

European Commission  
Directorate-General Health and Consumers  
[sanco-consumer-adr@ec.europa.eu](mailto:sanco-consumer-adr@ec.europa.eu)

### **Consultation on ADR**

The European Commission has launched a public consultation on ADR (alternative dispute resolution). The Finland Chamber of Commerce submits the following statement including answers to the questions on consultation.

### **General aspects**

In Finland we have good experiences of ADR Schemes. In Finland almost all consumer disputes are covered by ADR schemes and the decisions (recommendations) are also well complied with.

The Consumer Disputes Board is a state financed authority based on law. Its sphere of competence is very broad. The Board handles 4200 - 4500 cases p.a. Its decisions are recommendations but in general well complied with by traders, over 80 per cent of the cases. In 2006, a collective redress mechanism was added to the Board's competence.

In financial sector we have self-regulatory bodies funded and organized by the business sector itself. These three bodies (the Insurance Board, the Finnish Securities Complaint Board and the Advisory Office for Bank Customers) have a common secretariat, the Finnish Financial Ombudsman Bureau. They cooperate with the consumer authorities and provide expert redress mechanisms and ADR schemes for consumers. The recommendations given by these boards are complied with almost 100 per cent of the cases.

### **(1) What are the most efficient ways to raise the awareness of national consumers and consumers from other Member States about ADR schemes?**

Proper and efficient briefing about ADR possibilities. Briefing could be done through campaigns, articles and brochures. Also white lists could be useful.

### **(2) What should be the role of the European Consumer Centres Network, national authorities (including regulators) and NGOs in raising consumer and business awareness of ADR?**

Their role in briefing is crucial. They should give information in general and also share information about the best practises.

**(3) Should businesses be required to inform consumers when they are part of an ADR scheme? If so, what would be the most efficient ways?**

It should be voluntary. In most of the cases the obligation to inform would only add bureaucracy and administrative burden. However, when informing consumers is reasonable and doesn't increase administrative burden, it could be part of the corporate social responsibility. Also in some sectors it is self-evident that the information is given. For example in Finland the insurance companies are obliged to inform in their decisions made on claims whether and how the case can be referred to the Consumer Disputes Board or another ADR body.

**(4) How should ADR schemes inform their users about their main features?**

Via brochures and websites. For example the Consumer Ombudsman's website would be a good way to give information. The information given should be very simple and comprehensible. Also public authorities could give some basic information about the ADR schemes, for example via help desk and guidance services.

**(5) What means could be effective in persuading consumers and traders to use ADR for individual or multiple claims and to comply with ADR decisions?**

Probably the best way is to give enough proper information about the ADR schemes; that the ADR schemes can offer a decision both quicker and cheaper than rulings in court. The decisions are complied with quite well, if the decisions are of good quality and have sufficient reasoning. In Finland the Consumer Disputes Board will publish such traders' names in newspapers, which won't comply with the decisions (so called "black lists". Also there is statistical information that the decisions of the three boards of the Finnish Financial Ombudsman Bureau (the Insurance Board, the Finnish Securities Complaint Board and the Advisory Office for Bank Customers) are complied with almost 100 per cent of the cases.

**(6) Should adherence by the industry to an ADR scheme be made mandatory? If so, under what conditions? In which sectors?**

No, it shouldn't be mandatory.

**(7) Should an attempt to resolve a dispute via individual or collective ADR be a mandatory first step before going to court? If so, under what conditions? In which sectors?**

It shouldn't be mandatory and the ADR schemes shall remain alternative. However, it should be emphasized that ADR schemes offer quicker, cheaper and more flexible decision than going straight to court. In Finland it is very rare that after using ADR schemes there still would be a need to go to court.

**(8) Should ADR decisions be binding on the trader? On both parties? If so, under what conditions? In which sectors?**

No, they shouldn't be binding. Binding decisions would put much stricter requirements on ADR proceedings. That would lead to at least a partial loss of flexibility that ADR schemes have in contrast with court proceedings.

It also has to be mentioned that the decisions made by the Consumer Disputes Board of Finland are widely followed by the traders. If a trader does not follow the decision, its name will be published in newspapers (so called black lists).

**9) What are the most efficient ways of improving consumer ADR coverage? Would it be feasible to run an ADR scheme which is open for consumer disputes as well as for disputes of SMEs?**

ADR schemes in different European countries can vary a lot. It might be useful to share the information on best practices and in that way improve consumer ADR coverage in different European countries. In Finland almost all consumer disputes are covered by ADR schemes.

It has to be stated that financial issues in ADR schemes covering B2B transactions might be problematic.

**(10) How could ADR coverage for e-commerce transactions be improved? Do you think that a centralised ODR (online dispute resolution) scheme for cross-border e-commerce transactions would help consumers to resolve disputes and obtain compensation?**

A centralised ODR scheme for e-commerce could be quite demanding to create because of the different legislation in different countries. However, it is important to give information and also share information about the best practices in ADR schemes concerning e-commerce issues.

**(11) Do you think that the existence of a "single entry point" or "umbrella organisations" could improve consumers' access to ADR? Should their role be limited to providing information or should they also deal with disputes when no specific ADR scheme exists?**

An umbrella organisation could be useful in providing proper information. It could also share information about the best practises and research the various ADR schemes in different countries or in different branches. However, it should not deal with the disputes and it should not give decisions.

**(12) Which particular features should ADR schemes include to deal with collective claims?**

It seems that the ADR schemes need not to include any particular features to deal with collective claims. However, if there will be some steps taken towards collective claims, they should be systematic and organized. The initiative should be left to some authority, for example the Consumer Ombudsman.

**(13) What are the most efficient ways to improve the resolution of cross-border disputes via ADR? Are there any particular forms of ADR that are more suitable for cross-border disputes?**

Better cooperation of ADR bodies and better exchange of information.

**(14) What is the most efficient way to fund an ADR scheme?**

It depends on the type of ADR scheme. Public financing, handling fees or a combination of different financing systems. It still should be kept in mind that ADR schemes should continue offering a cost-effective way to reach a decision.

In Finland we have both publicly and privately funded schemes and they both function equally efficiently.

**(15) How best to maintain independence, when the ADR scheme is totally or partially funded by the industry?**

Private bodies should be created in a way that they maintain their independency. Self-regulation rules and ethical rules will help guaranteeing the independency.

For example in the Finnish ADR schemes funded by the financial sector the industry co-operates with the other contracting parties, when appointing persons to those ADR bodies.

**(16) What should be the cost of ADR for consumers?**

ADR schemes should always be cheaper than the rulings in traditional courts. It should be either free or then the fees should be appropriate and reasonable.

All Finnish schemes have traditionally been free of charge.

**THE FINLAND CHAMBER OF COMMERCE**

Risto E.J Penttilä  
Director General