

<b>Title:</b> Alternative Dispute Resolution  <b>IA No:</b> BIS CCP004  <b>Lead department or agency:</b> BIS  <b>Other departments or agencies:</b> N/A	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 24/04/2015			
	<b>Stage:</b> Final			
	<b>Source of intervention:</b> EU			
	<b>Type of measure:</b> Secondary legislation			
<b>Contact for enquiries:</b> James Ravenscroft 0207 215 2171				
<b>Summary: Intervention and Options</b>			<b>RPC Opinion:</b> <span style="color: green;">Green</span>	

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
-£94.2m	-£103.1m	£9.2m	Yes – partially (see paragraph 113)	Zero Net Cost

**What is the problem under consideration? Why is government intervention necessary?**

Consumers considering cross-border purchases in the EU can be put off by concerns about resolving disputes with traders based abroad, with the result that consumers are not participating fully in the Internal Market. Coverage of Alternative Dispute Resolution (ADR) schemes is not universal across the Internal Market. Even where sectors are covered by ADR, awareness of ADR as a means of redress is limited and therefore it is rarely used. These issues impact consumers' participation in domestic as well as cross-border markets. Without access to ADR, consumers may resort to costly court action to resolve complaints. Intervention is needed to improve access to quick, easily accessible and low-cost ADR mechanisms so EU consumers are able to solve problems quickly and without going through the courts. Consumers will have greater confidence that problems will be resolved, meaning they are more likely to shop with unfamiliar traders, driving competition and economic growth both within and across Member States.

**What are the policy objectives and the intended effects?**

The main objective of the ADR Directive is to improve the functioning of the retail internal market by enhancing redress for consumers. This will be achieved by requiring Member States to ensure quality ADR is available for all contractual disputes between consumers and business. It will promote awareness of ADR by ensuring businesses provide information to consumers about ADR schemes. The Online Dispute Resolution (ODR) Regulation will enhance the Digital Single Market by establishing an EU-wide portal, that will signpost consumers to ADR providers able to resolve online, cross-border and domestic disputes.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Option 1 - Do nothing: the current landscape does not provide sufficient ADR coverage to fulfil EU obligations so this risks infraction proceedings. This is discounted as it does not represent a viable option.

Option 2a – Minimal option: Find an established ADR body to provide a residual ADR scheme to capture consumer disputes not already covered. This body will operate alongside existing providers.

Option 2b (preferred) – Minimal option plus creation of consumer facing complaints “helpdesk”.

Option 3 - Simplification of ADR landscape: Merge existing bodies to form a consumer ombudsman body which operates alongside existing statutory bodies.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 07/2019					
Does implementation go beyond minimum EU requirements?			Yes		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A		<b>Non-traded:</b> N/A

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister: \_\_\_\_\_ **Nick Boles** \_\_\_\_\_ Date: \_\_\_\_\_ 18th June 2015 \_\_\_\_\_

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Do nothing: the current landscape does not provide sufficient ADR coverage to fulfil EU obligations so this risks infraction proceedings. This is discounted as it does not represent a viable option.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A

### Description and scale of key monetised costs by 'main affected groups'

N/A – baseline option

### Other key non-monetised costs by 'main affected groups'

#### Government

- cost of infraction fines – 'do nothing' option does not meet the requirements of the ADR Directive / ODR Regulation

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A

### Description and scale of key monetised benefits by 'main affected groups'

N/A – baseline option

### Other key non-monetised benefits by 'main affected groups'

N/A – baseline option

### Key assumptions/sensitivities/risks

Discount rate (%)

3.5%

- non-compliance with Directive / Regulation carries strong risk of incurring infraction fines

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	No	NA

# Summary: Analysis & Evidence

# Policy Option 2a

**Description:** Minimal option: Find an established ADR body to provide a residual ADR scheme to capture consumer disputes not already covered by existing ADR schemes. This body will operate alongside existing providers.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -267.7	High: 3.8	Best Estimate: -91.8

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	25.6	N/A	1.3	36.3
High	38.2		27.6	273.3
Best Estimate	32.0		9.5	113.5

### Description and scale of key monetised costs by 'main affected groups'

#### Business

- cost of providing ADR/ODR information to consumers: **£25.3m-£38.0m (one-off cost)**, **£0.5m-£0.7m p.a.**
- creation of a competent authority to monitor compliance with the Directive: **£0.1m p.a.**
- fees to residual ADR body as a result of additional ADR cases: **£0.3m-£20m p.a.**
- cost of preparing additional ADR cases: **£0.2m-£4.0m p.a.**
- redress from additional ADR cases in consumers' favour (transfer to consumers): **£0.2m-£3.8m p.a.**

#### Government

- creation of an ODR contact point: **£0.1m p.a.**
- creation of a competent authority to monitor compliance with the Directive: **£0.1m (one-off cost)**

#### Consumers

- cost of preparing additional ADR cases: **£0.01m-£0.3m p.a.**

### Other key non-monetised costs by 'main affected groups'

- none

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.0	N/A	0.7	5.6
High	0.0		4.6	40.1
Best Estimate	0.0		2.5	21.7

### Description and scale of key monetised benefits by 'main affected groups'

#### Business

- reduced costs of preparing for court cases as more cases dealt with through ADR: **£0.2m-£3.2m p.a.**

#### Consumers

- redress from ADR cases in consumers' favour (transfer from business): **£0.2m-£3.8m p.a.**
- reduced costs of preparing for court cases as more cases dealt with through ADR: **£0.04m-£0.8m p.a.**

### Other key non-monetised benefits by 'main affected groups'

#### Government

- reduced costs of court system

#### Consumers / society

- improved competition in markets supporting lower prices and growth. Arises through:
  - increased redress for consumers means that spending can be re-allocated to businesses with a better record for quality (in provision of goods / services)
  - increased consumer confidence in markets from wider coverage of ADR
- reduced costs of court cases as more cases dealt with through ADR

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

- number of additional ADR cases created as a result of universal coverage through residual ADR. This depends on number of businesses that sign-up but also any 'halo effect' through increasing consumer awareness of ADR.
- reduction in number of small claims court hearings as a result of creation of residual ADR

## BUSINESS ASSESSMENT (Option 2a)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 10.1	Benefits: 0.8	Net: -9.2	No	NA

# Summary: Analysis & Evidence

# Policy Option 2b

**Description:** Minimal option (2a) plus creation of consumer facing complaints “helpdesk”

## FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -270.1	High: 1.4	Best Estimate: -94.2

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	25.6	1.5	38.7
High	38.2	27.8	275.7
Best Estimate	32.0	9.8	115.9

### Description and scale of key monetised costs by ‘main affected groups’

As in option 2a with the addition of:

#### Government

- cost of operating consumer facing complaints helpdesk: £0.3m p.a.

