

ADR
4-COLUMN DOCUMENT

Cell in green: The text can be deemed as already adopted

Cell in amber: The issue needs further discussion at the informal trilogue meetings

Cell in red: The issue still needs to be negotiated in depth

NOTE: Differences between IMCO's Report and the Commission's proposal are indicated in ***bold/italics***. Differences between the Council's General approach and the Commission's proposal are in **bold** and ~~strike through~~. ***Bold/italics/underline*** in the Commission column indicates IMCO and Council are amending the Commission's proposal in the same manner.

EC proposal	IMCO Report	Council's General approach	Final text
Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR)			Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,			THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular <i>Article</i> 114 thereof,	AM 1 Having regard to the Treaty on the Functioning of the European Union, and in particular <i>Articles</i> 114 and <i>169</i> thereof,		Having regard to the Treaty on the Functioning of the European Union, and in particular <i>Article</i> 114 thereof,
Having regard to the proposal from the European Commission,			Having regard to the proposal from the European Commission,
After transmission of the draft legislative act to the national Parliaments,			After transmission of the draft legislative act to the national Parliaments,
Having regard to the opinion of the European Economic and Social Committee,			Having regard to the opinion of the European Economic and Social Committee,
After consulting the European Data Protection Supervisor,			After consulting the European Data Protection Supervisor,
Acting in accordance with the ordinary legislative procedure,			Acting in accordance with the ordinary legislative procedure,
Whereas:			Whereas:
(1) Article 169(1) and Article 169(2)(a) of the Treaty on the Functioning of the European Union (TFEU) provide that the Union is to contribute to the attainment of a high level of consumer protection through	AM 2 (1) Article 169(1) and Article 169(2)(a) of the Treaty on the Functioning of the European Union (TFEU) provide that the Union is to contribute to the attainment of a high level of consumer protection <i>inter</i>		(1) Article 169(1) and Article 169(2)(a) of the Treaty on the Functioning of the European Union (TFEU) provide that the Union is to contribute to the attainment of a high level of consumer protection through

<p>the measures adopted pursuant to Article 114 thereof. Article 38 of the Charter of Fundamental Rights of the European Union provides that Union policies shall ensure a high level of consumer protection.</p>	<p><i>alia</i> through the measures adopted pursuant to Article 114 thereof. Article 38 of the Charter of Fundamental Rights of the European Union provides that Union policies shall ensure a high level of consumer protection.</p>		<p>the measures adopted pursuant to Article 114 thereof. Article 38 of the Charter of Fundamental Rights of the European Union provides that Union policies shall ensure a high level of consumer protection.</p>
<p>(2) In accordance with Article 26(2) TFEU, the internal market is to comprise an area without internal frontiers in which the free movement of goods and services is ensured. <i>In order for consumers to have confidence in and benefit from the internal market, it is necessary that they have access to simple and low-cost ways of resolving disputes which arise from the sale of goods or the provision of services. This applies to offline as well as to online transactions, and is particularly important when consumers shop across borders.</i></p>	<p>AM 3</p> <p>(2) In accordance with Article 26(2) TFEU, the internal market is to comprise an area without internal frontiers in which the free movement of goods and services is ensured. <i>The internal market should provide consumers with added value in the form of better quality, greater variety, reasonable prices and high safety standards for goods and services, which should promote a high level of consumer protection.</i></p>		<p>(2) In accordance with Article 26(2) TFEU, the internal market is to comprise an area without internal frontiers in which the free movement of goods and services is ensured. <i>The internal market should provide consumers with added value in the form of better quality, greater variety, reasonable prices and high safety standards for goods and services, which should promote a high level of consumer protection.</i></p>
	<p>AM 4</p> <p><i>(2a) Fragmentation of the internal market is detrimental to Union competitiveness, growth and job creation. Eliminating the direct and indirect obstacles to the proper functioning of the internal market</i></p>		<p><i>(2a) Fragmentation of the internal market is detrimental to Union competitiveness, growth and job creation within the Union. Eliminating the direct and indirect obstacles to the proper functioning</i></p>

	<i>and improving citizens' trust is essential for the completion of the internal market.</i>		<i>of the internal market and improving citizens' trust is essential for the completion of the internal market.</i>
	<p>AM 5</p> <p><i>(2c) Guaranteeing access to simple, efficient, expedient and low-cost ways of resolving domestic and cross-border disputes which arise from the sale of goods or the provision of services should benefit consumers and therefore boost their confidence in the market. That access should apply to offline as well as to online transactions, and is particularly important when consumers shop across borders.</i></p>		<p><i>(2c) Guaranteeing access to simple, efficient, expedient and low-cost ways of resolving domestic and cross-border disputes which arise from the sales or service contracts should benefit consumers and therefore boost their confidence in the market. That access should apply to offline as well as to online transactions, and is particularly important when consumers shop across borders.</i></p>
<p>(3) Alternative dispute resolution offers a simple, fast and low-cost out-of-court solution to disputes between consumers and traders. However, alternative dispute resolution is not yet sufficiently developed across the <u>European Union</u>. <u>In order for consumers to fully exploit its potential, it is necessary</u> that alternative dispute resolution <u>is available for all types of consumer disputes, quality levels of ADR procedures are even and</u></p>	<p>AM 6</p> <p>(3) Alternative dispute resolution offers a simple, fast and low-cost out-of-court solution to disputes between consumers and traders. However, alternative dispute resolution is not yet sufficiently and consistently developed across the <u>Member States</u>. It is regrettable that, despite Commission Recommendation 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of</p>	<p>(3) Alternative dispute resolution offers a simple, fast and low-cost out-of-court solution to disputes between consumers and traders. However, alternative dispute resolution is not yet sufficiently developed across the <u>European Union</u>. <u>In order for consumers to fully exploit its potential, it is necessary</u> that alternative dispute resolution is available for all types of consumer disputes, quality levels of ADR procedures are even and</p>	<p>(3) Alternative dispute resolution offers a simple, fast and low-cost out-of-court solution to disputes between consumers and traders. However, alternative dispute resolution is not yet sufficiently and consistently developed across the <u>Union</u>. It is regrettable that, despite Commission Recommendations 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes and</p>

<p><u>consumers and traders are aware of such procedures. It is also necessary that ADR entities handle cross-border disputes effectively.</u></p>	<p><i>consumer disputes¹ and Commission Recommendation 2001/310/EC of 4 April 2001 on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes², alternative dispute resolution mechanisms have not been correctly established and are not running satisfactorily in all geographical areas or business sectors in the Union. Consumers and traders are still not aware of the existing alternative redress mechanisms, with only a small percentage of citizens knowing how to file a complaint with an ADR entity.</i></p>	<p>consumers and traders are aware of such procedures. It is also necessary that ADR entities handle cross-border disputes effectively. ADR procedures are currently not available in all territorial areas or business sectors in the Union. Where ADR procedures are available, their quality levels vary considerably in the Member States, consumers' and traders' awareness of them is often low and cross-border disputes are often not handled effectively by ADR entities.</p>	<p>2001/310/EC of 4 April 2001 on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes, alternative dispute resolution mechanisms have not been correctly established and are not running satisfactorily in all geographical areas or business sectors in the Union. Consumers and traders are still not aware of the existing alternative redress mechanisms, with only a small percentage of citizens knowing how to file a complaint with an ADR entity. Where ADR procedures are available, their quality levels vary considerably in the Member States and cross-border disputes are often not handled effectively by ADR entities.</p>
	<p>AM 7</p> <p><i>(3a) The remaining obstacles and gaps, such as a lack of information, uneven geographical and sectoral development of alternative dispute resolution (ADR) systems, and fragmented and uncoordinated regulation, hinder the ability of consumers to buy with confidence, especially across borders. For the same reasons, traders may abstain</i></p>	<p><i>Recital 4a is moved here in order to match AM 7:</i></p> <p>(4a) The disparities in ADR coverage, quality and awareness in Member States constitute a barrier to the Single Market and are among the reasons why many consumers abstain from shopping across border and lack confidence that potential disputes with traders could be resolved in an easy, fast</p>	<p>(3a) The disparities in ADR coverage, quality and awareness in Member States constitute a barrier to the Single Market and are among the reasons why many consumers abstain from shopping across border and lack confidence that potential disputes with traders could be resolved in an easy, fast and inexpensive way. For the same</p>

	<p><i>from selling to consumers in other Member States where there is insufficient access to high-quality ADR procedures. Furthermore, traders established in a Member State where quality ADR procedures are not sufficiently available are put at a competitive disadvantage with regard to traders that have access to such procedures and can thus resolve consumer disputes faster and cheaper.</i></p> <p><i>The disparities in ADR coverage, quality and awareness in Member States constitute a barrier for the single market and require action at Union level. This Directive should establish minimum standards for the quality of ADR entities, guaranteeing the same minimum level of protection and rights for consumers in both domestic and cross-border disputes. This Directive should not prevent Member States from adopting or maintaining rules that go beyond what is provided for in this Directive.</i></p>	<p>and inexpensive way. For the same reasons, traders may abstain from selling to consumers in other Member States where there is no sufficient access to quality ADR procedures. Furthermore, traders established in a Member State where quality ADR procedures are not sufficiently available are put at a competitive disadvantage with regard to traders that have access to such procedures and can thus resolve consumer disputes faster and cheaper.</p>	<p><i>reasons, traders may abstain from selling to consumers in other Member States where there is no sufficient access to high-quality ADR procedures. Furthermore, traders established in a Member State where quality ADR procedures are not sufficiently available are put at a competitive disadvantage with regard to traders that have access to such procedures and can thus resolve consumer disputes faster and cheaper.</i></p>
	<p>AM 8</p> <p><i>(3b) In order for consumers to fully exploit the potential of the internal</i></p>	<p><i>Recital 5a is moved here in order to match AM 8:</i></p> <p>(5a) To improve the functioning of</p>	<p><i>(3b) In order for consumers to fully exploit the potential of the internal</i></p>

	<p><i>market, ADR should be available for all types of domestic and cross-border disputes covered by this Directive. ADR procedures should adhere to consistent minimum quality standards throughout the Union, and consumers and traders should be aware of the existence of such procedures. Due to increased cross-border trade and movement of persons, it is also important that ADR entities handle cross-border disputes effectively.</i></p>	<p>the Single Market, it is necessary that alternative dispute resolution is available for all types of consumer disputes, domestic and cross border, covered by this Directive, quality levels of ADR procedures are even, and consumers and traders are aware of such procedures. It is also necessary that ADR entities handle cross-border disputes effectively.</p>	<p><i>market, ADR should be available for all types of domestic and cross-border disputes covered by this Directive, ADR procedures should comply with consistent quality standards applying throughout the Union, and consumers and traders should be aware of the existence of such procedures. Due to increased cross-border trade and movement of persons, it is also important that ADR entities handle cross-border disputes effectively.</i></p>
	<p>AM 9</p> <p><i>(3c) As advocated by the European Parliament in its resolutions of 25 October 2011 on alternative dispute resolution in civil, commercial and family matters¹ and of 20 May 2010 on delivering a single market to consumers and citizens², any holistic approach to the single market which delivers for its citizens should as a priority develop simple, affordable, expedient and accessible system of redress.</i></p>		<p><i>(3c) As advocated by the European Parliament in its resolutions of 25 October 2011 on alternative dispute resolution in civil, commercial and family matters and of 20 May 2010 on delivering a single market to consumers and citizens, any holistic approach to the single market which delivers for its citizens should as a priority develop simple, affordable, expedient and accessible system of redress.</i></p>
<p>(4) In its Single Market Act, the Commission has identified legislation on alternative dispute resolution which includes an</p>	<p>AM 10</p> <p>(4) In its Single Market Act, the Commission has identified legislation on alternative dispute resolution which includes an</p>		<p>(4) In its Single Market Act, the Commission has identified legislation on alternative dispute resolution which includes an</p>

<p>electronic commerce dimension as one of the twelve levers to boost growth <i>and</i> strengthen confidence <i>in</i> the Single Market.</p>	<p>electronic commerce dimension as one of the twelve levers to boost growth, strengthen confidence <i>and</i> <i>make progress towards completing</i> the Single Market.</p>		<p>electronic commerce dimension as one of the twelve levers to boost growth, strengthen confidence <i>and</i> <i>make progress towards completing</i> the Single Market.</p>
		<p><i>Recital 4a is removed in order to match AM 7 on recital 3a.</i></p> <p>(4a) The disparities in ADR coverage, quality and awareness in Member States constitute a barrier to the Single Market and are among the reasons why many consumers abstain from shopping across border and lack confidence that potential disputes with traders could be resolved in an easy, fast and inexpensive way. For the same reasons, traders may abstain from selling to consumers in other Member States where there is no sufficient access to quality ADR procedures. Furthermore, traders established in a Member State where quality ADR procedures are not sufficiently available are put at a competitive disadvantage with regard to traders that have access to such procedures and can thus resolve consumer disputes faster and cheaper.</p>	
	<p>AM 11</p>		

<p>(5) The European Council has invited the Parliament and the Council to adopt, by the end of 2012, a first set of priority measures to bring a new impetus to the Single Market.</p>	<p>(5) The European Council has invited the Parliament and the Council to adopt, by the end of 2012, a first set of priority measures to bring a new impetus to the Single Market. <i>The Council has highlighted the importance of e-commerce and agreed that consumer ADR scheme should be able to offer <u>low-cost</u>, simple and quick redress for both consumers and traders. Successful implementation of <u>that</u> scheme requires sustained political commitment and support from all actors, without compromising the affordability, transparency, flexibility, speed and quality of decision-making by the ADR entities falling within the scope of this Directive.</i></p>		<p>(5) The European Council has invited the Parliament and the Council to adopt, by the end of 2012, a first set of priority measures to bring a new impetus to the Single Market. <i>The European Council has highlighted the importance of e-commerce and agreed that consumer ADR schemes should be able to offer low-cost, simple and quick redress for both consumers and traders. Successful implementation of those schemes requires sustained political commitment and support from all actors, without compromising the affordability, transparency, flexibility, speed and quality of decision-making by the ADR entities falling within the scope of this Directive.</i></p>
	<p>AM 12</p> <p><i>(5a) Given the increasing importance of online commerce and in particular cross-border trade as a pillar of Union economic activity, a well-functioning ADR <u>system</u> and a properly integrated online dispute resolution framework for <u>online contractual</u> disputes are necessary in order to achieve the Single Market Act's aim of boosting citizens' confidence in the internal</i></p>		<p><i>(5a) Given the increasing importance of online commerce and in particular cross-border trade as a pillar of Union economic activity, a well-functioning ADR infrastructure for consumer disputes and a properly integrated online dispute resolution framework for consumer disputes arising from online transactions are necessary in order to achieve the Single Market</i></p>

	<i>market.</i>		Act's aim of boosting citizens' confidence in the internal market.
		<p><i>Recital 5a is removed in order to match AM 8 on recital 3b.</i></p> <p><u>(5a) To improve the functioning of the Single Market, it is necessary that alternative dispute resolution is available for all types of consumer disputes, domestic and cross border, covered by this Directive, quality levels of ADR procedures are even, and consumers and traders are aware of such procedures. It is also necessary that ADR entities handle cross-border disputes effectively.</u></p>	
	<p>AM 13</p> <p><i>(5b) This Directive and Regulation ... * of the European Parliament and of the Council of ... ** on online dispute resolution for consumer disputes (ODR Regulation) are two interlinked and complementary acts. <u>The ODR platform is a tool which should offer consumers and traders a single point of entry for the out-of-court resolution of online disputes, supported by the availability of quality ADR entities across the Union. Proper functioning of the ODR platform will be possible only</u></i></p>		<p>(5b) This Directive and Regulation ... * of the European Parliament and of the Council of ... ** on online dispute resolution for consumer disputes are two interlinked and complementary legislative instruments. Regulation N°... provides for the establishment of online dispute resolution platform which offers consumers and traders a single point of entry for the out-of-court resolution of online disputes, through ADR entities which are linked to the platform and offer</p>

	<i>if full ADR coverage is achieved.</i>		<i>alternative dispute resolution through quality ADR procedures. The availability of quality ADR entities across the Union is thus a precondition for the proper functioning of the ODR platform.</i>
		<p>(5b) This Directive does not apply to non economic services of general interest. “Non economic services” are services which are not performed for an economic consideration. As a result, non-economic services of general interest performed by the State or on behalf of the State, without remuneration, <u>in the context of its duties in the educational, social or other field, for instance courses provided under the national education system or social services, in the areas such as social housing, childcare and support of families and persons permanently or temporarily in need, including long-term care</u>, are not covered by this Directive. Furthermore, the Directive does not apply to health care services as defined in Article 3(a) of Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the</p>	<p><i>(5c) This Directive does not apply to non economic services of general interest. “Non economic services” are services which are not performed for an economic consideration. As a result, non-economic services of general interest performed by the State or on behalf of the State, without remuneration, are not covered by this Directive irrespective of the legal form through which those services are provided. Furthermore, the Directive should not apply to health care services as defined in Article 3(a) of Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients’ rights in cross-border healthcare².</i></p>

		application of patients' rights in cross-border healthcare ¹ .	
<p>(6) The development within the <i>European Union</i> of well-functioning alternative dispute resolution is necessary to strengthen consumers' confidence in the internal market, including in the area of e-commerce. Such development should build on existing ADR procedures in the Member States and respect their legal traditions.</p>	<p>AM 14</p> <p>(6) The development within the Union of well-functioning alternative dispute resolution is necessary to strengthen consumers' confidence in the internal market, including in the area of e-commerce, <i>and to realise the potential and opportunities of cross-border and online trade.</i> Such development should build on existing ADR procedures in the Member States and respect their legal traditions. <i>Both existing and newly established well-functioning dispute resolution entities that comply with the minimum quality criteria set out in this Directive should be referred to as "ADR entities". The dissemination of ADR can also prove to be important in those countries in which there is a substantial backlog of cases pending before the courts, preventing Union citizens from exercising their right to a fair trial within a reasonable time.</i></p>		<p>(6) The development within the Union of well-functioning alternative dispute resolution is necessary to strengthen consumers' confidence in the internal market, including in the area of e-commerce, <i>and to realise the potential and opportunities of cross-border and online trade.</i> Such development should build on existing ADR procedures in the Member States and respect their legal traditions. <i>Both existing and newly established well-functioning dispute resolution entities that comply with the quality requirements set out in this Directive should be referred to as "ADR entities". The dissemination of ADR can also prove to be important in those countries in which there is a substantial backlog of cases pending before the courts, preventing Union citizens from exercising their right to a fair trial within a reasonable time.</i></p>
	<p>AM 15</p>		

¹ OJ L 88 , 4.4.2011, p. 45

² OJ L 88 , 4.4.2011, p. 45

<p>(7) This Directive should apply to <u>contractual</u> disputes between consumers and traders <i>that are arising</i> from the <u>sale of goods</u> or <u>provision of</u> services in all economic sectors. This should <i>include</i> complaints submitted by consumers against traders <i>but also complaints submitted by traders against consumers</i>. <u>This Directive should not apply</u> to disputes between traders; however, <i>it</i> should not prevent Member States from adopting or maintaining in force provisions on procedures for the out-of-court resolution of such disputes.</p>	<p>(7) This Directive should apply to contractual disputes between consumers and traders arising from the sale of goods or provision of services, <i>both offline and online, including the supply of digital content for remuneration</i>, in all economic sectors. <i>It should not apply to non-economic services of general interest, irrespective of the legal relationship between trader and consumer</i>. This <i>Directive</i> should <i>apply to</i> complaints submitted by consumers against traders. This <i>Directive</i> should not apply to <i>complaints submitted by traders against consumers or</i> to disputes between traders; however, <i>this Directive</i> should not prevent Member States from adopting or maintaining in force provisions on procedures for the out-of-court resolution of such disputes.</p>	<p>(7) This Directive should apply to contractual disputes between consumers and traders <i>concerning contractual obligations stemming</i> that are arising from the sales of goods or provision of services <i>contracts</i> in all economic sectors <i>covered by this Directive</i>. This should include <i>disputes arising from the sale or provision of digital content for remuneration</i>. This <i>Directive should apply to</i> complaints submitted by consumers against traders but also. <i>It should not apply to</i> complaints submitted by traders against consumers This Directive should not apply or to disputes between traders; however, it should not prevent Member States from adopting or maintaining in force provisions on procedures for the out-of-court resolution of such disputes.</p>	<p>(7) This Directive should apply to disputes between consumers and traders <i>concerning contractual obligations stemming</i> from the <i>sales or services contracts, both offline and online</i>, in all economic sectors. This should include <i>disputes arising from the sale or provision of digital content for remuneration</i>. <i>This Directive should apply to</i> complaints submitted by consumers against traders. <i>It should not apply to</i> complaints submitted by traders against consumers <i>or</i> to disputes between traders; however, it should not prevent Member States from adopting or maintaining in force provisions on procedures for the out-of-court resolution of such disputes.</p>
		<p>(7a) Member States may maintain or introduce national provisions with regard to procedures not covered by this Directive, such as <i>internal complaint handling procedures operated by the trader</i>. Such internal complaint handling procedures can constitute an effective means for resolving</p>	<p><i>(7a) Member States may maintain or introduce national provisions with regard to procedures not covered by this Directive, such as internal complaint handling procedures operated by the trader. Such internal complaint handling procedures can constitute an effective means for resolving</i></p>

		consumer disputes at an early stage. Where this is not foreseen in the rules of procedure of ADR entities, consumers should be encouraged to seek an amicable solution of the dispute directly with the trader before they submit disputes to an ADR entity.	consumer disputes at an early stage.
(8) The definition of “consumer” should cover natural persons who are acting outside their trade, business, craft or profession. However, if the contract is concluded for purposes partly within and partly outside the person’s trade (dual purpose contracts) and the trade purpose is so limited as not to be predominant in the overall context of the supply, that person should also be considered as a consumer.			(8) The definition of “consumer” should cover natural persons who are acting outside their trade, business, craft or profession. However, if the contract is concluded for purposes partly within and partly outside the person’s trade (dual purpose contracts) and the trade purpose is so limited as not to be predominant in the overall context of the supply, that person should also be considered as a consumer.
(9) This Directive should be without prejudice to Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters, Regulation (EC) No 44/2001 of the Council of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, <u>Regulation (EC) No 864/2007 of the European Parliament</u>		(9) This Directive should be without prejudice to Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters, Regulation (EC) No 44/2001 of the Council of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, Regulation (EC) No 864/2007 of the European Parliament	(9) Some existing Union acts already contain provisions concerning alternative dispute resolution. In order to ensure legal certainty, it should be provided that in case of conflict this Directive shall prevail, except where it explicitly provides otherwise. In particular, this Directive should be without prejudice to Directive 2008/52/EC of the European Parliament and of the Council of 21

