



The Consumer Voice in Europe

ALTERNATIVE DISPUTE RESOLUTION (ADR) & ONLINE DISPUTE RESOLUTION (ODR) OF CONSUMER DISPUTES

BEUC POSITION PAPER

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Summary

The foremost need is to establish a system which provides consumers with a fair, reliable, quick and inexpensive way of securing redress.

Accordingly, we believe **any ADR scheme should:**

- Be **limited** to complaints from consumers about traders;
- Be **independent** from the influence of industry;
- Base its outcomes on the principle of **legality**;
- Be **compulsory for traders** wherever practicable;
- Require decisions made by an ADR body to be **binding** unless any of the parties decide to continue to courts in the manner available under the provisions of a Member State. In some countries, only procedural appeals against ADR decisions are possible, in others, parties can ask for a full review of the decision – what is important is that a party has to be active and cannot just disregard the outcome of the ADR. Member States can allow non-binding ADR if such systems are long in place in that particular Member State and have proven to be working well;
- Be **free or at small cost for consumers**;
- Be **transparent about the outcomes** and the rate of compliance with them;
- Have a wider impact on the market by providing for **'guiding decisions'**.

Using ADR procedures should not prevent any of the parties from going to court, and so it is also important to ensure the suspension of **prescription/limitation periods**.

Should the system not become compulsory as BEUC recommends, the traders should **openly and clearly** communicate to consumers about their adherence (or not) to ADR schemes. This information should already be available to consumers at the **pre-contractual** stage of a transaction.

Competent bodies in the Member States should have a **clear duty to regularly check** compliance with the requirements and not rely on self-assessment of the ADR bodies.

With regarding to **ODR**, the name of the platform should make it clear to consumers what service it provides and therefore the emphasis should be on **information and referral**, particularly if traders are able to refuse to participate in the ODR process.

Alternative Dispute Resolution for consumer disputes – patchy landscape

Effective enforcement, including redress, is essential in ensuring that a high level of consumer protection is not just paid ‘lip service’ to and that consumers actually benefit from the rights afforded to them by European or national laws. As most people are discouraged from going to court over small or even medium value purchases¹, they are often left without a solution to their problem if an amicable settlement with a trader proves impossible. Alternative Dispute Resolution (ADR) mechanisms, leading to the settlement of a dispute via the intervention of a third **independent** party, can offer inexpensive and effective solutions to individual consumer disputes. As such, ADR is an important tool for consumer redress and its use should be promoted.

A range of different ADR bodies and systems have developed in Member States over the years. However, important gaps remain in terms of coverage, the standards the ADR bodies adhere to, consumer and industry awareness of the schemes and business compliance with the ADR decisions. The problem is aggravated in case of cross-border disputes.

The Commission initiative on ADR: a positive step, but does not achieve high standards

BEUC welcomes the Commission’s initiative aimed at providing consumers with a general ADR mechanism they can use to resolve disputes they may have with traders. It is important to fill in the gaps of the existing landscape and to set binding requirements which the ADR should respect. Unfortunately, we have concerns that the current proposals will not provide the certainty of redress needed so very much.

ADR as described in the Commission’s proposal encompasses a very broad range of possible schemes. We understand that the very nature of ADR, as well as the breadth of tradition and practices throughout Europe, encourages a broad definition. **However, the wish to accommodate a wide variety of schemes should not result in low standards being applied to them.** It is of particular concern to BEUC that such important principles including independence of the ADR or the legality of its outcomes are omitted from the proposals.

The proposals are also far from matching the best practices in the Member States which have well-functioning ADR systems. We describe some of those practices in a number of subsections below.

¹ 48% of EU consumers will not go to court for harm below €200, 8% will never go to court no matter what the amount of their claim. Figures from Eurobarometer No. 342

Although inevitable that some costs will be incurred in setting up and running the ADR, these costs should be seen as necessary in providing consumers with proper redress and confidence in shopping across borders. However, this only emphasises the need for the new systems to be of a high standard and to deliver for consumers, otherwise the investment will not reach its aim. We also believe the potential methods of obtaining funding from business have not been properly evaluated.

Finally, the initiative on ADR should not put aside the need to continue work on a true and efficient EU collective redress instrument. ADR does not serve the same purpose and cannot be expected to solve the current gap of redress in case of mass claims, so we very much look forward to the Commission's proposals on this issue.

