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*Electronic Consumer
Disputes Resolution
Work Package 1*
Last report

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A SOCIO-ORGANISATIONAL, INSTITUTIONAL AND ECONOMICAL EVALUATION OF ALTERNATIVE DISPUTE RESOLUTION IN EUROPE.

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Introduction

The main objective of this analysis is to study ADR environment in all European countries in order to gain a global vision of mediation and arbitration in Europe.

It studies national idiosyncrasies relating to mediation or arbitration and the way in which ADR is integrated in the political and legal system of the European countries.

It also analyses the social acceptance of the alternative dispute resolution in those countries and defines the brakes to the implementation of such a way of dispute resolution, off-line and online.

The CITA has managed a survey and about sixty questionnaires were sent to representatives of consumers and companies all around the fifteen European countries.

Those questionnaires are covering the following points :

- ✓ The way mediation or arbitration is perceived in the society, and particularly by the users (professionals and consumers) ;
- ✓ The habit of using out-of-court settlement in business to consumers relations ; and the motive forces and brakes (social, political, organisational) that ADR meets ;
- ✓ The motive forces and brakes (social, political, organisational) that online ADR could meet.

Many thanks to the Consumers' Associations in Belgium (CRIOC and Test-Achats), in Luxembourg (ULC), in Austria (VKI), in France (ORGEKO), in Spain (UCE), in Portugal (DECO), in Sweden (SK) and in Denmark (FR) for their collaboration in answering the questionnaires. The CITA also gives thanks to Luxembourgian (ICC), Spanish (ICC), Danish (Handelskammeret), German (DIHT), English (ICC) and Dutch (ICC) Chambers of Commerce.

This report is structured as follows :

National and European idiosyncrasies relating to online ADR in Europe will be studied in a first step. We will study some online ADR-providers around some European countries.

In a second step, the social acceptance of ADR all around the fifteen European countries will be analysed in details.

And before the final conclusion, economical factors will be studied with emphasis for the sources of financing online and off-line ADR.

1. European and National idiosyncrasies relating to online ADR

1.1. Inventory of online out-of-court dispute settlement in Europe

European online ADR-providers

Countries	Name of ADR Mechanism and URL	Languages offered	Type of disputes covered
Austria	The Internet Ombudsman http://www.ombudsman.at	German and English	B2B,B2C,C2C
France	(1) Imaginons un Réseau Internet Solidaire http://www.iris.sgdg.org/mediation (2) CyberCMAF http://www.cmaf.asso.fr	(1) French (2) French	(1) non-commercial disputes (2) B2B
Germany	(3) Cybercourt http://www.cybercourt.de (4) Freiwillige Selbstkontrolle Multimedia-Dienstanieter" http://www.fsm.de	(3) German and English (4) German, English, French	(3) B2B, B2C (4) self-regulation
Italy	Mediazione online http://www.mediazioneonline.it	Italian	B2C
Spain	(5) http://www.onnet.es/arbitec/ (6) http://www.travellerdefender.com/	(5) Spanish (6) Spanish	(5) B2C, B2B (6) Travel disputes page of reception
Sweden	(7) Allmänna reklamationsnämnden http://www.arn.se/ (8) Internet Ombudsmannen http://www.internetombudsmannen.se/io/	(7) Swedish and English (8) Swedish	(7) B2C
The Netherlands	e-mediation http://www.e-mediation.nl	Dutch and English	B2B, B2C
United Kingdom	(9) Financial-ombudsman http://www.financial-ombudsman.org.uk (10) Consensus Mediation http://www.consensus.uk.com (11) The claim room http://www.theclaimroom.com (12) We can settle http://www.wecansettle.com (13) Word&Bond i-arbitration http://www.wordandbond.com	(9) English (10) English (11) English (12) English (13) English	(9) B2B, B2C (10) B2B, B2C (11) B2C, B2B (12) B2C, B2B and others (13) B2B, B2C

Source : Some of those websites are specified at :http://www.oecd.org/dsti/sti/it/secur/act/online_trust/ICCInventory.doc

AUSTRIA : The Internet Ombudsman

1. Who operates the website ?

Internet Ombudsman is an Austrian-based Online Dispute Resolution provider that has been in operation since December 1999.

This non-profit venture is a project run by ÖIAT (Austrian Institute for Applied Telecommunication) in co-operation with VKI (Consumer Information Association) with financial assistance from the European Commission.

2. Funding source

ÖIAT received corporate funding to develop the technological platform for the service (although funds from businesses engaged in consumer e-commerce were not accepted), while VKI funds the consumer information and complaints handling aspect of the service itself. This non-profit venture receives financial assistance from the European Commission.

3. Competencies

The Internet Ombudsman is an adviser on questions concerning e-commerce, shopping on the Internet. It provides tips and suggestions for secure online shopping.

The Internet Ombudsman helps consumers to solve problems arising during online shopping.

It provides information about trends and new developments in the field of e-commerce.

The Internet Ombudsman aims to improve consumer protection on the Internet and thereby increase confidence in e-commerce.

It also lists the names of “black sheep” which means that e-commerce bidders who regularly contravene legal stipulations, or who are notoriously unfriendly to customers, are explicitly named on this watch list.

This site currently provides online complaints assistance (consumer information), mediation services and online arbitration. It handles B2B, B2C and C2C disputes. A number of communication tools are used to settle disputes, including email, fax and phone.

The service is free for all parties. It is currently provided in German and in English.

4. Progress of procedure

Internet Ombudsman does not impose a time limit on the resolution of disputes, which are usually resolved within one week. Either party can opt out of the process at any time except during binding arbitration.

The parties can agree beforehand to binding arbitration. At no time, though, do consumers give up the right to take their case to court. Arbitration decisions are guided by local consumer protection law and relevant international guidelines. Reasons for arbitration decisions are provided to parties. Case results are publicised in Austrian newspapers.

Mediators and arbitrators working for Internet Ombudsman are required to hold a variety of qualifications. They must have knowledge of consumer protection, e-commerce and trade law, as well as be familiar with international agreements. They must also have mediation and conflict resolution experience, and journalistic and research experience. Mediators and arbitrators are assigned to individual cases on the basis of their expertise.

5. Advantages and disadvantages

Internet Ombudsman appears to rank high in terms of independence, transparency, effectiveness, due process and legality. Being free of charge for all parties is a tremendous advantage for this site. But the fact that its services are limited to English and German clearly limits its availability. Furthermore some services are only available in German.

FRANCE

1. IRIS (Imaginons un Réseau Internet Solidaire)

1. Who operates the website ?

IRIS is a France-based Online Dispute Resolution provider that has been in operation since October 1997.

2. Funding source

This mediation system is a private and experimental project run by IRIS association with financial support from the incorporated companies Mygale, InterPC and Freenet.

3. Competencies

Iris Mediation offers mediation services for settling disputes, which arise from the online activity (between users, service providers ...). Therefore, anyone who has a claim or a concern arising from the online activity can initiate the procedure.

The main objectives of IRIS are :

- Promoting individual and public liberties on the Internet
- Promoting Internet access as part of the universal service
- Promoting the use of the Internet for non commercial purposes and actions showing solidarity

The aim of IRIS is to favour the defence and the widening of everybody's rights concerning free use of internet network.

IRIS Mediation focuses on disputes of a non-commercial nature related to Internet use.

IRIS mediation handles conflicts between private parties only (non-contractual disputes).

The mediation service is free for all parties. The procedure of Mediation is carried out via Internet. The site is written entirely in French.

4. Progress of procedure

The process is based on consent of both parties.

A dispute becomes available for settlement through Iris Mediation when a user fills out a registration form and submits a case. Online process (forms, email exchanges)

The two first step of the dispute procedure are firstly for the user to fill out a registration form, which consists mainly on submitting a case for mediation. And secondly, the Iris Mediators attempt to contact the opposing party and if it is successful the mediation process will start.

The system does not design any important timelines.

The mediators do not necessarily have mediation experience. They mediate voluntarily and are not paid. The outcome of the procedure is not binding (unless requested by both parties). The mediation has only an advisory value.

5. Advantages and disadvantages

Being free of charge is an advantage for this mediation procedure but the fact that its services are limited to French clearly limits its availability. Furthermore, it is unclear how the competence and the impartiality of the mediators are guaranteed. It is also unclear how transparency of the system is ensured.

FRANCE

2. CyberCMAP (Chambre de Médiation et d'Arbitrage de Paris)

1. Who operates the website ?

CMAP is a French-based Mediation and Arbitration Center which offers Online Dispute Resolution for Business to Business (B2B). CyberCMAP runs this project in cooperation with the Canadian Online Dispute Resolution provider eResolution. Together, CyberCMAP and eResolution offer online mediation service for B2B commercial disputes.

2. Funding source

CMAP is a « para-publique » organisation which receives public funding from the Chamber of Commerce and Industry of Paris. And eResolution is a private business venture that receives no public funding.

3. Competencies

CyberCMAP helps companies provided with electronic address to solve commercial disputes and disputes concerning the B2B Internet use. One of the companies involved in the dispute has to be French.

The service is not free; there is a charge for the company that is complainant. The fixed price depends on the amount in dispute. There is a variable price based on a percentage of the amount in dispute and shared between the two parties if the defendant agrees the mediation's procedure.

CyberCMAP is currently provided only in French but it plans to offer its services in English and Spanish too. It uses the e-mail as communication tool in order to resolve disputes.

4. Progress of procedure

Once a party files an online request for Online Dispute Resolution services, the first step will be to pay the fee. Then the General Secretariat of CMAP contacts the other party, in case of unilateral request. If the second party accept to participate in mediation, a mediator will then be assigned to disputes on the basis of his experience with the issues in questions. This process is confidential and voluntary.

5. Advantages and disadvantages

CyberCMAP provides a quite cheap service for simple disputes. The fact that most of mediators of CMAP are French can endanger the neutrality of the mediation. It is further limited, however, in that it is currently available only to French speakers.

GERMANY

1. Cybercourt

1. Who operates the website ?

Cybercourt is a yet-to-be launched Online Dispute Resolution service based in Germany and operated by the international consulting / legal firm Price WaterhouseCoopers (PWC). The service, which is intended to operate globally, will be limited to internet-related disputes, including online sales. While not focused on consumer disputes, it will be available in such cases.

2. Funding source

Cybercourt is seeking private sponsorships for its planned service, but will also likely charge user fees (to be determined).

