



EUROPEAN
COMMISSION

Brussels, 17.10.2023
SWD(2023) 337 final

COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT

Accompanying the document

**Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL**

**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**

{COM(2023) 649 final} - {SEC(2023) 347 final} - {SWD(2023) 334 final} -
{SWD(2023) 335 final}

Executive Summary Sheet
Impact assessment on Proposal for a Directive of the European Parliament and of the Council on alternative dispute resolutions for consumer disputes.
A. Need for action
What is the problem and why is it a problem at EU level?
<p>This initiative aims to address three overarching problems that have been identified at EU level: (1) The ADR Directive is not fit for digital markets, (2) Low engagement in ADR among businesses and consumers, (3) ADR is not sufficiently used in a cross-border context.</p> <p>The causes of these problems are clustered in two groups: “megatrends and market related drivers” and “enforcement related drivers”.</p> <p>The former comprehends: quick growth and increased concentration of e-commerce and online advertising, increased cross-border shopping, including with traders located outside the EU, consumer disputes in digital markets going beyond contractual issues, significant rate of non-compliance with EU consumer law.</p> <p>The latter comprehends: access barriers to ADR (lack of awareness and costs of procedures) and increased use of private online dispute resolution (PODR) systems operated by online marketplaces.</p> <p>The consequence of these problems for consumers is a total annual detriment of EUR 383 million.</p>
What is the initiative expected to achieve?
<p>The general objective of this intervention is to ensure the proper functioning of the single market and achieve a high level of consumer protection by enabling consumers and traders to resolve their disputes in an efficient and effective manner, irrespective of their country of residence or establishment.</p> <p>This initiative will pursue the following three specific objectives: (1) make ADR fit for digital markets; (2) improve consumers’ and traders’ engagement in ADR; (3) enhance cross-border ADR.</p>
What is the added value of action at EU level? (subsidiarity)
<p>The rapid evolution of digital markets together with the rise of new business models and commercial practices poses a new set of challenges to consumers shopping online. Due to borderless nature of digital technologies, the emergence of new types of threats concerns EU consumers irrespective of their country of residence and requires a rapid, consistent and effective response by public authorities, whose action should be constrained by their jurisdictional bounders. Without EU action, national interventions are likely to produce enforcement gaps and distortion of the single market.</p>
B. Policy options
What are the various options to achieve the objectives? Is there a preferred option or not? If not, why?

In order to have sizeable impacts, the measures are grouped coherently into **four alternative policy options** differing from each other by the nature and the intensity of the intervention: A) Non-regulatory intervention; B) procedural and geographical scope amendments; C) substantive scope amendments with some additional obligations to traders (preferred option); D) Architectural changes with increased harmonization.

The measures proposed under the preferred option are: widening the geographical and material scope of the ADR Directive to cover any disputes between a trader and a consumer involving a breach of EU consumer protection provisions; requiring online marketplaces that provide PODR services to meet the quality standards expected by consumers from certified ADR entities with self-certification; replacing the European ODR platform with new cost-effective signposting tools; introducing a duty of reply for traders who receive a notification of a new consumer dispute from an ADR entity; encouraging bundling of cases when an ADR entity receives similar cases; granting ECCs a new role to provide specialised assistance services to ADR in cross-border complaints; and establishing a mechanism where trade associations, upon providing a self-certification, are authorized to set up cross-border dispute settlement systems.

What are different stakeholders' views? Who supports which option?

In general, stakeholders are in favor of enhancing the EU ADR framework and adapting it for digital markets, particularly by:

- broadening the geographical and material scope of the ADR Directive;
- increasing trader participation in ADR, and ensuring enforcement of ADR outcomes;
- facilitating cross-border ADR;
- introducing safeguards for vulnerable consumers who are lack digital skills.

Some stakeholders (mainly consumer organisations) have called for making participation in ADR mandatory for traders, but this change is opposed by several Member States who see potential conflicts with their constitutional rules regarding access to justice.

The enhancement of collective ADR has also been identified as an important goal for the revision. This mechanism is already present in the national legislation of several Member States, but its uptake remains limited. Stakeholders have urged the Commission to take action in promoting the use of collective ADR. At the same time, the importance of entrusting to Member States the implementation of collective ADR, in accordance with the minimum harmonization approach of the Directive, has been highlighted.

Given that some stakeholders were initially cautious about the possibility of discontinuing the ODR platform, the Commission discussed the available data with them and addressed their concerns.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise of main ones)?

The preferred option is an **effective** way of achieving the specific objectives, as well as being **efficient**, in particular for consumers, and ensuring a high level of **coherence**.

The option would bring **a total benefit on consumers** in the form of reduction of detriment of **EUR 33 million annually**.

The same would apply for the Commission with an estimated total benefit of **EUR 500,000** annually for the replacing of ODR Platform.

<p>The option would bring a total benefit for businesses of EUR 634 million annually (EUR 264 million annually for the reduction of information disclosure obligations + EUR 370 million annually for the replacing of ODR Platform).</p>
<p>What are the costs of the preferred option (if any, otherwise of main ones)?</p>
<p>Adopting the preferred option would result in additional recurrent costs for businesses of EUR 38.6 million annually (EUR 2.6 million annually for duty of reply + EUR 25 million annually for ADR entities for extra disputes + EUR 11 million annually for putting platforms in compliance).</p>
<p>What are the impacts on SMEs and competitiveness?</p>
<p>SMEs are the wide majority of businesses, they will also be the main beneficiaries of the cost savings deriving from removing the current information requirements both relating to the ODR platform and ADR. Competitiveness of EU SMEs will be impacted positively by this option because the savings can be used to boost the attractiveness of their prices and possibly foster innovation.</p>
<p>Will there be significant impacts on national budgets and administrations?</p>
<p>No.</p>
<p>Will there be other significant impacts?</p>
<p>Both businesses and consumers would enjoy a better level of fundamental rights by fostering a level playing field and reducing consumers' detriment.</p>
<p>Proportionality?</p>
<p>The preferred option maintains the current minimum harmonization approach of the Directive and does not require MS to make ADR mandatory. It achieves its specific objectives through measures that do not go beyond what is strictly necessary. While broadening the scope of the Directive to reflect novel forms of disputes arising in digital markets, the voluntary nature of ADR ensures that the amendments will not result in unproportioned costs for ADR entities, NCAs and businesses. Proportionality is observed also with regards to the measure concerning Private On-line Dispute Resolution ("PODR"). By providing for a self-certification mechanisms for online marketplaces to show that their PODR abide by high-quality standards, the relevant measure in the preferred option does not impose excessive burden on these traders. The duty of reply is expected to increase business engagement in ADR. This measure will entail some costs for businesses, but these costs will be more than offset by the removal of disclosure obligations for those businesses who do not intend nor are obliged to participate in ODR. Finally, the enhancement of cross-border ADR will be achieved only by granting a new specific role to the existing ECCs and by allowing trade association to set up cross-border dispute settlement systems.</p>
<p>D. Follow up</p>
<p>When will the policy be reviewed?</p>
<p>The Commission will monitor the implementation of the policy chosen, if adopted, after its adoption. A list of core progress indicators have been identified in line with the objectives of the policy action. These indicators can serve as the basis for its evaluation, as well as possible targets to be achieved seven years after the entry into application of the revised Directive.</p>