<p><u>and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (“Rome II”) and Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (“Rome I”).</u></p>		<p>and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (“Rome II”) and Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (“Rome I”).</p>	<p>May 2008 on certain aspects of mediation in civil and commercial matters which already sets a framework for systems of mediation at Union level, especially for cross-border disputes, without preventing its application to internal mediation systems. This Directive is intended to apply horizontally to all types of ADR procedures, including to ADR procedures covered by Directive 2008/52/EC.</p>
<p>(10) This Directive should prevail over Union legislation <u>which contains provisions aimed at encouraging the setting up of ADR entities in a specific sector. Where sector-specific legislation mandates the setting up of <i>such</i> entities, this Directive should prevail only to the extent that <i>such</i> legislation does not ensure at least an equivalent degree of consumer protection.</u></p>	<p>AM 16</p> <p>(10) This Directive should prevail over Union legislation <u>which contains provisions aimed at encouraging the setting up of ADR entities in a specific sector. Where sector-specific legislation mandates the setting up of <i>ADR</i> entities, this Directive should prevail only to the extent that <i>the sector-specific</i> legislation does not ensure at least an equivalent degree of consumer protection.</u></p>	<p>(10) This Directive should prevail over sector specific Union legislation which contains provisions aimed at encouraging the setting up of ADR entities in a specific sector relating to alternative dispute resolution. In order to facilitate the implementation of this Directive, the Commission is invited to prepare guidelines in close cooperation with Member States on the relationship between this Directive and other Union legislation. Where sector-specific legislation mandates the setting up of such entities, this Directive should prevail only to the extent that such legislation does not ensure at least an equivalent degree of consumer</p>	<p><i>Deleted</i></p> <p><i>Covered by Recital 9</i></p>

<p>(11) ADR entities are highly diverse across the Union but also within the Member States. This Directive should cover any entity that is established on a durable basis <u>and offers the resolution of a dispute</u> through an ADR procedure. <u>An arbitration</u> procedure which is created <u>outside the framework of an ADR entity</u> on an ad hoc basis for a single dispute between a consumer and a trader should not be considered as an ADR procedure.</p>	<p>AM 17</p> <p>(11) ADR entities are highly diverse across the Union but also within the Member States. This Directive should cover any entity that is established on a durable basis <u>and offers the resolution of a dispute through an ADR procedure <i>that has been notified to the Commission and the Member States and is listed in accordance with Article 17(2) of this Directive.</i></u> <u>An arbitration</u> procedure which is created <u>outside the framework of an ADR entity</u> on an ad hoc basis for a single dispute between a consumer and a trader should not be considered as an ADR procedure.</p>	<p>protection.</p> <p>(11) ADR entities are highly diverse across the Union but also within the Member States. This Directive should cover any entity that is established on a durable basis and offers the resolution of a dispute to solve a dispute between a consumer and a trader through an ADR procedure that has been listed in accordance with Article 17(2) of this Directive. This Directive may also cover, if Member States choose to do so, dispute resolution entities which impose a binding solution for the parties. However, an extra-judicial An arbitration procedure which is created outside the framework of an ADR entity on an ad hoc basis for a single dispute between a consumer and a trader should not be considered as an ADR procedure.</p>	<p>(11) ADR entities are highly diverse across the Union but also within the Member States. This Directive should cover any entity that is established on a durable basis, offers the resolution of a dispute <i>between a consumer and a trader</i> through an ADR procedure <i>and is listed in accordance with Article 17(2) of this Directive. This Directive may also cover, if Member States so decide, dispute resolution entities which impose solutions which are binding on the parties. However, an out-of-court</i> procedure which is created on an ad hoc basis for a single dispute between a consumer and a trader should not be considered as an ADR procedure.</p>
	<p>AM 18</p> <p><i>(11a) ADR procedures are highly diverse across the Union and within Member States. They can take the form of procedures where the dispute resolution entity brings the parties together with the aim of</i></p>		<p>(11a) ADR procedures are highly diverse across the Union and within Member States. They can take the form of procedures where the dispute resolution entity brings the parties together with the aim of facilitating</p>

	<p><i>facilitating an amicable solution, of procedures where the dispute resolution entity proposes a solution or of procedures where the dispute resolution entity imposes a solution. They can also take the form of a combination of two or more such procedures. This Directive should be without prejudice to the form which ADR procedures take in the Member States.</i></p>		<p>an amicable solution, of procedures where the dispute resolution entity proposes a solution or of procedures where the dispute resolution entity imposes a solution. They can also take the form of a combination of two or more such procedures. This Directive should be without prejudice to the form which ADR procedures take in the Member States.</p>
<p>(12) This Directive should not apply to procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed <i>exclusively</i> by the trader <i>nor to</i> procedures <i>before consumer compliant handling systems operated by the trader. It should not apply to direct negotiations between the parties. Furthermore, it should not apply to attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute.</i></p>	<p>AM 19</p> <p>(12) This Directive should not apply to procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed by, <i>or receive any form of remuneration exclusively from,</i> the trader <i>or professional or business association of which the trader is a member, unless those entities are in complete conformity with the quality requirements laid down in Chapter II of this Directive and comply with the rigorous additional safeguards of independence laid down in Article 2(2a). ADR entities offering dispute resolution through such procedures should be subject to regular evaluation of their compliance with the quality</i></p>	<p>(12a) The independence of ADR entities and of the natural persons in charge of dispute resolution is an important requirement for consumers having confidence in ADR. Consequently, procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed or remunerated exclusively by the trader are likely to be prejudged by a conflict of interest and should, in principle, not be regarded as ADR procedures under this Directive and hence be excluded from its scope of application. However, such procedures may also be covered by this Directive in a given Member State if the independence</p>	<p>(12) Procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed or receive any form of remuneration exclusively from the trader are likely to be exposed to a conflict of interest and should, in principle be excluded from the scope of this Directive, unless a Member State decides that such procedures can be recognised as ADR procedures under this Directive and provided that those entities are in complete conformity with the specific requirements on independence and impartiality laid down in this Directive. ADR entities offering dispute resolution through such procedures should be subject to regular evaluation of their</p>

	<i>requirements set out in this Directive, including the specific additional requirements ensuring their independence.</i>	of the dispute resolution entity and the natural persons in charge of dispute resolution is ensured by additional safeguards and if that Member State decides that such procedures <u>could qualify</u> as ADR procedures under this Directive.	<i>compliance with the quality requirements set out in this Directive, including the specific additional requirements ensuring their independence.</i>
	AM 20 <i>(12a) This Directive should not apply to procedures before consumer-compliant handling systems operated by the trader, nor to direct negotiations between the parties. Furthermore, it should not apply to attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute.</i>		<i>(12a) This Directive should not apply to procedures before consumer-compliant handling systems operated by the trader, nor to direct negotiations between the parties. Furthermore, it should not apply to attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute.</i>
	AM 21 <i>(12a) Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters¹ already sets a framework for systems of mediation at Union level, especially for cross-border disputes, without preventing its application to internal mediation systems. This Directive complements that system as regards other ADR procedures.</i>		See Recital 9

<p>(13) Member States should ensure that disputes covered by this Directive can be submitted to an ADR entity <i>fulfilling</i> the <i>requirements</i> set out in this Directive. Member States <i>should have the possibility to</i> fulfil this obligation by <i>relying</i> on existing ADR entities and adjusting their scope of application, if needed, or by providing for the creation of new ADR entities. This Directive should not oblige Member States to create a specific ADR entity in each retail sector. Member States should <i>have the possibility to</i> provide for the creation of a residual ADR entity that deals with disputes for the resolution of which no specific entity is competent.</p>	<p>AM 22</p> <p>(13) Member States should ensure that <i>the contractual</i> disputes covered by this Directive can be submitted to an ADR entity <i>complying with the quality criteria</i> set out in this Directive. Member States <i>could also</i> fulfil this obligation by <i>building</i> on existing <i>well-functioning</i> ADR entities and adjusting their scope of application, <i>complying with the provisions of this Directive</i> if needed, or by providing for the creation of new ADR entities. This Directive should not oblige Member States to create a specific ADR entity in each retail sector. Member States should provide for the creation of a residual ADR entity that deals with disputes for the resolution of which no specific entity is competent, <i>in order to ensure full geographical coverage and access to ADR in all Member States</i>.</p>	<p>(13) Member States should ensure that disputes covered by this Directive can be submitted to an ADR entity fulfilling the requirements set out in this Directive and which is notified to the Commission. Member States should have the possibility to fulfil this obligation by relying on existing ADR entities and adjusting their scope of application, if needed, or by providing for the creation of new ADR entities. This Directive should not preclude the functioning of existing ADR entities operating in the framework of national consumer protection authorities of Member States where the State officials are in charge of dispute resolution. State officials should be regarded as impartial representatives of both consumers’ and traders’ interests. This Directive should not affect the possibility for businesses or for business or professional organisations to fund ADR entities. This Directive should not oblige Member States to create a specific ADR entity in each retail sector. Member States should have the</p>	<p>(13) Member States should ensure that disputes covered by this Directive can be submitted to an ADR entity <i>which complies with the requirements set out in this Directive and is listed in accordance with it</i>. Member States <i>should have the possibility to</i> fulfil this obligation by <i>building</i> on existing <i>well-functioning</i> ADR entities and adjusting their scope of application, if needed, or by providing for the creation of new ADR entities. This Directive should not preclude the functioning of existing dispute resolution entities operating in the framework of national consumer protection authorities of Member States where the State officials are in charge of dispute resolution. State officials should be regarded as representatives of both consumers’ and traders’ interests. This Directive should not oblige Member States to create a specific ADR entity in each retail sector. When necessary, in order to ensure full sectoral and geographical coverage in and access to ADR, Member States should have the possibility to provide for the creation of a residual ADR entity that</p>
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		<p>possibility to provide for the creation of a residual ADR entity that deals with disputes for the resolution of which no specific entity is competent. The role of a residual ADR entity is to make sure that all disputes can be handled, in particular those that are not covered by any other ADR entity notified in accordance with this Directive. Residual ADR entities are intended to be a safeguard for consumers and traders by ensuring that there are no gaps in the access to an ADR entity.</p>	<p>deals with disputes for the resolution of which no specific ADR entity is competent. Residual ADR entities are intended to be a safeguard for consumers and traders by ensuring that there are no gaps in the access to an ADR entity.</p>
		<p>(13a) This Directive should not prevent Member States from introducing or maintaining legislation on procedures for out-of-court resolution of consumer contractual disputes. Furthermore, in order to ensure that ADR entities can operate effectively they should have the possibility to maintain or introduce, in accordance with the laws of the Member State in which they are established, procedural rules allowing them to refuse to deal with disputes in specific circumstances. <u>They should therefore have the possibility to dismiss a complaint if the</u></p>	<p>(13a) This Directive should not prevent Member States from introducing or maintaining legislation on procedures for out-of-court resolution of consumer contractual disputes which is in compliance with the requirements set out in it. Furthermore, in order to ensure that ADR entities can operate effectively, they should have the possibility to maintain or introduce, in accordance with the laws of the Member State in which they are established, procedural rules allowing them to refuse to deal with disputes in specific</p>

	<p>consumer has failed to make direct contact with the trader with a view to settling the dispute before it is brought before the ADR entity. <u>They should also have the possibility to refuse</u> to deal with a dispute when the dispute is frivolous or vexatious, when the dispute has previously been considered by another ADR entity or by a court or when dealing with the dispute would otherwise seriously impair the effective operation of the ADR entity. This can be the case if the value of the dispute is below or above a certain threshold, if a dispute is not submitted to an ADR entity within one year from the date when the consumer has submitted a complaint or if a dispute is too complex and would therefore be better resolved in court. However, it should be excluded that procedural rules allowing ADR entities to refuse to deal with a dispute significantly impair consumers' access to ADR procedures, including in the case of cross-border disputes. Thus, when providing for a monetary threshold, Member States should always take into account that the</p>	<p><i>circumstances, for example where a dispute is too complex and would therefore be better resolved in court. However, it should be excluded that procedural rules allowing ADR entities to refuse to deal with a dispute significantly impair consumers' access to ADR procedures, including in the case of cross-border disputes. Thus, when providing for a monetary threshold, Member States should always take into account that the real value of a dispute may vary among Member States and consequently, setting a disproportionately high threshold in a Member State could impair access to ADR procedures for consumers from other Member States. Member States should not be required to ensure that the consumer can submit his complaint to another ADR entity, where an ADR entity to which the complaint was first submitted has refused to deal with it because of its procedural rules. In such cases it should be deemed that Member States have fulfilled their obligation to ensure full geographical coverage of ADR entities.</i></p>
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		<p>real value of a dispute may vary among Member States and consequently, setting a disproportionately high threshold in a Member State <u>should in reality</u> impair access to ADR procedures for consumers from other Member States. Member States should not be required to ensure that the consumer can submit his complaint to another ADR entity, where an ADR entity has dismissed a complaint because of procedural rules described in Article 5(4) and (5). In such cases it should be deemed that Member States have fulfilled their obligation as referred to in Article 5(1) of this Directive.</p>	
<p>(14) This Directive should be without prejudice to traders established in a Member State being covered by an ADR entity which is located in another Member State. Member States should encourage the development of such entities.</p>	<p>AM 23</p> <p>(14) This Directive should be without prejudice to traders established in a Member State being covered by an ADR entity which is located in another Member State. <i>In order to improve the geographical coverage and consumer access to ADR across the Union,</i> Member States should encourage the development of such <i>regional, transnational and pan-European dispute resolution</i> entities <i>where traders from different Member States are part of the same</i></p>		<p>(14) This Directive should <i>allow</i> traders established in a Member State <i>to be covered</i> by an ADR entity which is located in another Member State. <i>In order to improve the geographical coverage and consumer access to ADR across the Union,</i> Member States <i>may decide to use ADR entities established in another Member State or regional, transnational or pan-European dispute resolution entities, where traders from different Member</i></p>

	<p><i>ADR entity. The Commission should further facilitate the establishment of such entities at European level.</i></p>		<p><i>States are covered by the same ADR entity. Recourse to ADR entities established in another Member State or to transnational or pan-European ADR entities should, however, be without prejudice to Member States' responsibility to ensure full geographical coverage and access to ADR entities.</i></p>
<p>(15) This Directive should be without prejudice to Member States maintaining or introducing ADR procedures dealing jointly with identical or similar disputes between a trader and several consumers. <i>Such procedures can be seen as a preliminary step to further developing collective ADR procedures within the Union.</i></p>	<p>AM 24</p> <p>(15) This Directive should be without prejudice to Member States maintaining or introducing ADR procedures dealing jointly with identical or similar disputes between a trader and several consumers. <i>Comprehensive impact assessments must be carried out on collective out-of-court settlements before they are proposed at a Union level. The existence of an effective system for collective claims and easy recourse to ADR should be complementary and should not involve mutually exclusive procedures.</i></p>		<p>(15) This Directive should be without prejudice to Member States maintaining or introducing ADR procedures dealing jointly with identical or similar disputes between a trader and several consumers. <i>Comprehensive impact assessments must be carried out on collective out-of-court settlements before they are proposed at a Union level. The existence of an effective system for collective claims and easy recourse to ADR should be complementary and they should not be mutually exclusive procedures.</i></p>
<p>(16) The processing of information relating to disputes covered by this Directive should comply with the rules on the protection of personal data laid down in the laws, regulations and administrative provisions of the Member States</p>			<p>(16) The processing of information relating to disputes covered by this Directive should comply with the rules on the protection of personal data laid down in the laws, regulations and administrative provisions of the Member States</p>

<p>adopted pursuant to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.</p>			<p>adopted pursuant to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.</p>
	<p>AM 25</p> <p><i>(16a) Confidentiality and privacy should be respected at all times during the ADR procedure. However, <u>it should be permissible for final decisions of an exemplary nature to be published at the discretion of the Member States.</u> Member States should be encouraged to protect the confidentiality of ADR procedures in any subsequent civil or commercial judicial proceedings or arbitration.</i></p>		<p><i>(16a) Confidentiality and privacy should be respected at all times during the ADR procedure. Member States should be encouraged to protect the confidentiality of ADR procedures in any subsequent civil or commercial judicial proceedings or arbitration.</i></p>
			<p><i>(16ab) Member States should nevertheless ensure that ADR entities make publicly available any systematic or significant problems that occur frequently and lead to disputes between consumers and traders. The information communicated in this regard could be accompanied by</i></p>

			<i>recommendations as to how such problems can be avoided or resolved in future, in order to raise traders' standards and to facilitate the exchange of information and best practices.</i>
	<p>AM 26</p> <p><i>(16b) Member States should ensure that ADR entities resolve disputes in a manner that is fair, practical and proportionate to both the consumer and the trader, on the basis of an objective assessment of the circumstances in which the complaint is made and with due regard to the rights of the parties.</i></p>		<p>(16b) Member States should ensure that ADR entities resolve disputes in a manner that is fair, practical and proportionate to both the consumer and the trader, on the basis of an objective assessment of the circumstances in which the complaint is made and with due regard to the rights of the parties.</p>
	<p>AM 27</p> <p><i>(16c) The independence and integrity of ADR entities is crucial in order to gain Union citizens' trust that ADR mechanisms will offer them a fair and independent outcome. The person or collegial body in charge of the ADR should be independent of all those who might have an interest in the outcome and should have no conflict of interest which could impede him or it from reaching a decision in a fair, impartial and</i></p>		<p>(16c) The independence and integrity of ADR entities is crucial in order to gain Union citizens' trust that ADR mechanisms will offer them a fair and independent outcome. The person or collegial body in charge of the ADR should be independent of all those who might have an interest in the outcome and should have no conflict of interest which could impede him or it from reaching a decision in a fair, impartial and independent manner.</p>

	<i>independent manner.</i>		
(17) The natural persons in charge of alternative dispute resolution should only be considered impartial if they cannot be subject to pressure that potentially influences their attitude towards the dispute. There is a particular need to ensure the absence of such pressure where ADR entities are financed by one of the parties to the dispute or an organisation of which one of the parties is a member.	AM 28 (17) The natural persons in charge of alternative dispute resolution should only be considered impartial if they cannot be subject to pressure that potentially influences their attitude towards the dispute. There is a particular need to ensure the absence of such pressure where ADR entities are financed by one of the parties to the dispute or an organisation of which one of the parties is a member. <i>In order to ensure the absence of any conflict of interest, natural persons in charge of ADR should disclose any circumstances that might <u>affect</u> their independence or give rise to a conflict of interest.</i>		(17) The natural persons in charge of alternative dispute resolution should only be considered impartial if they cannot be subject to pressure that potentially influences their attitude towards the dispute. <i>In order to ensure the independence of their actions, they should also be appointed for a sufficient duration, and should not be subject to any instructions from either party or their representative.</i>
			<i>(17a) In order to ensure the absence of any conflict of interest, natural persons in charge of ADR should disclose any circumstances that might affect their independence and impartiality or give rise to a conflict of interest with either party to the dispute they are asked to resolve. This could be any financial interest, direct or indirect, in the outcome of the ADR procedure or any personal or business relationship with one or</i>

			<p>more of the parties during the last three years prior assuming the post, including any capacity other than for the purposes of ADR in which the person concerned has acted for one or more of the parties, for a professional organisation or a business association of which one of the parties is a member or for any other member thereof.</p>
			<p>(17b) There is a particular need to ensure the absence of such pressure where the natural persons in charge of ADR are employed or receive any form of remuneration from the trader; therefore specific requirements should be set up where Member States decide to allow dispute resolution procedures in such cases to qualify as ADR procedures under this Directive. Where natural persons in charge of alternative dispute resolution are employed or receive any form of remuneration exclusively from a professional association or business organisation of which the trader is a member, they should dispose of a separate and dedicated budget sufficient to fulfil their tasks.</p>
	<p>AM 29 (17a) It is essential for the success</p>		<p>(17c) It is essential for the success</p>

	<p><i>of ADR, in particular in order to ensure the necessary trust in the ADR procedures, that the natural persons in charge of ADR possess the necessary expertise. <u>Therefore, specific training schemes should be provided by way of cooperation between Member States and the Commission.</u></i></p>		<p><i>of ADR, in particular in order to ensure the necessary trust in the ADR procedures, that the natural persons in charge of ADR possess the necessary expertise, including a general understanding of law. In particular, the natural persons should have sufficient general knowledge of legal matters in order to understand the legal implications of the dispute, without being obliged to be a qualified law professional.</i></p>
		<p>(17a) The applicability of certain quality principles to ADR procedures strengthens both consumers' and traders' confidence in such procedures. Such quality principles were first developed at Union level in the Commission Recommendation of 30 March 1998 on the principles applicable to the bodies responsible for the out-of-court settlement of consumer disputes³ and in the Commission Recommendation of 4 April 2001 on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes⁴. By giving a binding nature to the principles established</p>	<p>(17d) <i>The applicability of certain quality principles to ADR procedures strengthens both consumers' and traders' confidence in such procedures. Such quality principles were first developed at Union level in the Commission Recommendation of 30 March 1998 on the principles applicable to the bodies responsible for the out-of-court settlement of consumer disputes and in the Commission Recommendation of 4 April 2001 on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes. By giving a binding nature to some of the principles established in those</i></p>

³ OJ L 115, 17.4.1998, p. 31.

⁴ OJ L 109, 19.4.2001, p. 51.