3. Competencies

Cybercourt is currently working on its technology platform ; it hopes to use a combination of online communications tools including email, chat rooms and video-conferencing in order to mediate and arbitrate cross-border disputes.

Services will be offered initially in English and German, but in keeping with the purpose of the service (resolution of cross-border disputes globally), other languages would be added to the extent possible.

This service is not free of charge : the party who initiated the process pays the Judge. The cost is set within the normal acceptable wage of the Internet Hotlines.

4. Progress of procedure

Anyone who has a case concerning the online activity can initiate the procedure. Voluntary, one party submits a case concerning an online activity and the opposing party has to agree to resolve the dispute through Cybercourt. The parties might choose to remain anonymous.

The dispute procedure follows six stages : at first, a party submits the case by sending an e-mail to the Cybercourt with the description of the case. The Cybercourt sends a notification to the opposing party and asks for its participation in the dispute resolution.

Secondly, the cybercourt judge opens the case and explains the procedure and rules to the participants. Thirdly, the parties present their points of view on the case, which are collected and summarised by the Mediator. Then, the two parties develop the possibilities of a solution. It is supposed to be a win-win solution. Finally, a solution is agreed upon and written down.

The Cybercourt has mainly an advisory role. The procedure will not be binding unless the parties agree otherwise. The outcome will be binding only upon an agreement between the two parties. The system does not prescribe any consequences for non-compliance with the outcome.

Cybercourt's service will be governed and operated by PWC lawyers specialising in cyberlaw. Parties will choose a mediator/arbitrator from a panel of PWC lawyers, whose backgrounds are provided on the website. Judges and mediators have to be lawyers specialising in the domain which is essential to the case.

5. Advantages and disadvantages

As this service is not yet developed, it cannot be properly assessed. However, it appears that the service will be geared mainly to cross-border disputes of a higher value than ordinary consumer disputes. While the global orientation of this planned service is promising, its usefulness for ordinary consumer disputes is therefore likely to be limited. Also, Cybercourt will have to be careful not to accept funding which may compromise its independence.

GERMANY

2. Freiwillige Selbstkontrolle Multimedia-Dienstleister" (FSM)

"Voluntary Self-Control for Multimedia Service Providers"

1. Who operates the website ?

FSM is a Germany-based self-regulatory organisation of German Internet Service Providers, which has been in operation since 1997. FSM is a society founded by several media associations and several companies.

2. Funding source

FSM is financed by member dues.

3. Competencies

The FSM deals with complaints by Internet users against German providers of Internet content. When appropriate, it can inform legal authorities in cases involving content that is illegal in Germany.

The main objective of FSM is to encourage its members to abide by its regulations and principles in order to prevent jeopardising the credibility of online services and the Internet. Strengthening the freedoms of service providers and protecting the valid interests of users and the general public, in particular against race discrimination and the glorification of violence, and acting on the basis of self-responsibility in order to strengthen protection for youth.

The FSM will accept complaints about radical discriminatory contents or contents which are illegal or dangerous for youths. Contents, which incite hatred and violence against segments of the population (or minority groups). Publishing insults against them in such a manner as to endanger the peace or to expose them to scorn or contempt. Incitement to commit crimes, depiction of acts of violence, instigation to racial hatred. Dissemination of unconstitutional organisations' propaganda material, treasonable conduct as an agent for sabotage purpose, dissemination of pornographic publications to impairment of young.

The costs of the Association shall be covered by members' dues, which are set by the Members Assembly on an annual basis by means of resolution. The system does not specify any cost to the consumer. The service is provided in German, English and French.

4. Progress of procedure

The procedure is carried out via Internet and e-mail. Anyone who has a complaint about contents accessible through online services or the Internet can initiate procedure. But there are preconditions to initiate the procedure : the complaint must contain a reference to a certain content as well as to the manner in which the content has been made available in the Internet. The person filing the complaint shall state their e-mail address. The reason for the complaint shall be clearly stated.

The FSM system does not specify any important timelines.

There are four stages of the dispute procedure.

During the initial review, complaints, which have been reviewed by the FSM and are seen as genuine shall be forwarded to the content provider by the Commissioner along with the request to issue a statement regarding the complaint within a reasonable period of time. Following the initial review, the Commissioner shall forward the complaint and all statements, which have been received together with a summary of the substance matter to the Chairperson of the Complaints Office.

Secondly, the Chairperson of the Complaints Office shall take all necessary measures to prepare for a decision in the event of a complaint. In particular, information may be obtained, and witnesses and experts may be heard.

Thirdly, the Complaints Office shall render decisions by majority of votes cast by its regular or replacement members ; in the event of tie votes the chairperson shall cast the deciding vote. If the suspicion of a concrete danger for the body, life or freedom of persons (especially in the context of child pornography) arises the Chairperson of the Complaints office shall inform the competent authority about the contents of the complaint and the resulting suspicion. If the opponent of the complaint has changed the content, which is the subject of complaint in a manner, which makes the complaint no longer relevant, the procedure shall be terminated.

At the end, the decisions rendered contain a request for a member to remedy the infraction, which has been determined by means of suitable measures and to avoid repetition of the infraction. The measures requested must be actually and legally possible and reasonable. A condemnation pronounced against a member shall be published by the member in its service offering for a period of one-month beginning with the announcement of the condemnation and shall reflect the tone of the condemnation. If the service provider or online service against whom the complaint is made is not a member of the FSM, they can only send them a notice.

The proceedings are confidential. The decision is published only if agreed upon beforehand. Decision and proceedings are kept confidential.

The service provider has the opportunity to bring objections against the decision of the commission. The chairman of the committee is considering these objections.

5. Advantages and disadvantages

The fact that FSM offers German, English and French services strengthens its availability to consumers. But, some informations are only available in German. The FSM service stays theoretical and the way of initiate the complaint procedure is not defined.

ITALY

1. Mediazione Online

1. Who operates the website ?

Mediazione Online is an Italian-based Online Dispute Resolution provider that has been in operation since 1999. This service of Mediation online is run by Sandra Di Sebastiano, an Italian lawyer.

2. Funding source

Mediazione Online charges user fees. Mediazione Online is financed by the payment of the users. Those pay an amount, which depends on the evaluation of time, and the costs designed to solve the conflict.

3. Competencies

MediazioneOnline is a permanent service of mediation, whose scope is to facilitate the dialogue between the persons, allowing them to catch up a constructive, favourable and durable agreement.

MediazioneOnline uses Internet instrument in order to communicate and to exceed the problems legacies to the distance between the parts. It offers :

- 1) Service of mediation of support for professionals (lawyers, administrators of apartment building, doctors and therefore).
- 2) Mediation service online for the solution of the conflicts of whichever nature.
- 3) Service of mediation for Companies online in order to :
 - cure the relationships online with the customers ;
 - manage online the conflicts that rise in occasion of transactions via Internet;
 - give mediation advising on specific issues.

MediazioneOnline offers a service of mediation through Internet (e-mail, chat, and web) in order to facilitate the communication between persons who operate on the Network or prefer the advising on. MediazioneOnline means to offer to the customers the favourable coupling of the two instruments that, for their nature, are characterised, both, gives : rapidity, simplicity, and effectiveness.

Mediazione Online does not supply legal advising. The data and the information supplied to the management in occasion of the mediation service remain classified and to exclusive use of the declared and evident purposes. MediazioneOnline reserves the right to modify in every moment these conditions of use. MediazioneOnline assures confidentiality guarantee.

Mediazione Online proposes a virtual service at the community. This service represents a cost. This cost depends initially on the service chosen, then nature and complexity of the request. Mediazione Online also incurs other costs such as for example: Expenditure of information fees of the mediators ...

For every demand, the mediator will introduce to the customer an estimate of necessary time and expense.

4. Progress of procedure

The Petitioner of the service of Mediazione Online must have the greater age and the ability to act: therefore the minors and the incapable ones are excluded. The mediation service addresses to the single persons or organisations, like the companies, to groups of persons who act through a representative (a political party, a group environmentalist, and an apartment house) or that they wish a co-ordinator.

The form of request is always available on the Web. Once that it has been forwarded the message, the mediator will answer in the short possible time.

The mediator of Mediazione Online receives the form of request through e-mail and he is put in contact with the petitioner (and the other part, in the case the demand concerns on a problem with an other subject). If necessary the mediator will ask questions to both parties, in order to know the case better. Once that the facts and the interests have been cleared, the mediator will try to characterise a possible solution and he will subject it to the petitioner. If he does agree, the mediator will write up the text of the case and he will send it to the other party.

Mediazione Online reserves the right to suspend or to finish the mediation if the mediator thinks that the mediation will lead to an unjust result, or if it estimates that it is not sound arises to find a solution, or if the parts did not pay theirs fees.

5. Advantages and disadvantages

This service, only available in Italian, doesn't give information about solving cross-border disputes. The legal problems are not approached by this website.

SPAIN

1. Arbitec

1. Who operates the website ?

ARBITEC is the Spanish Association of Technological Arbitration. This association handles conflicts between users of information technologies and data processing and technological companies. ARBITEC is working for the resolution of divergences related to the products and services of information technologies.

In February 1997, this association, based in Barcelona, has become the first Spanish institution that admits requests of arbitration through Internet.

2. Funding source

ARBITEC receives private and public funding namely

1. Monthly payments of the members ;
2. Payments coming from the provision of services of arbitration ;
3. Donations ;
4. Subsidies.

3. Competencies

ARBITEC helps companies and consumers to solve disputes in data processing and high technology sectors. ARBITEC solves disputes via arbitration. The arbitrator is chosen by the parties according to their position and profession. But usually the arbitrator is chosen by ARBITEC.

ARBITEC is provided only in Spanish and handles only Spanish disputes.

4. Progress of procedure

The procedure begins by the sending of a form via e-mail. ARBITEC manages the form and designates the arbitrator. The sentence has to be dictated before ninety days following the acceptance of the designated arbitrator. The parties are obliged to accept and to apply the sentence. In case of non-arbitration by mutual assent, the two parties have to submit to the Courts of the city. In case of non-acceptance of the sentence by the parties, the arbitration can be enforced.

5. Advantages and disadvantages

The fact that ARBITEC is offered only in Spanish clearly limits the availability of this service. This service is strong in terms of independence and convenience.

SWEDEN

1. Allmänna reklamationsnämnden (ARN)

1. Who operates the website ?

The National Board for Consumer Complaints (ARN) is an independent, public body. The Board's main task is to try consumer disputes by giving high quality, impartial decisions in a quick and cheap way.

