

**BIS** | Department for Business  
Innovation & Skills

**CALL FOR EVIDENCE**

On EU proposals on Alternative  
Dispute Resolution (ADR)

DECEMBER 2011

# Contents

1. Executive Summary .....	4
2. How to respond.....	5
3. Confidentiality & Data Protection .....	6
4. Help with queries .....	6
5. Details of the EU proposals .....	7
6. What happens next? .....	13
Annex A: European Commission quantitative estimates of impacts.....	14
Annex B: Costs and benefits of the draft Directive .....	15
Annex C: Costs and benefits of the draft Regulation .....	17
Annex D: List of Call for Evidence question.....	18
Annex E: List of Individuals/Organisations approached.....	19

# Call for Evidence: EU proposals on Alternative Dispute Resolution

On 29 November 2011 the European Commission published a draft Directive on alternative dispute resolution for consumer disputes (Directive on consumer ADR) and a draft Regulation on online dispute resolution for consumer disputes (Regulation on consumer ODR). Together with these legislative proposals the European Commission published a Communication on Alternative Dispute Resolution for consumer disputes in the Single Market. Copies of the documents can be found on the following website:

[http://ec.europa.eu/consumers/redress\\_cons/adr\\_policy\\_work\\_en.htm](http://ec.europa.eu/consumers/redress_cons/adr_policy_work_en.htm)

In summary, the Commission argue that all EU consumers should be able to solve their problems without going to court, regardless of the kind of product or service that the contractual dispute is about and regardless of where they bought it in the European Single Market. In addition, for consumers shopping online and from another EU country, the Commission want to create an EU-wide single online platform which will allow contractual disputes to be solved entirely online and within 30 days.

Enabling consumers to have greater confidence that things will be put right if something goes wrong when they make a purchase should mean that they are more likely to shop with unfamiliar traders and this should drive competition and growth.

This call for evidence seeks views from stakeholders on the impacts of the legislative proposals on the UK. Responses will help to form the UK negotiating position. It should be noted that EU negotiations have already commenced and therefore stakeholder views would be welcome as soon as possible.

Issued: 21 December 2011

Respond by: 31 January 2012

Enquiries to:

Dr Heidi Munn  
Consumer and Competition Policy  
Department for Business, Innovation and Skills  
3<sup>rd</sup> Floor, Victoria 1  
1 Victoria Street  
London SW1H 0ET

Tel: 020 7215 5111

Fax: 020 7215 0357

Email: [Heidi.Munn@bis.gsi.gov.uk](mailto:Heidi.Munn@bis.gsi.gov.uk)

This Call for Evidence is relevant to: UK consumer organisations, business organisations and organisations that provide consumer dispute resolution services, e.g. ombudsmen.

## 1. Executive Summary

1. This Call for Evidence seeks views from UK stakeholders on recent proposals from the European Commission on consumer alternative dispute resolution. The proposals are likely to impact consumers, businesses and organisations that currently provide alternative dispute resolution services. Views are sought on the likely scale of these impacts. Views received will help form the UK's negotiating position.
2. Alternative dispute resolution (ADR) refers to schemes that are available to help complainants resolve their disputes out of court. The most common forms are mediation, where an independent third party helps the disputing parties to come to a mutually acceptable outcome, and arbitration where an independent third party considers the facts and takes a decision. Often this decision is binding on one or other of the parties. Ombudsman schemes are another widely recognised form of ADR. ADR can offer a low-cost and fast alternative for consumers and businesses seeking to resolve disputes, which they cannot resolve between themselves. Where ADR procedures are completed entirely online this is referred to as online dispute resolution (ODR).
3. On 29 November 2011 the European Commission published a Communication on Alternative Dispute Resolution for consumer disputes in the Single Market alongside legislative proposals for a draft Directive on ADR and a draft Regulation on ODR. Copies of these proposals can be found on the following website:

[http://ec.europa.eu/consumers/redress\\_cons/adr\\_policy\\_work\\_en.htm](http://ec.europa.eu/consumers/redress_cons/adr_policy_work_en.htm)

4. The Commission claim that the proposed draft Directive will ensure that quality ADR schemes exist to deal with contractual disputes arising from the sale of goods and the provision of services by traders across the EU. The draft Regulation will enable consumers and traders to access directly an online dispute resolution platform (ODR platform) which will help to resolve contractual disputes arising from cross-border online transactions through the intervention of an ADR scheme complying with the Directive.