Framework directive on ADR

I. Scope of the directive (Art. 2)

1. Trader claims against consumers

BEUC is very much concerned about the ADR system being available for both consumers and businesses to bring complaints. If the thrust of the initiative is for consumers to be given redress and for an effective consumer redress system to engender the confidence necessary to increase cross-border shopping, it should be promulgated as a consumer-focused initiative. In reality, non-payment for goods or services is the principal issue a trader will have against a consumer. Traders can deal with this issue either practically (by requiring payment before goods or services are supplied) or through the courts, and they have various possibilities to do that.

We believe that the proposed ADR systems should be available **solely to consumers**.

2. Exclusion of complaint handling operated by a trader

One positive aspect of the proposal is that it clarifies it **does not apply** to certain types of dispute resolution procedures, such as internal complaint handling by the trader himself (Article 2.2 [b]) or where the natural persons in charge of dispute resolution are employed exclusively by the trader (Article 2.2 [a]).

Consumer organisations have long been concerned that such kinds of complaint resolution were presented to consumers as independent ADR, but in the end would take decisions based mostly or even solely on the interests of

the trader. This undermines consumer trust in the ADR as such and deters them from pursuing their rights before the courts.

Internal dispute resolution arrangements, operated by one company, cannot ensure the necessary level of independence and impartiality. We understand there is a pressure to include them in the scope of the directive in order to allow some Member States to retain their current systems. However, this would represent a big step backwards in building consumer trust in ADR.

Therefore it is crucial that the provisions in Article 2 remain clear and internal dispute resolution arrangements are neither included in the scope of the directive nor can advertise/promote themselves as ADR.

3. ADR both for national and cross-border claims

It is very important that the quality standards that would be set up by the Directive apply both to national and cross-border cases and we welcome the Commission's choice to provide for this.

We ask:

- **That the proposed ADR systems are available solely to consumers;**
- **To keep the provisions excluding dispute resolution procedures where the natural persons in charge of dispute resolution are employed exclusively by the trader (Article 2.2 [a]) in the proposal.**

II. Need for independence (Art. 6)

The Commission Recommendation of 1998² included the principle of independence as one of the main requirements for ADR bodies. In the new Commission proposal, independence is no longer there. **We are concerned by the removal of the independence requirement**, as it is vital for consumer trust that the ADR is seen as completely independent and not influenced by the parties. Positively, the proposal foresees certain requirements to ensure impartiality, for instance that there should not be any conflict of interest with either party of the dispute (Art. 6.1 [c]), but we contend this requirement is insufficient and does not amount to the level of protection ensured by the independence standard.

The principle of impartiality does not encompass the principle of independence, as it is foreseen in the Commission's proposal. Both notions are well distinct:

² Commission Recommendation No 98/257/EC on the principles applicable to the bodies responsible for the out-of-court settlement of consumer disputes, OJ L 115, 17.04.1998

impartiality means that the person in charge of the conflict's resolution should treat both parties in the same way; whereas independence commends to this person not to have any link (directly or indirectly) with one or the other party to the conflict.

The independence of ADR must be ensured by its governance. This means that consumer organisations **should be asked to approve** how the system will work in that particular Member State and should be able to participate (if they wish and have resources for it) in the governance of the schemes and in selecting the decision makers.

When the body is collegiate, there should be an equal representation of consumer and business representatives. Consumer organisations could participate in designating the candidates of the decision making body, and not only consumer representatives, but also judges or other neutral persons.

When the decision on the dispute is taken or suggested by one person (i.e. not by collegiate panel), consumer organisations, if they so wish, should be able to participate in designating this person and drafting the rules of procedure of the ADR.

The involvement of consumer organisations in the governance of the scheme can ensure the independence requirement is adhered to even if the schemes are privately funded. For instance, in Denmark, where private complaints boards are wholly funded by the business in question, no problem results from this fact, as the Danish Consumer Council and the business in question share decision-making and co-operate in setting up complaints boards and selecting judges as well as in all organisational questions involved, such as the appointment of the leading staff of the secretariat.

In addition, it is essential to reintroduce the requirement of the 1998 Recommendation stating that if the person concerned is appointed or remunerated by a professional association or an enterprise, they must not, for three years prior to assuming the function, have worked for this professional association, one of its members or for the enterprise concerned.