The Board is divided into the following eleven departments :

Bank Department, Boat Department, Cleaning Department, Electrical Department, Housing Department, Insurance Department, Motor Vehicle Department, Shoe Department, Textiles Department, Travel Department, General Department

2. Funding source

ARN is an off-line public body, which offers Online Dispute Resolution. This body is financed by the Swedish government.

3. Competencies

Most complaints are dealt with by one of the Board's departments at a department session. Such a session is chaired by a lawyer who has to be experienced as a judge. Beside the chairman, four expert members who are specialists in the branch of trade in question normally participates. There is to be an equal number of representatives of consumer and trading interests on both sides.

The decisions are drawn up as recommendations and are not legally binding. In spite of that most traders (approx. 75 %) do comply with the Board's recommendations. Some of them have already made an undertaking to do so, either individually or indirectly through their trade organizations.

It is not possible to appeal against the Board's decisions. However, nothing prevent the parties to bring the case to a court of law.

The person who can initiate the procedure is a consumer. A consumer who is not content with

the provided goods or services must give notice to the trader as soon as possible. According to the Swedish Consumer Acts, the trader is not only under an obligation, but also entitled, to rectify faults that are brought to his or her attention.

If the trader fails to respond to a complaint the consumer should in the first place address a municipal consumer adviser for advice and help.

If it is not possible to achieve an amicable settlement with the trader, he may notify the dispute to the Board. The claim has to be notified within six months of the trader having completely or partially rejected the claim. A claim that is brought to the Board later will be rejected.

The Board does not try claims of less value than specific amounts.

The Board normally handles disputes with :

- ✓ any Swedish trader,
- ✓ foreign traders with places of business in Sweden,
- ✓ foreign traders if the agreement affecting the goods or services has been reached in Sweden,
- ✓ foreign traders if the agreement relating to the goods or services has been reached abroad but the marketing took place in Sweden, the consumer lives in Sweden and there is no reason to suppose that a recommendation will be ineffective.

The Board rejects some complaints. Complaints based on verbal evidence are turned down since witnesses can not be heard within the Board's written and simplified procedure. The Board can also reject a dispute due to it's complexity or the fact that the dispute calls for an extensive investigation.

The website is available in Swedish and in English but all communications with the ARN are in Swedish. The Board process is a purely written procedure. The Board process is free of charge for the parties and they are not entitled to compensation for the costs of representation when the process is finished.

4. Progress of procedure

A complaints must be submitted to the Board in writing. The Board has designed seven

different forms for the notification of complaints. The consumer should preferably use one of these forms that are available at the Consumer Advice Centres, at the Board and through the ARN website. All communication with the Board should be in Swedish.

The complaints received by the Board are sent to the traders who are requested to give a written reply. The reply is then sent to the consumer for a comment. If the trader concerned has not expressed an opinion in the case, the Board's recommendation is normally based upon the consumer's statement.

Sometimes it is necessary to inspect the goods in question. At the Shoe, Textiles and Cleaning departments the goods are available and regularly inspected by the Board at the sessions. Generally speaking, the other departments do not have sufficient resources to inspect the goods themselves, and consumers must therefore make their own arrangements for such inspections.

They also have to pay the costs for the inspections. If the Board finds a complaint justified, it normally recommends the trader to reimburse the consumer for such expenses.

5. Advantages and disadvantages

The ARN service is attractive to consumers because it provides assistance regarding recalcitrant vendors. Links to other services, such as The European Commission Services, are especially useful. For consumer who wants to address a complaint to a trader in another EC country than Sweden, ARN service provides link to The European Commission consumer complaints form. The Swedish-only aspect of the communication with this service is very limiting.

SWEDEN

2. Internet Ombudsmannen

This web site is only available in Swedish ! This public body handles all commercial online disputes. Internet Ombudsmannen is financed by the Swedish government.

THE NETHERLANDS

1. E-mediation

1. Who operates the website ?

E-Mediation is a Netherlands-based online service for mediation, claims settlement currently in the development stage. It is being developed by the Dutch Electronic Commerce Platform (ECP) an association between the Dutch business community and the Dutch Ministry of Economic Affairs. While not yet associated with a Trustmark program, consideration is being given to linking it with the Dutch Code of Conduct for e-commerce.

E-Mediation is the first part of an ODR system for the Internet in which ECOM4U and ECP.NL participate. E-Mediation is a multidisciplinary project. This organisation consists of three business units : legal services, technical services and business development. ECOM4U is responsible for the operational activities. ECP.NL contributes by helping to make sure the project is set up in accordance with (inter)national and EU policies.

2. Funding source

The funding source is to be determined.

3. Competencies

The E-Mediation services are currently only offered in a pilot situation. This means that it will only offer e-mediation in a limited number of fields. As soon as the service will be fully operational, it will be possible to offer E-mediation in a larger number of fields.

E-Mediation deals with both disputes that arise in the "real world" and so-called e-disputes (i.e. disputes that arise as a result of e-commerce transactions.). As for face-to-face mediation, the two most important principles for E-mediation are : voluntariness and confidentiality.

Private persons, businesses and organisations that avail themselves of E-Mediation services have to be sure that the disputes they submit and the solutions that are the result of an e-mediation procedure are adequately secured.

E-Mediation will use cryptographic technology to secure data communication. This cryptographic technology will support four important security aspects :

1. Authenticity : the possibility of confirming the identity and legal capacity of a party, participating in a communication connection;
2. Integrity : the possibility of determining whether the value of a data item has been changed after it was originally sent;
3. Confidentiality : the possibility of making data illegible or inaccessible for unauthorized third parties;
4. Non-repudiation : the possibility of being able to prove that a data item has been sent or received.

E-Mediation will avail itself of the services of so-called certification service providers to fill in these security aspects. By availing itself of these services E-Mediation can guarantee its customers that when they submit a dispute to the E-Mediation website this dispute can only be read by E-Mediation and is inaccessible to any unauthorized third party. The fact that E-Mediation avails itself of the services of a certification service provider also makes it possible to use digital signatures for signing the E-Mediation Agreement at the start and the Settlement Agreement at the end of the e-mediation procedure.

E-Mediation is currently working on a privacy policy, in accordance with the Dutch Personal Data Protection Act. The E-Mediation privacy policy will address a number of issues. Any dispute that E-Mediation will receive via its website will be treated in accordance with rules of confidentiality.

There is currently no information on the costs of an e-mediation procedure. The service is provided in Dutch and in English. The website itself is user friendly

4. Progress of procedure

The process is described in 6 steps :

Step 1 : starting an e-mediation procedure :

To start an e-mediation procedure, the participant have to complete a registration form, giving information about his dispute. This form is strictly confidential and can only be read by him and by E-Mediation.

Step 2 : approaching the other party :

E-Mediation will approach the other participants(s) to find out whether they are willing to participate in an e-mediation procedure. If they agree to e-mediation, they will also have to complete a confidential registration form.

All parties have the right to withdraw from the e-mediation procedure at any time.

If the approached participant(s) indicate that they do not wish to participate in an e-mediation procedure or if they have not reacted within a 5-day period, E-Mediation will inform the first party that it will not be possible to start an e-mediation procedure.

If the approached participant(s) agree to e-mediation, they will also have to complete a confidential registration form, that can only be read by E-Mediation.

Step 3 : assigning an e-mediator :

Now that both parties have shown their willingness to resolve their dispute together, it is possible for those parties that wish to do so, to select an e-mediator of their choice. In most cases E-Mediation will be the one to assign a specialized e-mediator.

The e-mediators that work through E-Mediation are specialists in their various fields of work. E-mediators will abide by the E-Mediation Rules. These rules will be set down in the E-Mediation Rules 2000 and will focus on good quality e-mediation.

Step 4 : the e-mediation agreement :

The e-mediator who has been assigned to the case will contact both parties. At the beginning of the e-mediation process, the parties enter into a so-called e-mediation agreement, in which parties agree to try and resolve the dispute through e-mediation. In the agreement the rules that apply to the e-mediation process are set out.

In the (standard) e-mediation agreement, parties also agree not to take legal action while they are engaged in the e-mediation procedure. The e-mediation procedure can now start.

Step 5 : costs :

The costs structure of the e-mediation procedure is currently being studied. They aim to come up with a solution that is acceptable to all parties concerned. The fee will not be related to whether or not an solution will be agreed upon by the disputing parties.

Step 6 : the settlement agreement :

When parties come to an agreement, the agreement is recorded in a settlement agreement according to Dutch Civil Law (art.7:900 and following articles of the Dutch Civil Code)

The settlement agreement is legally binding. This means that in case of non-observance of the agreement, it is possible to take legal action. It is also possible to enter into a new e-mediation procedure.

E-Mediation is currently studying the possibility of using electronic settlement agreements that will be signed with digital signatures.

5. Advantages and disadvantages

It is difficult to assess this service based on the information available to date. Like other providers, it will have to balance the need to be independant (and thus avoid funding from vested interests) with the need to offer service at an affordable price (preferably free) to consumers. To the extent that E-Mediation is linked to other dispute resolution services, and to a Trustmark program, its effectiveness may be enhanced.

UNITED KINGDOM

1. Financial Ombudsman Service

1. Who operates the website ?

The Financial Ombudsman's task is to resolve disputes between consumers and financial firms. The Financial Ombudsman Service brings under one roof the separate complaints-handling and ombudsman schemes which currently deal with financial complaints. These schemes are all based at the Financial Ombudsman Service's office at South Quay Plaza in London's Docklands.

2. Funding source

50% of the funds are raised through industry levies and 50% through case fees.

3. Competencies

The Financial Ombudsman Service will handle complaints about most areas of personal finance – from motor insurance, mortgages and banking to pension plans and stocks and shares. In fact, it will cover pretty much the same things that the eight separate complaints-handling schemes and ombudsman cover at the moment - but all together under one roof.

The Financial Ombudsman Service brings together eight separate complaints-handling and ombudsman schemes into one, providing a simple and informal service for resolving disputes. The eight schemes are :

1. **The banking Ombudsman** which resolve individual complaints against banks in the UK.

The service is free to complainants. It can award up to £100,000. The bank has to accept its decision. Complainants do not have to; they retain the right to go to court instead.

The banking Ombudsman is independent and impartial - responsible to an independent Council, not to the banks. It have a staff of more than 50, headed by senior lawyers.