		<p>in those Commission Recommendations, this Directive establishes a set of <u>minimum</u> quality standards which apply to all ADR procedures carried out by an ADR entity which has been notified to the Commission. Member States may maintain or introduce national provisions in addition to those established by this Directive, in conformity with Union legislation.</p>	<p><i>Commission Recommendations, this Directive establishes a set of quality standards which apply to all ADR procedures carried out by an ADR entity which has been notified to the Commission.</i></p>
			<p><i>(17e) This Directive should establish standards for the quality of ADR entities, which should guarantee the same level of protection and rights for consumers in both domestic and cross-border disputes. This Directive should not prevent Member States from adopting or maintaining rules that go beyond what is provided for in this Directive.</i></p>
<p>(18) <i>In</i> order to ensure the transparency of ADR entities and of ADR procedures it is necessary that the parties receive <i>all</i> the information they need to take an informed decision <u>before</u> engaging in an ADR procedure.</p>	<p>AM 30</p> <p>(18) <i>ADR entities should be accessible and transparent. <u>Subject to any national rules making the participation of traders in an ADR procedure mandatory, in</u></i> order to ensure the transparency of ADR entities and of ADR procedures it is necessary that the parties receive <u>the clear and accessible</u> information</p>	<p>(18) In order to ensure the transparency of ADR entities and of ADR procedures it is necessary that the parties receive all the information they need to take an informed decision engaging in an ADR procedure.</p>	<p>(18) <i>ADR entities should be accessible and transparent. In</i> order to ensure the transparency of ADR entities and of ADR procedures it is necessary that the parties receive <i>clear and accessible</i> information they need <i>in order</i> to take an informed decision before engaging in an ADR procedure. <i>The provision of</i></p>

	<p>they need <i>in order</i> to take an informed decision before engaging in an ADR procedure.</p>		<p><i>such information to traders should not be required where their participation in ADR procedures is mandatory by virtue of national laws.</i></p>
<p>(19) ADR <i>procedures</i> should be <i>effective. They should provide for a simple and fast procedure whose duration generally does not exceed 90 days. The ADR entity should be able to extend this time period when the complexity of the dispute in question so demands.</i></p>	<p>AM 31</p> <p>(19) <i>A well-functioning ADR entity should resolve online and offline dispute proceedings expeditiously, within a timeframe of 90 calendar days starting on the date of receipt by the ADR entity of the complete complaint file and ending on the date on which a decision is taken. The ADR entity should notify the complaint to the parties after receiving all the documents necessary for the carrying-out of the ADR procedure. In certain exceptional cases of a technical or highly complex nature, ADR entities should be able to extend the timeframe for the purpose of undertaking an objective examination of certain aspects of the case in question, in order to guarantee high-quality dispute resolution. The parties should be informed of any such extension, and of the expected approximate length of time that will be needed for the conclusion of the dispute.</i></p>	<p>(19) ADR procedures should be effective. They should provide for a simple and fast procedure whose duration generally does not exceed 90 days. The ADR entity should be able to extend this time period when the complexity of the dispute in question so demands or because of other justified grounds.</p>	<p><i>(19) A well-functioning ADR entity should resolve online and offline dispute proceedings expeditiously, within a timeframe of 90 calendar days starting on the date on which the ADR entity has received the complete complaint file, including all relevant documentation pertaining to that complaint, and ending on the date on which the outcome of the ADR procedure is made available. The ADR entity should notify the complaint to the parties after receiving all the documents necessary for the carrying-out of the ADR procedure. In certain exceptional cases of a highly complex nature, or for justified grounds vested in the sphere of the parties to the dispute, ADR entities should be able to extend the timeframe for the purpose of undertaking an examination of the case in question. The parties should be informed of any such extension, and of the</i></p>

			<i>expected approximate length of time that will be needed for the conclusion of the dispute.</i>
(20) ADR procedures should be free of charge <i>or of moderate costs</i> for consumers so that <i>it remains economically reasonable</i> for consumers <i>to use such</i> procedures.	AM 32 (20) ADR procedures should <i>preferably</i> be free of charge for <i>the consumer. In the event that costs are applied, the ADR procedure should be accessible, attractive and inexpensive</i> for consumers. <i>Member States should decide on an appropriate form of funding for ADR procedures on their territories, without restricting the funding of entities that are already operational.</i>		(20) ADR procedures should <i>preferably</i> be free of charge for <i>the consumer. In the event that costs are applied, the ADR procedure should be accessible, attractive and inexpensive</i> for consumers. <i>To that end, costs should not exceed a nominal fee.</i>
(21) ADR procedures should be fair so that the parties to a dispute are fully informed about their rights and the consequences of the choices they make in the context of an ADR procedure.	AM 33 (21) ADR procedures should be fair so that the parties to a dispute are fully informed about their rights and the consequences of the choices they make in the context of an ADR procedure. <i>The ADR entities should inform consumers of their rights under legal provisions before they agree to or reject the imposed or proposed solution. Both parties should also be able to submit their information and evidence without being physically present.</i>		(21) ADR procedures should be fair so that the parties to a dispute are fully informed about their rights and the consequences of the choices they make in the context of an ADR procedure. <i>The ADR entities should inform consumers of their rights before they agree to or follow a proposed solution. Both parties should also be able to submit their information and evidence without being physically present.</i>
	AM 34		<i>Moved into AM 37 below</i>

	<p><i>(21a) The right to an effective remedy and the right to a fair trial are fundamental rights guaranteed in Article 47 of the Charter of Fundamental Rights of the European Union. Therefore, ADR procedures should not be designed to replace court procedures and should not deprive consumers or traders of their rights to seek redress before the courts. Nothing in this Directive should prevent parties from exercising their right of access to the judicial system.</i></p>		
	<p>AM 35</p> <p><i>(21b) An agreement between a consumer and a trader to submit complaints to an ADR entity should not be binding on the consumer if it was concluded before the dispute arises and if it <u>deprives</u> the consumer of his right to bring an action before the courts for the <u>resolution of the dispute</u>. <u>In the case of ADR entities which impose solutions, the solutions should only be binding on the parties if they were informed in advance of the binding nature of those solutions and if they specifically accepted this.</u> <u>Specific acceptance by the trader should not be required if national</u></i></p>	<p>(21a) An agreement between a consumer and a trader to submit complaints to an ADR entity should not be binding on the consumer if it was concluded before the dispute arose and if it <u>has the effect of depriving</u> the consumer of his right to bring an action before the courts for the <u>settlement of the dispute</u>. <u>Furthermore, in ADR procedures which aim at resolving the dispute by imposing a solution, it should only be possible to make the solution binding on the parties if they were informed of its binding nature in advance and specifically</u></p>	<p><i>(21a) An agreement between a consumer and a trader to submit complaints to an ADR entity should not be binding on the consumer if it was concluded before the dispute has materialised and if it has the effect of depriving the consumer of his right to bring an action before the courts for the settlement of the dispute. Furthermore, in ADR procedures which aim at resolving the dispute by imposing a solution the solution imposed should be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this. Specific acceptance by the</i></p>

	<p><i>rules provide that solutions are <u>to be binding on traders</u>.</i></p>	<p>accepted this. Specific acceptance by the trader <u>is</u> not required if national rules provide that solutions are binding on traders.</p>	<p><i>trader should not be required if national rules provide that solutions are binding on traders.</i></p>
	<p>AM 36</p> <p><i>(21c) <u>In the case of ADR procedures which impose binding solutions on consumers, consumers should be afforded at least the same level of protection as that laid down by the mandatory provisions applicable under the law of the Member State in the territory of which the ADR entity is established. Solutions imposed by ADR entities applying such ADR procedures should therefore not result in the consumer being deprived of the protection afforded by such mandatory provisions. In the case of cross-border disputes, the solution imposed should not result in the consumer being deprived of the protection afforded by the mandatory provisions applicable under the law of the Member State in which he is habitually resident in instances where such protection is provided for by Article 6 of Regulation (EC) No 593/2008.</u></i></p>	<p>(21b) ADR procedures which aim at resolving the dispute by imposing a solution should afford to consumers at least the same level of protection as the one foreseen by the mandatory provisions of the law of the Member State in whose territory the ADR entity is established. Solutions imposed by ADR entities applying such ADR procedures should therefore not result in the consumer being deprived of the protection afforded by such mandatory provisions. In the case of cross border disputes, in the instances where such protection is provided for in Article 6 of Regulation (EC) No 593/2008 or Article 5(2) of Convention 80/934/ECC on the law applicable to contractual obligations opened for signature in Rome on 19 June 1980⁵, the solutions imposed should not result in the consumer being deprived of</p>	<p><i>(21b) In ADR procedures which aim at resolving the dispute by imposing a solution on the consumer, in a situation where there is no conflict of laws, the solution imposed should not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of the Member State where the consumer and the trader are habitually resident. In a situation involving a conflict of laws, where the law applicable to the sales or service contract is determined in accordance with Article 6, paragraphs 1 and 2 of Regulation (EC) No 593/2008, the solution imposed by the ADR entity should not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of the Member State in which he is</i></p>

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		<p>the protection afforded by the mandatory provisions applying under the law of the Member State in which the consumer is habitually resident.</p>	<p><i>habitually resident. In a situation involving a conflict of laws, where the law applicable to the sales or service contract is determined in accordance with Article 5, paragraphs 1 to 3 of the Convention on the law applicable to contractual obligations (80/934/ECC), the solution imposed by the ADR entity should not result in the consumer being deprived of the protection afforded to him by the mandatory rules of the law of the Member State in which he is habitually resident.</i></p>
	<p>AM 37</p> <p><i>(21d) In order to encourage the parties to use ADR, Member States should ensure that their rules on limitation and prescription do not prevent the parties from going to court if their attempt to find a solution through an ADR procedure fails. Member States should make sure that this result is achieved even though this Directive does not harmonise national rules on limitation and prescription. Provisions on limitation and prescription in international agreements as implemented in the Member States, for instance in the area of transport law, should not be</i></p>	<p>(21c) Where a dispute could not be resolved successfully by a given ADR procedure, it is desirable that Member States provide that the parties should subsequently not be prevented from initiating judicial proceedings in relation to that dispute. Member States may foresee for example a provision which avoids the expiry of limitation or prescription periods during the ADR procedure as it is provided for in Directive 2008/52/EC.</p>	<p><i>First part taken from AM 34</i></p> <p><i>(21c) The right to an effective remedy and the right to a fair trial are fundamental rights guaranteed in Article 47 of the Charter of Fundamental Rights of the European Union. Therefore, ADR procedures should not be designed to replace court procedures and should not deprive consumers or traders of their rights to seek redress before the courts. Nothing in this Directive should prevent parties from exercising their right of access to the judicial system. In cases where a dispute the outcome of which is not binding could not be resolved through a given ADR</i></p>

	<p><i>affected by this Directive.</i></p>		<p><i>procedure, the parties should subsequently not be prevented from initiating judicial proceedings in relation to that dispute. Member States should be free to choose the appropriate means to achieve this objective. They should have the possibility to provide, inter alia, that limitation or prescription periods do not expire during an ADR procedure.</i></p>
	<p>AM 38</p> <p><i>(21e) In order to function efficiently, ADR entities should have sufficient human, material and financial resources at their disposal. This Directive should be without prejudice to the question whether ADR entities are publicly or privately funded or funded through a combination of public and private funding. However, ADR entities should be encouraged to specifically consider private forms of funding and to utilise public funds only at Member States' discretion.</i></p>		<p><i>(21d) In order to function efficiently, ADR entities should have sufficient human, material and financial resources at their disposal. Member States should decide on an appropriate form of funding for ADR entities on their territories, without restricting the funding of entities that are already operational. This Directive should be without prejudice to the question whether ADR entities are publicly or privately funded or funded through a combination of public and private funding. However, ADR entities should be encouraged to specifically consider private forms of funding and to utilise public funds only at Member States' discretion. This Directive should not affect the</i></p>

			<p><i>possibility for businesses or for business or professional organisations to fund ADR entities.</i></p>
<p>(22) When a dispute arises it is necessary that consumers are able to identify quickly which ADR entities are competent to deal with their complaint <u>and to know whether or not the trader concerned will participate in proceedings submitted to an ADR entity. Traders should <i>therefore provide such</i> information on <i>their main commercial documents and</i>, where <i>they have a website, on their websites. This obligation should be without prejudice to Articles 6(1)(t), 7(1) and 8 of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights. Article 6(1)(t) of Directive 2011/83/EU stipulates for consumer contracts concluded at a distance or off premises that the trader has to inform the consumer about the possibility of having recourse to an out-of-court complaint and redress mechanism to which the trader is subject, and the methods for having access to it, before the consumer is bound by the</i></u></p>	<p>AM 39</p> <p>(22) When a dispute arises it is necessary that consumers are able to identify quickly which ADR entities are competent to deal with their complaint and to know whether or not the trader concerned will participate in proceedings submitted to an ADR entity. Traders should <i>inform consumers about the name, address and website address of the ADR entity or entities by which they are covered. Traders should also specify whether or not they commit or are obliged to use those entities for the purpose of resolving disputes with consumers. The information should be provided in a clear, comprehensible and easily accessible way on the trader's website</i>, where <i>the trader has one</i>, and <i>in general terms and conditions applicable to contracts for the sale of goods or provision of services between the trader and a consumer and whenever the trader rejects a complaint submitted directly to it by a consumer. Where appropriate, that information should also be</i></p>	<p>(22) When a dispute arises it is necessary that consumers are able to identify quickly which ADR entities are competent to deal with their complaint and to know whether or not the trader concerned will participate in proceedings submitted to an ADR entity. Therefore traders, who commits to use ADR entities to resolve disputes with consumers, must inform consumers about the ADR entity or ADR entities by which they are covered. The Traders should therefore provide such information on their main commercial documents and, where they have a website, on their websites shall include the address of the relevant ADR entity or ADR entities' website. This obligation should be without prejudice to Articles 6(1)(t), 7(1) and 8 of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights. Article 6(1)(t) of Directive 2011/83/EU stipulates for consumer contracts concluded at a</p>	<p>(22) When a dispute arises it is necessary that consumers are able to identify quickly which ADR entities are competent to deal with their complaint and to know whether or not the trader concerned will participate in proceedings submitted to an ADR entity. Traders <i>who commit to use ADR entities to resolve disputes with consumers should inform consumers about the address and website of the ADR entity or entities by which they are covered. The information should be provided in a clear, comprehensible and easily accessible way on the trader's website, where one exists, and if applicable the in general terms and conditions of sales or service contracts between the trader and a consumer. Traders should have the possibility to include on their websites, and in the terms and conditions of the relevant contracts any additional information on their internal complaint handling procedures or on any other ways of directly contacting them with a view</i></p>

<p><u>contract. Article 7(1) of Directive 2011/83/EU provides that, in the case of off-premises contracts, this information must be provided on paper or, if the consumer agrees, on another durable medium.</u></p>	<p><i>stated in other relevant documents, for instance pre-contractual documents, invoices and receipts.</i></p>	<p>distance or off premises that the trader has to inform the consumer about the possibility of having recourse to an out of court complaint and redress mechanism to which the trader is subject, and the methods for having access to it, before the consumer is bound by the contract. Article 7(1) of Directive 2011/83/EU provides that, in the case of off-premises contracts, this information must be provided on paper or, if the consumer agrees, on another durable medium. The information shall be mentioned in a clear, comprehensible and easily accessible way on the traders' websites, where one exists, and, if applicable, in the general terms and conditions applying to contracts, for the sale of goods or the provision of services between themselves and a consumer, where one exists. Traders should have the possibility to include on their websites, and in the terms and conditions of the relevant contracts any additional information on their internal complaint handling procedures or on any other ways of directly contacting them with a view to settling disputes with consumers without referring them</p>	<p>to settling disputes with consumers without referring them to an ADR entity. Whenever the dispute could not be settled directly, the trader should provide to the consumer, on paper or another durable medium, the information on relevant ADR entities and specify if he will make use of them.</p>
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		to an ADR entity.	
	<p>AM 40</p> <p><i>(22a) The information obligation referred to in the preceding recital should be without prejudice to point (t) of Article 6(1), Article 7(1) and Article 8 of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights¹.</i></p>	<p>(22a) The obligation to inform consumers about the ADR entities by which they are covered should be without prejudice to the information obligation established by Articles 6(1)(t), 7(1) and 8(1) of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights.</p>	<p><i>(22a) The obligation to inform consumers about the ADR entities by which they are covered should be without prejudice to provisions on consumer information on out-of-court redress procedures contained in other Union legislation, which should apply in addition to the relevant information obligation established by this Directive.</i></p>
<p>(23) This Directive does not prescribe that participation of traders in ADR procedures be mandatory or that the outcome of such procedures be binding on traders, when a consumer has lodged a complaint against them. However, this <i>Directive</i> is without prejudice to any national rules making the participation of traders in such procedures mandatory or their outcome binding on traders, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system as guaranteed in Article 47 of the <u>Charter of Fundamental Rights of the European Union</u>.</p>	<p>AM 41</p> <p>(23) This Directive does not prescribe that participation of traders in ADR procedures be mandatory or that the outcome of such procedures be binding on traders, when a consumer has lodged a complaint against them. However, <i>in order to ensure that consumers have access to redress and that they are not forced to forego their claims, traders should be encouraged as far as possible to participate in ADR procedures. Therefore</i>, this Directive is without prejudice to any national rules making the participation of traders in such procedures mandatory <i>or subject to incentives or sanctions</i> or their outcome binding on traders,</p>	<p>(23) This Directive does not prescribe that participation of traders in ADR procedures be mandatory or that the outcome of such procedures be binding on traders, when a consumer has lodged a complaint against them. However, this <i>directive</i> is without prejudice to any national rules making the participation of traders in such procedures mandatory or their outcome binding on traders, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system as guaranteed in Article 47 of Charter of Fundamental Rights of European Union.</p>	<p><i>(23) This Directive does not prescribe that participation of traders in ADR procedures be mandatory or that the outcome of such procedures be binding on traders, when a consumer has lodged a complaint against them. However, in order to ensure that consumers have access to redress and that they are not forced to forego their claims, traders should be encouraged as far as possible to participate in ADR procedures. Therefore</i>, this Directive is without prejudice to any national rules making the participation of traders in such procedures mandatory <i>or subject to incentives or sanctions</i> or their outcome binding on traders.</p>

	provided that such legislation does not prevent the parties from exercising their right of access to the judicial system as guaranteed in Article 47 of the Charter of Fundamental Rights of the European Union. <i>If the outcome of an ADR procedure is binding on a trader under domestic law, a right to judicial review should be guaranteed.</i>		provided that such legislation does not prevent the parties from exercising their right of access to the judicial system as guaranteed in Article 47 of the Charter of Fundamental Rights of the European Union.
	AM 42 <i>(23a) Member States should be able, at their discretion, to allow ADR entities to introduce or maintain procedural rules which enable ADR entities to operate more effectively and efficiently, provided that the provisions of this Directive are complied with.</i>		Covered by Recital 13a
	AM 43 <i>(23b) Member States should be able to adopt or maintain in force national provisions which provide for higher quality standards than the harmonised <u>minimum</u> standards established by this Directive.</i>		Covered by Recital 17e
	AM 44 <i>(23c) In order to <u>reduce unnecessary burdens on ADR</u></i>	The last sentence of recital 22 partly matches the 1st sentence of recital 23c in AM 44:	<i>(23a) In order to avoid unnecessary burden being placed on ADR</i>

	<i>entities, <u>in the event of a complaint arising from the sale of goods or provision of services</u>, Member States should encourage customers, <u>before referring complaints to an ADR entity or court</u>, to contact the trader or service provider at the initial stage in an effort to solve the problem bilaterally. In many cases, that procedure could represent a <u>swift way of resolving consumer disputes in advance</u>.</i>	Traders should have the possibility to include on their websites, and in the terms and conditions of the relevant contracts any additional information on their internal complaint handling procedures or on any other ways of directly contacting them with a view to settling disputes with consumers without referring them to an ADR entity.	<i>entities, Member States should encourage consumers to contact the trader in an effort to solve the problem bilaterally before submitting a complaint to an ADR entity. In many cases, doing so would allow consumers to settle their disputes swiftly and at an early stage.</i>
	AM 45 <i>(23d) Member States should involve consumer and business organisations' representatives when establishing the ADR system and in the governance of the scheme, in particular in relation to the principles of impartiality and independence.</i>		<i>(23b) Member States should involve consumer and business organisations' representatives when ADR systems are established, in particular in relation to the principles of impartiality and independence.</i>
(24) Member States should <u>ensure</u> that ADR entities cooperate on the resolution of cross-border disputes.		(24) Member States should ensure encourage that ADR entities cooperate on the resolution of cross-border disputes.	<i>(24) Member States should ensure that ADR entities cooperate on the resolution of cross-border disputes.</i>
(25) Networks of ADR entities <i>which facilitate the resolution of cross-border disputes</i> , such as FIN-NET in the area of financial services,	AM 46 <i>(25) Networks of ADR entities, such as FIN-NET in the area of financial services, should be strengthened within the Union. Member States</i>		<i>(25) Networks of ADR entities, such as FIN-NET in the area of financial services, should be strengthened within the Union. Member States</i>

<p>should be strengthened within the Union. Member States should encourage ADR entities to become part of such networks.</p>	<p>should encourage ADR entities to become part of such networks.</p>		<p>should encourage ADR entities to become part of such networks.</p>
<p>(26) Close cooperation between ADR entities and national authorities entrusted with the enforcement of Union legislation on consumer protection should strengthen the effective application of such Union legislation.</p>	<p>AM 47</p> <p>(26) Close cooperation between <i>the Commission</i>, ADR entities and national authorities entrusted with the enforcement of Union legislation on consumer protection should strengthen the effective application of such Union legislation. <i>The Commission should facilitate administrative cooperation between the Member States and the ADR entities by holding regular meetings with the different stakeholders to exchange best practice and technical expertise between ADR entities and to discuss any problems arising from the operation of ADR schemes.</i></p>	<p>(26) Close cooperation between ADR entities and national authorities entrusted with the enforcement of Union legislation on consumer protection should strengthen the effective application of such Union legislation. This cooperation should include both the exchange of general information about practices in specific business sectors about which consumers have lodged complaints and the provision by such national authorities of technical assessment or information in individual disputes. The provision of technical assessment or information is important in cases where such technical assessment or information is necessary for an ADR entity to be able to deal with a dispute submitted to it and the technical assessment or information cannot be obtained elsewhere. This is the case with regard to disputes concerning</p>	<p>(26) Close cooperation between ADR entities and national authorities should strengthen the effective application of Union legislation on consumer protection. Member States and the Commission should facilitate cooperation between the ADR entities, in order to encourage the exchange of best practice and technical expertise and to discuss any problems arising from the operation of ADR procedures. This cooperation should be supported inter alia through the Consumer Programme.</p>