## 2. How to respond

5. When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the Call for Evidence response form and, where applicable, by indicating how the views of members were assembled.
6. If you are responding on behalf of an organisation that offers consumer dispute resolution services (an ADR provider) please provide as much information as you can on the services that you provide, as indicated on the Call for Evidence response form.
7. A copy of the Call for Evidence response form is available electronically at:  
<http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/c/11-1372rf-call-for-evidence-eu-proposals-dispute-resolution-form>

8. Responses can be submitted by letter, fax or email to:

Dr Heidi Munn  
Consumer and Competition Policy  
Department for Business, Innovation and Skills  
3<sup>rd</sup> Floor, Victoria 1  
1 Victoria Street  
London SW1H 0ET

Tel: 020 7215 5111  
Fax: 020 7215 0357  
Email: [Heidi.Munn@bis.gsi.gov.uk](mailto:Heidi.Munn@bis.gsi.gov.uk)

9. Responses would be welcomed as soon as possible in order to inform ongoing EU negotiations and, at the latest, by the end of January 2012. Please state clearly in your response if you wish any or all of it to be kept confidential.
10. A list of those organisations and individuals who have received a copy of this Call for Evidence is in Annex E.
11. You may make copies of this document without seeking permission. An electronic version can be found at:  
<http://www.bis.gov.uk/consultations>

### 3. Confidentiality & Data Protection

12. Information provided in response to this Call for Evidence, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
13. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

### 4. Help with queries

14. Questions about the issues raised in the document can be addressed to:

Dr Heidi Munn  
Consumer and Competition Policy  
Department for Business, Innovation and Skills  
3<sup>rd</sup> Floor, Victoria 1  
1 Victoria Street  
London SW1H 0ET

Tel: 020 7215 5111  
Fax: 020 7215 0357  
Email: [Heidi.Munn@bis.gsi.gov.uk](mailto:Heidi.Munn@bis.gsi.gov.uk)

## 5. Details of the EU proposals

### Introduction

15. On 29 November 2011 the European Commission published a Communication on Alternative Dispute Resolution (ADR) for consumer disputes in the Single Market alongside legislative proposals for a draft Directive on consumer ADR and a draft Regulation on Online Dispute Resolution (ODR). This Call for Evidence seeks views from UK stakeholders on these proposals. Copies of the European Commission publications can be found at:  
[http://ec.europa.eu/consumers/redress\\_cons/adr\\_policy\\_work\\_en.htm](http://ec.europa.eu/consumers/redress_cons/adr_policy_work_en.htm)
16. The main aim of the proposed legislation to improve the functioning of the retail internal market and, more particularly, to enhance redress for consumers. The Commission argue in their accompanying Communication and Executive Summary of the Impact Assessment that in order to develop the full potential of the Single Market, legislative action is needed to ensure that every consumer in the EU has access to alternative dispute resolution in the event of a contractual dispute.
17. Alternative dispute resolution refers to schemes that are available to help complainants resolve their disputes out of court. The most common forms are mediation, where an independent third party helps the disputing parties to come to a mutually acceptable outcome, and arbitration where an independent third party considers the facts and takes a decision. Often this decision is binding on one or other of the parties. Ombudsman schemes are another widely recognised form of ADR. ADR can offer a low-cost and fast alternative for consumers and businesses seeking to resolve disputes, which they cannot resolve between themselves.
18. The Commission claim that the diversity and uneven geographical and sectoral availability of ADR in the EU prevents consumers and business from fully exploiting their potential. Problems with purchased goods or services therefore often go unresolved, meaning that consumers are not obtaining adequate redress. In particular, the Commission argue that consumers are currently reluctant to buy cross-border because they are worried about what will happen if they have a problem with the transaction. Faced with the complexity of the laws governing their disputes, consumers are frequently not convinced that going to court will offer them a viable solution.
19. The Commission suggests that one way to improve redress in the internal market is to improve the availability and make further use of ADR. They believe that this can best be achieved through two separate legal instruments: (i) a draft Directive on consumer ADR which will ensure that quality ADR schemes exist to deal with contractual disputes arising from the sale of goods and the provision of services by traders; and (ii) a draft Regulation on consumer ODR (Online Dispute Resolution) which will enable consumers and traders to access directly an online platform which will help to resolve contractual disputes arising from cross-border online transactions through the intervention of an ADR scheme complying with the Directive.
20. The proposed Directive will need to be implemented by Member States; the proposed Regulation will be directly applicable in UK law when it comes into force (in other words,

it will be binding without the need for domestic legislation). A summary of the key elements of these two legislative proposals are given below.