Individual complaints are all it deal with. It do not have power to make rules for the banking industry. And it cannot give general advice about banking, financial matters or debt problems.

2. **The Building Societies Ombudsman** (for complaints about building societies) ;

1. The Insurance Ombudsman (for complaints about general insurance such as motor insurance, buildings and contents insurance etc. Complaints about life insurance are dealt with by the PIA Ombudsman) ;
2. The Investment Ombudsman (for complaints about firms which manage investment funds and are regulated by the Investment Management Regulatory Organisation - IMRO) ;
3. The Personal Insurance Arbitration Service (for complaints about general insurance involving companies that are not members of the Insurance Ombudsman) ;
4. The PIA Ombudsman (for complaints about financial advisers, life insurance companies, friendly societies etc regulated by the PIA - the Personal Investment Authority) ;
5. The SFA Complaints Bureau and Arbitration Service (for complaints about stockbrokers and futures traders etc regulated by the SFA -the Securities and Futures Authority) ;
6. The FSA Direct Regulation Complaints Unit and Investigator. The FSA regulates the financial services industry.

The service is only provided in English.

4. Progress of procedure

For the banking Ombudsman :

The first step is to complain to the bank. The consumer should ask the bank for details of its complaints procedure. The consumer needs to follow this through (usually to head office level) before bringing his complaint to the banking Ombudsman.

If the consumer gets to the end of the bank's complaints procedure without his complaint being resolved, the bank will say his complaint has reached deadlock and that he has 6 months to take up his complaint through the banking Ombudsman. Then the consumer can fill in the complaint form.

Then, the banking Ombudsman explores whether there is scope to resolve the complaint quickly by conciliation. If the complaint is not resolved by conciliation, it will be passed to the separate Investigation Department for investigation. But the banking Ombudsman may

decline to conduct an investigation if those are satisfied the bank has already offered the consumer adequate compensation.

The end of the procedure is the Final Decision. There is no further appeal - though the consumer retain his right to take his case to Court if he does not accept the Final Decision.

For the other schemes, a phone number is provided.

All board members are non-executive «public interest» directors. Some are consultants, others are director of the National Consumer Council.

5. Advantages and disadvantages

The fact that it is offered only in English clearly limits the availability of this service. Important positive attributes of the Financial Ombudsman' complaints assistance service include the no-cost and accessibility to consumers (plain language, easy to use) and the availability to consumers of information on businesses. Some very useful links are provided. However, the Financial Ombudsman Service uses telephone as communication tool which seems to be inappropriate for Internet dispute resolution

UNITED KINGDOM

2. Consensus Mediation (e-Mediator)

1. Who operates the website ?

E-Mediator is a UK-base online mediation service that began operations in February, 2000. It is a pilot project of Consensus Mediation, an offline mediation centre. E-Mediator will handle any dispute that is amenable to mediation.

2. Funding source

E-Mediator is financed by user fees.

3. Competencies

E-Mediator deals with disputes :

- ✓ that arise out of an online relationship, or
- ✓ where the amount at stake is less than £10,000, or
- ✓ where the parties are geographically too far apart to make a face to face mediation practical.

E-Mediator's service is offered only in English. The website is user friendly. A variety of communication tools, including email, telephone, and video-conferencing are available to facilitate the mediation process. E-Mediator uses only secure encrypted email, and everything discussed within the mediation is kept private amongst the parties. If the parties decide to seek legal recourse after undertaking mediation, the mediators cannot be called upon to give evidence regarding the mediation. However, once a settlement is reached between the parties, all documents cease to be legally privileged.

4. Progress of procedure

Cases filed with E-Mediator are usually resolved within a week. Parties can opt out of the process at any time. The outcome of each decision is kept confidential and therefore the results are not published. While representation by a lawyer is not necessary to the mediation process, E-Mediator does recommend that parties at least seek legal advice. For this purpose they provide links to solicitors on its website. In addition, E-Mediator may refuse to take on cases where there is a significant imbalance of power between the parties, unless the less powerful party had suitable representation.

There are seven stages of the dispute procedure :

Step One : The user completes a simple, confidential form telling Consensus about the dispute, the people involved, and what has happened so far.

Step Two : Consensus contacts the other party to see if they are interested in resolving the dispute with E-Mediator. If they agree they will also complete a confidential form. (If they do not agree or there is no response within a reasonable time E-Mediator cannot proceed.)

Step Three : A mediator is appointed from the E-Mediator panel.

Step Four : Each party pays their E-Mediator mediation fee.

Step Five : An Agreement to Mediate will be sent to everyone, setting out the rules and the timetable for the checking and exchange of e-mail messages.

Step Six : The mediator will exchange e-mail messages with each party until the mediation is concluded. Consensus's fee structure allows for 6 hours of the mediators' time, on and off-line, which is usually enough to resolve most disputes.

Step Seven : If terms of agreement are reached the mediator will prepare a draft Settlement Agreement for approval. The agreement will be binding when all parties have approved the Settlement Agreement

E-Mediator uses professional mediators with a variety of experience levels. This ranges from lead mediators who are professionally qualified and have been conducting dispute resolutions for at least ten years, to pupil mediators who have received mediation training and attend mediation sessions with other mediators.

Mediators are selected based on the complexity of the case and the amount of money at stake. Fees vary according to the mediator, but are always half the amount charged for face-to-face mediation : Sterling £75 for a junior mediator or £150 for a lead mediator on a claim of under £5,000. Fees are payable by each party (equally).

5. Advantages and disadvantages

E-Mediator's service is strong in terms of independence, convenience, transparency of process, and especially, due process. Affordability is enhanced with the tiered service structure.

Because of the fees involved, however, the effectiveness of this service in the B2C ecommerce context will be limited to higher value disputes.

As with mediation generally, the confidentiality of case results prevents this service from providing useful marketplace information. The fact that this service operates in English only clearly limits its availability.

UNITED KINGDOM

3. The claim room

1. Who operates the website ?

The Claim Room is a Cheshire-based Negotiation and Mediation Online provider. It's designed by UK lawyers to be compatible with UK legal practice.

2. Funding source

The Claim Room is financed by user fees.

3. Competencies

The Claim Room is an online negotiating - mediating area and 'blind' bidding tool for resolving monetary disputes and customer complaints. The users of this web site can be :

- Clients/lawyers involved in legal claims
- Organisations defending large numbers of disputes
- Trade association consumer complaint services
- Mediation companies wishing to offer true Online ADR.
- Liability/Legal expense insurers and claims handlers
- Claims brokers
- B2B net market portals (negotiating deals or resolving disputes within industry supply chains)

TheClaimRoom can be 'white labelled' to operate within any existing online operation.

The Claim Room offers :

- Confidential communications areas for text-based negotiations (both party-to-party and lawyer/representative-to-client/claims introducer)
- Area for recording side agreements/Part 36 offers/estimated claim values and bidding limits, etc.
- Automated settlements through blind bidding with all bid amounts undisclosed to the other side and binding settlement created when bids come within a pre-agreed proximity
- Designed to be used alongside, and in support of, traditional 'open' negotiations

Each user must join and set up an account. Major users apply and can then introduce individual claimants. Users have the choice of using the blind bidding facility alone or to use the full facility by hiring a suite of online negotiation/mediation rooms.

For the basic blind bidding facility there is no cost incurred in entering a case or in making any number of bids to settle. The Claim Room charges only the party initiating the claim on the system and then only when a settlement is achieved. Parties can, however, by discussion in the negotiation area, agree a different arrangement as to who pays.

The rates are :

For a settlement value up to and including £2,000 - £100

Over £2,000 and up to and including £5,000 - £200

Over £5,000 and up to and including £10,000 - £300

Over £10,000 - £400

All charges are subject to Value Added Tax.

For full online negotiating and mediation facilities, a set of rooms per claim can be hired at a basic cost of £100 per quarter. On hiring, no further charge is raised on a settlement. Special tailored charging arrangements will be negotiated for multiple room hire.

4. Progress of procedure

The claimant's lawyer enters, as a reminder, his value of the claim and a temporary optional limit for bidding. He then enters his opening bid. The defendant enters his estimate of claim and bidding limit reminder. The insurer counter bids. If the bids are different, there is no settlement. The claimant lawyer seeks agreement on a bidding condition by message in party-to-party communications area. If the defendant agrees to the bidding condition, the claimant lawyer responds to client and it's a win-win agreement.

5. Advantages and disadvantages

The Claim Room appears to rank high in terms of independence, transparency and legality. The site is convenient. The services are only available in English.

UNITED KINGDOM

4. We Can Settle

1. Who operates the website ?

WeCanSettle is a Liverpool-based Online Dispute Resolution provider.

The WeCanSettle board is led by British lawyers with many years experience of claimant and defendant litigation of all kinds.

2. Funding source

WeCanSettle is financed by membership fees.

3. Competencies

WeCanSettle offers negotiation services for personal injury, agreement of legal costs, employment disputes, commercial disputes, divorce financial settlement, and contract disputes.

WeCanSettle can be used by lawyers, insurers and unrepresented people.

Unrepresented people can use the system as well as lawyers.

If settlement is not achieved or legal advice is needed WeCanSettle can provide referral to solicitors or mediators committed to achieving rapid settlement of cases wherever possible.

WeCanSettle does not provide legal advice.

Depending on the legal jurisdiction governing a dispute, a losing party may be called upon to pay the legal fees or 'costs' of the successful party. When a settlement takes place, as with traditionally negotiated settlements, the defendant will often also pay the claimants legal costs. WeCanSettle gives defendants the option either to make a bid which does not include legal fees, in which case he will probably be called upon to pay them separately to the claimants lawyers, or to make an 'all in' bid which includes legal fees. The other party is notified at the outset whether the dispute has been submitted on a costs inclusive or costs exclusive basis.

If legal fees are paid separately the parties may submit a dispute over legal fees as a separate case to WeCanSettle, which would be billed at usual rates. Unless alternative arrangements are made with WeCanSettle,

an invoice is sent by post when settlement is achieved and fees should be paid within 14 days.

4. Progress of procedure

In order to use the system parties to a dispute must join and be registered as a member.

The system enables two negotiating parties to make offers, which are called 'bids', being the amount at which they are prepared to settle a legal dispute or agree a figure in any other matter.

The parties are called the 'claimant', i.e the payee, the person who is to receive a sum of money, whether the case concerns a legal claim or some other agreement and the 'defendant', i.e the payer, the person who will be making payment.