		<p>consumer rights under Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air⁶. However, national authorities should not be required to provide information or technical assessment in as much as they are prevented from doing so by virtue of rules on professional secrecy applying to them.</p>	
<p>(27) In order to ensure that ADR entities function properly and effectively, <i>they</i> should <i>be</i> closely <i>monitored</i>. The Commission and competent authorities under this Directive should publish and update a list of ADR entities that comply with this Directive. <u>Other bodies,</u></p>	<p>AM 48</p> <p>(27) In order to ensure that ADR entities function properly and effectively, <i>Member States</i> should <i>designate a competent authority or authorities which should</i> <u>closely monitor and supervise those entities</u>. The Commission and competent authorities under this Directive</p>	<p>(27) In order to ensure that ADR entities function properly and effectively, they should be closely monitored. The Commission and competent authorities under this Directive should publish and update a list of ADR entities that comply with this Directive. Member States</p>	<p>(27) In order to ensure that ADR entities function properly and effectively, <i>they should be closely monitored. To that purpose, each Member States should designate a competent authority or authorities which should perform that function.</i> The Commission and competent</p>

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<p><u>such as ADR entities, consumer associations, business associations and the European Consumer Centre Network, should also publish this list.</u> In addition, competent authorities should publish regular reports on the development and functioning of ADR entities. ADR entities should notify to competent authorities specific information on which those reports should be based. Member States should encourage ADR entities to provide such information using Commission Recommendation 2010/304/EU on the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries.</p>	<p>should publish and update a list of ADR entities that comply with this Directive. <u>Other bodies, such as ADR entities, consumer associations, business associations and the European Consumer Centre Network, should also publish this list.</u> In addition, competent authorities should publish regular reports on the development and functioning of ADR entities <u>in their Member States</u>. ADR entities should notify to competent authorities specific information on which those reports should be based. Member States should encourage ADR entities to provide such information using Commission Recommendation 2010/304/EU on the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries.</p>	<p>should ensure that Other bodies, such as ADR entities, consumer associations, business associations and the European Consumer Centre Network and, where appropriate, the bodies designated in accordance with Article 11(2) should also publish this list. Furthermore, Member States should encourage that relevant consumer associations and business associations also publish this list. Member States should also ensure appropriate dissemination of information on how consumers may get access to ADR procedures if they have a contractual dispute with a trader as referred to in Article 2. In addition, competent authorities should publish regular reports on the development and functioning of ADR entities. ADR entities should notify to competent authorities specific information on which those reports should be based. Member States should encourage ADR entities to provide such information using Commission Recommendation 2010/304/EU on the use of a harmonised methodology for classifying and reporting</p>	<p>authorities under this Directive should publish and update a list of ADR entities that comply with this Directive. Member States should ensure that ADR entities, the European Consumer Centre Network, and, where appropriate, the bodies designated in accordance with Article 11(2) publish this list on their website by providing a link to the Commission's website, and whenever possible on a durable medium at their premises. Furthermore, Member States should encourage that relevant consumer associations and business associations also publish this list. Member States should also ensure appropriate dissemination of information on what consumers should do if they have a dispute with a trader. In addition, competent authorities should publish regular reports on the development and functioning of ADR entities in their Member States. ADR entities should notify to competent authorities specific information on which those reports should be based. Member States should encourage ADR entities to provide such information</p>
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		consumer complaints and enquiries ⁷ .	using Commission Recommendation 2010/304/EU on the use of a harmonised methodology for classifying and reporting consumer complaints and enquiries.
	<p>AM 49</p> <p><i>(27a) Providing ADR entities with a European quality label should increase European citizens' trust and confidence in the quality of the ADR system, especially when buying across borders. An easily recognisable European quality label, regularly monitored and supervised by the Member States and the Commission, should serve as a guarantee to consumers that the relevant ADR entity complies with the quality criteria set out in this Directive.</i></p>		<i>AM withdrawn</i>
	<p>AM 50</p> <p><i>(27b) In order to ensure the effective co-ordinated implementation of this Directive, the Commission, after consulting the European Parliament, the Council and relevant stakeholders, should draw up guidelines on the quality criteria with the aim of improving the overall efficiency of ADR entities.</i></p>		<i>AM withdrawn</i>

<p>(28) It is necessary that Member States lay down penalties for infringements of the provisions of this Directive relating to consumer information by traders and information to be notified to competent authorities by ADR entities and ensure that they are enforced. The penalties should be effective, proportionate and dissuasive.</p>		<p>(28) It is necessary that Member States lay down penalties for infringements of the provisions of this Directive relating to consumer information by traders and information to be notified to competent authorities by ADR entities and ensure that they are enforced. The penalties should be effective, proportionate and dissuasive.</p>	<p>(28) It is necessary that Member States lay down rules on penalties for infringements of the national provisions adopted to comply with this Directive and ensure that those rules are implemented. The penalties should be effective, proportionate and dissuasive.</p>
<p>(29) Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) should be amended to include a reference to this Directive in its Annex so as to reinforce cross-border cooperation on enforcement of this Directive.</p>			<p>(29) Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) should be amended to include a reference to this Directive in its Annex so as to reinforce cross-border cooperation on enforcement of this Directive.</p>
<p>(30) Directive 2009/22 of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests (Injunctions Directive) should be amended to include a reference to this Directive in its Annex so as to ensure that the consumers' collective interests laid</p>			<p>(30) Directive 2009/22 of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests (Injunctions Directive) should be amended to include a reference to this Directive in its Annex so as to ensure that the consumers' collective interests laid</p>

down in this Directive are protected.			down in this Directive are protected.
		<p>(30a) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.</p>	<p>(30a) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.</p>
<p>(31) Since the objective of this Directive, namely to contribute to the proper functioning of the internal market by ensuring a high level of consumer protection, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set</p>	<p>AM 51</p> <p>(31) Since the objective of this Directive, namely to contribute, by achieving a high level of consumer protection, to the proper functioning of the internal market, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set</p>		<p>(31) Since the objective of this Directive, namely to contribute, through the achievement of a high level of consumer protection and without restricting consumers access to the courts, to the proper functioning of the internal market, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of</p>

out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.	out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.		the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
(32) This Directive respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and specifically Articles 7, 8, 38 and 47 thereof,			(32) This Directive respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and specifically Articles 7, 8, 38 and 47 thereof.
CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS
Article 1 Subject matter	Article 1 Subject matter	Article 1 Subject matter	Article 1 Subject matter
This Directive is to contribute to the functioning of the internal market <u>and to the achievement of a high level of consumer protection</u> by ensuring <i>that</i> disputes <u>between consumers and traders</u> can be <i>submitted</i> to entities offering impartial, transparent, effective and	AM 52 This Directive is to contribute, <i>by achieving a high level of consumer protection</i> , to the <i>proper</i> functioning of the internal market by ensuring, <i>in the event of contractual disputes arising from the sale of goods or the provision of services, that</i> consumers can, <i>on a voluntary basis, submit</i>	This The purpose of this Directive is to contribute to the functioning of the internal market and to, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market by ensuring that disputes between consumers and	The purpose of this Directive is, <i>through the achievement of a high level of consumer protection</i> , to contribute to the <i>proper</i> functioning of the internal market by ensuring, that consumers can, <i>on a voluntary basis, submit complaints against traders</i> to entities offering impartial, transparent, effective, <i>independent, fast</i> and fair alternative dispute

<p>fair alternative dispute resolution procedures.</p>	<p><i>complaints against traders</i> to entities offering impartial, transparent, effective, <i>independent, fast</i> and fair alternative dispute resolution procedures.</p>	<p>traders can be submitted by consumers against traders to entities offering impartial, transparent, effective and fair alternative dispute resolution procedures.</p>	<p>resolution procedures. <i>This Directive is without prejudice to Member States legislation making the participation in such procedures mandatory, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system.</i></p>
<p>Article 2 Scope</p>	<p>Article 2 Scope</p>	<p>Article 2 Scope</p>	<p>Article 2 Scope</p>
<p>1. This Directive shall apply to procedures for the out-of-court resolution of contractual <u>disputes arising from the sale of goods or provision of services by</u> a trader established in the Union to a consumer resident in the Union through the intervention of a dispute resolution entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution, <i>hereinafter ‘ADR procedures’</i>.</p>	<p>AM 53</p> <p>1. This Directive shall apply to procedures for the out-of-court resolution of <i>domestic and cross-border</i> contractual disputes arising from the sale of goods or provision of services by a trader established in the Union to a consumer resident in the Union through the intervention of a dispute resolution entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution.</p>	<p>1. This Directive shall apply to procedures for the out-of-court resolution of disputes concerning contractual disputes arising obligations stemming from the sale of goods sales contracts or provision of services by contracts between a trader established in the Union to and a consumer resident in the Union through the intervention of a dispute resolution entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution, <i>hereinafter ‘ADR procedures’</i>.</p>	<p>1. This Directive shall apply to procedures for the out-of-court resolution of <i>domestic and cross-border</i> disputes <i>concerning contractual obligations stemming from sales contracts or service contracts between</i> a trader established in the Union <i>and</i> a consumer resident in the Union through the intervention of an ADR entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution.</p>
	<p>AM 54</p> <p><i>1a. This Directive shall also apply to</i></p>	<p><i>This amendment is partly matched by the introductory part of Article</i></p>	<p><i>AM withdrawn</i></p>

	<i>those ADR entities which are set-up by national associations or groups of firms and which constitute a different legal entity from an individual trader.</i>	2(2)(a) (see below): (a) procedures ...where the natural persons in charge of dispute resolution are ... remunerated exclusively by the individual trader...	
2. This Directive shall not apply to:			2. This Directive shall not apply to:
(a) procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader;	AM 55 (a) procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed <u>by, or receive any form of remuneration exclusively from,</u> the trader <u>or professional or business association of which the trader is a member unless Member States decide to allow such procedures, in which case, in addition to the requirements set out in Chapter II, the following specific additional requirements of independence and transparency must be met:</u>	(a) procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed or remunerated exclusively by the individual trader; unless Member States decide to allow such procedures and the following conditions are met:	(a) procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed or remunerated exclusively by the individual trader, unless Member States decide to allow such procedures as ADR procedures under this Directive and the requirements set out in Chapter II, including the specific requirements of independence and transparency set out in Article 6(3), are met;
	<i>(i) the natural persons in charge of dispute resolution <u>must, whenever applicable, be appointed by a collegial body consisting of an equal number of representatives of consumers' and traders' interests. The appointment of the natural persons in charge of dispute</u></i>	- the natural persons in charge of the dispute resolution is nominated by, or form part of, a collegial body composed of an equal number of representatives of consumer organisations and of representatives of the trader;	

	<u>resolution shall be the result of a transparent procedure;</u>		
	<u>(ii) the natural persons in charge of the dispute resolution must be appointed for a term of office of sufficient duration to ensure the independence of their action and may not be liable to be relieved from their duties without just cause;</u>	- the natural persons in charge of the dispute resolution is granted a period of office of a minimum of three years to ensure the independence of their actions;	
		- the natural persons in charge of the dispute resolution have not worked for the trader, a professional organisation or business association or a member of that professional organisation or business association during three years prior to assuming the post and three years after holding the post as the persons in charge of dispute resolution	
	<u>(iii) the natural persons in charge of the dispute resolution may not be subject to any instructions from the trader or the trader's representatives and may not have any link with the management or operational services of the trader or professional or business association of which the trader is a member;</u>	Article 2(2)(a), 6th indent, is moved here in order to match AM 55: - the natural persons in charge of the dispute resolution cannot be subject to instructions from the trader or the trader's representative;	
		Article 2(2)(a), 4th indent, is moved (see below) in order to match AM 59	

		<p><i>on a new Article 2(2a):</i></p> <p>- the dispute resolution entity is subject to at least an annual evaluation pertaining to their compliance with the requirements set out in Articles 5 to 9 carried out by the competent authority in the Member State where the entity is established;</p>	
	<p><i>(iv) the remuneration of the natural persons in charge of the dispute resolution may not be linked to the outcome of the procedures;</i></p>		
	<p><i>(v) <u>their autonomy must be guaranteed through a dedicated budget separate from the trader's general budget, or, where appropriate, the general budget of the professional organisation or business association, providing the appropriate resources to ensure the effectiveness and transparency of ADR procedures;</u></i></p>	<p>- the dispute resolution entity does not have any hierarchical or functional link with the trader and is clearly separated from the trader's operational entities and disposes of a sufficient budget to fulfil its tasks which is separate from the trader's general budget; and</p>	
	<p><i>(vi) Member States must ensure that, unless those natural persons comply with these specific additional requirements, they are part of a collegial body composed of an equal number of representatives of consumer organisations and of representatives of the trader or,</i></p>		

	<i>where appropriate, of the professional organisation or business association of which the trader is a member;</i>		
		Article 2(2)(a), 6th indent, is moved (see above) in order to match AM 55 on Article 2(2)(a)(iii): - the natural persons in charge of the dispute resolution cannot be subject to instructions from the trader or the trader's representative.	
(b) procedures before consumer complaint handling systems operated by the trader;			(b) procedures before consumer complaint handling systems operated by the trader;
	AM 56 <i>(ba) the sale of goods or provision of services which are provided as non-economic services of general interest, irrespective of the legal relationship between the trader and the consumer;</i>		<i>(ba) non-economic services of general interest</i>
	AM 57 <i>(bb) disputes between traders;</i>		<i>(bb) disputes between traders;</i>
(c) direct negotiation between the consumer and the trader, <u>whether represented or not</u> ;		(c) direct negotiation between the consumer and the trader, whether represented or not ;	(c) direct negotiation between the consumer and the trader;
(d) attempts made by a judge to settle a dispute in the course of a judicial			(d) attempts made by a judge to settle a dispute in the course of a judicial

proceeding concerning that dispute.			proceeding concerning that dispute;
	AM 58 <i>(da) procedures initiated by a trader against a consumer.</i>	(e) procedures submitted by the trader against a consumer;	<i>(e) procedures initiated by a trader against a consumer;</i>
		(f) health services provided by health professionals, to patients to assess, maintain or restore their state of health, including the prescription, dispensation and provision of medicinal products and medical devices;	<i>(f) health services provided by health professionals, to patients to assess, maintain or restore their state of health, including the prescription, dispensation and provision of medicinal products and medical devices;</i>
		(g) all providers of further or higher education that offer courses which are wholly or partially government funded.	<i>(g) public providers of further or higher education.</i>
	AM 59 <i>2a. Where Member States decide to allow procedures as referred to in point (a) of paragraph 2, competent authorities shall carry out the assessment referred to in Article 17(1). In their assessment, competent authorities shall also verify compliance with the specific additional requirements of independence and transparency.</i>	<i>Article 2(2)(a), 4th indent, is moved here, in order to match AM 59:</i> - the dispute resolution entity is subject to at least an annual evaluation pertaining to their compliance with the requirements set out in Articles 5 to 9 carried out by the competent authority in the Member State where the entity is established;	<i>Covered by Recital 12b</i>
	AM 60 <i>2b. Where Member States decide to allow procedures as referred to in</i>		<i>Moved to the new Article 16(1a)</i>

	<p><i>point (a) of paragraph 2, they shall ensure that ADR entities applying such procedures notify to the competent authority, in addition to the information and statements referred to in Article 16(1), the information necessary to assess their compliance with the specific additional requirements set out in point (a) of paragraph 2.</i></p>		
	<p>AM 61</p> <p><i>2c. This Directive establishes a harmonised <u>minimum</u> standard for ADR entities in order to ensure that, after its implementation, consumers have access to high-quality, transparent, effective and fair redress mechanisms no matter where they reside in the Union. Member States may adopt or maintain rules that go beyond those laid down by this Directive, in order to ensure a higher level of consumer protection.</i></p>		<p><i>2c. This Directive establishes harmonised quality standards for ADR entities in order to ensure that, after its implementation, consumers have access to high-quality, transparent, effective and fair redress mechanisms no matter where they reside in the Union. Member States may adopt or maintain rules that go beyond those laid down by this Directive, in order to ensure a higher level of consumer protection.</i></p>
	<p>AM 62</p> <p><i>2d. This Directive acknowledges the Member States' competence to determine whether ADR entities established on their territories should be able to impose a solution.</i></p>		<p><i>2d. This Directive acknowledges the Member States' competence to determine whether ADR entities established on their territories should be able to impose a solution.</i></p>

Article 3 Relationship with other Union legislation	Article 3 Relationship with other Union legislation	Article 3 Relationship with other Union legislation	Article 3 Relationship with other Union legislation
1. This Directive is without prejudice to Directive 2008/52/EC, Regulation (EC) No 44/2001, <u>Regulation (EC) No 864/2007</u> and Regulation (EC) No 593/2008.		1. This Directive is without prejudice to Directive 2008/52/EC, Regulation (EC) No 44/2001, Regulation (EC) No 864/2007 and Regulation (EC) No 593/2008.	1. <i>Save as otherwise provided by this Directive, if any provision of this Directive conflicts with a provision laid down in another Union act and relating to alternative dispute resolution procedures initiated by a consumer against a trader, the provision of this Directive shall prevail.</i>
<u>2. Article 5(1) of this Directive shall prevail over the provisions referred to in the Annex.</u>	AM 63 2. <i>If any provision of this Directive conflicts with a provision of another Union act governing specific sectors, the provision of that other Union act shall prevail and shall apply to those specific sectors. However, if the provision of that other Union act is aimed at encouraging the setting-up of ADR entities in a specific sector, the relevant provisions of this Directive shall prevail and apply.</i>	<u>deleted</u>	2. This Directive is without prejudice to Directive 2008/52/EC.
3. This Directive shall prevail over mandatory provisions contained in	AM 64 <i>deleted</i>	3. This Directive shall prevail over mandatory provisions contained in	3. Article 10 of this Directive shall be without prejudice to the

<p><i>sector-specific Union legislation which relate to alternative dispute resolution only to the extent that such provisions do not ensure at least an equivalent degree of consumer protection.</i></p>		<p>sector-specific Union legislation which relate to alternative dispute resolution initiated by a consumer against a trader only to the extent that such provisions do not ensure at least an equivalent degree of consumer protection.</p>	<p>provisions on consumer information on out-of-court redress procedures contained in other Union acts, which shall apply in addition to the provisions in that Article.</p>
<p>Article 4 Definitions</p>	<p>Article 4 Definitions</p>	<p>Article 4 Definitions</p>	<p>Article 4 Definitions</p>
<p>For the purposes of this Directive:</p>			<p>For the purposes of this Directive:</p>
<p>(a) "consumer" means any natural person who is acting for purposes which are outside his trade, business, craft or profession;</p>	<p>AM 65 (a) "consumer" means any natural person who is acting for purposes which are outside his trade, business, craft or profession or who concludes a contract for purposes that are partly inside and partly outside that person's trade (dual purpose agreements), where the trade purpose is so limited as not to be predominant in the overall context of the supply;</p>		<p>(a) "consumer" means any natural person who is acting for purposes which are outside his trade, business, craft or profession;</p>
<p>(b) "trader" means any natural persons or any legal person, irrespective of whether <u>privately</u> or publicly owned, who is acting, including through any person acting in his name or on his behalf, for</p>		<p>(b) "trader" means any natural persons, or any legal person, irrespective of whether <u>privately</u> privately or publicly owned, who is acting, including through any person acting in his name or on his behalf,</p>	<p>(b) "trader" means any natural persons, or any legal person irrespective of whether <i>privately</i> or publicly owned, who is acting, including through any person acting in his name or on his behalf, for</p>

purposes relating to his trade, business, craft or profession;		for purposes relating to his trade, business, craft or profession;	purposes relating to his trade, business, craft or profession;
(c) a trader is established:			(c) a trader is established:
- if the trader is a natural person, where he has his place of business;			- if the trader is a natural person, where he has his place of business;
- if the trader is a company or other legal person or association of natural or legal persons, where it has its statutory seat, central administration or place of business, including a branch, agency or any other establishment;			- if the trader is a company or other legal person or association of natural or legal persons, where it has its statutory seat, central administration or place of business, including a branch, agency or any other establishment;
	AM 66 <i>(ca) "contractual dispute" means a dispute arising from the sale of goods or provision of services pursuant to a contract between the consumer and the trader and/or service provider;</i>		<i>AM withdrawn</i>
			<i>(ca) "domestic dispute" means a contractual dispute arising from a sales or service contract where, at the time the consumer orders the goods or services, the consumer is resident in the same Member State in which the trader is established.</i>
(d) "cross-border dispute" means a contractual dispute arising from <u>the sale of goods or provision of services</u> where, at the time the consumer		(d) "cross-border dispute" means a contractual dispute arising from the sale of goods a sales or provision of services service contract where, at	(d) "cross-border dispute" means a contractual dispute arising from a sales or service contract where, at the time the consumer orders the