### Other key non-monetised costs by ‘main affected groups’

As in option 2a.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.0	0.7	5.6
High	0.0	4.6	40.1
Best Estimate	0.0	2.5	21.7

### Description and scale of key monetised benefits by ‘main affected groups’

As in option 2a.

### Other key non-monetised benefits by ‘main affected groups’

As in option 2a with the addition of:

#### Consumers / society

- improved clarity for consumers in navigating the ADR landscape as a result of complaints helpdesk supporting improved confidence in markets

### Key assumptions/sensitivities/risks

Discount rate (%)

3.5%

As in option 2a with the addition of:

- Uncertainty of cost of helpdesk and its impact on helping consumers navigate the ADR landscape.

## BUSINESS ASSESSMENT (Option2b)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 10.0	Benefits: 0.8	Net: -9.2	Yes	Zero net cost

# Summary: Analysis & Evidence

# Policy Option 3

**Description:** Simplification of ADR landscape: Retain Financial and Legal Services Ombudsmen merge remaining ADR providers to form a third body that covers all other sectors

## FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: - 270.1	High: 1.4	Best Estimate: -94.2

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	25.6	1.5	38.7
High	38.2	27.8	275.7
Best Estimate	32.0	9.8	115.9

### Description and scale of key monetised costs by 'main affected groups'

As in option 2a with the addition of:

#### Government

- cost of funding a simplified ADR body: minimum **£0.3m** more expensive (based on being at least as expensive as adding a helpdesk)

### Other key non-monetised costs by 'main affected groups'

#### Business

- one-time transitional costs to existing ADR providers as a result of simplification of landscape
- loss of competition in ADR sector

#### Government

- greater cost of harmonising all existing providers under a single umbrella ADR body rather than a residual ADR provider

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.0	0.4	5.6
High	0.0	4.6	40.1
Best Estimate	0.0	2.5	21.7

### Description and scale of key monetised benefits by 'main affected groups'

As in option 2a

### Other key non-monetised benefits by 'main affected groups'

As in option 2a with the addition of:

#### Consumers / society

- improved clarity for consumers in navigating the ADR landscape as a result of simplification
- further improves competition in markets supporting lower prices and growth. Simplification approach may have a particular advantage in realising these benefits to the extent that bringing all ADR under a small number of bodies increases exposure on quality for sectors where current participation in ADR is low

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

As in option 2a with the addition of:

- cost of harmonising existing providers
- potential for the existing ADR provider who has agreed to set up residual scheme to withdraw
- impact on consumers of having a simpler ADR landscape.
- potentially for this option to work ADR would have to be made mandatory across all sectors

## BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 10.0	Benefits: 0.8	Net: - 9.2	Yes	IN

# Evidence Base (for summary sheets)

## Background

1. This Impact Assessment relates to a European Directive on Alternative Dispute Resolution (ADR) for consumer disputes and a Regulation on Online Dispute Resolution (ODR) which were adopted by the Member States of the European Union on 21 May 2013. All Member States have an obligation to implement the Directive by 9 July 2015. The ODR Regulation will come into force automatically on 9 January 2016.

2. Alternative dispute resolution refers to schemes that are available to help complainants resolve their disputes out of court. The most common forms are mediation, where an independent third party helps the disputing parties to come to a mutually acceptable outcome, and arbitration where an independent third party considers the facts and takes a decision, often binding on one or other of the parties. Ombudsman schemes are another example of ADR. ADR can offer a low-cost and fast alternative for consumers and businesses seeking to resolve disputes, which they cannot resolve between themselves.

## Problem under consideration

3. Many consumers encounter problems after buying goods and services. In many cases these problems can be resolved through discussion with the business concerned but in a significant minority of cases the consumer fails to get a resolution. Seeking redress via the courts is often an expensive and a lengthy process which can deter consumers. This is especially the case for low value or minor problems; at least a fifth<sup>1</sup> of consumers have stated this as a reason for not taking businesses to court to settle their dispute.

4. ADR is a low cost and faster means of resolving disputes between consumers and businesses and is used as a means of seeking redress in many sectors. Currently, the ADR landscape in the UK consists of over 70 schemes, which are operated under a number of different models. Statutory schemes typically cover regulated sectors (financial services, energy, telecommunications etc.) with ADR provided by public (e.g. Financial Ombudsman Service, Legal Services Ombudsman) and private (e.g. Ombudsman Services<sup>2</sup>) bodies. ADR provision in non-statutory sectors is typically provided by trade associations that either offer in-house resolution or refer disputes to external ADR bodies (e.g. the Association of British Travel Agents) or by private ADR providers (e.g. the Furniture Ombudsman). The particular dispute resolution methods employed (conciliation, mediation, arbitration etc.) and the cost to the parties involved varies by provider and sector.

5. ADR coverage is not universal though, with some sectors having no or only partial ADR provision. The majority of providers of voluntary ADR only provide the service for their members. This means that there is a gap in ADR provision where a dispute occurs with a business that is not signed up to an ADR provider.

6. Previous research<sup>3</sup> and evidence gathered through a survey of known UK ADR providers indicates that there are gaps in the UK ADR landscape in key sectors. The 2010 study by the Office of Fair Trading identified gaps in ADR in the UK in the following sectors: food and drink; DIY materials/cleaning products; clothing and footwear; toiletries and beauty services; jewellery, silverware and clocks; tobacco; nursery goods; sports and hobby equipment; toys and games; CDs, DVDs and computer games; and photography. It also identified several sectors with only limited coverage: (certain) household goods, furnishings and electrical products. The response to our consultation identified limited provision of ADR in sectors such as retail, home maintenance, some professional services and second hand car sales.

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<sup>1</sup> Special Eurobarometer 342 Consumer Empowerment report 2011, page 204. Available at [http://ec.europa.eu/consumers/consumer\\_empowerment/docs/report\\_eurobarometer\\_342\\_en.pdf](http://ec.europa.eu/consumers/consumer_empowerment/docs/report_eurobarometer_342_en.pdf)

<sup>2</sup> Ombudsman Services provides ADR for the energy, telecommunications, property and copyright licensing sectors

<sup>3</sup> <http://www.oft.gov.uk/OFTwork/policy/mapping-uk-consumer-redress/>

7. Lack of ADR coverage was stated by two-fifths of ADR providers<sup>4</sup>, as a reason why both businesses and consumers did not use ADR. Problems with purchased goods or services therefore often go unresolved, meaning that consumers are not obtaining adequate redress.