One person enters the case on the system and makes a bid to settle. The other person is notified by email and invited to enter his own bid. Neither party ever sees what the other side has bid. Every time a bid is made, the system compares the figure with the last bid from the other side. If the two bids are less than a predetermined percentage apart, which is set by default at 20%, the system splits the difference and declares a settlement at the mid point.

If no settlement is achieved when a bid is made, bidding can continue. If the parties never get close enough to achieve a settlement, neither will ever know what the other party bid.

5. Advantages and disadvantages

This site is not clear concerning the means used to solve the conflict. It is not known if it uses negotiation or mediation. The website is convenient and is available in English.

UNITED KINGDOM

5. Word&Bond i-arbitration

1. Who operates the website ?

Word&bond is a London-based interactive arbitration system. Word&Bond is the result of 24 months of research and development into private international law remedies, and developed as a commercial proposition by the founding directors Martin Odams de Zylva and Bruce Harris. The knowledge underpinning the Word&Bond proposition is based on tried and tested formulae, yet the proposition is flexible and forward looking. Word&Bond is seeking key alliances and further partners to implement its development strategy.

2. Funding source

Word&bond is a private body that is financed particularly by user fees.

3. Competencies

Word&Bond handles B2B and B2C disputes.

The interactive arbitration system is a consensual legal process. This means that both parties must agree to use it and abide by the Word&Bond i-arbitration rules. All traders who display the Word&Bond Standard agree to abide by the rules of the Word&Bond interactive arbitration system.

Note that if the trader does not display a Word&Bond Standard, the user may also file an i-claim and Word&Bond will contact that trader on your behalf. In the unlikely event that Word&Bond is unable to process their claim, it will refund the i-file fees less a £10 administration charge.

The i-file fee depends on the amount the user is claiming and must be paid before, and at the same time that an i-claim form is filed.

The i-file fee is calculated by the system and for claims under £500 is £40, which is lower than the fee required to commence a claim in the courts.

4. Progress of procedure

To access the interactive arbitration system, the user has to complete an i-claim form and pay a filing fee

In order for us to process an i-claim effectively the user must submit to the i-arbitrator all the information which is relevant to his claim. He may also attach to his i-claim any documentation which he thinks may support it, for example, the original delivery confirmation note or email, or an independent report on the nature of the defective or unsatisfactory goods. If the user is an individual, he has to complete the individual claim form. If he is claiming on behalf of a corporation, he has to complete the corporate claim form.

5. Advantages and disadvantages

Word&Bond adheres to the highest standards to protect data given to them in the course of using their site and interactive arbitration system.

The procedure and the law used are not very clear. Nothing indicates in the site how the mediators are chosen and who they are.

1.2. Assessment of European online ADR systems

This study is limited to the analysis of Alternative Dispute Resolution (ADR) services available online to consumers in cross-border disputes with traders. The analysis and evaluation of available Online ADR services takes only into account the European services.

Only in eight countries of the fifteen European countries online ADR services are developed for consumer disputes. Amongst the sixteen studied ADR services some are designed primarily for B(usiness) to B(usiness) but are planning to offer online ADR services for B(usiness) to C(onsumer) commercial disputes. That is why we have taken those into account.

Common features can be specify :

✓ *The problem of linguistic capacities*

Some online ADR systems such as the CMAP in France and the ARN in Sweden, provide only or partially services for national users in conflict with foreigners. The language of the dispute resolution procedure is, in that case, the national language. Generally, the fact that all European online ADR services are limited to one or three languages limits those availability. English is the predominant language.

✓ *The costs*

Most of European online ADR services are free for consumers. But if costs are assessed to support the operation of ADR systems, they may be prohibitively high for consumers or small businesses. ADR systems should be free or low-cost for consumer. If the consumer is obliged to pay a fee for this service, the other party should refund the cost if the consumer prevails.

Moreover ADR systems have to be careful to not accept funding which may compromise those independence. ADR systems should be independent. They should be operated by reputable third parties, which could include government, non-profit organizations, for-profit entities that are not directly involved in the disputes, or many combination thereof.

✓ *Effectiveness*

Most European online ADR providers meet the criteria of visibility, timeliness, convenience, and competence.

Few, if any, online ADR providers proffer adequate attention to the problem of relevant cultural and linguistic differences between disputants. Parties, may have fundamentally different expectations of the process, of how much give-and-take there is, or where you should start in terms of a bargaining position, or whatever. This could result in ultimate results which are not perceived as fair, or in the inability to come to an agreement.

Few online ADR providers are equipped to meet the needs of all types of B2C disputes.

Online ADR services fail to provide adequate incentives for compliance with online dispute resolution results. In terms of compliance incentives, there are ways in which online ADR providers can improve compliance with their results or enhance the incentives for compliance. One is to publish the results. But very few do that. Another one is to offer online ADR within a larger trustmark program.

Some ADR providers such as the Cybercourt in Germany are using a combination of online communications tools including email, chat rooms and video-conferencing in order to resolve cross-border disputes. However, some other ADR providers are only using telephone or post as communications tools which seems to be inappropriate for Internet dispute resolution.

✓ *Accessibility*

Most online ADR providers are not easy to locate via commercial website. Businesses who participate in ADR systems should provide links from their websites. Governments, consumer organizations, trade associations and others should also provide links to make it easy for consumers to find help.

✓ *Binding arbitration*

If one or both parties are bound by the decision, their ability to seek legal redress if they are not satisfied may be restricted or blocked altogether.

If complaints are not brought to legal authorities or enforcers of codes of conduct, they may be unaware of problems that merit their attention. Moreover, ADR that is binding on consumers may prevent their cases from being used by legal authorities, code enforcers or others representing consumers' interests in broader actions to stop fraud or abuse.

✓ *Confidentiality*

Some online ADR providers, such as e-Mediator, use only secure encrypted email which is the best way of guarantee the confidentiality of the dispute resolution. Everything

discussed within the mediation should be kept private amongst the parties. All documents should also be kept confidential.

✓ *Transparency, independence and impartiality*

A number of the online ADR services rely upon business funding, funding by the very businesses whose disputes are being adjudicated or mediated. And that clearly raises issues of independence which need to be addressed and were addressed to varying degrees by the various providers. The decision-maker must be independent from any professional association or company that appointed him. Virtually, the providers assert that their ADR officials are impartial, but in most cases, there is no evidence of how that impartiality is ensured.

Online ADR resolves the problem of applicable forum, but it doesn't necessarily resolve the issue of applicable law.

1.3. Summary chart

Countries	Name of ADR Mechanism and URL	Languages offered	Type of disputes covered	ADR Method Used	Funding Source
Austria	The Internet Ombudsman http://www.ombudsman.at	German and English	B2B,B2C,C2C	Advice, mediation, arbitration	Private and public
France	(1) Imaginons un Réseau Internet Solidaire http://www.iris.sgdg.org/mediation (2) CyberCMAP http://www.cmap.asso.fr	(1) French (2) French	(1) non-commercial disputes (2) B2B	(1) Mediation (2) Mediation, arbitration	(1) Private (2) Public
Germany	(3) Cybercourt http://www.cybercourt.de (4) Freiwillige Selbstkontrolle Multimedia-Dienstleister" http://www.fsm.de	(3) German and English (4) German, English, French	(3) B2B, B2C (4) self-regulation	(3) Mediation (4) Arbitration	(3) private sponsorships, user fees (4) member dues
Italy	Mediazione online http://www.mediazioneonline.it	Italian	B2C	Mediation	User fees
Spain	(5) http://www.onnet.es/arbitec/ (6) http://www.travellerdefender.com/	(5) Spanish (6) Spanish	(5) B2C, B2B (6) Travel disputes page of reception	(5) Arbitration (6) Advice	(5) private and public
Sweden	(7) Allmänna reklamationsnämnden http://www.arn.se/ (8) Internet Ombudsmannen http://www.internetombudsmannen.se/io/	(7) Swedish and English (8) Swedish	(7) B2C (8) Ombuds service	(7) Recommendation	(8) Public

Countries	Name of ADR Mechanism and URL	Languages offered	Type of disputes covered	ADR Method Used	Funding Source
The Netherlands	e-mediation http://www.e-mediation.nl	Dutch and English	B2B, B2C	Mediation	To be determined
United Kingdom	(9) Financial-ombudsman http://www.financial-ombudsman.org.uk	(9) English	(9) B2B, B2C	(9) Ombuds service	(9) Private and public
	(10) Consensus Mediation http://www.consensus.uk.com	(10) English	(10) B2B, B2C	(10) Mediation	(10) User fees
	(11) The claim room http://www.theclaimroom.com	(11) English	(11) B2C, B2B	(11) Negotiation, mediation	(11) User fees
	(12) We can settle http://www.wecansettle.com	(12) English	(12) B2C, B2B and others	(12) Negotiation	(12) Membership fees
	(13) Word&Bond i-arbitration http://www.wordandbond.com	(13) English	(13) B2B, B2C	(13) Arbitration	(13) User fees

1.4. Other systems

Note that the above mentioned services are generally national bodies. Other Online ADR services are European but are not appearing in this study.

- ✓ Some of those services are launched by the European Commission in order to help consumers and businesses deal with problems that may arise in cross-border trade (http://europa.eu.int/comm/internal_market/en/finances/consumer/adr.htm).

The first service is FIN-NET, which is an out-of-court complaints network for financial services to help businesses and consumers resolve disputes in the Internal Market fast and efficiently by avoiding, where possible, lengthy and expensive legal action. This network has been designed particularly to facilitate the out-of-court resolution of consumer disputes when the service provider is established in an EU Member State other than that where the consumer lives. The network brings together more than 35 different national schemes that either cover financial services in particular (e.g. banking and insurance ombudsmen schemes) or handle consumer disputes in general (e.g. consumer complaint boards). Both on- and off-line services are covered.

FIN-NET complements the EEJ-NET (European Extra-Judicial Network) which establishes a more general network of ADRs notified to the Commission by Member States as applying core principles (contained in Commission Recommendation 98/257/EC) to guarantee their fairness and effectiveness. The EEJ-Net, launched by the Commission in May 2000, provides a communication and support structure made up of national contact points (or 'Clearing Houses') established by each Member State.