21. The proposals are accompanied by a Commission Communication which provides the background and rationale for the two proposals together with an Executive Summary of the Commission's Impact Assessment. Although not published on the European Commission website, the Commission has circulated to Member States the full version of their Impact Assessment. An electronic copy of this document can be emailed on request. A summary of the key quantitative estimates in the Commission's Impact Assessment is given in Annex A.

**Question 1: What are your views on the key estimates the European Commission make in their Impact Assessment which are summarised in Annex A? Overall do you think that the Commission's proposals will lead to their anticipated benefits for consumers, business and the Single Market?**

22. A qualitative discussion on the estimated impacts to the UK of the draft Directive and draft Regulation is provided at Annex B and C respectively.

**Question 2: Can you provide any evidence to quantify the costs and benefits to the UK described in Annex B and Annex C and/or provide details of any additional costs or benefits?**

23. One issue that is not mentioned in the Commission proposals is the ability of many consumers to obtain redress through their card issuer if they make a transaction using a credit or debit card. For purchases of over £100 but less than £30,000 on credit cards, UK consumers can make use of the statutory provisions in Section 75 of the 1974 Consumer Credit Act. These provisions make the card company "jointly and severally liable" for any breach of contract or misrepresentation by the company selling the goods. This means it is equally responsible along with the trader for the goods or services purchased, and therefore a consumer can put any claim against the trader directly to the credit card company, and can obtain a refund.
24. In addition to these provisions, the card industry has a global voluntary scheme known as "chargeback" which applies to almost all Visa and Mastercard credit and debit card purchases. Under "chargeback" consumers can ask their card provider to reverse a card transaction if the consumer alleges that there is a problem with the goods they have purchased. The card issuer generally provides the consumer with their money back while they investigate the problem. If the card issuer believes the allegation to be unfounded, it can re-charge the consumer. Or, if it finds the trader to be at fault it can oblige the trader to pay.

**Question 3: Do you think that the "chargeback" process and/or processes used to resolve claims made under Section 75 of the Consumer Credit Act should be considered as a form of ADR? If not, do you think consumers would (or should) be more likely to use "chargeback" or make claims under Section 75 of the Consumer Credit Act where this is available, rather than using ADR to resolve a dispute? Why?**



## Summary of the key proposals in the draft Directive on ADR

25. The proposed Directive would require Member States to ensure that disputes covered by the Directive can be submitted to an ADR scheme (the proposal calls it an 'ADR entity') which complies with the requirements set out in the Directive (Article 5). The scope of the Directive is any contractual dispute arising from the sale of goods or provision of services by a trader established in the Union to a consumer resident in the Union (Article 2.1).

26. ADR schemes covered by the proposed Directive would include any scheme, however named or referred to, which is established on a durable basis which proposes or imposes a solution to such disputes or brings parties together with the aim of facilitating an amicable solution (Articles 2 and 4(e)). ADR schemes where the person in charge is employed by the trader, consumer complaint handling systems operated by the trader and direct negotiation between the consumer and the trader would not be in scope (Article 2.2).

**Question 4: What do you think of the proposed scope of the Directive? Where do you think there are gaps, if any, in the provision of ADR currently in the UK? Can you provide any estimates on how much public subsidy, if any, would be required to ensure ADR of the required standards is available for all consumer disputes?**

27. The Directive would require every ADR scheme that wishes to be considered as such under the Directive to demonstrate that it meets certain detailed criteria relating to the basic principles of impartiality, transparency, effectiveness and fairness (Articles 6-9). These requirements build on the core quality criteria the Commission adopted in its Recommendations on ADR of 1998<sup>1</sup> and 2001<sup>2</sup>. Examples of specific requirements are:

- Making publicly available information about its governance, funding and practical aspects of its procedures (Article 7.1)
- Making publicly available annual reports on the number of disputes received, number of disputes resolved, the average time taken and the rate of compliance, if known (Article 7.2)
- Ensuring the procedures are free of charge or at moderate costs for consumers (Article 8c)
- Ensuring disputes can be resolved within 90 days, with an extension possible for complex disputes (Article 8d)

---

<sup>1</sup> Commission Recommendation 98/257/EC

<sup>2</sup> Commission Recommendation 2001/310/EC

28. In addition, under Article 5, ADR schemes would have to:

- Have a website enabling the parties to submit a complaint online;
- Enable the parties to exchange information with them via electronic means;
- Accept both domestic and cross-border disputes; and
- Ensure their processing of personal data complies with relevant rules

29. ADR schemes would also be required to co-operate with other bodies, e.g. any EU network of similar ADR schemes (Article 13) and relevant national enforcement authorities (Article 14).