We ask:

- **To include the requirement of independence in the framework Directive. Independence has to be ensured by the ADR governance, in which consumer organisations either take part or approve of.**
- **to add the requirement of the 1998 Recommendation stating if the appointed person is remunerated by a professional association or enterprise, they must not, for three years prior to assuming the function, have worked for this professional association, one of its members or for the enterprise concerned.**

III. Legality

The 1998 Recommendation included the legality principle, which in essence meant that the consumer cannot be deprived of the protection afforded by mandatory provisions of their law of residence, if that law falls under the provisions of the Rome I Regulation³. In the new proposal the legality principle is no longer included.

For domestic cases, legality is important for disputes dealt with by ADR schemes which take decisions based on self-regulatory codes or best practices of the industry – those schemes should still be able to ensure their decisions do not deprive the consumer of the level of protection granted by the law.

In cross-border disputes, legality will be crucial where the law of the consumer (if it would apply under Rome I Regulation) provides better protection than the law of the country where the ADR is established.

Consumer organisations across Europe have been struggling for decades to better protect consumers and this should not be compromised in establishing an ADR system. Otherwise consumers will have little incentive to address issues to ADR systems. Consumers are familiar with the legal provisions of their place of residence and we cannot expect them to first be informed as to the legal provisions of the country where the ADR system is established before deciding whether to engage such a system or not.

Therefore, **the principle of legality must be applied** by ADR bodies both in national and cross-border disputes and it should be ensured that consumer is not deprived of the protection afforded by mandatory provisions of their law of residence if such law would be applicable under Rome I Regulation. With respect to cross-border disputes, which require more resources to examine foreign law, it could be envisaged to develop comparative tables with the provisions that are most likely to be invoked e.g. legal guarantee periods. European Consumer Centres (ECCs) could also be of help here, as they already now check the provisions of the consumer's place of residence before transferring the complaint to the ECC in the Member State of the trader.

We ask:

- **To include the requirement of legality in the framework directive.**

³ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations ('Rome I'), OJ L 177, 4.7.2008, p. 6

IV. Filling in the gaps – access to ADR (Art. 5)

1. The mandatory participation of traders

We welcome the Commission's proposal to ensure that in disputes covered by this directive there is always an appropriate ADR for consumers to turn to. At the moment consumers face important gaps in terms of the coverage of ADR and depending on either their place of residence or the sector in question there might not be any ADR body to turn to.

However, we believe it is **insufficient that an appropriate ADR scheme is merely available** - if business do not subscribe to the procedure, consumers are still left empty-handed. It has been recorded that only 9% of European retailers have used an ADR scheme.⁴

It should also be noted that the degree of non-compliance by traders with decisions and their refusal to participate and recognise decisions **undermine consumer confidence** in these mechanisms. Consumer organisations in the Member States with well-developed ADR systems will also be reluctant to encourage consumers to shop cross-borders if they are not sure consumers can access the same level of redress services if something goes wrong with their purchase.

The suggestion that ADR is market-based and that it is sufficient to demonstrate to businesses the advantages of participating in the Alternative Dispute Resolution processes to make them engage and comply with decisions does not hold true in all situations unfortunately, especially taking into account that businesses not only have to agree to participate in the ADR process, but also might have to finance it. First of all, such a liberal approach to ADR is not suitable in sectors where the competition among companies providing the same goods or services is not high, as the lack of competition may remove the incentives for high standards of commercial relationships, including participation in ADR.

For instance, the Conciliation Body for Public Transport, a German privately founded and funded scheme has been unable to attract airline companies to participate in its ADR process. In 2010, the scheme had more than 3,400 arbitration requests, one third of which was from flight passengers, but only a few of those could be arbitrated because most flight companies refused to cooperate.⁵ Also recently in the Netherlands, airlines have ended their (voluntary) cooperation with the ADR commission for aviation, consequently consumer disputes in this area will no longer be handled.

⁴ Flash Eurobarometer 300, 'Retailers' attitudes towards cross-border trade and consumer protection'

⁵ 'Cross-border Alternative Dispute Resolution in the European Union', IMCO study 2011, p.41

At national level the awareness of ADR is very low which further undermines a market-based argument. For instance, the UK consumer organisation Which? has conducted research that suggests that only 7% of consumers have ever raised a complaint with an independent complaint handling body.

There are a lot of schemes with the **mandatory participation of businesses**. For instance, in Denmark, which has a very well developed ADR system since 35 years and where private ADR boards have long been in operation and cover most sectors, the case will be handled by the ADR body even if the trader chooses not to reply to the request from the Board. The same applies to the Swedish Dispute Resolution Board. One of the most successful schemes in Europe – the UK Financial Services Ombudsman, is mandatory for financial services providers operating in the UK and decisions are binding.