- ✓ Some national services are Trust Seals combined with money-back guarantee systems such as Trusted Shops (<http://www.trustedshops.org>) in Germany and Fia-Net (<http://www.fia-net.com>) in France.
- ✓ Some European Consumers' Associations among other things assist consumers in resolving disputes with Web Trader. For instance, Which? Webtrader (<http://www.which.com/webtrader>) is a trustmark scheme developed by the UK Consumers' Association which provides assistance to consumers dispute resolution. Web Trader is now in use by a consortium of independent consumer's groups in seven other European countries: The Netherlands (Consumentenbond), Belgium (Test Achats), Italy (Altroconsumo), France (CLCV), Spain (Compra Maestra), Portugal (Deco Pro Teste) and Greece (Kepka). By linking with similar schemes in other countries, domestic Web

Trader programs aim to assist consumers in resolving disputes with Web Trader-accredited merchants in these other countries. Some other Consumers' Associations such as Konsument Verket in Sweden (<http://www.konsumentverket.se>) and Forbrugerstyrelsen in Denmark (<http://www.fs.dk/>) also provide ADR services.

- ✓ Some off-line Centres for Arbitration and Mediation have the objective to provide online arbitration services for among other things domain name disputes. It is the case in Belgium with the CEPANI (<http://www.cepani.be>) which handles disputes of this nature.

In conclusion, the number of existing ADR mechanisms for electronic commerce is considerably less in Europe than in North America, but efforts are under way to increase both the number of such mechanisms and their transparency for consumers.

2. Social acceptance of ADR amongst consumers and firms in Europe

2.1. Methodology

The CITA has managed a European survey.

The approach of this survey is semi-quantitative, based on semi-opened questions. To this end, a sample was set up from different categories of actors (such as representatives of consumers and companies).

About sixty questionnaires were sent to representatives of consumers and companies all around the fifteen European countries. The list of contacted consumers' Associations and Chambers of Commerce is following in Appendix I. And the questionnaires are enclosed in Appendix II.

Those questionnaires are covering the following points :

- ✓ The way mediation or arbitration is perceived in the society, and particularly by the users (professionals and consumers) ;
- ✓ The habit of using out-of-court settlement in business to consumers relations ; and the motive forces and brakes (social, political, organisational) that ADR meets ;
- ✓ The motive forces and brakes (social, political, organisational) that online ADR could meet.

Of the fifteen European countries contacted, only the consumers' Associations of eight countries – namely Belgium, Austria, Denmark, France, Germany, Luxembourg, Spain and Portugal – have written back. And only six of the fifteen European Chambers of Commerce – namely those of the Netherlands, Luxembourg, Deutschland, Spain, the United Kingdom and Denmark – have answered.

2.2. The way of perceiving ADR in Europe

2.2.1. The way ADR is perceived by the European Consumers

➤ *Out of court resolution in contrast to submission of a case to the Court*

All Consumers' Associations have knowledge of ADR procedures with the exception of Luxemburgian consumers who don't know Arbitration. In that country, the national legislation does not allow ADR procedures in the case of consumers' conflicts. Consequently,

the amicable settlement is the most often used procedure to solve the dispute in case of consumers' conflicts. The ULC (Union Luxembourgeoise des Consommateurs) provides conciliation, mediation and negotiation to its members. The National Danish Consumers Complaints Board (CCB) provides permanent Administrative Arbitration which is quick and cheap compared to submission to the Courts. On the contrary, in Austria, submission to the Courts is the most often used procedure in case of consumers' conflicts. But Austrian Consumers' Association thinks that ADR procedures are more appropriate for the resolution of consumer conflicts than bringing the conflict before the Courts because of lower psychological barrier and less formal and faster procedure.

In Belgium, consumers' conflicts have mostly limited value. Firstly, the parties try to reach an agreement together. In some sectors of activity such as travel or furniture, Arbitration Boards provide disputes resolution. If there is no Arbitration Board and no agreement between the parties, then there is submission to the Courts.

➤ ***Sectors of activity where ADR procedures are imposed by the national legislation***

In Belgium, Luxembourg and France the national legislations never impose ADR procedures in case of consumers' conflicts. On the contrary, Spanish legislation imposes ADR procedures in the sectors of Technology, Finance, Tourism, Food industry, Textile industry and Services in case of consumers' conflicts. Danish legislation imposes ADR procedure in Social sector. While there is a proposition, in Germany, to include in the Civil Procedure Law a new paragraph, accordingly claims up to 700 € - regardless if a consumer is involved or not - should be solved by conciliation first before going to the Court (mandatory to do the conciliation first). In Austria, the legislation imposes ADR procedures in the sectors of Finance, Textile industry, Services and Telecommunication (Telekom Control GmbH) in case of consumers' conflicts.

➤ ***Kind of dispute solved by ADR procedures***

Consumers' conflicts go from all kind of product problems (product non delivered, delay in delivering product, defective product ...) to all payment's problems (refusal to pay compensation, loan reimbursement, interest demanded ...). In Denmark, all others civil/private law aspects between consumer and business are part of dispute solved by ADR procedures. In Luxembourg, there are also problems connected with the exchange rate.

➤ ***Amount of money involved in consumers' conflicts solved by out-of-court bodies***

In Belgium, in Portugal and in Austria, the amount of money is mostly between 230 € and 760 €. In Luxembourg, it is between 760 € and 1500 €. In Germany, it is between 230 € and 1500 €. In France it is between 230 € and 1500 €, and amount of more than 1500 € is mostly involved in immovable property and banking disputes. Finally, Spanish and Danish consumers' conflicts cover all amount of money.

The ADR procedure costs have to be paid by the firm, the consumer or the State depending on which ADR body is resolving the dispute. In Spain, the ADR procedure costs are always paid by the Administration.

➤ ***Adequacy of ADR procedures for international consumers' conflicts***

All consumers' Associations, except French Association, think that ADR procedures are appropriate for solving international consumers' conflicts. The French Association contacted thinks that a submission of a case to the Court is still the best way of resolving international consumers' conflicts. The argument to the contrary is to say that European consumers' Associations constitute a network which make possible to help a foreign consumer. For international conflicts ADR procedures are also cheaper and quicker than Court procedures. According to the Danish consumers' Association, ADR procedures are a condition for the consumers' acceptance of the Single Market.

➤ ***Off-line and online ADR bodies***

All consumers' Associations which answered have knowledge of ADR bodies of their own country. For instance, Federal Ombudsman in Belgium or Cortes de Arbitraje in Spain are public and private off-line bodies.

On the contrary, a few online ADR providers have a name amongst consumers' Associations. French, Spanish, Austrian, Portuguese and Luxembourgian consumers' Associations have no knowledge of online ADR provider. While Belgium, Denmark and Germany know respectively <http://www.consensus.uk.com>, <http://www.e-mediation.nl>, <http://www.fs.dk>, <http://www.de.dk>, <http://www.bygggaranti.dk>, <http://www.forsikringsoplysningen.dk>, <http://www.cybercourt.org>. Lots of American websites have also a name in Belgium.

➤ *Advantages and disadvantages of online ADR procedures for consumers' conflicts*

French and Luxemburgian consumers' Associations don't think that online ADR procedures will make the resolution of consumers' disputes easier. According to those Associations, consumers apprehend Internet such a playful and commercial space. Consumers need to have the choice of their procedure for solving the dispute. French consumers, on their part, give preference to written documents which can produce evidence for the Court.

On the contrary, Danish and Portuguese consumers' Associations think that online procedures are adequate to facilitate cross border procedures. Spanish consumers' Association adds that Internet have the advantage of no travelling to go to the ADR place. The parties can stay at home to resolve their disputes.

Summarising, the online ADR procedures are cheap, quick, easy to use, available twenty-four hours a day. Thanks to online ADR procedures, there is no need to move geographically and no travel costs.

The major disadvantages of online ADR procedures are, according to consumers' Associations, lack of security and reliability for the consumer (consumers' rights have to be protected) and lack of confidentiality via email.

Typically, enclosures cannot be submitted via online ADR procedure. It can be too easy to submit complaints (unfounded and unnecessary complaints) via Internet. Online procedures do not solve international private law problems.

There is a lot of technical problems via online procedures. Consumers who do not go shopping online but off-line are probably not used to the internet instrument and do not want their off-line dispute to be settled online. Online ADR procedures exclude all consumers who are not doing e-commerce transaction.

Consumer is left without assistance to begin the procedure. There is a problem of credibility with an online body which is no tangible. The conciliator or mediator is not concrete for the consumers. There is also danger of commercial companies' take-over concerning online ADR procedures.

Finally, consumers' Associations fear a lack of certified rules for online ADR. They don't know the value of a judgement pronounced by an online body. There is a real problem of enforcement for online ADR procedures.

➤ ***Problem of language***

The main problem to commence an ADR proceedings via Internet is the language of the conflict's resolution. No consumers' Association - with the exception of Portuguese Association - is prepared to commence an ADR proceedings in the language of the seller. Even if consumers visit foreign websites, they are not agree to solve the potential dispute in a foreign language, except in English.

2.2.2. The way ADR is perceived by the European Chambers of Commerce

Only Luxembourgian, Spanish, Danish, German, English and Dutch Chambers of Commerce have answered.

Those Chambers have knowledge of all different types of ADR. The Netherlands has institutional arbitration.

In case of consumers' conflicts, the Dutch, English, German and Spanish legislations encourage the practice of ADR to solve business to consumer conflicts via ADR procedures, which is not the case in Luxembourg. However, the Luxembourgian legislation imposes ADR procedures in the Social sector, in case of consumers' conflicts.

➤ ***Off-line ADR bodies***

All countries have off-line ADR bodies namely the NAI (Nederlands Arbitrage instituut) and the ADR Centrum in the Netherlands, the Luxembourgian Chamber of Commerce, the DIS (Deutsche Institut für Schiedsgerichtsbarkeit) and the Gwmk (Gesellschaft für Wirtschaftsmediation) in Germany and the CEDR in England.

➤ ***Out of court resolution in contrast to submission of a case to the Court***

Luxembourgian, Dutch, English, German and Spanish Chambers have opposite opinion concerning ADR and international consumers' conflicts: Dutch and English Chambers of Commerce think that ADR procedures are not appropriate for solving international consumers' conflicts because there is a problem concerning the applicable law. On the contrary, Spanish, German and Luxembourgian think that ADR procedures are appropriate for solving international consumers' conflicts because ADR procedures are quicker, specific and might be cheaper.

Even so, all Chambers think that ADR procedures are more appropriate for the resolution of consumers' conflicts than bringing the conflict before the Courts. Because of the speed, confidentiality, informality, simplicity and inexpensive of ADR procedures.