## Economic Rationale for intervention

8. The key motivation for simplifying and reforming consumer law is to make markets work more effectively and to drive economic growth. Well-functioning, competitive markets encourage growth by creating incentives for firms to become more efficient and innovative<sup>5</sup>. Markets can only be fully competitive if consumers are active and confident, meaning that they are willing to challenge firms to provide a better deal, switch between suppliers, and take up new products<sup>67</sup>. Consumer law and landscape reform can play a central role in empowering consumers and hence supporting more effective competition.

9. There is strong academic support for the position that some minimum degree of consumer protection is required in order for markets to function effectively<sup>8</sup>. When making purchases, consumers typically face a problem of not having full information about competing firms' quality in providing goods and services or how they will respond if something goes wrong. Having to find out this information and potentially negotiate insurance agreements with firms for all purchases would be extremely costly, inhibiting consumers' willingness to shop around for the best deals and, in some cases, to make a purchase at all.

10. Firms and consumers have some methods of addressing this problem themselves. For example, firms may signal (higher) quality by building brands (reputation) or by providing guarantees and warranties. Consumers can reduce the "search costs" of gathering information on different firms' quality by sharing information with each other about purchases through word of mouth e.g. review websites. However, these solutions do not cover all markets and all possible contingencies in goods and service provision. Having a minimum level of consumer protection in place across all markets with recourse to resolving all types of problem addresses this, reducing search and transaction costs for consumers and providing them with confidence that avenues of redress are available in the event of problems.

11. Consumer law, enforced through the court system, is the obvious means of providing universal protection and an avenue for redress. As indicated though, the court system can be a time-consuming and costly process, deterring consumers from using this option. ADR offers a cheaper and faster process for resolving problems prior to involving the courts. Businesses find ADR to be beneficial, with a European Commission survey indicating that 82% of businesses who have used ADR would use it again<sup>9</sup>. The European Commission has identified several barriers to the use of ADR; current coverage is incomplete across sectors, the quality of services is not always guaranteed and consumers lack awareness of ADR as a means to resolve problems.

12. The European Directive on Alternative Dispute Resolution requires that Member States address gaps by ensuring quality ADR is available across all sectors<sup>10</sup> and implement measures to ensure businesses notify consumers of ADR provision available to them. This impact assessment is intended to assess the costs and benefits of providing universal ADR coverage, along with the other provisions of the Directive and the ODR Regulation.

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<sup>4</sup> A study of ADR in the European Union available at [http://ec.europa.eu/consumers/redress\\_cons/adr\\_study.pdf](http://ec.europa.eu/consumers/redress_cons/adr_study.pdf)

<sup>5</sup> For references to literature on the links between competition and growth, see OFT (2011), 'Competition and growth'

<sup>6</sup> For references to literature on the links between competition and growth, see OFT (2011), 'Competition and growth'

<sup>7</sup> Mark Armstrong (2008), 'Interactions between competition and consumer policy'

<sup>8</sup> Armstrong (2008)

<sup>9</sup> European Business Test Panel Survey – Alternative Dispute Resolution. (297 respondents) Available at [http://ec.europa.eu/yourvoice/ebtp/consultations/2010/adr/report\\_en.pdf](http://ec.europa.eu/yourvoice/ebtp/consultations/2010/adr/report_en.pdf)

<sup>10</sup> Though the decision of ADR membership is left as voluntary to business aside from existing statutory obligations

## UK Policy Objectives

13. The UK policy objectives are to meet the requirements of the European ADR Directive and ODR Regulation by:

- ensuring quality ADR is available across all sectors
- ensuring that costs and burdens on businesses are kept to a minimum while maintaining a high level of consumer protection
- ensuring the consumer landscape is structured in a way that avoids confusion for consumers

The intended outcome is to enhance the redress process to increase consumer confidence in participating in markets (including across borders), supporting competition and economic growth across the EU.

14. The responsibility for implementing the directive in Northern Ireland is devolved. For the purposes of this IA we assume the directive there will be implemented in the same way as in Scotland, England and Wales.<sup>11</sup>

## Prescribed Policies

15. One of the key obligations of the Directive is to ensure the availability of quality ADR for all consumer disputes. The options for meeting this particular obligation are considered in the 'Summary of Options' section below. In addition, the Directive and the ODR Regulation contain a number of core requirements where there is little or no flexibility in how they should be implemented. These are that:

- a) Business provides certain ADR/ODR information to consumers;
- b) Member States establish a competent authority or authorities to monitor compliance with the Directive; and
- c) Member States create an ODR contact point for the ODR platform to assist consumers in resolving cross-border disputes

The costs of each of these requirements for different groups (business, consumers, government) are considered in turn.

### **a) Cost of providing ADR and ODR information to consumers**

16. Businesses that are obliged to or voluntarily commit to using an ADR entity (or entities) will have to provide information to consumers on that ADR entity, including their website address. This information will have to be available on the business's website, and if applicable, in the general terms and conditions of sales or service contracts.

17. In addition to this, in the event of an unresolved dispute, all businesses will have to provide information about an ADR entity (or entities) that could take on that dispute, and specify whether they will make use of that ADR entity to settle the dispute.

18. Finally, the ODR Regulation will oblige all EU online traders to provide a link to the ODR platform on their website. Traders who are obliged to use specific ADR entities to resolve disputes will have to provide further information about the platform in any applicable offers or terms and conditions. Furthermore, online intermediaries which traders use to sell goods or services will also have to provide a link to the ODR platform on their websites.

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<sup>11</sup> As the costs in this IA are proportionate to the number of businesses and complaints made the amount of costs that will fall on Northern Ireland is approximately in line with its share of the UK's population i.e. around 3%.

## Cost to business

19. The majority of businesses that sell goods and services are within scope of at least some of the information requirements of the Directive.

20. The total number of businesses selling either goods or services to consumers has previously been defined as all retail, accommodation, automotive and personal service enterprises<sup>12</sup>. Using this definition and the 2012 Business Population Estimates for the UK, this was estimated to be approximately 742,000 businesses<sup>13</sup>. We anticipate that each of these businesses will incur some small familiarisation and training costs from having to inform customers that ADR facilities are available to them if they fail to settle disputes with the business.

### *Familiarisation Costs*

21. We estimate familiarisation will take approximately 1 hour of a staff member's time with consumer service staff receiving a short explanation of the additional information that they have to provide consumers. No response was received for this estimate during consultation. Most (93%) goods and services firms are micro businesses with 9 or fewer staff members. For these, we assume that consumer complaints are typically handled by a senior staff member (often the owner or proprietor). Therefore we have based our familiarisation cost on the wages costs for Customer Service Managers and Supervisors, at £16.01 per hour<sup>14</sup>. We estimate a **one-time cost to microbusinesses of £11m**.