<p>orders the goods or services, the consumer is resident in a Member State other than the Member State in which the trader is established;</p>		<p>the time the consumer orders the goods or services, the consumer is resident in a Member State other than the Member State in which the trader is established;</p>	<p>goods or services, the consumer is resident in a Member State other than the Member State in which the trader is established;</p>
	<p>AM 67</p> <p><i>(da) 'sale of goods' means a sale pursuant to any contract under which a trader transfers or undertakes to transfer the ownership of goods to a consumer and the consumer pays or undertakes to pay the price thereof, including any contract having as its object both goods and services;</i></p>	<p><i>Point (g) is moved here, in order to match AM 67 on a new Article 4(da):</i></p> <p>(g) "sales contract" means any contract under which the trader transfers or undertakes to transfer the ownership of goods to the consumer and the consumer pays or undertakes to pay the price thereof, including any contract having as its object both goods and services;</p>	<p><i>(da) "sales contract" means any contract under which the trader transfers or undertakes to transfer the ownership of goods to the consumer and the consumer pays or undertakes to pay the price thereof, including any contract having as its object both goods and services;</i></p>
	<p>AM 68</p> <p><i>(db) 'provision of services' means a provision of services pursuant to any contract, other than a contract for the sale of goods, under which the trader supplies or undertakes to supply a service to the consumer and the consumer pays or undertakes to pay the price thereof;</i></p>	<p><i>Point (h) is moved here, in order to match AM 68 on a new Article 4(db):</i></p> <p>(h) "service contract" means any contract other than a sales contract under which the trader supplies or undertakes to supply a service to the consumer and the consumer pays or undertakes to pay the price thereof.</p>	<p><i>(db) "service contract" means any contract other than a sales contract under which the trader supplies or undertakes to supply a service to the consumer and the consumer pays or undertakes to pay the price thereof.</i></p>
	<p>AM 69</p> <p><i>(da) "ADR procedure" means a procedure as referred to in Article 2 which complies with this Directive</i></p>	<p>(da) "ADR procedure" means a procedure as referred to in Article 2 which complies with the requirements set out in this Directive and is carried out by an</p>	<p><i>(dc) "ADR procedure" means a procedure as referred to in Article 2 which complies with the requirements set out in this Directive and is carried out by an</i></p>

	<i>and is carried out by an ADR entity;</i>	ADR entity;	ADR entity;
(e) ‘ADR entity’ means any entity, however named or referred to, <i>which is established on a durable basis and offers</i> the resolution of a dispute through an ADR procedure;	AM 70 (e) ‘ADR entity’ means any entity, however named or referred to, <i>that seeks to achieve the out-of-court resolution of a dispute through an ADR procedure, which is established on a durable basis, has been notified to the Commission and the Member States, and is listed in accordance with Article 17(2);</i>	(e) "ADR entity" means any entity, however named or referred to, which is established on a durable basis and offers the resolution of a dispute through an ADR procedure and that has been listed in accordance with Article 17(2);	(e) "ADR entity" means any entity, however named or referred to, which is established on a durable basis and offers the resolution of a dispute through an ADR procedure and that is listed in accordance with Article 17(2);
(f) an ADR entity is established:			(f) an ADR entity is established:
- if the entity is operated by a natural person, at the place where it carries out alternative dispute resolution activities;			- if the entity is operated by a natural person, at the place where it carries out alternative dispute resolution activities;
– if the entity is operated by a legal person or association of natural or legal persons, at the place where that legal person or association of natural or legal persons carries out alternative dispute resolution activities <u>or has its statutory seat;</u>	AM 71 – if the entity is operated by a legal person or association of natural or legal persons, <i>including in the form of a collegial body as referred to in Article 2(2),</i> at the place where that legal person or association of natural or legal persons carries out alternative dispute resolution activities or has its statutory seat;	- if the entity is operated by a legal person or association of natural or legal persons, at the place where that legal person or association of natural or legal persons carries out alternative dispute resolution activities or has its statutory seat;	- if the entity is operated by a legal person or association of natural or legal persons, at the place where that legal person or association of natural or legal persons carries out alternative dispute resolution activities or has its statutory seat;
- if the entity is operated by an authority or other public body, where that authority or other public body			- if the entity is operated by an authority or other public body, where that authority or other public body

has its seat.			has its sea;
	<p>AM 72</p> <p><i>(fa) "competent authority" means any public authority designated by a Member State established at national, regional or local level with specific responsibilities for enforcing the laws that protect consumer interests.</i></p>		<p><i>(fa) "competent authority" means any public authority designated by a Member State for the purposes of this directive and established at national, regional or local level.</i></p>
		<p><i>Point (g) is moved (see above), in order to match AM 68 on a new Article 4(da):</i></p> <p>(g) "sales contract" means any contract under which the trader transfers or undertakes to transfer the ownership of goods to the consumer and the consumer pays or undertakes to pay the price thereof, including any contract having as its object both goods and services;</p>	
		<p><i>Point (h) is moved (see above), in order to match AM 69 on a new Article 4(db):</i></p> <p>(h) "service contract" means any contract other than a sales contract under which the trader supplies or undertakes to supply a service to the consumer and the consumer pays or undertakes to pay the price</p>	

		thereof;	
CHAPTER II ACCESS AND PRINCIPLES APPLICABLE TO ALTERNATIVE DISPUTE RESOLUTION	CHAPTER II ACCESS AND PRINCIPLES APPLICABLE TO ALTERNATIVE DISPUTE RESOLUTION	CHAPTER II ACCESS AND PRINCIPLES APPLICABLE TO ALTERNATIVE DISPUTE RESOLUTION	CHAPTER II ACCESS AND PRINCIPLES APPLICABLE TO ALTERNATIVE DISPUTE RESOLUTION
Article 5 Access to alternative dispute resolution	Article 5 Access to alternative dispute resolution	Article 5 Access to alternative dispute resolution	Article 5 Access to alternative dispute resolution
1. Member <i>States</i> shall ensure that disputes covered by this Directive can be submitted to an ADR entity which <i>complies</i> with <i>the</i> <i>requirements set out in</i> this Directive.	AM 73 1. <i>Each</i> Member <i>State</i> shall <i>facilitate</i> <i>access by consumers to ADR</i> <i>procedures and shall</i> ensure that disputes covered by this Directive <i>which involve a trader established</i> <i>on its territory</i> can be submitted to an ADR entity <i>or ADR entities</i> which <i>comply</i> with this Directive.	1. Member States shall ensure that disputes covered by this Directive and involving a trader established on its territory can be submitted to an ADR entity which complies with the requirements set out in this Directive.	1. Member States shall <i>facilitate</i> <i>access by consumers to ADR</i> <i>procedures and</i> shall ensure that disputes covered by this Directive <i>and involving a trader established</i> <i>on its territory</i> can be submitted to an ADR entity which complies with the requirements set out in this Directive.
2. Member States shall ensure that ADR entities:	AM 74 2. Member States shall ensure that, <i>in</i> <i>relation to disputes covered by this</i> <i>Directive</i> , ADR entities:		2. Member States shall ensure that ADR entities:
	AM 75		

<p>(a) <i>have a</i> website <i>enabling</i> the parties to submit a complaint online;</p>	<p>(a) <i>maintain an up-to-date</i> website <i>which provides</i> the parties <i>with easy access to information concerning the ADR procedure in a clear and comprehensible manner, and which also enables consumers</i> to submit a complaint <i>and the requisite supporting documents</i> online <i>via e-mail or by other electronic means</i>;</p>		<p>(a) <i>maintain an up-to-date</i> website <i>which provides</i> the parties <i>with easy access to information concerning the ADR procedure, and which also enables consumers</i> to submit a complaint <i>and the requisite supporting documents</i> online;</p>
	<p>AM 76 <i>(aa) provide the parties, at their request, with the information referred to in point (a) on a durable medium</i>;</p>		<p><i>(aa) provide the parties, at their request, with the information referred to in point (a) on a durable medium</i>;</p>
	<p>AM 77 <i>(ab) enable the consumer to submit a complaint through a written procedure, if necessary</i>;</p>		<p><i>(ab) where applicable, enable the consumer to submit a complaint off-line</i>;</p>
<p>(b) <i>enable</i> the <i>parties to</i> exchange information <i>with them</i> via electronic means;</p>	<p>AM 78 <i>(b) assist</i> the exchange of information <i>between the parties</i> via electronic means <i>or by post</i>;</p>		<p><i>(b) enable</i> the exchange of information <i>between the parties</i> via electronic means <i>or, if applicable, by post</i>;</p>
<p>(c) accept both, domestic and cross-border disputes, including disputes covered by Regulation (EU) No [Office of Publications insert reference number] of the European Parliament and of the Council of</p>		<p>(c) accept both, domestic and cross-border disputes, including disputes covered by Regulation (EU) No [Office of Publications insert reference number] of the European Parliament and of the Council of</p>	<p>(c) accept both, domestic and cross-border disputes, including disputes covered by Regulation (EU) No [Office of Publications insert reference number] of the European Parliament and of the Council of</p>

<p>[Office of Publications insert date of adoption] on online dispute resolution for consumer disputes (Regulation on consumer ODR); and</p>		<p>[Office of Publications insert date of adoption] on online dispute resolution for consumer disputes (Regulation on consumer ODR)⁸; and</p>	<p>[Office of Publications insert date of adoption] on online dispute resolution for consumer disputes (Regulation on consumer ODR); and</p>
<p><i>(d) when dealing with disputes covered by this Directive</i> take the necessary measures to ensure that the processing of personal data complies with the rules on the protection of personal data laid down in the national legislation implementing Directive 95/46/EC.</p>	<p>AM 79</p> <p>(d) take the necessary measures to ensure that the processing of personal data complies with the rules on the protection of personal data laid down in the national legislation implementing Directive 95/46/EC <i>in the Member State in which the ADR entity is established.</i></p>	<p><i>when dealing with disputes covered by this Directive</i> take the necessary measures to ensure that the processing of personal data complies with the rules on the protection of personal data laid down in the national legislation implementing Directive 95/46/EC <i>in which the ADR entity is established.</i></p>	<p>(d) when dealing with disputes covered by this Directive take the necessary measures to ensure that the processing of personal data complies with the rules on the protection of personal data laid down in the national legislation implementing Directive 95/46/EC <i>in the Member State in which the ADR entity is established.</i></p>
<p>3. Member States may fulfil their obligation under paragraph 1 by ensuring the existence of a residual ADR entity which is competent to deal with disputes as referred to in paragraph 1 for the resolution of which no existing ADR entity is competent.</p>	<p>AM 80</p> <p>3. Member States may fulfil their obligation under paragraph 1 by ensuring the <i>setting-up and</i> existence of a residual ADR entity which is competent to deal with disputes as referred to in paragraph 1 for the resolution of which no existing ADR entity is competent. <i>Member States may also fulfil this obligation by using sectoral ADR entities established in another Member State.</i></p>		<p>3. Member States may fulfil their obligation under paragraph 1 by ensuring the existence of a residual ADR entity which is competent to deal with disputes as referred to in paragraph 1 for the resolution of which no existing ADR entity is competent. <i>Member States may also fulfil this obligation by using ADR entities established in another Member State or regional, transnational or pan-European</i></p>

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			<p><i>dispute resolution entities, where traders from different Member States are covered by the same ADR entity, without jeopardising their responsibility to ensure full geographical coverage and access to ADR entities.</i></p>
	<p>AM 81</p> <p><i>3a. Member States may, at their discretion, permit ADR entities to introduce or retain procedural rules which enable ADR entities to operate more effectively and efficiently, provided that they comply with this Directive. Member States, when so required by their legal provisions, may allow ADR entities to refuse to deal with a given dispute on the grounds that, inter alia:</i></p>	<p>4. Member States may allow ADR entities to introduce or maintain procedural rules allowing them to refuse to deal with a given dispute on the grounds that the consumer has failed to make a direct contact with the trader with a view to settling the dispute before it is brought before the ADR entity, that the complaint is frivolous or vexatious, that the dispute has previously been considered by another ADR entity or by a court or that dealing with such a dispute would otherwise seriously impair the effective operation of the ADR entity. Such procedural rules must not significantly impair consumers' access to ADR procedures, including in the case of cross-border disputes.</p>	<p><i>3a. Member States may, at their discretion, permit ADR entities to introduce or retain procedural rules allowing them to refuse to deal with a given dispute on the grounds that:</i></p> <p><i>(a) the consumer did not attempt to contact the trader concerned in order to discuss his complaint and seek, as a first step, to solve the problem bilaterally;</i></p> <p><i>(b) the dispute is frivolous or vexatious;</i></p> <p><i>(c) the dispute is being or has previously been considered by another ADR entity or by a court;</i></p> <p><i>(d) the value of the claim falls below or above a pre-specified monetary threshold;</i></p> <p><i>(e) the consumer has not submitted the complaint to the ADR entity within a pre-specified time limit. Time-limits must not be set at less than one year from the date when</i></p>

			<p><i>the consumer has submitted the complaint to the trader;</i></p> <p><i>(f) dealing with such a type of dispute would otherwise seriously impair the effective operation of the ADR entity.</i></p> <p><i>Where, in accordance with procedural rules, an ADR entity is unable to consider a dispute that has been submitted to it, that ADR entity shall provide both parties with a reasoned explanation on the grounds for not considering the dispute within 3 weeks of receiving the application for ADR.</i></p> <p><i>Such procedural rules must not significantly impair consumers' access to ADR procedures, including in the case of cross-border disputes.</i></p>
	<p><i>(a) the dispute is frivolous or vexatious;</i></p>	<p><i>This part of AM 81 is matched by Article 5(4), 1st sentence:</i></p> <p>Member States may allow ADR entities to introduce or maintain procedural rules allowing them to refuse to deal with a given dispute on the grounds that ... the complaint is frivolous or vexatious, ... entity.</p>	
	<p><i>(b) the dispute has previously been</i></p>		

	<i>considered by another ADR entity or any court;</i>		
	<i>(c) the time-limit within which the consumer can submit a complaint has expired. Such time-limits may not be shorter than the time-limit, where one exists, provided for in the legislation of the Member State allowing the parties to initiate legal proceedings;</i>	Article 5(5), 2nd sub-paragraph is moved here, in order to match this part of AM 81: In the case of time limits within which a consumer can submit a complaint to an ADR entity, such time limit must not be set at less than one year from the date when the consumer has submitted a complaint to the trader.	
	<i>(d) the consumer declares that he has not attempted to contact the trader concerned in order to discuss his complaint and seek, as a first step, to solve the problem bilaterally.</i>		
	<i>In all cases of refusal on the grounds of procedural rules, ADR entities shall provide the parties with a statement of reasons for their decision within 14 calendar days of receiving the application for ADR. Such procedural rules must not appreciably impair consumers' access to ADR procedures.</i>	Article 5(7) is moved here, in order to match this part of AM 81: 7. Where, in accordance with procedural rules as referred to in paragraph 4, an ADR entity is unable to consider a complaint that has been submitted to it, that ADR entity shall provide both parties with a reasoned explanation on the grounds for not considering the dispute.	
	AM 82 <i>3b. Member States may limit the</i>	Article 5(5), 1st sub-paragraph, is moved here, in order to match AM	3b. Member States shall ensure that

	<p><i>admissibility of a dispute for ADR by setting minimum thresholds for the value of the claim, taking into account whether the value of the claim is disproportionately lower than the actual costs of the ADR procedure.</i></p>	<p>82:</p> <p>5. In order to reconcile the need to ensure consumers' access to ADR procedures with the need to avoid disproportionate administrative burdens being placed on ADR entities, Member States may set out monetary thresholds by which this Directive does not apply. The thresholds must not be set at a level, where they significantly impair the consumer's access to complaint handling by ADR entities.</p>	<p><i>when ADR entities are permitted to establish pre-specified monetary thresholds in order to limit the access to ADR procedures, the thresholds should not be set at a level, where they significantly impair the consumers' access to complaint handling by ADR entities.</i></p>
		<p><i>Article 5(5), 2nd sub-paragraph, is moved (see before) in order to match AM 81 on a new Article 5(3a)(c):</i></p> <p>In the case of time limits within which a consumer can submit a complaint to an ADR entity, such time limit must not be set at less than one year from the date when the consumer has submitted a complaint to the trader.</p>	
		<p>6. Where, in accordance with the procedural rules referred to in paragraphs 4 and 5, an ADR entity is unable to consider a complaint that has been submitted to it, Member States shall not be required to ensure that the</p>	<p><i>3c. Where, in accordance with the procedural rules referred to in paragraph 3a, an ADR entity is unable to consider a complaint that has been submitted to it, Member States shall not be required to ensure that the consumer can</i></p>

		consumer can submit his complaint to another ADR entity.	submit his complaint to another ADR entity.
		6a. Where an ADR entity dealing with disputes in a specific economic sector is competent to consider disputes related to a trader operating in the sector which is not member of the organisation or association forming or funding the ADR entity, it shall be deemed that the Member State has fulfilled its obligation according to paragraph 1 also with respect to disputes concerning this trader.	3d. Where an ADR entity dealing with disputes in a specific economic sector is competent to consider disputes related to a trader operating in the sector which is not member of the organisation or association forming or funding the ADR entity, it shall be deemed that the Member State has fulfilled its obligation according to paragraph 1 also with respect to disputes concerning this trader.
		Article 5(7) is moved (see before) in order to match partly the last sentence of Article 5(3a) in AM 82: 7. Where, in accordance with procedural rules as referred to in paragraph 4, an ADR entity is unable to consider a complaint that has been submitted to it, that ADR entity shall provide both parties with a reasoned explanation on the grounds for not considering the dispute.	
	<i>Article 5a</i>		
	<i>Recourse to ADR procedures</i>		
	AM 83		AM withdrawn

	<p><i>1. A court before which an action is brought may, when appropriate and having regard to all circumstances of the case, invite the parties to use ADR in order to settle the dispute. The court may also invite the parties to attend an information session on the use of ADR procedures if such sessions are held and easily available, and may provide the parties with information on the online dispute resolution platform established pursuant to Regulation (EU) No [Office of Publications insert reference number] of the European Parliament and of the Council of [Office of Publications insert date of adoption] on online dispute resolution for consumer disputes (Regulation on consumer ODR).</i></p>		
	<p><i>2. This Directive is without prejudice to Member States' legislation making the use of ADR compulsory or subject to incentives or applying sanctions where ADR is refused, whether before or after judicial proceedings have started, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system.</i></p>		

Article 6 Expertise <u>and</u> impartiality	AM 84 Article 6 Expertise, <i>independence</i> and impartiality	Article 6 Expertise and , impartiality and independence	Article 6 Expertise, <i>independence</i> and impartiality
1. Member States shall ensure that the natural persons in charge of alternative dispute resolution possess the necessary expertise and are <u>impartial</u> . This shall be guaranteed by ensuring that they:	1. Member States shall ensure that all natural persons in charge of alternative dispute resolution possess the necessary expertise and are <i>operationally independent and impartial</i> . This shall be guaranteed by ensuring that they:	1. Member States shall ensure that the natural persons in charge of alternative dispute resolution possess the necessary expertise, impartiality and are impartial - independent . This shall be guaranteed by ensuring that they:	1. Member States shall ensure that the natural persons in charge of alternative dispute resolution possess the necessary expertise and are <i>independent and impartial</i>. This shall be guaranteed by ensuring that such persons:
(a) possess the necessary knowledge, skills and experience in the field of alternative <u>dispute</u> resolution;	(a) possess the necessary knowledge and skills in the field of alternative <i>or judicial resolution of consumer disputes, as well as an understanding of law;</i>	(a) possess the necessary knowledge; and skills and experience in the field of alternative dispute or judicial resolution of consumer disputes resolution;	(a) possess the necessary knowledge and skills in the field of alternative or judicial resolution of consumer disputes, as well as a general understanding of law;
(b) are not liable to be relieved from their duties without just cause;	(b) <i>are appointed for a fixed term and</i> are not liable to be relieved from their duties without just cause;		(b) are appointed for a term of office of sufficient duration to ensure the independence of their actions, and are not liable to be relieved from their duties without just cause;
			(c) are not subject to any instructions from either party or their representatives;
			(d) are remunerated in a way that is not linked to the outcome of the procedure;
(c) have no conflict of interest with			(e) without undue delay disclose to

<p>either party to the dispute.</p>			<p><i>the ADR entity any circumstances that may, or may be seen to affect their independence and impartiality or give rise to a conflict of interest with either party to the dispute they are asked to resolve. The obligation to disclose such circumstances shall be a continuing obligation throughout the ADR procedure. It shall not apply where the ADR entity comprises only one individual.</i></p>
	<p><i>1a. For the purposes of point (a) of paragraph 1, Member States shall ensure that specific training schemes for natural persons in charge of alternative dispute resolution are available. The Commission shall assist Member States in developing such training schemes and quality-control mechanisms.</i></p>		
	<p><i>1b. For the purposes of point (c) of paragraph 1, Member States shall ensure that the natural persons in charge of alternative dispute resolution disclose any circumstances that may, or may be seen to, affect their independence or give rise to a conflict of interest.</i></p>		
	<p><i>Member States shall ensure that, in such circumstances, the person concerned only agrees to act or</i></p>		<p><i>2. Member States shall ensure that ADR entities have in place procedures to ensure that in the case</i></p>

	<p><i>continue to act if the parties explicitly consent and he or she is certain of being able to carry out the ADR procedure in full independence in order to ensure complete impartiality.</i></p>		<p><i>of circumstances referred to in point (e) of paragraph 1:</i></p> <p><i>(a) the natural person concerned is replaced by another natural person that shall be entrusted with conducting the ADR procedure; or failing that</i></p> <p><i>(b) the natural person concerned refrains from conducting the ADR procedure and, where possible, the ADR entity proposes to the parties to submit the dispute to another ADR entity which is competent to deal with the dispute; or failing that</i></p> <p><i>(c) the circumstances are disclosed to the parties and the natural person concerned is allowed to continue to conduct the ADR procedure only if the parties have not objected after they have been informed of the circumstances and their right to object. This paragraph is without prejudice to Article 9 paragraph 2 point (-a).</i></p> <p><i>Where the ADR entity comprises only one individual, only points (b) and (c) shall apply.</i></p>
	<p><i>Member States shall ensure that the disclosure obligation laid down by</i></p>		<p><i>See paragraph 1 point e) above</i></p>

	<i>this paragraph is a continuing obligation throughout the ADR procedure.</i>		
	<i>1c. Where the natural persons in charge of alternative dispute resolution are independent third parties, the circumstances to be disclosed in accordance with paragraph 1b shall include:</i>		<i>3. Where Member States decide to allow procedures referred to in Article 2(2)a as ADR procedures under this Directive, they shall ensure that, in addition to the general requirements set out in paragraphs 1 and 2, these procedures comply with the following specific requirements:</i>
	<i>(a) any personal or business relationship with one or more of the parties during the three years prior to the person concerned taking up the post;</i>		<i>(a) the natural persons in charge of dispute resolution are nominated by, or form part of, a collegial body composed of an equal number of representatives of consumer organisations and of representatives of the trader. The appointment shall be the result of a transparent procedure;</i>
	<i>(b) any financial or other interest, direct or indirect, in the outcome of the ADR procedure;</i>		<i>(b) the natural persons in charge of dispute resolution are granted a period of office of a minimum of three years to ensure the independence of their actions;</i>
	<i>(c) the person concerned having acted, during the three years prior to his or her taking up the post, in any capacity other than for the purposes</i>		<i>(c) the natural persons in charge of dispute resolution commit not to work for the trader, a professional organisation or business</i>