➤ ***Online ADR bodies***

The Danish Chamber of Commerce does not have experience solving B2C conflicts. And this Chamber does not have experience solving conflicts by mediation.

None members of all Chambers of Commerce yet developed online ADR mechanism. Only Dutch, Spanish and German Chambers of Commerce have knowledge of online ADR providers which are American and European such as <http://www.bbbonline.org>, <http://www.cybercourt.de>, <http://www.clicknsettle.com>, <http://www.eresolution.org>, <http://www.ombuds.org>, <http://www.intervental.com>, <http://www.trustedshops.org>, <http://www.i-courthouse.com>, <http://www.ins.sgdg.org/mediation>, <http://www.onlinemediators.com>, <http://www.which.com/webtrader>, <http://www.disputes.org>, <http://www.transecure.org>, <http://www.ecp.nl>

➤ ***Advantages and disadvantages of online ADR procedures for consumers' conflicts***

All Chambers of Commerce fear a lack of confidentiality, cross border enforcement of the decisions, seriousness of online ADR providers. Chambers of Commerce cast doubt on integrity and independence of online ADR providers. Chambers also insist on the lack of standardize law for online ADR. There is also a problem of evidence. Online ADR is dependent on technical issues (connection, feasibility) and Chambers cast doubt on the arrival of the explanations and messages and on the possibility of being cracked into.

According to all Chambers of Commerce, the major advantages of an online ADR procedure for consumers' conflicts are the speed, easier communication and lowest cost of those procedures. Online ADR providers are promoting trust in e-commerce.

English Chamber of Commerce is very sceptical about online ADR because it's too unregulated.

➤ ***Promoting ADR by Governments***

German, English and Luxembourgian Governments have to carry out a policy to promote ADR within the firms. Spanish and Dutch Governments are already promoting ADR within the firms.

Economical conclusion

ADR procedures seems to be quick and cheap compared to submission to the Courts. The business-to-consumer context is very different from the business-to-business context and it requires a different approach to ADR. We will treat only B2C. Indeed, Only B2C will be used to us as teaching for the ECODIR project.

In case of consumers' conflict, two economic aspects are of importance :

1. Cost of the ADR service for the consumer
2. Funding source of the ADR body.

1. Cost of the ADR service for consumers

European Survey amongst consumers' Associations shows that small amount of money is mostly involved in consumers' disputes. Then if costs are assessed to support the operation of ADR systems, they may be prohibitively high for consumers or small businesses. ADR systems should be free or low-cost for consumer. However if the consumer is obliged to pay a fee for this service, the fee should be expensive enough to dissuade from unfounded and unnecessary complaints.

Amongst the online ADR-providers studied in this rapport, most of European online ADR services are free for consumers.

The payment of the fee to an online provider has to be secure. Most of the time the payment is made by credit card on a secure server.

2. Funding source of the ADR bodies.

Amongst the sixteen online ADR-providers studied in this rapport, five providers are private business ventures, five are public bodies and six are financed by user or membership fees. The fact is that decision-maker must be independent from any professional association or enterprise that appointed him.

ADR systems have to be careful to not accept funding which may compromise that independence. ADR systems should be independent. They should be operated by reputable third parties, which could include government, non-profit organisations, for-profit entities that are not directly involved in the disputes or many combinations thereof.

Conclusion

Electronic commerce makes it possible for consumers to transact with companies or other individuals without regard to geographic location, but it also raises the question of how disputes will be resolved, especially when the buyer and seller are physically distant. While consumers are generally protected by the laws of their jurisdictions, and vendors are also subject to legal oversight in the countries where they are located, cost and other factors may make it difficult for consumers to obtain redress for cross border complaints.

Alternative Dispute Resolution (ADR) can be very helpful to both parties in electronic transactions, especially in cross border complaints. At the same time, consumers and those who represent their interests must retain the right to resort to the Courts of consumers' countries. European consumers and Chambers of Commerce are still reluctant to use ADR via Internet. Urgent advertising and information need to be done amongst European consumers and business world.

Appendix I :**List of contacted Consumers' Associations and Chambers of Commerce**

Countries	Consumers' Associations	Chambers of commerce
Belgium	<p><u>CRIOC</u> (Centre de recherche et d'information des Organisations de consommateurs) Centre juridique : (commission consultative, expert des organisations de consommateurs)</p> <p><u>Test-achats</u> Rue de Hollande, 13 1060 BRUXELLES</p>	<p><u>Fédération des Chambres de commerce et d'industrie de Belgique</u> Avenue des Arts, 1-2 1210 BRUXELLES Tel : 02/209 05 50</p> <p><u>ICC Belgium</u> <u>c/o FEB</u> 8 rue des Sols 1000 BRUXELLES</p> <p><u>Fédération des Entreprises de Belgique FEB</u> Rue Ravenstein 4, 1000 Bruxelles</p>
Luxembourg	<p><u>ULC</u> (Union Luxembourgeoise des Consommateurs) Rue des Bruyères, 55 L-1274 HOWALD</p>	<p><u>ICC Luxembourg</u> 7, Rue Alcide de Gasperi L - 2981 Luxembourg</p>
The Netherlands	<p><u>CB</u> (Consumentenbond) Enthovenplein, 1 NL -2521 CV DEN HAAG</p> <p><u>Ministry of Economic Affairs – Consumer and Market Policy</u> PO Box 20101 2500 EC Den Haag Netherlands</p>	<p><u>ICC Netherlands</u> Postbus 95309 2509-CH Den Haag Netherlands</p>
Germany	<p><u>AgV</u> (Arbeitsgemeinschaft der Verbraucherverbände) Heilsbachstrasse, 20 D – 53123 BONN-DUISDORF</p> <p><u>Stiftung Warentest</u> 11/13 Lützowplatz D-10785 BERLIN</p> <p><u>Die Verbraucher Initiative e.V.</u> Elenstr. 106 12435 BERLIN GERMANY</p>	<p><u>ICC Deutschland</u> Mittelstrasse 12-14, D - 50672 Köln Postfach 10 08 26, D - 50448 Köln Germany</p> <p><u>Deutscher Industrie- und Handelstag (DIHT)</u> Breite Str. 29 D - 10178 Berlin</p>

Countries	Consumers' Associations	Chambers of Commerce
Austria	<u>VKI</u> (Verein für Konsumenteninformation) Mariahilfer Straße, 81 Postfach, 440 (A-1061 WIEN)	<u>ICC Austria</u> Wiedner Hauptstrasse 63 A-1045 Wien Austria
France	<u>OR.GE.CO.</u> (Organisation Générale des Consommateurs) 16, avenue du Château F-94 300 VINCENNES <u>UFC - Que Choisir</u> 11, rue Guénot F-75011 PARIS	<u>ICC France</u> 9, Rue d'Anjou 75008 Paris France
Italy	<u>CCA</u> (Comitato Consumatori Altroconsumo) Via Valassina, 22 I-20 159 MILANO	<u>ICC Italy</u> Via XX Settembre No. 5 IT 00187 Roma Italy
Spain	<u>UCE</u> (Union de Consumidores de Espana) Atocha 26-3° Ezquierda ES-28 005 MADRID <u>Asociacion General de Consumidores</u> Plaza de Navafria 3 Bajos 28027 MADRID Espagne <u>Departamento de Comercio Consumo y Turismo</u> Agencia europea de Informacion al Consumidor del Pais Vasco Duque e Wellington 2 01010 VITORIA-GASTEIZ	<u>ICC Spain</u> Avinguda Diagonal, 452-454 08006 Barcelona Spain
Portugal	<u>DECO</u> (Associação Portuguesa para a Defesa do Consumidor) Av. Defensores de Chaves, 22-1° Dto P-1049 LISBOA <u>Instituto do Consumidor</u> Praça Duque de Saldanha 31 1050 Lisbon Portugal	<u>ICC Portugal</u> Rua das Portas de Santo Antão 89 1150-266 Lisboa Portugal
Greece	<u>Kepka</u> 54 Tsimiski GR-546 23 Thessaloniki <u>EKPIZO</u> 43-45 Valtetsiou Str. Athens 106 81 GREECE	<u>ICC Greece</u> 27 Kanningos Street Athens 10682 Greece .

Countries	Consumers' Associations	Chambers of Commerce
Great Britain	<p><u>CA</u> (Consumers' Association) 2 Marylebone Road GB-LONDON NW1 4DF</p> <p><u>NCC</u> (National Consumer Council) 20 Grosvenor Gardens GB-LONDON SW1 0DH</p> <p><u>Ceg</u> (Consumers in Europe Group) 20 Grosvenor Gardens GB-LONDON SW1 0DH</p> <p><u>European research into Consumer Affairs</u> (ERICA) 13 The Mount Leatherhead Surrey KT22 United Kingdom</p> <p><u>International Consumer Research and Testing</u> (IT) First Floor 111 Baker Street London W1M 1SE United Kingdom</p>	<p><u>ICC United Kingdom</u> 14/15, Belgrave Square London SW1X 8PS United Kingdom</p>
Ireland	<p><u>CAI</u> (Consumers' Association of Ireland) 45 Upper Mount Street IRL-DUBLIN 2</p>	<p><u>ICC Ireland</u> 22 Merrion Square Dublin 2 Republic of Ireland</p>
Sweden	<p><u>SK</u> (Sveriges Konsumentråd) Barnhusgatan 22, 3 tr. S-11 123 STOCKHOLM</p> <p><u>Konsument Forum</u> PO Box 88 S-57722 HULTSFRED SWEDEN</p> <p><u>Konsumentgillesförbundet</u> Box 15139 S-104 65 Stockholm Sweden</p> <p><u>Konsumentverket/KO</u> S-118 87 Stockholm SWEDEN</p>	<p><u>ICC Sweden</u> Västra Trädgårdsgatan 9 P.O. Box 16050 - S 103 21 Stockholm Sweden</p>

Countries	Consumers' Associations	Chambers of Commerce
Denmark	<p><u>FR (Forbrugerrådet)</u> Fiølstraede 17 Postboks 2188 DK-1017 KØBENHAVN K</p> <p><u>Consumer Council, Denmark</u> P.O. Box 2188 DK – 1017 Copenhagen K</p>	<p><u>ICC Denmark</u> Børsen DK 1217 Köbenhavn K. Denmark</p> <p><u>Handelskammeret</u> Børsen 1217 Köbenhavn K</p>
Finland	<p><u>KK (Kuluttajat – Konsumentenerna ry)</u> Kasöörinkatu 3 B FIN – 00520 HELSINKI</p> <p><u>Suomen Potilasliitto ry</u> Lapinlahdenkatu 21C 00180 HELSINKI FINLAND</p> <p><u>Suomen Kuluttajaliitto</u> Mannerheimintie 15A FIN-002260 HELSINKI</p> <p><u>National Consumer Research Centre</u> PO Box 5 00531 HELSINKI FINLAND</p> <p><u>Kuluttajavirasto (KUV)</u> Haapaniemenkatu 4 Box 5 FIN-00530 HELSINKI Finland</p>	<p><u>ICC Finland</u> World Trade Center Helsinki Aleksanterinkatu, 17 P.O. Box 1000 FIN - 00100 Helsinki Finland</p>

Appendix II :**(1) Questionnaire for the benefit of European Consumers' Associations**

Preliminary definition:

Alternative dispute resolution

Also known as "ADR"; methods by which legal conflicts and disputes are resolved privately and other than through litigation in the public courts, usually through one of two forms: mediation or arbitration. It typically involves a process much less formal than the traditional court process and includes the appointment of a third-party to preside over a hearing between the parties. The advantages of ADR are speed and money: it costs less and is quicker than court litigation. ADR forums are also private. The disadvantage is that it often involves compromise.