In addition, in the recent proposal for a Directive on credit agreements relating to residential property⁶, the Commission not only proposes that ADR be set up for disputes covered by this Directive, but that Member States shall ensure that **all creditors and credit intermediaries adhere** to one or more such bodies. We are strongly convinced this example should be followed in other sectors as well.

2. The nature of the decisions

Successful redress comprises a determination of what redress is due and the fulfilment of that redress. The issue of enforcement of any decision is of paramount importance – a decision or determination is of little value if the practical outcome is that the consumer does not receive their due. To not include enforcement as an integral part of the ADR process runs the risk of undermining the efficacy and usefulness of the initiative to consumers.

In order to ensure the effectiveness of ADR, **Member States should be obliged to make ADR outcomes binding**. It is already the case in a large number of ADR schemes throughout the EU - e.g. Portuguese Arbitration Centres, UK Financial Services Ombudsman, Dutch Foundation for Consumer Complaints Boards, Polish Ombudsmen, Spanish Consumer Arbitration scheme and others. In total, 286 of 449 schemes (64%) in the EU27 for which data is available issue binding decisions⁷. It must be said though that in many of those schemes a binding decision is the last step and is preceded by non-binding mediation or conciliation, but it is important that there is a possibility of a binding outcome.

Binding decisions should mean that they are mandatorily implemented, **unless any of the parties decide to continue to court in the manner available**

⁶ Brussels, 31.3.2011, COM(2011) 142 final.

⁷ Cross-Border Alternative Dispute Resolution in the European Union, IMCO study 2011, p.23

under the provisions of a Member State. In some countries, only procedural appeals against ADR decisions are possible, in others, parties can ask for a full review of the decision – what is important is that a party has to be active and cannot just disregard the outcome of the ADR.

On the other hand, the court option should not be excluded for the parties; otherwise ADR will totally substitute courts' competence in consumer matters. However this is not the point; ADR is an extra option provided to consumers as an easy, non-costly way to exercise their rights and should not be the only option given to them even if an ADR decision exists. In other words, ADR decisions should not prevent the parties from accessing courts.

We ask:

- **That ADR is mandatory for traders in the way that the case is handled by the ADR body even if the trader chooses not to reply;**
- **That the decisions of ADR are binding unless any of the parties decide to continue to court in the manner available under the provisions of a Member State. Member States can allow non-binding ADR if such systems are long in place in that particular Member State and have proven to be working well.**

V. Transparency (Art. 7)

We welcome detailed requirements of transparency included in the proposal, especially the obligation to make public the information on natural persons in charge of Alternative Dispute Resolution, the method of their appointment and the length of their mandate (Art. 7.1. [a]) and on the source of financing, including the percentage share of public and private financing (Art. 7.1. [b]).

We support the requirement to publish **detailed annual activity reports** as this will be very useful for consumers before deciding to take an action in an ADR. It should be noted however that in a number of Member States transparency requirements are wider⁸ than the ones foreseen in the proposal and it is very important that the new EU framework on ADR does not prevent those Member States from keeping their best practices.

With regards to the publication of the results, **ADR must deliver a wider impact on the market than mere resolution of individual disputes.** For this aim to be reached, ADR not only has to make detailed information on the complaints received and resolved publicly available, but also, as far as

⁸ E.g. Sweden allows 'naming and shaming' of the companies that do not comply with the recommendations of the Swedish Consumer Complaints Board. The UK's Financial Ombudsman Service regularly publish the complaints data for around 150 named financial businesses. Estonia makes available full decisions of the Consumer Dispute Board.

possible, try to raise the standard for good practice among industry. For example, the Danish ADR Secretariat on Energy and a number of other Danish ADRs publish on their websites the “**decisions of a guiding nature**”. The number of such decisions in energy was 7 in 2007, 9 in 2008 and 13 in 2009. This way the electricity companies are informed how to resolve particular types of disputes, how to improve their customer handling and how they should interpret consumer rights in specific fields⁹. Those decisions are a valuable feedback for the businesses.

ADR should also be able to give detailed information to the regulators in a particular sector, and with this respect we welcome the provisions in Article 14.2 requiring the cooperation between **ADR entities and national authorities** and mutual exchange of information.