	<p><i>of ADR for one or more of the parties, for a professional organisation or a business association of which one of the parties is a member, or for any other member thereof.</i></p>		<p><i>association of which the trader is a member during three years after their position in the dispute resolution entity has ended;</i></p>
			<p><i>(d) the dispute resolution entity does not have any hierarchical or functional link with the trader and is clearly separated from the trader's operational entities and disposes of a sufficient budget to fulfil its tasks which is separate from the trader's general budget.</i></p>
			<p><i>4. Where the natural persons in charge of alternative dispute resolution are employed or remunerated exclusively by a business association or professional organisation of which the trader is a member, Member States shall ensure that, in addition to the general requirements set out in paragraphs 1 and 2, they dispose of a separate and dedicated budget which is sufficient to fulfil their tasks.</i></p> <p><i>This paragraph shall not apply where the natural persons concerned form part of a collegial body composed of an equal number of representatives of the business</i></p>

			<i>association or professional organisation by which they are employed or remunerated and of consumer organisations.</i>
2. Member States shall ensure that ADR entities where the natural persons in charge of dispute resolution form part of a collegial body provide for an equal number of representatives of consumers' interests and of representatives of traders' interests in that body.			5. Member States shall ensure that ADR entities where the natural persons in charge of dispute resolution form part of a collegial body provide for an equal number of representatives of consumers' interests and of representatives of traders' interests in that body.
			<i>6. For the purposes of paragraph 1, point (a), Member States shall encourage ADR entities to provide training for natural persons in charge of alternative dispute resolution. If such training is provided, competent authorities shall monitor the training schemes established by ADR entities, on the basis of information communicated to them in accordance with paragraph 2 point (ga) of Article 16.</i>
Article 7 Transparency	Article 7 Transparency	Article 7 Transparency	Article 7 Transparency
1. Member States shall ensure that	AM 85 1. Member States shall ensure that	1. Member States shall ensure that	1. Member States shall ensure that

ADR entities make publicly available on their websites and <i>in printed form at their premises</i> information on:	ADR entities make publicly available on their websites, <i>on a durable medium upon request, and by any other means they consider appropriate, clear and easily understandable,</i> information on:	ADR entities make publicly available on their websites and in printed form at their premises by any other means they consider appropriate information on:	ADR entities make publicly available on their websites, <i>on a durable medium upon request, and by any other means they consider appropriate, clear and easily understandable,</i> information on:
		(-a) contact details including postal address and e-mail address;	<i>(-a) contact details including postal address and e-mail address;</i>
		(aa) the fact that they are ADR entities notified by the national competent authority on the basis of this Directive;	<i>(aa) the fact that they are listed in accordance with Article 17(4) of this Directive;</i>
(a) the natural persons in charge of alternative dispute resolution, the method of their appointment and the length of their mandate;			<i>(a) the natural persons in charge of alternative dispute resolution, the method of their appointment and the length of their mandate;</i>
(b) the source of financing, including percentage share of public and of private financing;		(b) the source of financing, including percentage share of public and of private financing;	<i>Deleted</i>
		(ba) their expertise, impartiality and independence in case the natural persons in charge of alternative dispute resolution is employed or remunerated exclusively by the trader;	<i>(ba) their expertise, impartiality and independence in case the natural persons in charge of alternative dispute resolution is employed or remunerated exclusively by the trader;</i>
(c) <i>where appropriate,</i> their membership in networks of ADR entities facilitating cross-border	AM 86 (c) their membership in networks of ADR entities facilitating cross-border dispute resolution, <i>if applicable;</i>		<i>(c) their membership in networks of ADR entities facilitating cross-border dispute resolution, if applicable;</i>

dispute resolution;			
(d) the types of disputes they are competent to deal with;	AM 87 (d) the types of disputes they are competent to deal with, <i>including the minimum value of the claim, where applicable;</i>		(d) the types of disputes they are competent to deal with, <i>including any threshold if applicable;</i>
(e) the rules of procedure governing the resolution of a dispute;	AM 88 (e) the rules of procedure governing the resolution of a dispute <i>and the reasons for which an entity may refuse to deal with a dispute;</i>	(e) the rules of procedure governing the resolution of a dispute and the grounds the ADR entity may refuse to deal with a given dispute in accordance with Article 5(4) and (5);	(e) the rules of procedure governing the resolution of a dispute <i>and the grounds on which the ADR entity may refuse to deal with a given dispute in accordance with Article 5(3a);</i>
(f) the languages in which complaints can be submitted to the ADR entity and in which the ADR procedure is conducted;			(f) the languages in which complaints can be submitted to the ADR entity and in which the ADR procedure is conducted;
(g) the types of rules the ADR entity may use as a basis for the dispute resolution (e.g. rules of law, considerations of equity, codes of conduct);			(g) the types of rules the ADR entity may use as a basis for the dispute resolution (e.g. rules of law, considerations of equity, codes of conduct);
(h) any preliminary requirements the parties may have to meet before an ADR procedure can be instituted;	AM 89 (h) any preliminary requirements the parties may have to meet before an ADR procedure can be instituted, <i>including the requirement that an attempt be made by the consumer to reach an amicable resolution of the</i>		(h) any preliminary requirements the parties may have to meet before an ADR procedure can be instituted, <i>including the requirement that an attempt be made by the consumer to reach an amicable resolution of the matter directly with the trader;</i>

	<i>matter directly with the trader;</i>		
			(ha) the possibilities of the parties to withdraw from the procedure;
(i) the costs, if any, to be borne by the parties;	AM 90 (i) the costs, if any, to be borne by the parties, including rules on awarding costs at the end of the procedure;		(i) the costs, if any, to be borne by the parties, including any rules on awarding costs at the end of the procedure;
(j) the approximate length of the ADR procedure;	AM 91 (j) the average length of the ADR procedure;	(j) the approximate average length of the ADR procedure;	(j) the average length of the ADR procedure;
(k) the legal effect of the outcome of the ADR procedure.			(k) the legal effect of the outcome of the ADR procedure, including the penalties for non-compliance in the case of a decision having binding effect on the parties, if applicable;
	AM 92 (ka) the enforceability of the ADR decision, if relevant;		(ka) the enforceability of the ADR decision, if relevant.
	AM 93 (kb) the penalties for non-compliance in the case of a decision having binding effect on the parties.		<i>This point is moved above to (k)</i>
2. Member States shall ensure that ADR entities make publicly available on their websites and in printed form	AM 94 2. Member States shall ensure that ADR entities make publicly available on their websites, on a durable	2. Member States shall ensure that ADR entities make publicly available on their websites and in printed form	2. Member States shall ensure that ADR entities make publicly available on their websites, on a durable

<p><i>at their premises</i> annual activity reports. These reports shall include the following information relating to both domestic and cross-border disputes:</p>	<p><i>medium upon request, and by any other means they consider appropriate,</i> annual activity reports. These reports shall include the following information relating to both domestic and cross-border disputes:</p>	<p>at their premises by any other means they consider appropriate annual activity reports. These reports shall include the following information relating to both domestic and cross-border disputes:</p>	<p><i>medium upon request, and by any other means they consider appropriate,</i> annual activity reports. These reports shall include the following information relating to both domestic and cross-border disputes:</p>
<p>(a) the number of disputes received and the types of complaints to which they related;</p>			<p>(a) the number of disputes received and the types of complaints to which they related;</p>
<p>(b) any <i>recurrent</i> problems <i>leading</i> to disputes between consumers and traders;</p>	<p>AM 95 (b) any <i>systematic</i> problems <i>that occur frequently and lead</i> to disputes between consumers and traders. <i>The information communicated in this regard may be accompanied by recommendations as to how such problems can be avoided or resolved in future;</i></p>		<p>(b) any <i>systematic or significant</i> problems <i>that occur frequently and lead</i> to disputes between consumers and traders. <i>The information communicated in this regard may be accompanied by recommendations as to how such problems can be avoided or resolved in future, in order to raise traders' standards and to facilitate the exchange of information and best practices;</i></p>
	<p>AM 96 (ba) <i>with due regard for data protection, "exemplary decisions" reflecting the outcomes of significant disputes, in order to raise traders' standards and to facilitate the exchange of information and best practices;</i></p>		
		<p>(ba) the rate of disputes the ADR entity has refused to deal with and the percentage share of the types of</p>	<p>(ba) the rate of disputes the ADR entity has refused to deal with and the percentage share of the types of</p>

		grounds for such refusal as referred to in Article 5(4) and 5(5);	grounds for such refusal as referred to in Article 5(3a);
		(bb) in the case of procedures described in Article 2(2)(a) the rate of solutions being proposed or imposed in favour of the consumer in favour of the trader or resolved by an amicable solution;	(bb) in the case of procedures described in Article 2(2)(a) the rate of solutions being proposed or imposed in favour of the consumer, in favour of the trader, or resolved by an amicable solution;
(c) the <i>rate</i> of dispute resolution procedures which were discontinued <i>before an outcome was reached</i> ;	AM 97 (c) the <i>number</i> of dispute resolution procedures which were discontinued <i>and the reasons for their discontinuation</i> ;	(c) the rate of dispute resolution procedures which were discontinued before an outcome was reached;	(c) the rate of dispute resolution procedures which were discontinued <i>and if known, the reasons for their discontinuation</i> ;
(d) the average time taken to resolve disputes;			(d) the average time taken to resolve disputes;
(e) the rate of compliance, <i>if known</i> , with the outcomes of the ADR procedures;	AM 98 (e) the rate of compliance with the outcomes of the ADR procedures;		(e) the rate of compliance, if known, with the outcomes of the ADR procedures;
(f) <i>where appropriate</i> , their cooperation within networks of ADR entities facilitating the resolution of cross-border disputes.	AM 99 (f) their cooperation within networks of ADR entities facilitating the resolution of cross-border disputes, <i>if applicable</i> .		(f) their cooperation within networks of ADR entities facilitating the resolution of cross-border disputes, <i>if applicable</i> .
Article 8 Effectiveness	Article 8 Effectiveness	Article 8 Effectiveness	Article 8 Effectiveness

Member States shall ensure that ADR procedures are effective and <u>fulfil</u> the following requirements:		Member States shall ensure that ADR procedures are effective and fulfil by fulfilling the following requirements:	Member States shall ensure that ADR procedures are effective and fulfil the following requirements:
(a) the ADR procedure is <i>easily</i> accessible <i>to</i> both <i>parties</i> irrespective of where the <i>party is</i> situated;	AM 100 (a) the ADR procedure is <i>available and</i> accessible both <i>online and offline</i> irrespective of where the <i>parties are</i> situated;	(a) the ADR procedure is easily accessible to both parties irrespective of where the party is situated, including by electronic means as provided for in Article 5(2)(a) and (b) ;	(a) the ADR procedure is <i>available and</i> easily accessible <i>online and offline</i> to both parties irrespective of where the party is situated;
(b) the parties have access to the procedure without being obliged to use a legal representative; <i>nonetheless</i> parties <i>may</i> be represented or assisted by a third party at any stage of the procedure;	AM 101 (b) the parties have access to the procedure without being obliged to use a legal representative. <i>The procedure shall not deprive the parties of their right to receive independent advice or to</i> be represented or assisted by a third party at any stage of the procedure;		(b) the parties have access to the procedure without being obliged to use a <i>lawyer or a legal advisor</i> . <i>The procedure shall not deprive the parties of their right to independent advice or to</i> be represented or assisted by a third party at any stage of the procedure;
<i>EC considered that AM 58 is enough</i>	AM 102 (<i>ba</i>) <i>an ADR procedure can only be initiated by the consumer</i> ;		<i>AM withdrawn</i>
(c) the ADR procedure is free of charge or at <i>moderate costs</i> for consumers;	AM 103 (c) the ADR procedure is free of charge or <i>available at a nominal fee</i> for consumers. <i>Member States shall decide on an appropriate form of</i>		(c) the ADR procedure is free of charge or <i>available at a nominal fee</i> for consumers;

	<i>funding for ADR procedures on their territories;</i>		
	<p>AM 104</p> <p><i>(ca) the ADR entity which has received a complaint notifies the parties of the dispute as soon as it has received all the documents containing the relevant information relating to the complaint;</i></p>		<p><i>(ca) the ADR entity which has received a complaint notifies the parties of the dispute as soon as it has received all the documents containing the relevant information relating to the complaint;</i></p>
<p>(d) <i>the dispute is resolved</i> within 90 days from the date on which the ADR entity has received the complaint. <i>In the case of complex disputes, the ADR entity may extend this time period.</i></p>	<p>AM 105</p> <p>(d) <i>disputes are resolved</i> within <u>a timeframe of 90 calendar</u> days from the date on which ADR entity has received the <u>complete</u> complaint <u>file</u>. <i>In the case of disputes of a highly complex or technical nature, the person or collegial body in charge may, at its own discretion, extend the 90-day timeframe. Parties shall be informed of any extension of that period and of the expected approximate length of time that will be needed for the conclusion of the dispute;</i></p>	<p>(d) the dispute is resolved the outcome of the ADR procedure is made available within 90 days from the date on which the ADR entity has received the complaint and all relevant documentation pertaining to that complaint. In the case of complex disputes the ADR entity may extend or for other justified grounds, this time period may be exceeded.</p>	<p>(d) the outcome of the ADR procedure is made available within 90 calendar days from the date on which the ADR entity has received the <u>complete</u> complaint <u>file</u>. In the case of highly complex disputes, the ADR entity in charge may, at its own discretion, extend the 90 calendar days' timeframe. Parties shall be informed of any extension of that period and of the expected length of time that will be needed for the conclusion of the dispute.</p>
<p>Article 9 Fairness</p>	<p>Article 9 Fairness</p>	<p>Article 9 Fairness</p>	<p>Article 9 Fairness</p>
	AM 106		

<p>1. Member States shall ensure that <i>in</i> ADR <i>procedures</i>:</p>	<p>1. Member States shall ensure that ADR <i>entities</i>:</p>	<p>1. Member States shall ensure that in ADR procedures, which aim at resolving the dispute by proposing or imposing a solution:</p>	<p>1. Member States shall ensure that <i>in</i> ADR <i>procedures</i>:</p>
	<p>AM 107 <i>(-a) allow the parties to withdraw from the procedure at any stage if they are dissatisfied with the performance or the operation of the procedure. They shall be informed of this right before the procedure commences. Where national rules provide for mandatory participation by the trader in ADR procedures, this provision shall apply only to the consumer;</i></p>		<p><i>Moved into paragraph 2 below.</i></p>
<p>(a) the parties <i>have the possibility</i> to express their point of view and <i>hear</i> the arguments and facts put forward by the other party <i>and any experts'</i> statements;</p>	<p>AM 108 (a) <i>allow</i> the parties to express their point of view, <i>to be provided with evidence, documents</i> and facts put forward by the other party, <i>including any statements and opinions given by experts, and to respond within a reasonable period;</i></p>	<p>(a) the parties have the possibility within a reasonable period of time to express their point of view and hear receive and be able to comment on the arguments and facts put forward by the other party and any experts' statements;</p>	<p>(a) the parties have the possibility, <i>within a reasonable period of time,</i> to express their point of view, <i>be provided by the ADR entity with</i> the arguments, <i>evidence, documents</i> and facts put forward by the other party, any statements <i>made and opinions given by experts, and be able to comment on them;</i></p>
		<p>(aa) the parties are informed that they are not obliged to use a legal representative, but they may seek independent advice or be</p>	<p><i>(aa) parties are informed that they are not obliged to use a lawyer or a legal advisor, but they may seek independent advice or be</i></p>

		represented or assisted by a third party at any stage of the procedure;	<i>represented or assisted by a third party at any stage of the procedure;</i>
(b) the outcome of the ADR procedure <i>is made available to both parties</i> in writing or on a durable medium, <i>stating</i> the grounds on which the outcome is based.	AM 109 (b) <i>notify</i> the <i>parties of the</i> outcome of the ADR procedure in writing or on a durable medium, <i>and are given a statement of</i> the grounds on which the outcome is based.		(b) <i>the parties are notified of the</i> outcome of the ADR procedure in writing or on a durable medium, <i>and are given a statement of</i> the grounds on which the outcome is based.
2. <i>Member States shall ensure that in</i> ADR procedures which aim at resolving the dispute by <u>suggesting</u> a solution	AM 110 2. <i>In</i> ADR procedures which aim at resolving the dispute by <i>proposing</i> a solution, <i>Member States shall ensure that:</i>	2. In addition to paragraph 1, Member States shall ensure that in ADR procedures which aim at resolving the dispute by suggesting proposing a solution	2. <i>In</i> ADR procedures which aim at resolving the dispute by <i>proposing</i> a solution, <i>Member States shall ensure that:</i>
			<i>(-a) the parties have the possibility to withdraw from the procedure at any stage if they are dissatisfied with the performance or the operation of the procedure. They shall be informed of this right before the procedure commences. Where national rules provide for mandatory participation by the trader in ADR procedures, this provision shall apply only to the consumer;</i>
(a) the <u>consumer</u> , before agreeing to	AM 111 (a) <i>the parties</i> , before agreeing to a	(a) the consumer parties , before	(a) <i>the parties</i> , before agreeing to <i>or</i>

a suggested solution, <i>is</i> informed that:	proposed solution, <i>are</i> informed of their rights under existing legislation and that:	agreeing to or following a suggested proposed solution, are informed that:	following a proposed solution, are informed that:
(i) he has the choice as to whether or not to agree to a suggested solution;	AM 112 (i) they have the choice as to whether or not to agree to the proposed solution;	(i) he has they have the choice as to whether or not to agree to a suggested or follow the proposed solution;	(i) they have the choice as to whether or not to agree to or follow the proposed solution;
	AM 113 (ia) participation in the procedure does not preclude the possibility of seeking redress through normal court proceedings;		(ia) participation in the procedure does not preclude the possibility of seeking redress through court proceedings;
(ii) the suggested solution <i>may</i> be less favourable than an outcome determined by a court applying legal rules;	AM 114 (ii) the proposed solution <i>could</i> be different from an outcome determined by a court applying legal rules;	(ii) where applicable the suggested proposed solution may be less favourable than an outcome determined by a court applying legal rules;	(ii) the proposed solution may be different from an outcome determined by a court applying legal rules;
(iii) before agreeing or rejecting the suggested solution he has the right to seek independent advice;	AM 115 (iii) they have the right to seek independent advice;	(iii) before agreeing or rejecting the suggested solution he has the right to seek independent advice;	<i>Moved above</i>
	AM 116 (iiia) a proposed solution will have a certain legal effect;		<i>Covered below</i>
	AM 117		

<i>(b) the parties, before agreeing to a <u>suggested</u> solution, are informed of the legal effect of such <u>agreement</u>;</i>	<i>deleted</i>	(b) the parties, before agreeing to or following a suggested proposed solution, are informed of the legal effect of agreeing to or following such agreement a proposed solution ;	<i>(b) the parties, before agreeing to or following a proposed solution, are informed of the legal effect of agreeing to or following such a proposed solution;</i>
(c) the parties, before expressing their consent to a <u>suggested</u> solution or amicable agreement, are allowed a reasonable period of time to reflect.	AM 118 <i>(c) the parties, before giving their consent to a proposed solution or amicable agreement, are allowed a reasonable period of time to reflect;</i>	(c) where the parties, before expressing have to express their consent to a suggested proposed solution or amicable agreement, they are allowed a reasonable period of time to reflect.	<i>(c) the parties, before expressing their consent to a proposed solution or amicable agreement, are allowed a reasonable period of time to reflect.</i>
	AM 119 <i>(ca) if the parties decide to reject the proposed solution, the ADR entity may publish that solution.</i>		<i>AM withdrawn</i>
	AM 120 <i>2a. Where ADR procedures are established which aim at resolving the dispute by proposing a solution, Member States may specify that such proposed solutions are, at the election of the consumer, to be binding on the trader.</i> <i>In such cases Article 9(2) shall be read as applying only to the consumer.</i>		<i>3. Where, in accordance with national law, ADR procedures foresee that their outcome becomes binding on the trader once the consumer has accepted the proposed solution, Article 9(2) shall be read as only applying to the consumer.</i>
	AM 121		

	<i>Article 9a</i>	Article 9a	Article 9a
	<i>Liberty</i>	Liberty	Liberty
	<i>1. Member States shall ensure that an agreement between a consumer and a trader to submit complaints to an ADR entity is not binding on the consumer if it was concluded before the dispute materialised and if it has the effect of depriving the consumer of his right to bring an action before the courts for the determination of the dispute.</i>	1. Member States shall ensure that an agreement between a consumer and a trader to submit complaints to an ADR entity is not binding on the consumer if it was concluded before the dispute <i>has</i> materialised and if it has the effect of depriving the consumer of his right to bring an action before the courts for the settlement of the dispute.	<i>1. Member States shall ensure that an agreement between a consumer and a trader to submit complaints to an ADR entity is not binding on the consumer if it was concluded before the dispute has materialised and if it has the effect of depriving the consumer of his right to bring an action before the courts for the settlement of the dispute.</i>
	<i>2. Member States shall ensure that, in ADR procedures which aim at resolving the dispute by imposing a solution, the solution imposed may be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this. Specific acceptance by the trader shall not be required if national rules provide that solutions are to be binding on traders.</i>	2. Member States shall ensure that in ADR procedures which aim at resolving the dispute by imposing a solution the solution imposed may be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this. Specific acceptance by the trader is not required if national rules provide that solutions are binding on traders.	<i>2. Member States shall ensure that in ADR procedures which aim at resolving the dispute by imposing a solution the solution imposed may be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this. Specific acceptance by the trader is not required if national rules provide that solutions are binding on traders.</i>
	AM 122		
	<i>Article 9b</i>	Article 9b	Article 9b
	<i>Legality</i>	Legality	Legality
	<i>Member States shall ensure that, in ADR procedures which aim at</i>	Member States shall ensure that in ADR procedures which aim at	<i>1. Member States shall ensure that</i>

