Online dispute resolution for consumer disputes (Regulation on consumer ODR)

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The Commission presented a report on the application of Directive 2013/11/EU of the European Parliament and of the Council on alternative dispute resolution for consumer disputes (ADR) and Regulation (EU) No 524/2013 of the European Parliament and of the Council on online dispute resolution (ODR) for consumer disputes.

Settling consumer disputes out of court holds considerable potential for consumers, retailers and the administration of justice in general. Directive 2013/11/EU and Regulation (EU) No 524/2013 aim to tap that potential by providing a legislative framework that ensures that consumers have access to high-quality ADR procedures for settling their contractual disputes with traders, including via a multilingual web-based ODR platform.

Application of the legislative framework

Consumer ADR and ODR has become an integral part of the EU's toolbox for the public and private enforcement of consumer law. Today, EU consumers have access to high-quality ADR procedures across the Union and in virtually all retail sectors, regardless of whether the dispute is domestic or cross-border and whether the purchase was made online or offline.

Pursuant to Regulation (EU) No 524/2013, the Commission launched the ODR platform in January 2016. The platform was opened to the public on 15 February 2016. To date, all Member States, Liechtenstein and Norway have notified a total of 460 ADR entities.

Since its launch, the platform has attracted more than 8.5 million visitors and 120 000 consumer-to-business disputes. About 56% of the disputes are domestic and 44% cross-border. Most disputes are about airlines (13.2%), followed by clothing and footwear (10.9%) and information and communication technology (6.8%). Consumers mostly complained about the delivery of the product or service (23%), followed by non-conformity with the order (15%) and the product being defective or causing damage (12%).

Only in about 2% of cases did the parties agree on an ADR entity and was the platform therefore able to transmit the dispute to an ADR entity. However, in up to 42% of disputes submitted to the platform the parties settled the dispute bilaterally

The high number of visitors and complaints submitted to the platform demonstrate its very satisfactory uptake by consumers.

A potential that is still under-used

About one year after full ADR coverage has been achieved and three-and-a-half years after the launch of the ODR platform, the ADR/ODR framework is underused and has yet to reach its full potential. Three main challenges can be identified that currently limit the framework's full effectiveness:

(1) ADR awareness and perceptions: ADR awareness has increased among both consumers and retailers, awareness levels are still insufficient in some regions and retail sectors. Overall, ADR awareness is lower in SMEs than in large retailers. Traders sometimes consider ADR entities to represent consumers'

interests and therefore perceive them as biased in favour of the consumer. The situation is compounded by the diversity of the ADR landscapes that feature a large array of ADR models, names and procedures.

(2) Navigating the national ADR landscapes: The diversity of ADR landscapes makes them difficult to navigate for consumers and traders, in particular in the Member States with a large number of certified ADR entities. Overall, there is less clarity about the ADR entity to which consumers and traders can turn when there is more than one ADR entity per retail sector. A specific difficulty in navigating a Member State's ADR landscape arises when it features ADR entities whose scope is limited to specific aspects of a dispute in a given retail sector – to the effect that the consumer might need to turn to two ADR entities to have his or her issue dealt with fully.

(3) Traders' participation in ADR procedures: While overall traders' participation in ADR has slowly, but steadily increased since 2014, currently only one in three retailers is willing to use ADR. In a number of regions and retail sectors, the ADR models currently offered yield only insufficient participation rates for traders.

The workflow on the ODR platform currently only partially reflects demonstrated user needs. The Commission also conducted a targeted ADR/ODR communication campaign aiming to improve traders' awareness of and engagement on the ODR platform. As a result, the number of traders registered in the platform increased by 54% in 2018 and by another 24% in the first five months of 2019. 80% of platform users are now satisfied with the platform's functions. However, trader engagement in the process on the platform itself remains very limited.

Emergence of a community of stakeholders

The European legislative framework for consumer ADR and ODR rests on a logic of shared responsibility and cooperation. The diversity of the national ADR landscapes and the exchanges between ADR stakeholders across Member States have created an 'ADR laboratory' where ADR models and design options are compared and critically assessed and emerging best practice is identified, shared and increasingly implemented.

Follow-up

The Commission will also further improve the ODR platform, including by making the platform better respond to the needs of its users by providing more targeted information on consumer rights and redress, better directing users to the most appropriate redress tools and better facilitating direct settlements.

The Commission will convene the second Union-wide ADR Assembly in 2020, further promote ADR and ODR in its 2019 communication campaign on consumer law and continue to support the capacity building by ADR entities through grants.