30. The Directive would also require Member States to designate a Competent Authority in charge of monitoring the functioning and development of ADR schemes established on its territory (Article 15). Member States would also have to ensure that ADR schemes established on their territory provide the Competent Authority with certain information. On a one-off basis ADR schemes would have to provide, for example, details of their rules of procedure and fees and a self-assessment against the requirements for ADR schemes laid down in the Directive (Article 16.1). At least on an annual basis ADR schemes would have to provide details of, for example, the number of disputes received, the average time taken to resolve the disputes received and a self-assessment of the effectiveness of the ADR procedure it offers (Article 16.2).

**Question 5: What do you think of the standards/requirements for ADR providers that are proposed by the EU? If you are an ADR provider can you currently demonstrate that you meet them? If not, why not? Would you be willing to develop your scheme so it could meet these standards? If so, what might this cost you? Are there any standards that you think are not appropriate or not required? Are any missing? Can you see any potential for UK ADR providers to provide their services to non-UK businesses?**

31. The Competent Authority would be required to maintain an up-to-date list of ADR schemes that exist in the territory for which it is responsible which, on the basis of self-assessment, meet the required standards (Article 17.2). The Competent Authority would also be required to publish a report every 2 years on the development and functioning of ADR in its territory, including on best practices and on any gaps in coverage (Article 17.5).

**Question 6: What do you think about the proposed role of the Competent Authority? What kind of organisation do you think could be a suitable Competent Authority for the UK? Can you suggest an existing organisation that you think would be well-placed to take on this role? How much do you think it would cost to fulfil this role?**

32. The Directive would require ADR schemes, consumer associations, business associations and the UK European Consumer Centre to make publicly available at their premises and on their websites the list of ADR schemes published by the Competent Authority (Article 12).
33. In order to increase awareness of ADR schemes, the Directive would require all businesses to inform consumers about an ADR scheme that meets the standards of the Directive and which is competent to deal with potential contractual disputes between themselves and consumers (Article 10.1). Businesses would also have to specify whether or not they commit to use the scheme should a dispute arise. Businesses would have to do this on their website (if they have one), in their general Terms and Conditions and in relevant invoices and receipts (Article 10.2). Businesses would also have to specify how further information on the ADR scheme concerned can be obtained (Article 10.2). The proposed Directive states that these information requirements are without prejudice to the requirements on information provision in the existing Consumer Rights Directive (2011/83/EU) concerning distance and off-premises selling (Article 10.3).

**Question 7: Do you think that consumers would change their behaviour if businesses were required to inform consumers about an ADR scheme and/or whether they would participate in ADR? What evidence do you have to support this view?**

**Question 8: What would be the costs to business of providing these additional information requirements to consumers? How could these impacts be lessened for all businesses and, in particular, for small or medium businesses?**

34. The Directive does not require businesses to be bound by the outcomes of any ADR procedure but it also is without prejudice to any national rules making the participation of traders in such procedures mandatory or their outcome binding on traders (Recital 23).
35. Finally, the Directive would also require Member States to ensure that consumers can obtain assistance with regard to a dispute relating to cross-border sales of goods or provision of services (Article 11). It is suggested that this could be carried out by the centres of the European Consumer Centre Network or a consumer association or another body.

**Question 9: Do you have any other comments on the proposed Directive?**

### Summary of the key proposals in the draft Regulation on ODR

36. Under Article 5 of the proposed Regulation the European Commission would be required to establish a European Online Dispute Resolution platform (ODR platform). This would be an interactive website which can be accessed electronically and free of charge in all official languages of the Union. It would be a single point of entry to consumers and traders seeking the out-of-court resolution of contractual disputes arising from the cross-border online sale of goods or provision of services between consumers and traders (Article 2).

