

Alternative Dispute Resolution Package (ADR)

Policy Brief

October 2023

Summary:

In October 2023, the Commission adopted a proposal to review the ADR framework which includes:

1. a legislative proposal amending the current ADR Directive,
2. a legislative proposal to repeal the ODR Regulation,
3. a recommendation addressed to online marketplaces and EU trade associations having a dispute resolution mechanism and to Member States.

Key Words: Consumer rights, Cross-border disputes, Digital tools simplify ADR

Introduction

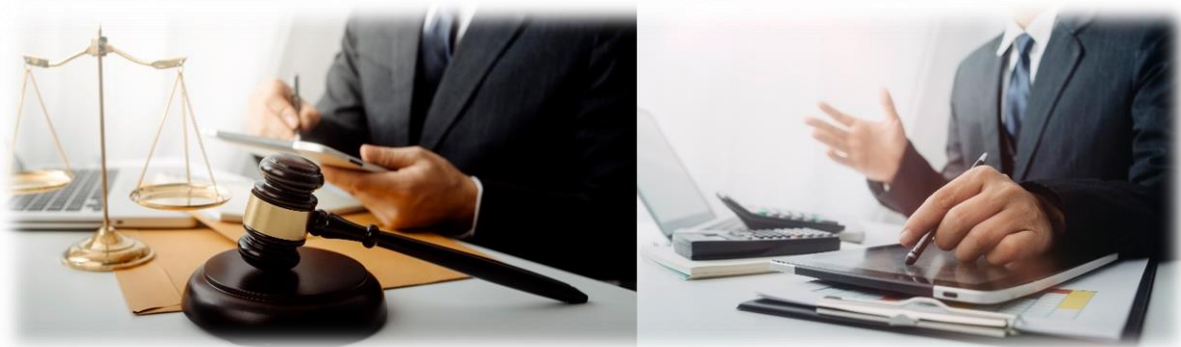
The European Commission is taking steps to modernize and simplify out-of-court dispute resolution rules to better suit the digital marketplace. The proposed changes will broaden the scope of issues that can be addressed through ADR, including misleading advertising, service access issues, and unjustified geo-blocking. To enhance consumer access to ADR, organizations like the European Consumer Centres Network will provide guidance and support. Additionally, the Commission aims to streamline ADR procedures for faster resolution.



Objectives

The objectives of the review are to:

- Adapt the ADR framework to the digital marketplace by encompassing all types of disputes related to EU consumer rights.
- Enhance access to ADR for cross-border disputes by leveraging digital tools and providing support to both consumers and traders.
- Streamline ADR procedures for all parties involved, including reducing reporting obligations for ADR entities and information obligations for traders, while encouraging greater trader engagement through a duty to reply to ADR claims.
- Phase out the ODR platform and replace it with user-friendly digital tools that help consumers find appropriate redress mechanisms for their disputes.
- Encourage online marketplaces and EU trade associations with existing dispute resolution mechanisms to align their practices with the quality criteria outlined in the ADR Directive.



Proposal for a Directive amending Directive 2013/11/EU on alternative dispute resolution for consumer disputes, as well as Directives (EU) 2015/2302, (EU) 2019/2161 and (EU) 2020/1828

The proposal includes the following key elements:

- Broadened scope: The ADR Directive's scope will be expanded to encompass all types of EU consumer law disputes, including those arising from pre-contractual stages or statutory rights, such as switching service providers or protection against geo-blocking. This addresses the current Directive's narrow scope, which excludes certain types of disputes. Additionally, disputes between EU consumers and non-EU traders will be covered, with voluntary participation from non-EU traders.

- **Duty to reply:** Traders will be required to respond to ADR entity inquiries, regardless of whether they intend to participate in the ADR process. This ensures that consumers receive a response and promotes trader engagement with ADR.
- **Streamlined information obligations:** The obligation for traders to inform consumers about ADR entities will be removed if they do not intend to engage in ADR. This simplifies information requirements and avoids unnecessary communication.
- **Enhanced cross-border ADR support:** Relevant bodies, particularly European Consumer Centres (ECCs), will play a new role in assisting and guiding consumers in cross-border disputes. The Commission will introduce user-friendly digital tools to help consumers find the appropriate body to resolve their disputes.

These measures aim to make ADR more accessible, efficient, and effective in resolving consumer disputes, particularly in the digital marketplace and across borders.

To reduce administrative burdens and streamline reporting obligations, the proposal aims to simplify consumer redress initiatives by:

(a) Eliminating ADR information obligations for traders, as this can be handled by ADR entities directly.

(b) Transitioning ADR entities to biennial activity reports instead of annual reports to ADR Competent Authorities. Reporting on cooperation within networks for cross-border dispute resolution will no longer be required.

(c) Removing the requirement for ADR entities to provide biannual assessments to competent authorities regarding their network cooperation effectiveness, staff training, and ADR procedure effectiveness. This information can be addressed through other means or incorporated into biennial activity reports.



Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL repealing Regulation (EU) No 524/2013 and amending Regulations (EU) 2017/2394 and (EU) 2018/1724 with regards to the discontinuation of the European ODR Platform

The European Commission is committed to reviewing and updating EU legislation to ensure its effectiveness and reduce compliance costs for businesses and public administrations. The current ADR Directive and ODR Regulation, adopted in 2013, have not been updated despite significant changes in the consumer market, particularly the growth of digital commerce.

The ADR Directive establishes a general framework for out-of-court consumer dispute resolution, while the ODR Regulation created the European Online Dispute Resolution Platform (ODR Platform) to handle online consumer disputes. However, the ODR Platform has been underutilized, with only 200 cases per year on average being resolved through ADR entities.

Given the low usage and high costs of maintaining the ODR Platform, the Commission proposes repealing the ODR Regulation. This would discontinue the platform and remove the obligation for online businesses to provide a link to it and manage an email for communication.



Links to more information: https://commission.europa.eu/live-work-travel-eu/consumer-rights-and-complaints/resolve-your-consumer-complaint/alternative-dispute-resolution-consumers_en

Disclaimer: This is a policy brief to create awareness about the legislative proposal and for information purposes. It is not an official position of the Malta Business Bureau.

For questions or more detailed information please contact EU Affairs Manager Daniel Debono and Policy Executive Christine Said on infobrussels@mbb.org.mt

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