22. For larger firms with 10 or more employees, we have assumed that a staff member at management level would be familiarised with the reforms (included above at the same wage cost noted above for customer service managers and supervisors). We estimate that in addition, there would also be familiarisation costs in training 20 frontline staff members on the reforms for half an hour at an hourly cost of £10.53<sup>15</sup>. We estimate a **one-time cost for SME and Large firms of £6.1m**.

**23. Total familiarisation costs to business are therefore estimated to be approximately £17.1m (one-time cost). We allow for uncertainty in this estimate of +/- 20% giving a range of £13.7m-£20.5m.**

24. These costs are likely to be an over-estimate as many businesses such as those in financial services are already part of statutory ADR schemes and as such may already be compliant with the requirements of the Directive. In addition the European Services Directive already imposes similar requirements on service providers.

### *Website Costs*

25. Businesses that sell goods and services online will also incur a one off cost of changing websites to include a link to the ODR platform and provide information about an ADR body available for consumers to use. It has been estimated that 40% of SMEs are online<sup>16</sup> and will incur a one off cost. We apply this assumption to micro businesses as well. It is assumed that all large businesses will have an online presence and so will have to make the changes.

26. The changes needed are relatively minor and so it is estimated that they should not take more than an hour for an IT programmer to complete the changes. Using the 2013 Annual Survey of Hours and Earnings the hourly rate of an IT programmer has been estimated to be £23.10<sup>17</sup>. Combining this with

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<sup>12</sup> Department for Business, Enterprise and Regulatory Reform: Impact Assessment: The Consumer Protection from Unfair Trading Regulations (2008)

<sup>13</sup> This breaks down to: 690k microbusinesses (9 or fewer employees), 44k small businesses (10-49 employees), 5k medium businesses (50-249 employees) and just over 1k large businesses (250+ employees). Using data from: <https://www.gov.uk/government/organisations/department-for-business-innovation-skills/series/business-population-estimates>

<sup>14</sup> This is based on ASHE 2013 hourly wage of £13.56 for Customer Service Managers and Supervisors, with non-wage labour costs at 18.1%, giving an hourly cost of £16.01.

<sup>15</sup> Based on ASHE 2012 hourly wage for frontline customer service occupations of £8.92 plus 18.1% non-wage labour costs, is estimated at £10.53.

<sup>16</sup> <http://www.basekit.com/digital-dinosaurs>

<sup>17</sup> ASHE 2013: £19.53 an hour plus 18.1% non-wage labour costs this gives an hourly rate of £23.10 per hour.

our estimates of the sizes of the consumer facing business populations we estimate the **total cost to business to be around £6.9m (one-time cost)**. Again, we allow for uncertainty around this figure of +/-20% giving a range of £5.5m-£8.2m.

### *Terms and Conditions Costs*

27. All businesses will incur a one off cost of changing terms and conditions to provide a link to the ODR platform and provide information about an ADR body available for consumers to use. An IFF survey commissioned by BIS<sup>18</sup> surveyed businesses about their use of terms and conditions, frequency of updating them and the costs of doing so.

28. According to the IFF responses, 54% of businesses have pre-drafted T&Cs which will have to be revised to comply with the proposed changes<sup>19</sup> - this implies approximately 390,000 businesses.

29. We also have evidence from the IFF survey of how often businesses change their T&Cs. Combining this with an assumption that businesses will have six months' notice of the changes required, this allows us to estimate the number of businesses affected by the change:

- 12% of businesses with T&Cs change them every 1-6 months. We assume there will be no additional costs for these businesses as the notice period will allow them to incorporate these changes into their regular T&C update
- 15% of businesses change their T&Cs every 7-12 months<sup>20</sup>. As an approximation, we assume half of these businesses would not otherwise plan to change their T&Cs within the 6 months' notice period and would need to bring forward the date of the next revision<sup>21</sup>.
- 30% of businesses change their T&Cs every 1-2 years. As an approximation, we assume three quarters of these businesses would not otherwise plan to change their T&Cs within the 6 months' notice period and would need to bring forward the date of the next revision<sup>22</sup>.
- 30% businesses only change T&Cs less often or on an 'ad hoc' basis. For this group we assume they change their T&Cs every 2-10 years. As an approximation, we assume 95 per cent of these businesses would not otherwise plan to change their T&Cs within the 6 months' notice period<sup>23</sup>.
- 14% of firms responded that they do not change their T&Cs at all.

30. We estimated the cost to business of changing a set of T&Cs by firm size using the IFF costs sheet responses; these were £85 for microbusinesses, £263 for small businesses, £494 for medium sized businesses and £2,578 for large businesses<sup>24</sup>.

31. For the businesses that change their T&Cs between 7 months and 10 years, we do not assume they incur this full cost of change but an amount that reflects the fact that they must make the change in

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<sup>18</sup> IFF: Consumer Rights and Business Practices (March 2013)

<sup>19</sup> This varies by business size: 52% for microbusinesses, 63% for small businesses, 76% for medium sized businesses and 81% for large businesses.

<sup>20</sup> We assume a uniform distribution of businesses in this range and in terms of when within a calendar year they update.

<sup>21</sup> We assume the affected businesses would need to bring forward the date of the next revision by 3 months on average; this is the average 'distance' in months of this group between their 'planned' revision date and the 6 month notice period

<sup>22</sup> We assume the affected businesses would need to bring forward the date of the next revision by 9 months on average; this is the average 'distance' in months of this group between their 'planned' revision date and the 6 month notice period

<sup>23</sup> We assume the affected businesses would need to bring forward the date of the next revision by 57 months on average; this is the average 'distance' in months of this group between their 'planned' revision date and the 6 month notice period

<sup>24</sup> The estimates were £83 for microbusinesses, £257 for small businesses, £484 for medium sized businesses and £2,525 for large businesses. All have been converted to 2013 prices using the GDP deflator at market prices to give the figures shown.

advance of their 'preferred' revision date<sup>25</sup>. We assume businesses that do not change their T&Cs at all will incur the full cost of changing their T&Cs.

32. By combining the costs accruing across the categories of business, we have estimated a **one-off cost of changing T&Cs at £7.9m. Again, we allow for uncertainty around this figure of +/-20% giving a range of £6.3m-£9.4m.**

#### *Costs of Notifying Consumers in Event of Non-Resolution of Dispute*

33. In the event that a dispute between a consumer and a business cannot be resolved between them, the business is obliged to provide information about an ADR entity (or entities) that could take on that dispute, and specify whether it will make use of that ADR entity to settle the dispute. This information must be provided on paper (or another durable medium). To estimate the cost to business, we estimate the volume of unresolved complaints per year and multiply by the cost of sending a letter. For statutory ADR sectors there is no additional cost as they already have to inform consumers of available ADR in the event of an unresolved dispute.