Negotiation is the means of communication on a matter of disagreement between two parties, with a view to first listen to the other party's perspective and then attempt to arrive at a resolution by consensus.

Mediation is the most popular form of alternative dispute resolution (ADR).

Mediation involves the appointment of a mediator who acts as a facilitator assisting the parties in communicating or essentially negotiating a settlement. The mediator does not adjudicate the issues in dispute or force a compromise; only the parties, of their own volition, can shift their position in order to achieve a settlement. The result of a successful mediation is called a "settlement."

Arbitration is an alternative dispute resolution method by which an independent, neutral third person ("arbitrator") is appointed to hear and consider the merits of the dispute and to render a final and binding decision called an award. The process is similar to the litigation process as it involves adjudication, except that the parties choose their arbitrator and the manner in which the arbitration will proceed. The decision of the arbitrator is known as an "award."

Conciliation typically consists of independent communications with parties in their separate contexts (their home or work environment), either to improve relations or pave the way for some other process, e.g., mediation.

1. Did you know the differences between these different types of ADR?

- Yes
- No

2. Between all these ADR procedures (apart from business to consumer), which of them did you know of previously?

Type of procedures	Yes	No
Negotiation		
Conciliation		
Mediation		
Arbitration		
Others (Which one?)		

3. In the case of consumer conflicts, does the national legislation of your country allow ADR procedures?

- Yes
- No

3.1. If yes, which type of ADR procedures are allowed?

- Negotiation
- Conciliation
- Mediation
- Arbitration
- Others

3.2. In the case of consumer conflicts, which procedure is the most often used to solve the dispute?

- Out of court resolution :
 - Conciliation
 - Mediation
 - Arbitration
- Submission of a case to the court
- Others

Why?

4. In your country, do the use and habits encourage the practice of ADR to solve business to consumer conflicts?

- Yes
- Non

4.1. If yes, which ADR procedure is the most frequently used?

- Negotiation
- Conciliation
- Mediation
- Arbitration
- Others.....

4.2. Which kinds of dispute do ADR procedures solve?

<input type="checkbox"/> Product not delivered	<input type="checkbox"/> Payment arrangements
<input type="checkbox"/> Service not provided/partially provided	<input type="checkbox"/> Price
<input type="checkbox"/> Delay in delivering product	<input type="checkbox"/> Price increase
<input type="checkbox"/> Delay in providing service	<input type="checkbox"/> Supplementary charges
<input type="checkbox"/> Defective product	<input type="checkbox"/> Unjustified costs/billing
<input type="checkbox"/> Poor service	<input type="checkbox"/> Terms of contract

<input type="checkbox"/> Product not in conformity with order	<input type="checkbox"/> Coverage of contract
<input type="checkbox"/> Products/services not ordered	<input type="checkbox"/> Assessment of damage
	<input type="checkbox"/> Refusal to pay compensation
<input type="checkbox"/> Damage suffered	<input type="checkbox"/> Inadequate compensation
<input type="checkbox"/> Refusal to honour the guarantee	<input type="checkbox"/> Modification of contract
<input type="checkbox"/> Refusal to sell	<input type="checkbox"/> Poor performance of contract
<input type="checkbox"/> Refusal to provide service	<input type="checkbox"/> Cancellation/rescission of contract
<input type="checkbox"/> Commercial practices/sales methods	<input type="checkbox"/> Cancellation of service
<input type="checkbox"/> Incorrect information	<input type="checkbox"/> Loan reimbursement
<input type="checkbox"/> Inadequate information	<input type="checkbox"/> Interest demanded
<input type="checkbox"/> Failure to honour commitments	<input type="checkbox"/> Others.....

5. In your country, which are the main ADR bodies?

Name of bodies	Status (private, public...)	Legal Recognition	Specific domains of competency in conflict resolution

6. In case of consumer conflicts, does the national legislation of your country impose ADR procedures in some sectors of activity?

(Please tick the appropriate box!)

Sectors of activity	Yes	No
Technology		
Engineering		
Finance		
Computer science		
Construction		
Tourism		
Food industry		
Jewellery		
Textile industry		
Chemical industry		
Services		
Social sector		
Others (Which one?)		

7. Approximately, what amount of money is involved in consumer conflicts solved by out of court bodies?

- Less than 230 €
- Between 230 and 760 €
- Between 760 and 1500 €
- More than 1500 €

8. Who has to pay the ADR procedure costs?

- The firm
- The consumer
- The State
- Others (Who?).....

9. Do you think that ADR procedures are appropriate for solving international consumer conflicts?

- Yes
- No

Why?

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10. Do you think that ADR procedures are more appropriate for the resolution of consumer conflicts than bringing the conflict before the courts?

- Yes
- No

Why?

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11. Do you know ADR bodies online platform?

- Yes
- No

If yes, which ADR online platform do you know of?

Name of ADR bodies and Internet address:

12. Do you think an ADR procedure online could make the resolution of consumer disputes easier?

- Yes
- No

Why?

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13. In your opinion, what would be the major disadvantages of an online ADR procedure for consumer's conflict?

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14. In your opinion, what would be the major advantages of an online ADR procedure for consumer's conflicts?

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15. What would be your fears concerning the use of an online ADR procedure for consumer's conflicts?

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16. In case of conflict with a foreign seller, would you be prepared to commence an ADR proceedings in the language of the seller?

- Yes
- No

17. Other general remarks or observations.

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Appendix II:**(2) Questionnaire for the benefit of European Chambers of Commerce**

Preliminary definition :

Alternative dispute resolution

Also known as "ADR"; methods by which legal conflicts and disputes are resolved privately and other than through litigation in the public courts, usually through one of two forms: mediation or arbitration. It typically involves a process much less formal than the traditional court process and includes the appointment of a third-party to preside over a hearing between the parties. The advantages of ADR are speed and money: it costs less and is quicker than court litigation. ADR forums are also private. The disadvantage is that it often involves compromise.

Negotiation is the means of communication on a matter of disagreement between two parties, with a view to first listen to the other party's perspective and then attempt to arrive at a resolution by consensus.

Mediation is the most popular form of alternative dispute resolution (ADR).

Mediation involves the appointment of a mediator who acts as a facilitator assisting the parties in communicating or essentially negotiating a settlement. The mediator does not adjudicate the issues in dispute or force a compromise; only the parties, of their own volition, can shift their position in order to achieve a settlement. The result of a successful mediation is called a "settlement."

Arbitration is an alternative dispute resolution method by which an independent, neutral third person ("arbitrator") is appointed to hear and consider the merits of the dispute and to render a final and binding decision called an award. The process is similar to the litigation process as it involves adjudication, except that the parties choose their arbitrator and the manner in which the arbitration will proceed. The decision of the arbitrator is known as an "award."

Conciliation typically consists of independent communications with parties in their separate contexts (their home or work environment), either to improve relations or pave the way for some other process, e.g., mediation.

4. Did you know the differences between these different types of ADR?

- Yes
- No

5. Between all these ADR procedures (apart from business to consumer), which of them did you know of previously?

Type of procedures	Yes	No
Negotiation		
Conciliation		
Mediation		
Arbitration		
Others (Which one?)		

6. In the case of consumer conflicts, does the national legislation of your country allow ADR procedures?

- Yes
- No

If yes, which type of ADR procedures are allowed?

- Negotiation
- Conciliation
- Mediation
- Arbitration
- Others

7. In your country, do the use and habits encourage the practice of ADR to solve business to consumer conflicts?

- Yes
- Non

If yes, which ADR procedure is the most frequently used?

- Negotiation
- Conciliation
- Mediation
- Arbitration
- Others.....

8. In your country, which are the main ADR bodies?

Name of bodies	Status (private, public...)	Legal Recognition	Specific domains of competency in conflict resolution

9. Do you think that ADR procedures are appropriate for solving international consumer conflicts?

- Yes
- No

Why?

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10. Do you think that ADR procedures are more appropriate for the resolution of consumer conflicts than bringing the conflict before the courts?

- Yes
- No

Why?

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11. Within your chamber of commerce, have you got an ADR organism ?

- Yes
- No

If yes, which role does this organism play ?.....

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12. Have one of your members developed ADR mechanism ?

- Yes
- No

If yes, which member has done it ?

Name of the firm	Activity of the firm

13. Have one of your members developed ADR mechanism online ?

- Yes
- No

If yes, which member has done it ?

Name of the firm	Internet address of the firm

14. Do you know ADR bodies online platform?

- Yes
- No

If yes, which ADR online platform do you know of?

Name of ADR bodies and Internet address:

15. Do you think an ADR procedure online could make the resolution of consumer disputes easier?

- Yes
- No

Why?
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16. In your opinion, what would be the major disadvantages of an online ADR procedure for consumer's conflict?.....

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17. In your opinion, what would be the major advantages of an online ADR procedure for consumer's conflicts?.....

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18. What would be your fears concerning the use of an online ADR procedure for consumer’s conflicts?.....

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19. Do you know if the government of your country is carrying out a policy to promote ADR within the firms ?

Yes

No

If yes, what is the reaction of the firms following this policy ?

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20. Concerning you, would you be interested in promoting an ADR procedure online ?

Yes

No

If yes, why ?.....

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21. Other general remarks or observations.

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