37. The ODR platform would have the following functions:

- Providing an electronic form on which details of the complaint would be made (Article 7 and Annex)
- Propose to the parties involved in the dispute, one or more competent ADR schemes and provide information on the fees, languages and processes used by those schemes (Article 5.3b, 7.3 and 8)
- Refer complaints to a competent ADR scheme if both parties to the dispute agree to use it (Article 8.5)
- Enabling the parties and the ADR scheme to conduct the dispute resolution procedure online (Article 5.3d)

38. Article 8.6 of the proposed Regulation explains that if the parties agree on more than one ADR scheme the consumer would select the one to be used. However, Article 8.4 of the proposed Regulation also makes it clear that where the parties fail to reply to the ODR platform or to agree on one competent ADR scheme, the complaint would not be processed further. Rather, the consumer would be informed of the possibility of contacting an ODR facilitator for information on other means of obtaining redress.

39. At least two ODR facilitators would exist in every Member State in a contact point designated by Member States (Article 6). The contact point may be the centres of the European Consumer Centre Network. The ODR facilitators would, if necessary, facilitate communication between the parties and the ADR scheme resolving the dispute and inform the parties of the advantages and disadvantages of the procedures applied by the proposed ADR schemes. They would also submit an annual activity report to Member States and the Commission and attend annual meetings with colleagues from other Member States to permit an exchange of best practice and a discussion of any recurring problems with the ODR platform.

40. If a dispute is transmitted by the ODR platform to an ADR scheme then under Article 9 the ADR scheme would be required to:

- Without delay notify the parties of the dispute and inform them of any fees applicable and of their rules of procedure
- Accomplish the conclusion of the dispute resolution procedure within 30 days from when the proceedings have been instituted (although this can be extended by the ADR scheme in the case of complex disputes)
- Without delay transmit certain information to the ODR platform, e.g. the date of notifying the dispute to the parties and the date of conclusion and result of the procedure

41. The Commission would take all the necessary measures to establish and maintain an electronic database to store the information the ODR platform receives (Article 10).

42. In order to increase awareness of ADR schemes, the Regulation would require all businesses engaging in the cross-border online sale of goods or provision of services to inform consumers about the ODR platform and about their e-mail address (Article 13.1). This information would have to be easily, directly, prominently and permanently accessible on the traders' websites and, if the offer is made by e-mail or another textual message transmitted by electronic means, in that message. The information would also have to include an electronic link to the ODR platform's homepage. Businesses would also have to inform consumers about the ODR platform when the consumer submits a complaint. The proposed Regulation states that these information requirements are without prejudice to the requirements on information provision in the proposed Directive on ADR (Article 13.2) and in existing Consumer Rights Directive (2011/83/EU) concerning distance and off-premises selling (Article 13.3).

**Question 10: What do you think about the proposals in the ODR Regulation? What would be the costs/benefits of the ODR platform and facilitators to consumers, businesses and ADR providers? Would ADR providers be able to meet the 30-day deadline for concluding cross-border disputes? What would be the costs to business of these additional reporting requirements? Might these requirements mean business is more reluctant to trade online and cross-border?**

## 6. What happens next?

43. Responses to this Call for Evidence will inform the UK's negotiating position in EU negotiations. A consultation on how the UK will implement any finalised EU legislation will be launched in due course.

## Annex A: European Commission quantitative estimates of impacts

### Summary of key estimates in the Commission's Impact Assessment

- The Commission estimate the savings to EU consumers if quality ADR is available would be around 0.17% of EU GDP or 20 billion euros (about £17 billion<sup>3</sup>). This estimate is based on survey results on the number of problems encountered by consumers in an average year and scaling up to the total number of EU citizens over 15 years of age. One of the factors used in this calculation is an estimate by consumers that the average loss per case is around 300 euros (about £250). Another factor is the average number of problems per person per year, which is estimated at 1.75.
- The Commission estimate the savings to EU consumers if ODR for cross-border e-commerce transactions is available of 0.02% of GDP or 2.5 billion euros (about £2 billion). This estimate is based on combining the results of a mystery shopping evaluation into the possible savings consumers can make by buying products on the internet with survey responses giving the number of consumers who do not currently engage in cross-border e-commerce because they are concerned about the resolution of any problem.
- The Commission also estimate that the benefits to business by using ADR instead of going to court are between 1.7 and 3 billion euros (£1.5 to £2.5 billion) and around 258 days per annum. These estimates are made by assuming average costs of ADR as opposed to court action and likely scenarios on the ADR resolving the dispute before court action is needed. These estimates are based on what the Commission claim to be a conservative estimate of the ADR system dealing with 500,000 new cases.
- In its impact assessment the Commission acknowledge that the information requirements placed on all businesses will lead to costs. They estimate that these costs will be around 254 euros (about £217) per business or 771 million euros (about £660 million) in total. These estimates were based on 22 in-depth interviews with business to estimate the time it would take a business to implement the proposed requirements. The outcome was then combined with average labour costs and scaled this to the total number of businesses that would be affected in the EU.