34. A survey for Consumer Focus in 2012 estimated there were 15.7m consumer problems in the 12 months to February/March 2012<sup>26</sup>. Removing sectors with statutory ADR schemes (financial services, legal services, energy, telecommunications and property sales<sup>27</sup>) leaves an estimate of 11.1m problems. The same survey indicates that in 41% of (overall) cases, consumers complain to business, whilst a separate survey conducted by IFF Research for BIS indicates that 31% of consumer complaints are unresolved by businesses. This implies approximately 1.4m unresolved complaints for non-statutory sectors<sup>28</sup>. Assuming a cost of 35p+VAT<sup>29</sup> to send a business letter in each case, gives a **total cost of £0.6m per year to business. A +/-20% uncertainty range for this figure is £0.5m-£0.7m.**

#### **b) The creation of a competent authority to monitor compliance**

35. The ADR Directive requires Member States to designate one or more competent authorities to vet, certify and maintain and monitor a list of ADR providers who meet the required standards of the ADR Directive. For example, if an ADR provider is found to no longer comply with the requirements of the Directive then the competent authority must give warning before removing that provider from the list and notifying the Commission.

36. Some public funding will be needed to support the competent authority although it will be able to recover some costs by charging fees to ADR schemes who wish to be recognised as such under the Directive.

#### Cost to government

37. Government funding of the competent authority is not likely to be significant. Prior to consultation, an informal survey of ADR providers showed providers profess a preference for a limited number of bodies to be authorised as competent authorities. In the consultation, we raised the prospect of regulators acting as competent authorities in their sectors alongside a "generic" competent authority monitoring ADR providers in non-regulated sectors. Regulators could use their relationship with the statutory ADR providers to ensure compliance with the Directive, thus avoiding a situation where statutory bodies could

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<sup>25</sup> This involves discounting the one-off T&Cs costs to take into account the realistic impact of making businesses revise T&C before their preferred date. The discount factor used is  $= 1/((1+r)^t)$ , where  $r$  is the social discount rate assumed at 3.5% and  $t$  is the number of periods (in years). For example, an affected microbusiness that updates its T&Cs every 7-12 months will, on average, need to bring forward its T&C revision by 3 months. This means incurring a cost of £83 to revise the T&Cs as opposed to the present value of the cost in three months time which would be £82.38.

<sup>26</sup> Consumer Detriment 2012 – Prepared for Consumer Focus by TNS BMRB. A more recent survey carried out for the Department of Business, Innovation and Skills by TNS suggested 18.7m consumer problems ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/319043/bis-14-881-bis-consumer-detriment-survey.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319043/bis-14-881-bis-consumer-detriment-survey.pdf)). However, it did not have an estimate of the number of unresolved complaints necessary to estimate the number of ADR cases and so we have used the older figure.

<sup>27</sup> There are a number of other sectors that have (or at least partially) mandatory ADR (postal services, gambling, higher education and pensions). Due to a lack of data we don't remove these schemes, but based on the number of cases they deal with being in the low thousands they will not significantly affect the overall estimate.

<sup>28</sup> We acknowledge the 41% and 31% figures may be biased as they are not specific to the UK non-statutory ADR sectors.

<sup>29</sup> <http://www.fsb.org.uk/business-mail>

become decertified and businesses (in accordance with their information obligations) could be forced to sign-post consumers to an alternative, certified ADR provider.

38. Following the consultation, Trading Standards Institute (TSI) was appointed as the “generic” competent authority. Initial government funding will be required to establish TSI as the competent authority, but over the longer term funding will come from fees levied on ADR entities seeking to become certified. TSI have estimated that the **cost to government of setting up the “generic” ADR competent authority will be £0.14m.**

#### Cost to business

39. ADR entities who wish to be certified by the “generic” competent authority will have to pay a fee. We expect the ongoing cost of operating the competent authority to be similar to that for the Consumer Codes Approval Scheme (CCAS) which provides a similar oversight role for consumer codes. In 2013/14 CCAS had an income from fees of £0.09m, **we therefore estimate that the cost to business of the ADR competent authority is £0.09m per year.**

#### **c) Creation of an ODR contact point**

40. The ODR Regulation will come into force automatically in all EU Member States on 9 January 2016. It will establish an EU-wide portal “the ODR Platform” that will signpost consumers to ADR providers able to resolve online, cross-border and domestic disputes.

41. Each Member State must host an ODR contact point with at least two ODR advisors and staffing costs of these would have to be met. When requested, the ODR advisors will be able to assist with disputes submitted via the ODR platform, by providing information or helping with documentation.

42. Although the scope of the ODR platform applies to domestic disputes as well as cross border disputes, it is left to the discretion of each Member State as to whether ODR advisors are required to help with domestic disputes. In the UK the intention is for ODR advisors to be allowed, but not required, to help with domestic disputes.

#### Cost to government

43. The cost to government finances of running the ODR portal is likely to be low. The European Commission will be funding set up costs. UK running costs are likely to be similar to the consumer services and advice portal that was created under the European Services Directive and provided by the UK European Consumer Centre hosted by the Trading Standard Institute. **On this basis we assume the cost to government of the ODR portal will be around £0.1m per year.** Consultation responses did not provide further views on funding the ODR portal. It is not proposed that the cost of the portal should be recouped via fees on business.

44. The remaining requirements of the ADR Directive allow Member States some flexibility over implementation and it is these elements where a number of options are explored.

## **Summary of Options for Ensuring Universal ADR Coverage**

45. One of the obligations of the ADR Directive is for Member states to ensure the availability of quality ADR for *all* consumer disputes. Prior to our consultation, discussions between BIS and stakeholders suggested some support for Government to use the adoption of the new ADR Directive as an opportunity to make a significant change to the ADR landscape in the UK.

