

DESIGNING ODR PLATFORMS AND CONSUMERS ACCESS TO JUSTICE



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The European Model of ODR for ADR

- Directive 2013/11/EU on alternative dispute resolution for consumer disputes
- Regulation 524/2013/UE on online dispute resolution for consumer disputes



ADR versus ODR (and vice versa)

- **The path from ADR to ODR.** ODR was originally developed to attend the necessities of ADR.
- **The path from ODR to ADR.** The very existence of the functionalities provided by ODR puts ADR entities and the whole ADR structure under pressure.



A new challenge: towards a new ADR structure embodying ODR tools

- ADR reform drawing on lessons learnt from ODR
- Criteria to reform/create new ADR structures
- ADR features to optimize the implementation of technological advances
- Most suitable ADR entities to display the ODR functionalities
- Changes in the statutes?



Overview

1. ODR Design in the EU ODR Platform.
2. The Design of ODR Platforms in the ADR Directive.
3. Designing ODR Platforms beyond the EU Regulatory Framework = transforming the ADR Structure by means of ODR.
4. Proposing criteria for ADR/ODR design
5. Conclusions



1. The Design of ODR in the EU ODR Platform

Functions and tools

- File a claim online
- Inform the respondent party about the complaint.
- Identify the competent ADR entity
- Translation
- Feedback
- Provide information
- Case management tool



2. The Design of ODR Platforms in the ADR Directive

ADR entities **MUST**

- ✓ maintain an up-to-date website which (...) enables consumers to submit a complaint.
- ✓ make publicly available annual activity reports.
- ✓ ensure that the ADR procedure is available and easily accessible online (...)
- ✓ communicate some relevant information every two years to competent authorities (**any systematic or significant problems that occur frequently and lead to disputes between consumers and traders**)



2. The Design of ODR Platforms in the ADR Directive

Traders **MUST**

- ✓ inform consumers about ADR entities, including the website address of the ADR entities on the traders website.
- ✓ provide on their websites an electronic link to the ODR platform.



2. The Design of ODR Platforms in the ADR Directive

The European legislator has given the ADR entities functions which goes beyond the resolution of a consumer dispute by an conventional ADR entity.

Due to the broader functions assumed by the certified ADR entities, these are called to use ODR technology much more than the traditional ADR entities and even the EU ODR Platform if, as expected, they aim **to fulfill the requirements envisaged by the ADR Directive.**



3. Designing ODR Platforms beyond the European Regulatory Framework

1. ODR Design does not stop in the EU ODR Platform and the ADR Directive.
2. The further ODR development has been entrusted to the Member States and to the certified ADR entities.
3. Further ODR functions may help ADR entities by resolving disputes (for instance, negotiation tools).



4. Proposing criteria for ADR/ODR design

1. Crisis of the principle of territoriality of the ADR structure
2. The principle of speciality of the ADR entity
3. The customs/habits of consumers and traders
4. Incentives for agreeing
5. Identifying the best ADR entities to use the whole potential of ODR (regulators and ombudsmen schemes).



5. Conclusions

1. The EU Regulatory Framework is a significant step for ODR, **but is insufficient**
2. The EU ODR Platform must be seen only as a **starting point** for ODR in Europe.
3. The ODR functionalities put the ADR entities and the ADR structure under pressure and point the path to a **transformation of the whole system.**
4. Need for a **suitable methodology** to interpret the criteria of cross-fertilization between ODR design and ADR

THANK YOU!

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