---

<sup>3</sup> The exchange rate used is £1 = 1.1685 Euro (1 Euro = £0.8558)

## Annex B: Costs and benefits of the draft Directive

### BENEFITS

Consistent standards used by ADR providers would lead to a level-playing field. They would probably also increase consumer/business confidence in using ADR to seek to resolve disputes but this depends on views of the standards.

More widespread coverage of ADR combined with greater awareness by consumers should lead to greater use of ADR. If ADR is used more widely this should result in:

- (i) fewer consumer disputes ending up in court
- (ii) greater levels of redress for those consumers who would be willing to go to ADR but not willing to go to court if they have a problem with a purchase that they have made
- (iii) increased consumer confidence that if things go wrong they will be put right which should lead to greater confidence in shopping cross-border and with unfamiliar suppliers. Increased confidence should lead to increased consumer demand which, in turn, should drive increased growth and competition.

Quantifying the above benefits is very difficult but more information should be available on, for example, the number of consumer disputes in the UK that currently end up in the Small Claims Court, in the next couple of months through some ongoing research. There does not appear to be any research that shows a direct link between the availability of effective ADR and increased confidence levels of consumers but this is plausible.

There may be benefits to private sector ADR providers in the UK if they are able to sell their services to businesses in other Member States as part of helping other Member States to fulfil their obligations under the Directive.

### COSTS

Businesses that currently avoid paying redress to consumers because consumers are unwilling to go to court may end up paying more redress. (This would be a transfer of costs from consumers to business and is a parallel to the benefit to consumers listed above.) It is difficult to estimate this cost but information should be available on the number of UK consumer complaints that currently go unresolved in the next couple of months through some ongoing research.

All businesses that sell goods or services to consumers will need to provide information to consumers about ADR schemes by which they are covered and which are competent to deal with potential disputes between themselves and consumers. Businesses will also need to specify whether or not they commit to use these schemes to resolve disputes with consumers. This information shall be mentioned on the trader's website, in its general Terms & Conditions and in invoices and receipts. This is likely to be a one-off cost to businesses. Such one-off costs have a proportionately higher impact on micro and small businesses.

If it is decided that the current level of ADR provision of the required standards in the UK does not meet the coverage required by this Directive then this may lead to costs to both business

and public funds in order to “fill the gaps”. It is difficult to estimate these costs until the scale of any “gaps” is determined.

The proposals require Member States to designate a Competent Authority to accredit, monitor and report on the effectiveness and functioning of ADR schemes. This is likely to lead to costs to public funds and, if the Competent Authority is allowed to charge fees, to ADR providers (who are likely to pass this on to business).

Public funds may only be needed in the short-term as it may be possible for the Competent Authority to recover its costs through fees.

Existing ADR providers will need to demonstrate that they meet the required standards if they want to be considered an “ADR scheme” for the purposes of the legislation. These standards include the ability to handle disputes online and to conclude the dispute in a certain amount of time. This may require upgrades to systems/processes and fees to the Competent Authority.

ADR providers, consumer associations and business associations and the UK European Consumer Centre will be required to make publicly available at their premises and on their websites the list of “accredited” ADR schemes produced by the Competent Authority. This is likely to be a small one-off cost.



## Annex C: Costs and benefits of the draft Regulation

### BENEFITS

The Commission claim that the existence of the ODR platform and the signposting to it by traders will lead to benefits to consumers by making it easier for consumers to resolve online cross-border disputes that they have with traders. However, if traders already have to provide consumers with information about the ADR scheme by which they are covered then it is hard to see what added benefit the ODR platform offers.

### COSTS

The European Commission will need to establish the ODR platform.

At least two online dispute resolution facilitators will be required in the UK to form a network of online dispute resolution facilitators. The staffing costs of these facilitators will need to be met, probably from public funds but as these could be located within an existing body (the UK European Consumer Centre) these costs are likely to be small.

ADR schemes will need to provide certain information to the ODR platform, including the date of receipt, date of notification of the dispute to the parties and the date of the conclusion of the dispute and the result of the procedure. This information is to be provided electronically so it is unlikely to lead to large costs.