46. Taking this into account, the Government proposed four different options for implementation of the ADR Directive, in the initial impact assessment which accompanied our consultation document:

- Option 1 - **Do nothing**: the current landscape does not provide sufficient ADR coverage to fulfil EU obligations so this risks infraction proceedings. This is discounted as it does not represent a viable option;

- Option 2a - **Minimal option**: Find an established ADR body to provide a residual ADR scheme to capture consumer disputes not already covered by existing ADR schemes to operate alongside existing providers;
- Option 2b – **Minimal option plus** creation of a consumer facing complaints “helpdesk”
- Option 3 - **Simplification of ADR landscape**: The initial impact assessment used a model whereby existing bodies could be merged to form a consumer ombudsman which operates alongside a couple of existing statutory bodies

**Taking into account our obligations to implement the ADR Directive, the complex nature of the current UK ADR landscape and the responses received to our consultation Option 2b continues to be our preferred option. We also used the consultation to obtain views on using this preferred approach as a step towards further simplification and larger reforms (more in line with Option 3), which would take us beyond the requirements of the Directive and would have to be implemented at a later date.**

## Option 1: Do Nothing/Baseline

47. This option would not implement any of the requirements of the ADR Directive or ODR Regulation (including the ‘Prescribed Policies’ above).

48. Due to the identified gaps in ADR coverage in certain sectors (see ‘Problem Under Consideration’) this option would not address the problem for consumers of not having ADR in all sectors. Court action would remain the only means to redress for some consumers if their particular dispute was not covered by an ADR scheme.

49. Although this would be a zero-cost option for business and Government, we would not be complying fully with the Directive and the UK Government would risk infraction proceedings.

50. We are making an implicit assumption about this ‘Do Nothing/Baseline’ scenario that it would leave the current UK ADR landscape unchanged i.e. without government intervention, it is unlikely that private ADR provision will expand significantly to address existing gaps in coverage whilst firms are unlikely to take further steps to improve information provision to consumers on ADR. In principle, there is some rationale for this assumption; for example, high quality providers in sectors characterised by variable quality would already have an incentive to initiate ADR schemes. A significant majority of consultation responses supported this assumption suggesting it was highly unlikely that private providers of ADR would be willing or able to sufficiently scale-up to absorb the expected significant increase in disputes resulting from the new Directive.

## Option 2a: Minimal option

51. This option proposes to meet the requirements of the Directive by **find an established ADR body to provide a residual ADR scheme** to deal with all those disputes not already captured by existing ADR schemes. This residual ADR body would operate alongside existing ADR providers. A full procurement exercise would be needed to ensure a fair and open competition to become the new residual ADR provider. This option would minimise impact on existing ADR providers and consumers would benefit from increased availability of ADR.

52. The following sections consider the monetised and non-monetised costs and benefits of this option to government, business and consumers.

### Costs

#### Cost to government

53. The government has identified an existing ADR provider that is willing to become the residual provider. At consultation we expected that the government might have to help fund the establishment of the residual provider. This is no longer the case.

54. The residual provider will require ongoing funding, with the funding expected to come from membership fees and/or case fees from business. At this stage there is uncertainty over the size of funding required and the level of (any) continued public support. As such, we assume the residual ADR would be funded entirely through membership/case fees, to illustrate the *potential* impact upon business.

#### Cost to business

##### *Cost of additional ADR cases: membership and/or case fees*

55. The cost of the ADR residual provider to business will depend upon the volume of initial enquiries, the number of these that become full cases that it has to handle each year and the cost per case.

56. Volume of Enquires: the case volume for the residual provider will depend upon how many businesses opt to become members. This is uncertain as **membership** of the residual ADR is left as voluntary for business. We estimate the volume of cases under a compulsory arrangement to set a benchmark for volume of cases under the voluntary arrangement. A compulsory option was considered in its own right but was discounted on the basis that it would “gold-plate” the implementation requirement for universal ADR coverage.

57. Under a compulsory arrangement the estimated number of enquiries is 1 million per year. This was derived by considering the estimated volume of consumer problems and number of ADR enquiries for the statutory ADR sectors of telecommunications and energy<sup>30</sup> and then applying this to the non-statutory sectors. In 2011/12, the total volume of ADR enquiries across these statutory sectors was 9% of the estimated total consumer problems in these sectors<sup>31</sup>. Applying this to the estimated volume of problems in the non-statutory ADR sectors of the economy (11.1m in the year to February/March 2012<sup>32</sup>) gives the estimate of approximately 1m enquiries per year.

58. There is clearly some uncertainty/risk of bias around this benchmark. Firstly, applying the same ratio of enquiries to problems as observed in the telecommunications and energy sectors may not be appropriate if consumers have a lesser or greater tendency to pursue problems in these sectors. Secondly, and importantly, the figure is potentially an overestimate of incremental enquiries since the ‘rest of the economy’ already has partial ADR coverage generating enquiries and cases. At the same time, measures to ensure universal ADR coverage could heighten its awareness and use, resulting in a general uplift in the proportion of problems where consumers pursue ADR i.e. a ‘halo effect’.

59. The number of enquiries under the voluntary scheme has been viewed crudely as the proportion of businesses that voluntarily participate. Since membership will be voluntary, we anticipate that initially at least, this proportion will be relatively low and have applied a range of 5-25% (50k-250k enquiries). We consulted and received no responses on a better way to determine the volume of cases under a voluntary scheme.

60. Volume of cases: ADR cases are enquiries that merit a fuller investigation, potentially involving mediation or arbitration. In the consultation stage impact assessment, we estimated case volumes for each of the enquiry scenarios by assuming 10% of enquiries became cases. This was observed in the telecommunications and energy sectors, however more recent figures suggest about 15% of enquiries become complaints. As such our best estimate has increased to 15%. Our high and low estimates have also widened to 20% and 5% respectively, which were the extremes in the consultation responses.

61. Cost per case: prior to consultation, cost per case was estimated to range from £180 to £385. Following consultation, we have expanded our range of values to £100 - £400 based on the lowest and highest fees quoted in the responses.<sup>33</sup> Our best estimate is the midpoint of the range, £250. Not all

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<sup>30</sup> The financial services sector was excluded from this calculation since figures there would be distorted by the high volume of problems related to Payment Protection Insurance (PPI)

<sup>31</sup> The Consumer Focus Consumer Detriment Survey (2012) estimates 2.2m problems in the telecommunications (1.25m) and energy (0.95m) sectors in the year to February/March 2012. The Ombudsman Services annual report and accounts 2011/12 and CISAS annual report 2012 indicate approximately 125k and 75k enquiries respectively for the telecommunications and energy sectors.

<sup>32</sup> Inferred from Consumer Focus Consumer Detriment Survey (2012) data

<sup>33</sup> The Royal Institution of Chartered Surveyors stated that ideally fees should be no more than £300 - £400. The Residential Lettings Association quoted a fee of up to £200. One mediator had a quote of £100-£200 for claims of less than 5k which typically takes 1-2 hours of work.

ADR will require full arbitration; some cases may be solved through an early mediation stage, which can incur a lower cost.

