse and tactics</li><li>• Cost penalties</li><li>• Need fast track decisions</li><li>• Set deadlines</li></ul>	<p>timely and effective ADR:</p> <ul style="list-style-type: none"><li>• Changes to EUB regulatory processes including timelines and deadlines for ADR and a hearing, early dismissal, cost awards</li><li>• Consider ongoing working groups to address concerns</li></ul>
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