If the disputing parties agree on an ADR scheme then that scheme will be required to accomplish the conclusion of the dispute resolution procedure within 30 days. This may lead to some costs to some UK ADR providers.

All businesses that sell goods or services to consumers online and cross-border will need to inform consumers about the ODR platform both through their websites and when a consumer submits a complaint. This is likely to be a one-off cost to businesses. Such one-off costs have a proportionately higher impact on micro and small businesses.

If businesses view this as an increase to the cost of selling cross-border then some businesses may stop selling in this manner and other businesses may decide not to start doing so.

## Annex D: List of Call for Evidence question

**Question 1:** What are your views on the key estimates the European Commission make in their Impact Assessment which are summarised in Annex A? Overall do you think that the Commission's proposals will lead to their anticipated benefits for consumers, business and the Single Market?

**Question 2:** Can you provide any evidence to quantify the costs and benefits to the UK described in Annex B and Annex C and/or provide details of any additional costs or benefits?

**Question 3:** Do you think that the “chargeback” process and/or processes used to resolve claims made under Section 75 of the Consumer Credit Act should be considered as a form of ADR? If not, do you think consumers would (or should) be more likely to use “chargeback” or make claims under Section 75 of the Consumer Credit Act where this is available, rather than using ADR to resolve a dispute? Why?

**Question 4:** What do you think of the proposed scope of the Directive? Where do you think there are gaps, if any, in the provision of ADR currently in the UK? Can you provide any estimates on how much public subsidy, if any, would be required to ensure ADR of the required standards is available for all consumer disputes?

**Question 5:** What do you think of the standards/requirements for ADR providers that are proposed by the EU? If you are an ADR provider can you currently demonstrate that you meet them? If not, why not? Would you be willing to develop your scheme so it could meet these standards? If so, what might this cost you? Are there any standards that you think are not appropriate or not required? Are any missing? Can you see any potential for UK ADR providers to provide their services to non-UK businesses?

**Question 6:** What do you think about the proposed role of the Competent Authority? What kind of organisation do you think could be a suitable Competent Authority for the UK? Can you suggest an existing organisation that you think would be well-placed to take on this role? How much do you think it would cost to fulfil this role?

**Question 7:** Do you think that consumers would change their behaviour if businesses were required to inform consumers about an ADR scheme and/or whether they would participate in ADR? What evidence do you have to support this view?

**Question 8:** What would be the costs to business of providing these additional information requirements to consumers? How could these impacts be lessened for all businesses and, in particular, for small or medium businesses?

**Question 9:** Do you have any other comments on the proposed Directive?

**Question 10:** What do you think about the proposals in the ODR Regulation? What would be the costs/benefits of the ODR platform and facilitators to consumers, businesses and ADR providers? Would ADR providers be able to meet the 30-day deadline for concluding cross-border disputes? What would be the costs to business of these additional reporting requirements? Might these requirements mean business is more reluctant to trade online and cross-border?

## **Annex E: List of Individuals/Organisations approached**

### **Consumer bodies**

Citizens Advice

Citizens Advice Scotland

Citizens Advice Northern Ireland

Consumer Council for Northern Ireland

Consumer Direct

Consumer Focus

Consumer Focus Scotland

Consumer Focus Wales

Consumer Focus Post (Northern Ireland)

UK European Consumer Centre

Which?

### **Business organisations**

BCC

BRC

British Standards Institute

BUS USERS UK Cymru

CBI

European Justice Forum

FSB

IMRG

Institute of Directors

The Wales Social Partners Unit

Scottish Council for Development and Industry

UK Cards Association

## **Regulators**

Ofcom

Ofgem

Ofwat

FSA

OFT

TSI

Advertising Standards Agency

Care Quality Commission

The Gambling Commission

Claims management Regulator

Office of Rail Regulation (ORR)

Northern Ireland Authority for Utility Regulation (NIAUR)

## **ADR academics**

Prof Christopher Hodges, Centre for Socio-Legal Studies, University of Oxford

Prof Julia Hornle, Queen Mary University of London School of Law

## **UK ADR providers or trade associations of ADR providers**

### **Name of Organisation**

ABTA

Antiquarian Booksellers Association

Association of British Introduction Agencies

Association of Chartered Certified Accountants (ACCA)

Association of Civil Enforcement Agencies (ACEA)