Additionally, the rate of compliance with ADR decisions has to be monitored by the ADR body as it is important not only for consumers when considering whether it is worth turning to a particular ADR, but also for the ADR itself. Therefore, the **rate of compliance always has to be known by the ADR body** and made public in its reports.

We ask:

- **To include the obligation for the ADR to publish not only information about the recurrent problems leading to disputes between consumers and traders (Article 7.2 [b]), but, where relevant, also the suggestions on how those issues should be addressed by the businesses or by appropriate authorities.**
- **To strengthen the requirement to publish the rate of compliance with ADR decisions.**

VI. Consumer information by traders (Art. 10)

We welcome the provisions obliging the traders to inform consumers about the ADR entities which covers them and are competent to deal with potential disputes with consumers, as well as a specific statement whether or not the trader commits to these entities to resolve disputes with consumers (Article 10.1). This obligation is crucial to increase consumer awareness of ADR and it will also be an incentive for traders to engage in the procedure. However, it is very important to ensure this information is given **clearly and at the right moment**.

The information whether the trader takes part in an ADR has to be provided to the consumer before he concludes the contract, i.e. **in the pre-contractual**

⁹ Website: <http://www.energianke.dk/afgoerelser/elforsyning/>

information. It is worth pointing out that the Consumer Rights Directive¹⁰ already contains information requirements for distance and off-premises contracts relating to out-of-court complaint and redress mechanisms which business will have to adhere to when the Directive is implemented.

We believe that if traders are obliged not only to publicise that they are part of an ADR system, **but also if they are not**, then they will consider such participation more seriously. A consumer may choose not to buy goods or services from a trader who is not part of any ADR scheme. Additionally, it is also crucial to ensure the information whether the trader commits to use the ADR is provided in a clear and unambiguous manner, **otherwise it can be misleading and consumers will get the impression there ADR is available when in fact this trader does not submit to it.**

We think that at the pre-contractual stage information should be clear, brief and concise; not in details which confuse consumers and discourage them from reading ADR terms.

A system of a trustmark easily recognizable by consumers could act also as an incentive for traders.

We ask:

- **To clarify the provisions of Article 10 with the view of requiring the information on ADR and the trader's participation in it is provided already in the pre-contractual information to the consumer.**
- **To maintain the requirement for traders to inform consumers in case they do not participate in the ADR schemes.**

VII. Monitoring of ADR entities (Art. 15-17)

Previous Commission Recommendations did not foresee any monitoring of compliance with the principles enshrined in them. Subsequently, there have been concerns that in some countries the ADR body or bodies notified to the Commission were not meeting all requirements and therefore should not be on the list of notified bodies. As noted in the Study on ADR¹¹, most notifying authorities monitor compliance of ADR schemes with the Recommendations

¹⁰ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on Consumer Rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council.

¹¹ Study on the Use of Alternative Dispute Resolution in the European Union of 16 October 2009, p.123

only at the time of notification. Regular follow-up monitoring appears to be the exception, as is evaluation by external independent evaluators.

We welcome the provisions on monitoring in the draft framework Directive on ADR, which will oblige the ADR to send extensive information to competent authorities.

However, our perception is that those provisions might still fail to ensure that the ADR fully complies with the requirements, because it can be foreseen that competent authorities will take their decision based on self-assessment of the ADR and might not actually check if they comply. There should be a **clear duty on the competent bodies to regularly check compliance** with the requirements (and not rely on self-assessment of ADR bodies themselves).

Competent bodies have to publish not only the list of approved ADR bodies, but also the information on which they took this decision.

The Commission also has to take a more active role in ensuring competent bodies make proper checks.

Additionally, the ADR Directive should be put in an Annex of the Injunctions Directive in order to enable consumer organisations to take injunctive actions against ADR which does not comply with the requirements.

We ask:

- **To supplement the provisions of the Framework Directive by imposing a clear duty on competent authorities to regularly check compliance with the requirements and publish the information on which the assessment is based;**
- **To put the ADR Directive in the Annex of Injunctions Directive.**

VIII. Suspension of the prescription/limitation periods

To get consumers to accept ADR, a request for dispute resolution should have the effect of suspending the prescription/limitation periods. The ECJ judgement in the *Alassini* case¹² also stated that the suspension of the time-barring period of claims is an essential criterion for effective legal protection.

We ask:

- **To oblige the Member States to ensure parties who choose ADR in attempt to resolve a dispute are not subsequently prevented from**

¹² Judgement of the Court (Fourth Chamber) of 18 March 2010, C-317-08

initiating judicial proceedings in relation to that dispute by the expiry of limitation or prescription periods during the ADR process.