	<p><i>resolving the dispute by imposing a solution on the consumer, the solution imposed does not result in the consumer being deprived of the protection afforded by the mandatory provisions of the law of the Member State in the territory of which the ADR entity is established. In the case of cross-border disputes, the solution imposed by the ADR entity shall not result in the consumer being deprived of the protection afforded by the mandatory provisions applying under the law of the Member State in which he is habitually resident in instances where such protection is provided for by Article 6 of Regulation (EC) No 593/2008.</i></p>	<p>resolving the dispute by imposing a solution the solution imposed may not result in the consumer being deprived of the protection afforded by the mandatory provisions of the law of the Member State in whose territory the ADR entity is established. In the case of cross-border disputes, the solution imposed by the ADR entity may not result in the consumer being deprived of the protection afforded by the mandatory provisions applying under the law of the Member State in which he is habitually resident in the instances where such protection is provided for in Article 6 of Regulation (EC) No 593/2008 or Article 5(2) of Convention 80/934/ECC on the law applicable to contractual obligations opened for signature in Rome on 19 June 1980⁹.</p>	<p><i>in ADR procedures which aim at resolving the dispute by imposing a solution on the consumer:</i></p> <p><i>a) in a situation where there is no conflict of laws, the solution imposed may not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of the Member State where the consumer and the trader are habitually resident.</i></p> <p><i>b) in a situation involving a conflict of laws, where the law applicable to the sales or service contract is determined in accordance with Article 6, paragraphs 1 and 2 of Regulation (EC) No 593/2008, the solution imposed by the ADR entity shall not result in the consumer being deprived of the protection afforded to him by the provisions that cannot be derogated from by agreement by virtue of the law of the Member State in which he is habitually resident.</i></p> <p><i>c) In a situation involving a conflict</i></p>
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			<p>of laws, where the law applicable to the sales or service contract is determined in accordance with Article 5, paragraphs 1 to 3 of the Convention on the law applicable to contractual obligations (80/934/ECC), the solution imposed by the ADR entity shall not result in the consumer being deprived of the protection afforded to him by the mandatory rules of the law of the Member State in which he is habitually resident.</p> <p>2. For the purposes of this article, "habitual residence" shall be determined in accordance with Regulation (EC) No 593/2008.</p>
	AM 123		
	<i>Article 9c</i>		<i>Article 9c</i>
	<i>Effect of ADR procedures on limitation and prescription periods</i>		<i>Effect of ADR procedures on limitation and prescription periods</i>
	<i>1. Member States shall ensure that parties who have recourse to ADR in an attempt to settle a dispute are not subsequently prevented from initiating judicial proceedings in relation to that dispute as a result of the expiry of limitation or prescription periods during the ADR procedure.</i>		<i>1. Member States shall ensure that parties who have recourse to ADR procedures, the outcome of which is not binding, in an attempt to settle a dispute are not subsequently prevented from initiating judicial proceedings in relation to that dispute as a result of the expiry of limitation or prescription periods</i>

			<i>during the ADR procedure.</i>
	<i>2. Paragraph 1 shall be without prejudice to provisions on limitation or prescription contained in international agreements to which Member States are party.</i>		<i>2. Paragraph 1 shall be without prejudice to provisions on limitation or prescription contained in international agreements to which Member States are party.</i>
	AM 124		
	<i>Article 9d</i>	<i>Article 9c</i>	
	<i>Guidelines</i>	<i>Guidelines</i>	<i>AMs withdrawn</i>
	<i>1. The Commission, after consulting the European Parliament, the Council and relevant stakeholders, shall draw up guidelines for the implementation of this Directive. Those guidelines shall in particular focus on the quality criteria set out in Chapter II, cooperation between ADR entities in cross-border cases and between ADR entities and national authorities as provided for in Articles 13 and 14, and the relationship between this Directive and other Union legislation. To that end, the Commission shall draw up those guidelines on the basis of the established practice in Member States, voluntary codes of conduct, quality standards and any other relevant data.</i>	<i>1. The Commission shall draw up guidelines for the implementation of this Directive. The guidelines shall in particular focus on the principles set out in Articles 6 to 9a, the cooperation between ADR entities in cross-border cases and between ADR entities and national authorities as set out in Articles 13 to 14, and the relationship between this Directive and other Union legislation. To this end, the Commission shall draw on the established practice in Member States, voluntary codes of conduct and any other relevant data.</i>	
	<i>2. The Commission shall transmit</i>	<i>2. The Commission shall transmit</i>	

	<i>the guidelines to the Member States and make them publicly available.</i>	the guidelines to the Member States and make it publicly available.	
CHAPTER III INFORMATION AND COOPERATION	CHAPTER III INFORMATION AND COOPERATION	CHAPTER III INFORMATION AND COOPERATION	CHAPTER III INFORMATION AND COOPERATION
Article 10 Consumer information by traders	Article 10 Consumer information by traders	Article 10 Consumer information by traders	Article 10 Consumer information by traders
1. Member States shall ensure that traders established on their territories inform consumers about the ADR entities by which they are covered <u>and which are competent to deal with potential disputes between themselves and consumers.</u> <i>Such information shall include the addresses of the relevant ADR entities' websites and specify whether or not the trader commits to use these entities to resolve disputes with consumers.</i>	AM 125 1. Member States shall ensure that traders established on their territories inform consumers about the <i>name, address and website address of the</i> ADR entities by which they are covered and which are competent to deal with potential disputes between themselves and consumers. <i>Traders shall also specify whether or not they commit or are obliged to use these entities to resolve disputes with consumers.</i>	1. Member States shall ensure that traders established on their territories inform consumers about the ADR entity or ADR entities by which they are covered and which are competent to deal with potential disputes between themselves and consumers. Such information shall include the addresses of the relevant ADR entities' websites and specify whether or not, when the trader commits to or is obliged to use these entities to resolve disputes with consumers. The information shall include the address of the relevant ADR entity or ADR entities' website.	1. Member States shall ensure that traders established on their territories inform consumers about the ADR entity or ADR entities by which they are covered, when the trader commits to or is obliged to use these entities to resolve disputes with consumers. The information shall include the address of the relevant ADR entity or ADR entities' website.

<p>2. The information referred to in paragraph 1 shall be mentioned in <i>an</i> easily, <u><i>directly, prominently and permanently</i></u> accessible way on the trader's website, where one exists, in the general terms and conditions of contracts <u>for the sale of goods or provision of services</u> between the trader and a consumer <u>and in invoices and receipts relating to such contracts</u>. It shall specify how further information on the ADR entity concerned and on the conditions for using it can be accessed.</p>	<p>AM 126</p> <p>2. The information referred to in paragraph 1 shall be mentioned in <i>a clear, comprehensible and</i> easily and permanently accessible way on the trader's website, where one exists, in the general terms and conditions of contracts for the sale of goods or provision of services between the trader and a consumer and <i>whenever the trader rejects a complaint submitted directly to it by a consumer</i>. It shall specify how further information on the ADR entity concerned and on the conditions for using it can be accessed.</p>	<p>2. The information referred to in paragraph 1 shall be mentioned in a clear, comprehensible and easily ; directly, prominently and permanently accessible way on the traders' website, where one exists and if applicable in the general terms and conditions of sales or service contracts for the sale of goods or provision of services between the trader and a consumer and in invoices and receipts relating to such contracts. It shall specify how further information on the ADR entity concerned and on the conditions for using it can be accessed.</p>	<p>2. The information referred to in paragraph 1 shall be mentioned in <i>a clear, comprehensible and</i> easily accessible way on the traders' website, where one exists <i>and if applicable</i> in the general terms and conditions of <i>sales or service</i> contracts between the trader and a consumer.</p>
<p>3. The provisions in this Article shall be without prejudice to the provisions in Articles 6, 7 and 8 of Directive 2011/83/EU concerning consumer information for distance and off-premises contracts.</p>	<p>AM 127</p> <p>3. The provisions in this Article shall be without prejudice to the provisions in Articles 6, 7 and 8 of Directive 2011/83/EU concerning consumer information for distance and off-premises contracts, <i>in Article 3 of Directive 2002/65/EU of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services¹ and Article 185 of Directive</i></p>	<p>3. The provisions in this Article shall be without prejudice to the provisions in Articles 6(1)(t), 7(1) and 8(1) of Directive 2011/83/EU concerning consumer information for distance and off-premises contracts.</p>	<p>3. <i>Member States shall ensure that, in cases where a dispute between a consumer and a trader established in their territory could not be settled further to a complaint submitted directly by the consumer to the trader, the trader provides to the consumer information referred to in paragraph 1, specifying whether he will make use of the relevant ADR entities to settle the dispute. This information shall be provided on</i></p>

	<i>2009/138/EU of the European Parliament and of the Council of 25 November 2008 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)².</i>		<i>paper or another durable medium.</i>
Article 11 Assistance for consumers	Article 11 Assistance for consumers	Article 11 Assistance for consumers	Article 11 Assistance for consumers
1. Member States shall ensure <i>that consumers can obtain assistance</i> with regard to <i>their</i> disputes arising from cross-border sales of goods or provision of services. <i>Such assistance shall in particular aim at helping consumers</i> to access the ADR entity operating in another Member State which is competent to deal with their cross-border dispute.	AM 128 1. Member States shall ensure, with regard to disputes arising from cross-border sales of goods or provision of services, <i>that consumers can obtain</i> assistance to access the ADR entity operating in another Member State which is competent to deal with their cross-border dispute.	1. Member States shall ensure that consumers can obtain assistance with regard to their disputes arising from cross-border sales of goods or provision of services. Such service contracts, consumers can obtain assistance shall in particular aim at helping consumers to access the ADR entity operating in another Member State which is competent to deal with their cross-border dispute.	1. Member States shall ensure that with regard to disputes arising from cross-border sales <i>or service contracts, consumers can obtain</i> assistance to access the ADR entity operating in another Member State which is competent to deal with their cross-border dispute.
2. Member States <i>may</i> confer responsibility for the task referred to in paragraph 1 on their centres of the European Consumer Centre Network, <i>on consumer associations or on any other body.</i>	AM 129 2. Member States <i>shall</i> confer responsibility for the task referred to in paragraph 1 on their centres of the European Consumer Centre Network.		2. Member States <i>shall</i> confer responsibility for the task referred to in paragraph 1 on their centres of the European Consumer Centre Network, on consumer associations or on any other body.

Article 12 General information	Article 12 General information	Article 12 General information	Article 12 General information
<p>Member States shall ensure that ADR entities, <u>consumer associations, business associations</u>, the centres of the European Consumer Centre Network <i>and, where appropriate, the bodies designated in accordance with Article 11(2)</i> make publicly available <u>at</u> their <u>premises</u> and <u>on their websites</u> the list of ADR entities referred to in Article 17(3).</p>	<p>AM 130</p> <p>Member States shall ensure that ADR entities <i>and</i> the centres of the European Consumer Centre Network make publicly available <i>on</i> their <i>websites</i> and <i>whenever possible</i>, on a <i>durable medium</i> at their <i>premises</i>, the list of ADR entities referred to in Article 17(3).</p>	<p>1. Member States shall ensure that ADR entities, the centres of the European Consumer Centre Network and, where appropriate, the bodies designated in accordance with Article 11(2), make publicly available on their websites by providing a link to the Commission's website and by any other means they consider appropriate, the list of ADR entities referred to in Article 17(4).</p>	<p>I. Member States shall ensure that ADR entities, the centres of the European Consumer Centre Network and, where appropriate, the bodies designated in accordance with Article 11(2), make publicly available on their websites <i>by providing a link to the Commission's website, and whenever possible on a durable medium at their premises</i>, the list of ADR entities referred to in Article 17(4).</p>
	<p>AM 131</p> <p><i>1a. Member States shall encourage consumer associations and traders to make publicly available on their websites, and by any other means they consider appropriate, the list of ADR entities referred to in Article 17(3).</i></p>	<p>2. Member States shall encourage that relevant consumer associations and business associations make publicly available on their websites and, by any other means they consider appropriate the list of ADR entities referred to in Article 17(4).</p>	<p>2. Member States shall encourage that relevant consumer associations and business associations make publicly available on their websites and, by any other means they consider appropriate the list of ADR entities referred to in Article 17(4).</p>
	<p>AM 132</p> <p><i>1b. The Commission and the Member States shall ensure</i></p>	<p>3. The Commission and Member States shall ensure appropriate</p>	<p>3. The Commission and Member States shall ensure appropriate</p>

	<i>appropriate disclosure of information as to how consumers may access the ADR procedure in the event of contractual disputes as referred to in Article 2(1) in relation to a particular trader.</i>	dissemination of information on how consumers may get access to ADR procedures if they have a contractual dispute with a trader as referred to in Article 2.	dissemination of information on how consumers can access ADR procedures for resolving disputes covered by this Directive.
			4. The Commission and the Member States shall take accompanying measures to encourage consumer associations and professional organisations, at EU and at national level, to raise awareness about ADR entities and their procedures and to promote ADR take-up by professionals and consumers. These bodies should also be encouraged to provide consumers with information on competent ADR entities when they receive complaints from consumers.
Article 13 Cooperation between ADR entities on the resolution of cross-border disputes	AM 133 Article 13 Cooperation <i>and exchanges of experience</i> between ADR entities	Article 13 Cooperation between ADR entities on the resolution of cross-border disputes	Article 13 Cooperation <i>and exchanges of experience</i> between ADR entities
1. Member States shall ensure that ADR entities cooperate on the resolution of cross-border disputes.	AM 134 1. Member States shall ensure that ADR entities cooperate on the resolution of cross-border disputes <i>and that they conduct regular</i>	1. Member States shall encourage that ADR entities cooperate on the resolution of cross-border disputes.	1. Member States shall ensure that ADR entities cooperate on the resolution of cross-border disputes <i>and conduct regular exchanges of</i>

	<i>exchanges of good practice as regards the settlement of both cross-border and domestic disputes.</i>		<i>good practice as regards the settlement of both cross-border and domestic disputes.</i>
	AM 135 <i>1a. The Commission shall support and facilitate exchanges of experience between ADR entities in order to encourage the use of best practices, in particular through the <u>Consumer Programme</u>.</i>		<i>1a. The Commission shall support and facilitate the networking of national ADR entities and exchanging and disseminating of their good practice and experiences.</i>
2. Where a network of ADR entities facilitating the resolution of cross-border disputes exists in a sector-specific area within the Union, Member States shall encourage ADR entities that deal with disputes in that area to become a member of that network.			2. Where a network of ADR entities facilitating the resolution of cross-border disputes exists in a sector-specific area within the Union, Member States shall encourage ADR entities that deal with disputes in that area to become a member of that network.
3. The Commission shall publish a list containing the names and contact details of the networks referred to in paragraph 1 . The Commission shall, <i>if necessary</i> , update this list every two years.	AM 136 3. The Commission shall publish a list containing the names and contact details of the networks referred to in paragraph 2 . The Commission shall update this list every two years.	3. The Commission shall publish a list containing the names and contact details of the networks referred to in paragraph 2 . The Commission shall, if necessary, update this list every two years.	3. The Commission shall publish a list containing the names and contact details of the networks referred to in paragraph 2 . The Commission shall, <i>when necessary</i> , update this list.
Article 14 Cooperation between ADR entities	Article 14 Cooperation between ADR entities	Article 14 Cooperation between ADR entities	Article 14 Cooperation between ADR entities

and national authorities enforcing Union legislation on consumer protection	and national authorities enforcing Union legislation on consumer protection	and national authorities enforcing Union legislation on consumer protection	and national authorities enforcing Union legislation on consumer protection
1. Member States shall <u>ensure</u> cooperation between ADR entities and national authorities entrusted with the enforcement of Union legislation on consumer protection.		1. Member States shall encourage cooperation between ADR entities and national authorities entrusted with the enforcement of Union legislation on consumer protection.	1. Member States shall ensure cooperation between ADR entities and national authorities entrusted with the enforcement of Union legislation on consumer protection.
2. This cooperation <u>shall</u> include mutual exchange of information on <i>business</i> practices by traders about which consumers have lodged complaints. It shall also include the provision of technical assessment and information by such national authorities to ADR entities where such assessment or information is necessary for the handling of individual disputes.	AM 137 2. This cooperation <u>shall</u> include mutual exchange of information on practices <i>in specific business sectors</i> by traders about which consumers have <i>repeatedly</i> lodged complaints. It shall also include the provision of technical assessment and information by such national authorities to ADR entities where such assessment or information is necessary for the handling of individual disputes <i>and is already available</i> .	2. This cooperation may include mutual exchange of information on practices <i>in specific business sectors</i> about which consumers have lodged complaints. It shall also include the provision of technical assessment and information by such national authorities to ADR entities where such assessment or information is necessary for the handling of individual disputes.	2. This cooperation shall <i>in particular</i> include mutual exchange of information on practices <i>in specific business sectors</i> about which consumers have <i>repeatedly</i> lodged complaints. It shall also include the provision of technical assessment and information by such national authorities to ADR entities where such assessment or information is necessary for the handling of individual disputes <i>and is already available</i> .
3. Member States shall ensure that cooperation and mutual information exchanges referred to in paragraphs 1 and 2 comply with the rules on the protection of personal data laid down in Directive 95/46/EC.			3. Member States shall ensure that cooperation and mutual information exchanges referred to in paragraphs 1 and 2 comply with the rules on the protection of personal data laid down in Directive 95/46/EC.
	AM 138		

	<i>3a. This Article shall be without prejudice to provisions on professional and commercial secrecy which apply to the national authorities referred to in paragraph 1.</i>	4. The provisions in this Article shall be without prejudice to provisions on professional secrecy which apply to national authorities enforcing Union legislation on consumer protection. ADR entities shall be subject to rules of professional secrecy or other equivalent duties of confidentiality laid down in the legislation of the Member States where they are established.	<i>3a. The provisions in this Article shall be without prejudice to provisions on professional and commercial secrecy which apply to the national authorities enforcing Union legislation on consumer protection. ADR entities shall be subject to rules of professional secrecy or other equivalent duties of confidentiality laid down in the legislation of the Member States where they are established.</i>
CHAPTER IV <u>MONITORING OF ADR ENTITIES</u>	CHAPTER IV MONITORING OF ADR ENTITIES	CHAPTER IV <u>THE ROLE OF COMPETENT AUTHORITIES AND THE COMMISSION</u>	CHAPTER IV <u>THE ROLE OF COMPETENT AUTHORITIES AND THE COMMISSION</u>
Article 15 Designation of competent authorities	Article 15 Designation of competent authorities	Article 15 Designation of competent authorities	Article 15 Designation of competent authorities
1. Each Member State shall designate <u>a</u> competent authority in <i>charge of monitoring the functioning and development</i> of <u>ADR entities established on its territory</u> . Each	AM 139 1. Each Member State shall designate a competent authority <i>to perform the functions referred to in Articles 16 and 17. Each Member State may designate more than one competent</i>	1. Each Member State shall designate an authority as competent authority in terms of Articles 16 and 17. Each Member State may designate more than one competent authority. If a	1. Each Member State shall designate a competent authority which shall carry out the functions set out in Articles 16 and 17. Each Member State may designate more than one

<p>Member State shall communicate the authority it has designated to the Commission.</p>	<p><i>authority. If a Member State does so, it shall determine which of the competent authorities designated is to be the single point of contact for the Commission.</i> Each Member State shall communicate the <i>competent authority or, where appropriate, the competent authorities, including the single point of contact</i>, it has designated to the Commission.</p>	<p>Member State does so, it shall determine which of the competent authorities designated is the single point of contact for the Commission among the competent authorities established on its territory. The single point of contact, and the competent authority where the Member State has only designated one, shall be a public authority inter alia as defined in Regulation 2006/2004. Each Member State shall communicate the authority or, where appropriate, the competent authorities including the single point of contact it has designated to the Commission.</p>	<p><i>competent authority. If a Member State does so, it shall determine which one of the competent authorities designated is the single point of contact for the Commission.</i> Each Member State shall communicate the authority <i>or, where appropriate, the competent authorities, including the single point of contact</i> it has designated, to the Commission.</p>
<p>2. The Commission shall establish a list of the competent authorities communicated to it in accordance with paragraph 1 and publish that list in the <i>Official Journal of the European Union</i>.</p>	<p>AM 140</p> <p>2. The Commission shall establish a list of the competent authorities <i>including, where appropriate, those acting as a single point of contact</i>, communicated to it in accordance with paragraph 1 and publish that list in the <i>Official Journal of the European Union</i>.</p>	<p>2. The Commission shall establish a list of the competent authorities including, where appropriate, the single point of contact communicated to it in accordance with paragraph 1 and publish that list in the <i>Official Journal of the European Union</i>.</p>	<p>2. The Commission shall establish a list of the competent authorities <i>including, where appropriate, the single point of contact</i> communicated to it in accordance with paragraph 1 and publish that list in the <i>Official Journal of the European Union</i>.</p>
<p>Article 16 Information to be notified to</p>	<p>Article 16 Information to be notified to</p>	<p>Article 16 Information to be notified to</p>	<p>Article 16 Information to be notified to</p>

competent authorities by ADR entities	competent authorities by ADR entities	competent authorities by ADR entities	competent authorities by <i>dispute resolution</i> entities
1. Member States shall ensure that <u>ADR</u> entities established on their territories notify to the competent authority the following:		1. Member States shall ensure that entities established on their territories, with the intention to be notified in accordance with this Directive , notify to the competent authority the following:	1. Member States shall ensure that <i>dispute resolution</i> entities established on their territories, which intend to qualify as ADR entities under this Directive and be listed in accordance with Article 17(2) , notify to the competent authority the following:
(a) their name, contact details and website address;			(a) their name, contact details and website address;
(b) information on their structure and funding, including information on the natural persons in charge of alternative dispute resolution, their funding and by whom they are employed;			(b) information on their structure and funding, including information on the natural persons in charge of alternative dispute resolution, their funding, remuneration, term of office and by whom they are employed;
		<i>Point (ba) is removed in order to match AM 141 on a new point (fa) in Article 16(1):</i> (ba) a statement on the types of disputes covered by the ADR procedure;	
(c) their rules of procedure;			(c) their rules of procedure;
(d) their fees, if applicable;			(d) their fees, if applicable;
(e) the <u>approximate</u> length of the		(e) the average length of the ADR	(e) the average length of the ADR

ADR procedures;		procedures;	procedures;
(f) the language or languages in which complaints can be submitted and the ADR procedure conducted;			(f) the language or languages in which complaints can be submitted and the ADR procedure conducted;
	AM 141 <i>(fa) a statement on the types of disputes covered by ADR procedures;</i>	(ba) a statement on the types of disputes covered by <u>the</u> ADR procedure;	<i>(fa) a statement on the types of disputes covered by the ADR procedure;</i>
		(fa) the grounds on which the ADR entity may refuse to deal with a given dispute in accordance with Article 5(4) and 5(5);	<i>(fb) the grounds on which the dispute resolution entity may refuse to deal with a given dispute in accordance with Article 5(3a);</i>
<i><u>(g) a statement on the elements necessary to establish their competence;</u></i>	AM 142 <i>deleted</i>	(g) a statement on the elements necessary to establish their competence;	<i>Deleted</i>
(h) a reasoned statement, <u>based on a self-assessment by the ADR entity, on whether it</u> qualifies as an ADR entity falling within the scope of this Directive and complies with the <u>requirements</u> set out in <i>chapter II</i> .	AM 143 (h) a reasoned statement on <i>whether</i> the entity qualifies as an ADR entity falling within the scope of this Directive and complies with the <i>quality criteria</i> set out in <i>Chapter II</i> .	(h) a reasoned statement on whether the entity qualifies as an ADR entity falling within the scope of this Directive and complies with the requirements set out in chapter II.	(h) a reasoned statement on whether the entity qualifies as an ADR entity falling within the scope of this Directive and complies with the quality criteria set out in Chapter II.
In the event of changes to the information referred to in points (a) to (g), ADR entities shall <u>immediately</u> notify these changes to the competent authority.		In the event of changes to the information referred to in points (a) to (fa) , ADR entities shall without undue delay notify these changes to the competent authority.	In the event of changes to the information referred to in points (a) to (fb) , ADR entities shall without undue delay notify these changes to the competent authority.