62. In the consultation stage IA, the cost to business (via membership and/or case fees) of the residual ADR provider under a voluntary arrangement was estimated to be between £0.9m and £9.6m per year. We used the midpoint of £5.3m per year as our best estimate. Following consultation, the change in the uncertainty around the case to enquiry ratio has led to a change in the way we estimate the costs. We are now using the best estimates for the individual assumptions to derive our overall best estimate. This leads to a lower estimate of the cost than averaging out the low and high estimate (as we did in the consultation stage IA), which would result in a central estimate of £10.1m. However, this higher estimate would not reflect the fact that more of the likely outcomes are concentrated at the bottom of the range.<sup>34</sup> As such, our best estimate is £5.6m per year as set out in Table 1 (below). These costs are ongoing and will be incurred from July 2015.

**Table 1: – Cost of additional ADR cases: membership and/or case fees**

	Voluntary membership			Statutory membership
	Low	Best	High	Best
Vol of Enquires	50,000	150,000	250,000	1,000,000
Case to enquiry ratio	5%	15%	20%	15%
Vol of cases	2500	22,500	50000	100,000
Cost per case	£100	£250	£400	£250
Total cost per year	£250k	£5.6m	£20m	£37.5m

63. The reason for the high level of uncertainty around the cost of the residual provider is the difficulty of estimating the volume and type of cases that it will have to deal with. Existing schemes have been set up to provide ADR in specific regulated sectors in most instances with the mandatory use of ADR<sup>35</sup>. This made it easier to estimate how many cases and the types of cases these new schemes would be expected to deal with. The residual scheme will have to provide ADR in all sectors apart from those where a mandatory ADR scheme already exists and so businesses will be able to choose to use it, rather than be forced to use it. This makes it very difficult to gauge the potential volume of work with any certainty.

64. As stated above, some of this impact on business may be reduced if the residual ADR provider continues to receive public support. Note that these costs are based upon voluntary action by businesses i.e. to become a member of the residual ADR scheme. As such, businesses that become members are doing so on an expectation that membership will provide at least equivalent benefits to the costs. These benefits would include avoided court cases and associated costs, estimated below, but potentially also an enhanced reputation and increased trade, if consumers perceive ADR membership as a signal of quality. These latter benefits have not been quantified in this impact assessment.

*Cost of additional ADR cases: administrative costs*

65. In addition to membership/case fees, businesses will face additional administrative costs in order to provide information to the residual ADR body as they investigate cases. The European Commission's Impact Assessment for the ADR Directive and ODR Regulation estimated these costs at 93 euros per case for non-financial services cases in 2011. Assuming an exchange rate of 1.2 euros / £ this equates to £78 per case (£80 per case in 2013 prices). We did not receive any evidence on these costs in the consultation. Applying this cost to the estimates of the number of cases gives a best estimate of £1.8m with low and high estimates of £0.2m and £4m respectively (see table 2).

**Table 2: - Cost of additional ADR cases: administrative costs**

<sup>34</sup> If a Monte Carlo analysis was done using assumptions randomly picked from the range between the low and high assumptions, the average estimate of the cost would be towards the bottom end of the range of cost not the middle.

<sup>35</sup> These are higher education, energy, estate agents, financial services, gambling, legal services, pensions, postal services, telecommunications with a mandatory scheme for letting agents about to be introduced.

	Voluntary membership			Statutory membership
	Low	Best	High	Best
Vol of Enquires	50,000	150,000	250,000	1,000,000
Case to enquiry ratio	5%	15%	20%	15%
Vol of cases	2,500	22,500	50,000	150,000
Cost per case	£80	£80	£80	£80
ADR administration costs per year	£0.2m	£1.8m	£4m	£12.1m

*Cost of additional ADR cases: costs of redress (transfer to consumers)*

66. The additional ADR cases that are resolved in the consumer's favour will involve redress from businesses to consumers. Strictly, these represent transfer payments from businesses to consumers rather than an economic cost/benefit; an estimate of the magnitude of redress is included in order to consider the full impact of this option on businesses and consumers specifically.

67. Some of the additional ADR cases would (in the absence of ADR) have proceeded to court and potentially resulted in redress for consumers in any case. We assume 25% of the incremental ADR cases would have done so. Therefore, to estimate the number of cases with additional redress, we consider only 75% of the incremental ADR cases. One response to the consultation referred to research carried out on behalf of Which? in July 2013<sup>36</sup> in which a third of respondents surveyed said they would take a case through the small claims court track if they were having difficulty resolving a dispute and had exhausted other options. However, this doesn't help address how many of those cases would now be avoided due to ADR.

68. Ombudsman Services data for energy and telecommunications ADR indicates that approximately 70%<sup>37</sup> of complaints are settled in the consumer's favour and involve financial redress.<sup>38</sup> Consumer Focus survey (2012) suggests an average financial detriment to consumers of £144 per problem<sup>39</sup> (2013 prices, excluding financial and professional service sectors<sup>40</sup>). This could potentially underestimate the magnitude of this transfer because consumers are less likely to pursue lower value detriment cases through ADR (or the courts) i.e. the £144 detriment per problem could be an underestimate. The resulting range of redress estimates is from £0.2m to £3.8m per year with a best estimate of £1.7m per year (see table 3).

**Table 3: – Cost of additional ADR cases: costs of redress to business**

	Voluntary membership			Statutory membership
	Low	Best	High	Best
Vol of cases	2,500	22,500	50,000	150,000
Vol of cases with additional redress (75%)	1,875	16,875	37,500	112,500
Cases settled in consumers favour with financial redress (70%)	1,313	11,813	26,250	78,750
Redress per case	£144	£144	£144	£144

<sup>36</sup> 2,049 people surveyed online between 19<sup>th</sup> and 21<sup>st</sup> July 2013, data weighted to be demographically representative of all GB adults, survey conducted by Populus on behalf of Which?

<sup>37</sup> See Ombudsman Services Annual Report 2013/14 at: <http://www.ombudsman-services.org/annual-reports-os.html>

<sup>38</sup> Acknowledging it may be biased in forming an expectation of ADR case outcomes considered by the residual ADR provider

<sup>39</sup> A more recent survey carried out for the Department of Business, Innovation and Skills by TNS suggested an average detriment of £223 ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/319043/bis-14-881-bis-consumer-detriment-survey.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319043/bis-14-881-bis-consumer-detriment-survey.pdf)). However, it did not have an estimate of the number of unresolved complaints necessary to estimate the number of ADR cases and so we have used the older figure.

<sup>40</sup> Excluded as financial and some professional services are covered by statutory ADR. It isn't possible to easily exclude the other statutory sectors from this metric using the data presented in the Consumer Focus report.