Association of Manufacturers of Domestic Appliances

Association of Master Upholsterers and Soft Furnishers

Association of Plumbing and Heating Contractors  
Association of Residential Letting Agents (ARLA)  
Bar Standards Board  
British and Irish Ombudsman Association  
British Antique Dealers' Association  
British Association of Removers (BAR)  
British Healthcare Trades Association  
British Vehicle Rental and Leasing Association (BVRLA)  
Bus Appeals Body  
Carpet Foundation  
Catalyst Mediation  
CEDR  
Chartered Institute of Arbitrators  
Chartered Institute of Arbitrators Scotland  
Chartered Institute of Architectural Technologists  
Chartered Institute of Plumbing and Heating Engineering  
Chartered Institute of Public Finance and Accountancy  
Civil Aviation Authority  
Civil Mediation Council  
Communications and Internet Services Adjudication Scheme (CISAS)  
Communications Providers Independent ADR Service  
Comptia  
Confederation of Roofing Contractors  
Consumer Code for Home Builders  
Consumer Council for Northern Ireland  
Consumer Council for Water  
Consumer Credit Association UK  
Core Solutions Group  
Credit Services Association

Debt Managers Standards Association (DEMSA)

Dental Complaints Service

Dep Pro Service

Direct Selling Association

Dispute Service Ltd (Tenancy Deposit Scheme)

Domestic Appliances Services Association

Double Glazing and Conservatory Ombudsman Scheme

Energy Adjudication Service

Estate Planning Arbitration Scheme

Faculty of Advocates

Federation of Master Builders

Finance and Leasing Association Conciliation and Arbitration Scheme (FLA)

Financial Ombudsman Services

Glass and Glazing Federation

Housing Ombudsman Service

Independent Betting and Adjudication Service

Independent Panel for Bingo Arbitration

Independent Panel for Casino Arbitration

Institute of Chartered Accountants

Institute of Chartered Accountants of Scotland

Institute of Legal Executives

Institute of Professional Willwriters

Institution of Civil Engineers

Internet Service Providers' Association (ISPA)

Internet Shopping is Safe (ISIS)

Kitchen Bathroom Bedroom Specialists Association

Law Society of Northern Ireland

Law Society of Scotland

Legal Complaints Service (Law Society)  
Legal Ombudsman (Office for Legal Complaints)  
Leisure and Outdoor Furniture Association  
Local Government Ombudsman  
London Travelwatch  
Motor Codes Ltd  
MultiService Association (Society of Master Shoe Repairers)  
National Caravan Council  
National Federation of Roofing Contractors  
National Guild of Removers & Stors  
NHBC  
Office of the Legal Services Ombudsman for England and Wales (Legal Services Ombudsman)  
Ombudsman Services  
Optical Consumer Complaints Service  
Painting and Decorating Association  
Passenger Focus  
Passengers' View Scotland (Bus Passengers' Platform)  
Pensions Ombudsman  
Petrol Retailers Association  
Postal Redress Service (POSTRS)  
Radio, Electrical and Television Retailers' Association (RETRA)  
Relationships Scotland  
Removals Industry Ombudsman Scheme  
Renewable Energy Association  
Resort Development Organisation  
Retail Motor Industry Federation  
Robert Bosch Ltd  
Royal Incorporation of Architects in Scotland  
Royal Institution of Chartered Surveyors

Safebuy

Scottish Agricultural Valuers and Arbiters Association

Scottish and Northern Ireland Plumbing Employers' Federation

Scottish Arbitration Centre

Scottish Community Mediation Centre

Scottish Decorators Federation

Scottish Legal Complaints Commission

Scottish Mediation Network

Scottish Motor Trade Association

Scottish Public Services Ombudsman

Tenancy Deposit Solutions Ltd (mydeposits)

Textile Services Association

The Furniture Ombudsman

The International Dispute Resolution Centre

The Property Ombudsman

Travel Trust Association

Vehicle Builders & Repairers Association Ltd (VBRA)



© Crown copyright 2011

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. Visit [www.nationalarchives.gov.uk/doc/open-government-licence](http://www.nationalarchives.gov.uk/doc/open-government-licence), write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

This publication is also available on our website at [www.bis.gov.uk](http://www.bis.gov.uk)

Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills  
1 Victoria Street  
London SW1H 0ET  
Tel: 020 7215 5000

If you require this publication in an alternative format, email [enquiries@bis.gsi.gov.uk](mailto:enquiries@bis.gsi.gov.uk), or call 020 7215 5000.

**URN 11/1372**