			<i>Ia. Where Member States decide to allow procedures as referred to in point (a) of Article 2(2), they shall ensure that ADR entities applying such procedures notify to the competent authority, in addition to the information and statements referred to in paragraph 1, the information necessary to assess their compliance with the specific additional requirements.</i>
2. Member States shall ensure that ADR entities communicate to the competent authorities <i>at least once a year the following</i> information:	AM 144 2. Member States shall ensure that ADR entities communicate to the competent authorities <i>every two years</i> information on:	2. Member States shall ensure that ADR entities communicate to the competent authorities at least <i>every two years</i> the following information:	2. Member States shall ensure that ADR entities communicate to the competent authorities <i>every two years</i> information on:
(a) the number of disputes received and the types of complaints to which they related;			(a) the number of disputes received and the types of complaints to which they related;
(b) the rate of ADR procedures which were discontinued before an outcome was reached;			(b) the rate of ADR procedures which were discontinued before an outcome was reached;
(c) the average time taken to resolve the disputes received;			(c) the average time taken to resolve the disputes received;
(d) the rate of compliance, <i>if known</i> , with the outcomes of the ADR procedures;	AM 145 (d) the rate of compliance with the outcomes of the ADR procedures <i>where the decisions are binding and</i> ,		(d) the rate of compliance, <i>if known</i> , with the outcomes of the ADR procedures;

	<i>if the relevant information is available, for non-binding decisions;</i>		
<i>(e) relevant statistics demonstrating the way in which traders use alternative dispute resolution for their disputes with consumers;</i>	AM 146 <i>deleted</i>		<i>Deleted</i>
<i>(f) any recurrent problems leading to disputes between consumers and traders;</i>	AM 147 <i>(f) any systematic problems that occur frequently and lead to disputes between consumers and traders. The information communicated in this regard may be accompanied by recommendations as to how such problems can be avoided or resolved in future;</i>		<i>(f) any systematic or significant problems that occur frequently and lead to disputes between consumers and traders. The information communicated in this regard may be accompanied by recommendations as to how such problems can be avoided or resolved in future;</i>
<i>(g) where applicable, an assessment of the effectiveness of their cooperation within networks of ADR entities facilitating the resolution of cross-border disputes;</i>	AM 148 <i>deleted</i>		<i>(g) where applicable, an assessment of the effectiveness of their cooperation within networks of ADR entities facilitating the resolution of cross-border disputes;</i>
			<i>ga) where applicable, information on the training provided to natural persons in charge of ADR in accordance with Article 6(6);</i>
<i>(h) a self-assessment of the</i>	AM 149 <i>deleted</i>	<i>(h) an assessment of the</i>	<i>(h) an assessment of the</i>

<i>effectiveness of the ADR procedure offered by the entity and of possible ways of improving its performance.</i>		effectiveness of the ADR procedure offered by the entity and of possible ways of improving its performance.	effectiveness of the ADR procedure offered by the entity and of possible ways of improving its performance.
Article 17 Role of the competent authorities and of the Commission	Article 17 Role of the competent authorities and of the Commission	Article 17 Role of the competent authorities and of the Commission	Article 17 Role of the competent authorities and of the Commission
1. Each competent authority shall assess, on the basis of the information it has received in accordance with Article 16(1), whether the <u>ADR</u> entities notified to it qualify as ADR entities falling within the scope of this Directive and comply with the <i>requirements</i> set out in <i>chapter II</i> .	AM 150 1. Each competent authority shall assess, on the basis of <i>an objective independent evaluation and of</i> the information it has received in accordance with Article 16(1), whether the ADR entities notified to it qualify as ADR entities falling within the scope of this Directive and comply with the <i>quality criteria</i> set out in <i>Chapter II</i> .	1. Each competent authority shall assess, in particular on the basis of the information it has received in accordance with Article 16(1), whether the entities notified to it qualify as ADR entities falling within the scope of this Directive and comply with the requirements set out in chapter II.	1. Each competent authority shall assess, in particular on the basis of the information it has received in accordance with Article 16(1), whether the dispute resolution entities notified to it qualify as ADR entities falling within the scope of this Directive and comply with the requirements set out in <i>Chapter II of this Directive and in national provisions implementing it, including national provisions going beyond the requirements of this Directive, in conformity with Union law.</i>
2. Each competent authority shall, on the basis of the assessment referred to in paragraph 1, establish a list of the ADR entities that fulfil the conditions set out in paragraph 1.	AM 151 2. Each competent authority shall, on the basis of the assessment referred to in paragraph 1, establish a list of all the ADR entities that <i>have been notified to it and</i> fulfil the conditions		2. Each competent authority shall, on the basis of the assessment referred to in paragraph 1, list all the ADR entities that <i>have been notified to it and</i> fulfil the conditions set out in

	set out in paragraph 1. <i>The competent authority shall not refuse to list an ADR entity if it complies with the requirements set out in this Directive.</i>		paragraph 1.
The list shall include the following:			The list shall include the following:
(a) the name, the contact details and the website addresses of these ADR entities;			(a) the name, the contact details and the website addresses of these ADR entities;
(b) their fees, if applicable;			(b) their fees, if applicable;
(c) the language or languages in which in which complaints can be submitted and the ADR procedure conducted;			(c) the language or languages in which complaints can be submitted and the ADR procedure conducted;
<i>(d) the elements necessary to establish their competence;</i>	AM 152 <i>deleted</i>	(d) the elements necessary to establish their competence <i>types of disputes covered by the ADR procedure;</i>	<i>(d) types of disputes covered by the ADR procedure;</i>
	AM 153 <i>(da) the sectors and categories of disputes covered by each ADR entity;</i>		(da) the sectors and categories of disputes covered by each ADR entity;
(e) the need for the physical presence of the parties or of their representatives, if applicable; <i>and</i>	AM 154 (e) the need for the physical presence of the parties or of their representatives, if applicable, <i>including a statement by the ADR</i>	(e) the need for the physical presence of the parties or of their representatives, if applicable, <i>including a statement on whether</i>	(e) the need for the physical presence of the parties or of their representatives, if applicable, <i>including a statement by the ADR</i>

	<i>entity on whether the ADR procedure is or can be conducted as an oral or a written procedure;</i>	the ADR procedure is or can be conducted as an oral or a written procedure; and	<i>entity on whether the ADR procedure is or can be conducted as an oral or a written procedure;</i>
(f) the binding or non-binding nature of the outcome of the procedure.			(f) the binding or non-binding nature of the outcome of the procedure; <i>and</i>
		(g) the grounds on which the ADR entity may refuse to deal with a given dispute in accordance with Article 5(4) and 5(5).	(g) <i>the grounds on which the ADR entity may refuse to deal with a given dispute in accordance with Article 5(3a).</i>
Each competent authority shall notify the list to the Commission. In <i>the event that any changes are notified to the competent authority in</i> accordance with the second subparagraph of Article 16(1), the list shall be updated <u>immediately</u> and the relevant information notified to the Commission.	AM 155 Each competent authority shall notify the list to the Commission. In accordance with the second subparagraph of Article 16(1), <i>if any changes are notified to the competent authority</i> , the list shall be updated immediately and the relevant information notified to the Commission. <i>If an ADR entity no longer complies with the requirements set out in this Directive, the competent authority shall remove it from the list.</i>	Each competent authority shall notify the list to the Commission. In the event that any changes are notified to the competent authority in accordance with the second subparagraph of Article 16(1), the list shall be updated without undue delay and the relevant information notified to the Commission.	Each competent authority shall notify the list to the Commission. In accordance with the second subparagraph of Article 16(1), <i>if any changes are notified to the competent authority</i> , the list shall be updated without undue delay and the relevant information notified to the Commission.
		Competent authorities shall notify an ADR entity if that ADR entity no longer fulfills the requirements set out in paragraph 1. If the ADR entity after a period of three months still does not fulfill the requirements set out in paragraph 1, the competent authority shall	If a dispute resolution entity listed as ADR entity under this Directive no longer complies with the requirements referred to in paragraph 1, the competent authority concerned shall contact that dispute resolution entity, stating the requirements the dispute resolution entity fails to

		remove the ADR entity from the list.	comply with and requesting it to ensure compliance immediately. If the dispute resolution entity after a period of three months still does not fulfil the requirements referred to in paragraph 1, the competent authority shall remove the dispute resolution entity from the list.
		The list shall be updated without undue delay and the relevant information notified to the Commission.	<i>The list shall be updated without undue delay and the relevant information notified to the Commission.</i>
	<p>AM 156</p> <p><i>2a. If a Member State has designated more than one competent authority, the list and its updates referred to in paragraph 2 shall be notified to the Commission by the single point of contact. The list and the updates shall relate to all ADR entities established in that Member State.</i></p>	<p>3. If a Member State has designated more than one competent authority, the list and the updates referred to in paragraph 2 shall be notified to the Commission by the single point of contact. The list and the updates shall relate to all ADR entities established in that Member State.</p>	<p><i>2a. If a Member State has designated more than one competent authority, the list and its updates referred to in paragraph 2 shall be notified to the Commission by the single point of contact. The list and the updates shall relate to all ADR entities established in that Member State.</i></p>
<p>3. The Commission shall establish a list of the ADR entities communicated to it in accordance with paragraph 2 and update this list whenever changes are notified to the Commission in accordance with the second sentence of the third subparagraph of paragraph 2. The</p>	<p>AM 157</p> <p>3. The Commission shall establish a list of the <i>notified</i> ADR entities communicated to it in accordance with paragraph 2 and update this list whenever changes are notified to the Commission in accordance with the second sentence of the third subparagraph of paragraph 2. The</p>	<p>4. The Commission shall establish a list of the ADR entities communicated to it in accordance with paragraph 2 and update this list whenever changes are notified to the Commission in accordance with the second sentence of the third subparagraph of paragraph 2 or with</p>	<p>3. The Commission shall establish a list of the ADR entities communicated to it in accordance with paragraph 2 and update this list whenever changes are notified to the Commission. The Commission shall publish this list and its updates on its website and on a durable medium.</p>

<p>Commission shall publish this list and its updates and transmit <u>it</u> to the competent authorities and the Member States.</p>	<p>Commission shall publish this list and its updates and transmit it to the competent authorities and the Member States, <i>consumers and trade organisations and the European Consumer Centre Network</i>.</p>	<p>the fourth subparagraph of paragraph 2. The Commission shall publish this list and its updates on its website and by any other means it considers appropriate. The Commission shall transmit the list and its updates to the competent authorities and the Member States.</p>	<p><i>The Commission shall transmit the list and its updates to the competent authorities and the Member States.</i></p>
	<p>AM 158 <i>3a. Notified ADR entities published on the Commission list shall be provided with an easily recognisable European quality label which serves as a guarantee to consumers that the relevant ADR entity complies with the quality criteria set out in this Directive. In the event that an ADR entity is removed from the Commission list, the European quality label shall no longer be applicable.</i></p>		<p><i>AM withdrawn</i></p>
<p><u>4.</u> Each competent authority shall publish the consolidated list of ADR entities referred to in paragraph <u>3</u> on its website <u>and by any other means it considers</u> appropriate.</p>	<p>AM 159 4. Each competent authority shall publish the consolidated list of ADR entities referred to in paragraph 3 on its website and <i>on a durable medium where</i> appropriate.</p>	<p><u>5.</u> Each competent authority shall publish the consolidated list of ADR entities referred to in paragraph <u>4</u> on its website by providing a link to the relevant Commission website. In addition, each competent authority may publish the consolidated list by any other means it considers appropriate.</p>	<p><i>4. Each competent authority shall publish the consolidated list of ADR entities referred to in paragraph 3 on its website by providing a link to the relevant Commission website. In addition, each competent authority shall publish the consolidated list on a durable medium.</i></p>

5. <i>Every two</i> years, each competent authority shall publish a report on the development and functioning of ADR entities. The report shall in particular:	AM 160 5. <i>By 31 December 2015 and every three years thereafter</i> , each competent authority shall publish <i>and send to the Commission</i> a report on the development and functioning of ADR entities. The report shall in particular:	6. No later than ...* and every four years thereafter , each competent authority shall publish a report on the development and functioning of ADR entities. The report shall in particular:	5. No later than ...* and every four years thereafter , each competent authority shall publish <i>and send to the Commission</i> a report on the development and functioning of ADR entities. The report shall in particular:
(a) identify areas, if any, where ADR procedures do not yet deal with disputes covered by this Directive;	AM 161 (a) identify areas <i>and sectors</i> , if any, where ADR procedures do not yet deal with disputes covered by this Directive;	(a) identify areas, if any, where ADR procedures do not yet deal with disputes covered by this Directive;	<i>Deletion</i>
(b) identify best practices of ADR entities;			(b) identify best practices of ADR entities;
(c) point out the shortcomings, supported by statistics, that hinder the functioning of ADR entities for both domestic and cross-border disputes, where appropriate;			(c) point out the shortcomings, supported by statistics, that hinder the functioning of ADR entities for both domestic and cross-border disputes, where appropriate;
(d) make recommendations on how to improve the functioning of ADR entities, where appropriate.	AM 162 (d) make recommendations on how to improve the <i>effective and efficient</i> functioning of ADR entities, where appropriate.		(d) make recommendations on how to improve the <i>effective and efficient</i> functioning of ADR entities, where appropriate.
	AM 163		

* OJ please insert date: three years after the end of the transposition period as set out in Article 22(1),

* OJ please insert date: three years after the end of the transposition period as set out in Article 22(1),

	<i>5a. If a Member State has designated more than one competent authority, the report shall be published by the single point of contact. The report shall include all ADR entities established in that Member State.</i>	If a Member State has designated more than one competent authority, the report shall be published by the single point of contact. The report shall relate to all ADR entities established in that Member State.	<i>5a. If a Member State has designated more than one competent authority, the report shall be published by the single point of contact. The report shall relate to all ADR entities established in that Member State.</i>
CHAPTER V FINAL PROVISIONS	CHAPTER V FINAL PROVISIONS	CHAPTER V FINAL PROVISIONS	CHAPTER V FINAL PROVISIONS
Article 18 Penalties	Article 18 Penalties	Article 18 Penalties	Article 18 Penalties
Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to Article 10 <u>and Article 16(1) and (2)</u> of this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.	AM 164 Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to Article 10 and Article 16(1) and (2) of this Directive <i>in the event that a mandatory initial warning has been issued but not heeded</i> , and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.	Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to Article 10 and Article 16(1) and (2) of this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.	Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted <i>in particular</i> pursuant to Article 10 of this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Article 19 Amendment to Regulation (EC) No 2006/2004	Article 19 Amendment to Regulation (EC) No 2006/2004	Article 19 Amendment to Regulation (EC) No 2006/2004	Article 19 Amendment to Regulation (EC) No 2006/2004
In the Annex to Regulation (EC) No 2006/2004 the following point is added:			In the Annex to Regulation (EC) No 2006/2004 the following point is added:
"20. Directive of the European Parliament and of the Council of on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) (OJ L....,, p.): Article 10."			"20. Directive of the European Parliament and of the Council of on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR) (OJ L....,, p.): Article 10."
Article 20 Amendment to Directive 2009/22/EC	Article 20 Amendment to Directive 2009/22/EC	Article 20 Amendment to Directive 2009/22/EC	Article 20 Amendment to Directive 2009/22/EC
In the Annex to Directive 2009/22/EC the following point is added:			In Annex I to Directive 2009/22/EC the following point is added:
"14. Directive of the European Parliament and of the Council of on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC			"14. Directive of the European Parliament and of the Council of on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC

(Directive on consumer ADR) (OJ L..., ..., p. ...): Article 10."			(Directive on consumer ADR) (OJ L..., ..., p. ...): Article 10."
Article 21 Communication	Article 21 Communication	Article 21 Communication	Article 21 Communication
1. By [Office of Publications insert same date as in Article 22(1) = date of implementation of the Directive] at the latest Member States shall communicate to the Commission			1. By [Office of Publications insert same date as in Article 22(1) = date of implementation of the Directive] at the latest Member States shall communicate to the Commission
(a) where appropriate, the names and contact details of the bodies designated in accordance with Article 11(2); and			(a) where appropriate, the names and contact details of the bodies designated in accordance with Article 11(2); and
(b) the competent authorities designated in accordance with Article 15(1).			(b) the competent authorities including, where appropriate, the single point of contact , designated in accordance with Article 15(1).
Member States shall inform the Commission of any subsequent changes to this information.			Member States shall inform the Commission of any subsequent changes to this information.
2. By [Office of Publications insert date: six months after the implementation date as to be inserted in Article 22(1)] at the latest, Member States shall communicate to the Commission the first list referred to in Article 17(2).			2. By [Office of Publications insert date: six months after the implementation date as to be inserted in Article 22(1)] at the latest, Member States shall communicate to the Commission the first list referred to in Article 17(2).

3. The Commission shall transmit to the Member States the information referred to in paragraph 1(a).			3. The Commission shall transmit to the Member States the information referred to in paragraph 1(a).
Article 22 Transposition	Article 22 Transposition	Article 22 Transposition	Article 22 Transposition
1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [Office of Publications insert date: <u>18</u> months after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.	AM 165 1. Member States shall bring into force the laws, regulations and administrative provisions, <i>or self-regulation arrangements</i> , necessary to comply with this Directive by [Office of Publications insert date: 18 months after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [Office of Publications insert date: [24 months] after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [Office of Publications insert date: 24 months after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.
When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.			When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
2. Member States shall communicate to the Commission the text of the			2. Member States shall communicate to the Commission the text of the

main provisions of national law which they adopt in the field covered by this Directive.			main provisions of national law which they adopt in the field covered by this Directive.
Article 23 Report	Article 23 Report	Article 23 Report	Article 23 Report
<p>No later than [Office of Publications insert date: <i>five</i> years after the <u>entry into force</u>], and every <i>three</i> years thereafter, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive. <i>The</i> report shall consider the development and the use of ADR entities and the impact of this Directive on consumers and traders. The report shall be accompanied, where appropriate, by proposals for amendment of this Directive.</p>	<p>AM 166</p> <p>No later than [Office of Publications insert date: <i>four</i> years after the entry into force], and every <i>five</i> years thereafter, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive. <i>That</i> report shall consider the development and the use of ADR entities and the impact of this Directive on consumers and traders. The report shall be accompanied, where appropriate, by proposals for amendment of this Directive.</p>	<p>No later than [Office of Publications insert date: four years after the end of the transposition period as set out in Article 22(1)], and every four years thereafter, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive. The report shall consider the development and the use of ADR entities and the impact of this Directive on consumers and traders. It shall in particular include an evaluation of the provisions regarding the scope of this Directive and examine whether there is a need for extending it to disputes submitted by traders against consumers. The report shall be accompanied, where appropriate, by proposals for amendment of this Directive.</p>	<p>No later than [Office of Publications insert date: <i>four</i> years after the end of the transposition period as set out in Article 22(1)], and every four years thereafter, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive. The report shall consider the development and the use of ADR entities and the impact of this Directive on consumers and traders, in particular on the awareness of consumers and the level of adoption by traders. The report shall be accompanied, where appropriate, by proposals for amendment of this Directive.</p>

Article 24 Entry into force	Article 24 Entry into force	Article 24 Entry into force	Article 24 Entry into force
This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.			This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
Article 25 Addressees	Article 25 Addressees	Article 25 Addressees	Article 25 Addressees
This Directive is addressed to the Member States.			This Directive is addressed to the Member States.
Done at Brussels,			Done at Brussels.
			Signatures
ANNEX	ANNEX	ANNEX	<i>Deleted</i>
1. Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive			

90/619/EEC and Directives 97/7/EC and 98/27/EC (Article 14(1)), OJ L 271, 9.10.2002, p. 16.			
2. Directive 2008/122/EC of the European Parliament and of the Council of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts (Article 14(2)), OJ L 33, 3.2.2009, p. 10.			
3. Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (Article 53(1)), OJ L 145, 30.4.2004, p. 1.			
4. Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation (Article 11(1)), OJ L 9, 15.1.2003, p. 3.			
5. Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community			

postal services (Article 19(1), third subparagraph), OJ L 52, 27.2.2008, p. 3.			
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