Regulation on Online Dispute Resolution

With a view to improving ADR coverage for e-Commerce the possibility of **Online Dispute Resolution (ODR)** could be useful for consumers. Access to traditional ADR in such cases can be burdensome due to language barriers¹³, unfamiliar procedural obligations or consumers can simply find it difficult to access the information on the ADR available in their particular case.

ODR may have the potential to avoid these difficulties. However, it must be ensured that the system not only complies with high standards, but is also easy to use and provides efficient results.

1. The adherence of business

The issue of the consumer and business agreeing on an ADR body is one of our main concerns. The current proposal states that if the parties are unable to agree, the ODR will not proceed. **This completely undermines the proposal and makes ODR useless to consumers as businesses can just refuse to cooperate.**

2. The branding of the 'ODR platform'

We do not believe the proposed ODR system amounts to a genuine ODR scheme, but rather an online portal for consumers to search for national ADR schemes. This **is misleading for consumers** by offering a false sense of security. In order to avoid this, the ODR should be branded (for example) 'ODR information platform' or a similar name reflecting the service it provides.

3. The time limit to solve the complaint

It strikes as odd that a significantly shorter period is expected for cross-border online issues (30 days in the ODR proposal) than the 90 day period suggested for ADR procedures. An automated system may reduce the time taken to disseminate information, but sufficient time will still be necessary to conduct

¹³ When considering the possibility of seeking redress in a cross-border context, the key perceived barrier identified by the majority of consumers was the "language barrier"- TNS, Consumer redress in the European Union: Experience, perceptions and choices, p.13

investigations etc. The added issue of language translations must also be accommodated. Therefore, while laudable, a 30-day resolution period is impractical. We would recommend the **same resolution timeline for both ADR and ODR**. In addition, it has to be clarified for how long this period can be extended.

4. ODR facilitators

Article 6 foresees a role of “ODR facilitators” who will provide support to the functioning of the platform and the resolution of disputes. Independent consumer organisations should be considered very well placed to carry out this task, as they have longstanding experience in advising consumers on how to solve their disputes and on redress possibilities.

With this in mind, **we ask to:**

- **Oblige online traders to submit to the ADR/ODR procedures;**
- **Rename the ‘ODR platform’ to ‘ODR information platform’;**
- **Clarify for how long the 30-day resolution period can be extended and to make this period more consistent with the resolution period in ADR;**
- **Clarify in Art. 5.3 (f) that the feedback system allowing the parties to express their views on the ODR platform and on ADR that handled their dispute will be publicly available so that all consumers could access it, and especially at the moment where they have to make a choice of ADR pursuant to Article 8.2 e);**
- **Make contact information of ODR facilitators available on the platform so that consumers could turn to them for help already while submitting the complaint. This is especially important with the view to the requirement that the complaint form has to be fully completed in order to be processed (Art. 8.1), which is not always easy for consumers. There should also be a possibility for offline contact with ODR facilitators, e.g. via telephone.**
- **Provide that the physical presence of the parties should not be mandatory for the processing of the complaint (Art.8.3 d);**
- **To make information about the ADR rules of procedure and fees applicable available to consumers already at the stage when consumer has to choose the ADR pursuant to Article 8.2 (e), and not at a stage when the parties have already agreed on a particular ADR and to ensure that this information is easy to understand.**

A long-term vision

Alternative Dispute Resolution is an important tool to solve consumer disputes with businesses, as it normally provides cheaper and quicker solutions than redress in court and is less formal - which is encouraging for consumers. It is also important to realise the wider ADR potential than only to resolve individual

disputes - the information gathered by ADR should be publicly available and used by companies to ameliorate their goods and services and by the government agencies or legislators in order to improve the situation in markets.

When adopting EU instruments, a balanced approach must be sought which pays tribute to both the creativity and flexibility of ADR systems on one hand and the need to ensure consumer protection and fair procedures on the other.

Consumer interests should be protected in a way which does not deprive the ADR procedure of its major advantages in comparison to court proceedings: speed, low cost and less formality than in a court action. However, ADR has to respect certain standards and be able to ensure that they provide for high level services and outcomes that the business community complies with.

It is only when all layers of redress work efficiently – Alternative Dispute Resolution, small claims procedures, individual and collective redress in courts, that consumers will be able to enjoy their rights to the full extent.

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