



BEUC Factsheet



for the
service



Alternative Dispute Resolution

1 What is Alternative Dispute Resolution?

ADR covers out-of-court methods of settling consumer/business disputes by involving neutral third parties e.g. Ombudsmen or Consumer Complaints Boards. The third party can propose or impose a solution, or merely bring the others together to assist them in finding a fix.

BEUC believes ADR should be independent, free (or negligible cost) for consumers to engage with and compulsory for traders where practicable.

ADR can be a way of resolving a whole range of disputes - from defective products and poor services, to energy bills and package travel problems.

48% of EU consumers say they would not go to court as individuals for harm valued less than €200 and 8% will simply not go to court irrespective of the value of their claim¹. ADR aims to fill this gap and provide ways and means for various commercial issues to be resolved.

Recently in some countries procedures have been designed to happen entirely via the internet, in a process known as ODR (Online Dispute Resolution).

2 How does it work?

While ADR has yet to establish a common definition or method, at least 750 schemes are known in the EU and offer huge variety in coverage, mandate, outcome etc.

It can take many forms, including mediation, adjudication, arbitration, and ombudsman schemes. Some countries have well established and effectively functioning forms of ADR such as Portugal's Arbitration Scheme or Sweden's Complaints Board, but in many countries, it's a new process which needs greater clarity of method, more funding, greater public awareness and business involvement.

The EU has just passed a Directive calling on all Member States to install systems of ADR for contractual disputes in every sector bar health and education.

In addition, European Online Dispute Resolution platform will be available for issues concerning online purchases. These must be transposed to national law before mid-2015.

An ideal scenario:

Your books ordered online don't arrive, despite your confirmed credit card payment. You email the seller, then contact by post - but receive no reply. Knowing that there is a Consumer Complaints Board/Ombudsman who may help to resolve the dispute, you submit a complaint along with the copy of your online order form and payment confirmation. They investigate, contact the seller and finally recommend that the seller reimburses the money you paid.

¹ Eurobarometer No. 342: http://ec.europa.eu/public_opinion/archives/ebs/ebs_342_sum_en.pdf



A Europe - wide ADR system should not detract from the pronounced need for an EU system of judicial collective redress - allowing consumers to go to court, as one, in a single action for loss.

ADR does not offer adequate solutions for mass claim situations. Without judicial collective redress at EU level, there is no incentive for businesses to subscribe to ADR and offer a fair settlement for consumers.

3 What are the pros and cons of existing national ADR?

Pros:

- Quick (normally 3 - 4 months), normally free or low cost for the consumer and so avoids the duration and expense of court.
- The consumer does not need to hire lawyers or take formal legal advice.
- It gives the parties more flexibility in finding a suitable outcome.
- It's informal and can offer a range of practical and financial solutions – from compensation for loss, to replacement, to a new contractual agreement on how to proceed.

Cons:

- It is not always independent or impartial.
- European consumer awareness of ADR scheme availability and method is currently very low, in many countries ADR is not available or 'easily at hand'.
- The other party may not agree to participate.
- Often, the decision/recommendation of the ADR body is not binding and so businesses do not comply – which is a waste of time and resources.

4 BEUC requests for action

The EU directive sets down a number of important principles these new systems must follow. However, the requirements of independence and for traders' participation are too low, so now it is over to Member States as they transpose the law to step up and ensure ADR effectively brings redress to consumers.

