

7 September 2012

Dear IMCO and JURI members,

The European Business Community is supportive of the proposed directive on alternative dispute resolution (ADR) because consumer satisfaction is key for business. Although the majority of problems are settled directly between the consumer and the trader, good tools to solve disputes can play an important role in providing better enforcement and application of EU Single Market legislation. ADR systems are part of the solution as long as they remain flexible and do not impose unnecessary costs on businesses especially in this difficult economic context.

In the context of the important triologue discussions that are taking place, the European Business Community would like to reiterate the following priorities and concerns:

1. Scope of the Directive – Article 2(2)(a)

Member States' budgets are under pressure and care should be taken to ensure that any proposals avoid placing unnecessary burdens on the public spending. For this reason, the potential contribution of schemes funded by professional associations, companies and business associations should not be cast aside lightly.

In this context, we believe that the EP IMCO Committee's amendment excluding *ab initio* ADR systems employed or exclusively remunerated by professional or business associations of the scope of the directive is unnecessary and liable to lead to the need for more public funding than is strictly required. Funding should not be confused with independence. Even though the amendment allows Member States to bring such ADRs under the scope, the extra independence and transparency requirements to be fulfilled are too rigid. Also, these requirements lean towards a one-size-fits-all approach which does not fit the specific nature of ADR functioning.

ADR systems employed or exclusively remunerated by professional or business associations can benefit from both consumer and trader's confidence as long as they satisfy the quality criteria defined by the Commission's original proposal, i.e. expertise and impartiality, transparency, effectiveness and fairness.

Therefore, we believe the Council's Common Approach solution is more suitable and in line with the principle of subsidiarity.

2. Independence requirements – Article 6

The IMCO Committee and Council introduced a new principle of independence. Whilst accepting that independence is an important element to ensure the quality of ADR activities, also here the proposal should avoid imposing a one-size-fits-all approach.

We believe that the principles of impartiality and independence in Article 6 of the ADR Directive should be respected. However, some of the requirements will not enhance independence. They will instead place a disproportionate burden on businesses without any advantage to the consumer. For example, the equal number of consumer and trader representatives in a collegial body is not relevant. What is important is that the procedure is based on law and represents a fair system for both parties. ADR

entities where a single natural person is in charge of the dispute resolution should not be excluded.

Therefore, we believe that paragraph 2 of Article 6 should be deleted.

3. Information requirements – Article 10

The European Business Community acknowledges the need to raise awareness about ADR systems among both businesses and consumers. It is in the interest of business to advertise a particular ADR scheme if it is available and if it provides clear benefits for both businesses and consumers. However, information requirements imposed on businesses should remain reasonable.

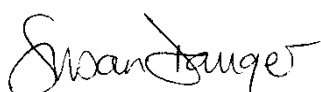
If the trader does not commit to or is not obliged to commit to a specific ADR system, it should not be obliged to inform the consumer of this fact. Such an obligation to include negative information does not help the consumer to find an appropriate solution. The Council's Common Approach is preferable.

When it comes to the way in which the ADR information is communicated to consumers (Article 10(2)), both the IMCO Committee draft report and Council Common Approach's amendments suggest a more sensible solution. By making this information compulsory on every invoice or receipt (e.g. metro ticket, sandwich bought in a kiosk) the original proposal risks adding unnecessary and costly burdens on companies. The Commission's impact assessment attributes a one-off cost of 88 euros/per trader in order to make the ADR information available in all its terms and conditions, invoices and receipts. Firstly, this is a gross underestimate. Secondly, this multiplied by the number of businesses and products and services covered by the Directive, represents a considerable sum.

Additionally, a recent Commission's Working Document on Consumer Empowerment confirms that consumers are, at the time of purchase, mostly interested in the price and quality of the product. They usually only get interested in information about their rights when they cannot sort out a problem with a trader directly, which is in the minority of cases.

We hope to count on your support with regard these concerns and remain at your disposal should you wish to discuss this further.

Yours sincerely,



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