Additional redress paid per year	£0.2m	£1.7m	£3.8m	£11.3m
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### Cost to consumers

69. There will also be a cost to consumers in terms of time and effort required to submit additional ADR cases. We estimate it would take consumers approximately one hour to provide a written complaint with supporting information to an ADR scheme.

70. In the consultation stage IA, we estimated the cost per hour of consumer time by applying the median gross hourly earnings of £11.21 per hour<sup>41</sup>. Following feedback from the Regulatory Policy Committee, we better estimate the costs to consumers by reflecting take home pay and by limiting the cost to consumers in employment. We use the hourly gross pay of £11.61 to estimate annual gross pay at £19,923<sup>42</sup>. Deducting income tax and NICS 2013/14 results in an annual net pay of £16,361<sup>43</sup> and hourly net pay of £9.53. We have then applied the 16+ employment rate at 59.8%<sup>44</sup> to get an average hourly cost of time of £5.70. Some assumptions have been made in the above calculations.<sup>45</sup> As a result of this change in approach, administrative costs to consumers have been estimated in the range of £0.01m - £0.3m, with a central estimate of £0.13m (see table 4).

71. As with the ADR costs faced by business, these costs will be incurred on a voluntary basis i.e. consumers are only likely to pursue ADR in the expectation that they will obtain redress (estimated above) and in some cases avoid the time and expense of going to court.

**Table 4:** - Estimated administrative costs to consumers of ADR cases

	Voluntary membership			Statutory membership
	Low	Best	High	Best
Vol of Enquires	50,000	150,000	250,000	1,000,000
Case to enquiry ratio	5%	15%	20%	15%
Vol of cases	2,500	22,500	50,000	150,000
Cost per case	£5.70	£5.70	£5.70	£5.70
Cost to consumers per year	£0.01m	£0.13m	£0.3m	£0.9m

72. In some cases there may be a small fee to the consumer for the ADR service, which will depend on the sector and the value of the dispute. The purpose of having a small fee is to avoid frivolous or vexatious claims from consumers<sup>46</sup> and this can be waived if the consumer is successful.

## **Benefits**

### Benefit to business

<sup>41</sup> [http://www.ons.gov.uk/ons/dcp171778\\_286243.pdf](http://www.ons.gov.uk/ons/dcp171778_286243.pdf)

<sup>42</sup> <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-328216>. We assume 33 hours as the average weekly hours according to ASHE, April 2013.

<sup>43</sup> <http://www.hmrc.gov.uk/payerti/forms-updates/rates-thresholds-archive.htm>

<sup>44</sup> [http://www.ons.gov.uk/ons/dcp171778\\_367199.pdf](http://www.ons.gov.uk/ons/dcp171778_367199.pdf)

<sup>45</sup> Assumes no further salary deductions (e.g. student loan repayments); Assumes no pre-tax salary deductions; Assumes the individual are 'contracted in' to the second state pension; Does not include any additional income from benefits, tax credits or returns on assets etc.

<sup>46</sup> The ADR Directive (Article 8,(c)) states that "the ADR procedure must be free of charge or at a nominal fee for consumers". It does not define "nominal fee".

73. Complete coverage of ADR in the UK means some businesses will have access to a cheaper facility for settling some consumer disputes. Pursuing a dispute via the court system is an expensive and time consuming option for many consumers and businesses and the availability of ADR should lead to a cost saving where it mitigates the need for the case to proceed to a court hearing. There is evidence that businesses see the benefit in using ADR. Some businesses will promote their membership of voluntary ADR schemes in order to gain credence with consumers, and a survey indicates that businesses who have used ADR would choose to do so again<sup>47</sup>.

74. Ministry of Justice statistics indicate there were approximately 1.4m civil (non-family) claims submitted in 2013 of which approximately 1.1m (76%) were money claims. Of the total claims, approximately 228k were defended, yielding an estimate of 170k defended money claims<sup>48</sup>. Research has indicated that around 16%<sup>49</sup> of defended money claims are brought by consumers against business suggesting approximately 28k such cases in 2013<sup>50</sup>. This represents an estimate of the upper limit of the number of cases that could be mitigated through additional ADR coverage.

75. It is uncertain how many of the ~ 28k cases could be mitigated through the creation of a residual ADR provider. We assume 25% of the incremental ADR cases would mitigate the need for a court case. This implies a volume of 0.6k-12.5k cases with a best estimate of 5,625 cases, given the estimated range of additional ADR cases.

76. We estimate the cost to a business of defending a money claim to be approximately £255 per case (compared to £80 per ADR case). This assumes that in 50% of cases a business requires two hours of a Customer Service Manager's time<sup>51</sup> at £16.01 per hour to manage administration and two to three hours of a junior solicitor's time at £138 per hour to advise the business<sup>52</sup>. In the other 50% of cases we assume the business owner chooses to defend the case without external input and four hours of a Customer Service Manager's time are required. This estimate excludes the cost of court fees that may be imposed upon businesses in the event they lose the case. There were no views from the consultation on the cost to UK businesses of a defended money claim hearing in court.

77. Taken together, these figures imply an overall benefit to business of £0.2m-£3.2m per year (see table 5).

**Table 5:** Estimated savings to businesses in court costs due to additional ADR cases

	Voluntary membership			Statutory membership
	Low	Best	High	Best
Vol of Enquires	50,000	150,000	250,000	1,000,000
Case to enquiry ratio	5%	15%	20%	15%
Vol of cases	2,500	22,500	50,000	150,000
Court cases mitigated	625	5,625	12,500	37,500*
Costs mitigated per case	£255	£255	£255	£255*
court costs mitigated per year	£0.2m	£1.4m	£3.2m	£9.6m*

<sup>47</sup> European Business Test Panel Survey – Alternative Dispute Resolution. Available at [http://ec.europa.eu/yourvoice/ebtp/consultations/2010/adr/report\\_en.pdf](http://ec.europa.eu/yourvoice/ebtp/consultations/2010/adr/report_en.pdf)

<sup>48</sup> <https://www.gov.uk/government/statistics/civil-justice-statistics-quarterly-july-to-september-2014>

<sup>49</sup> J Baldwin. Small Claims in the County Courts in England and Wales (1997)

<sup>50</sup> This is backed up by the findings of an IFF survey for BIS which found that approximately a half of all businesses reported having some unsatisfied consumers and 3% of those businesses reported that issues with unsatisfied consumers had led to legal proceedings. Using our baseline of 740,000 businesses this suggests ~14,000 such businesses. Most such businesses reported having '5 or fewer' legal disputes which, assuming 2.5 cases per business, gives an estimate of approximately 35,000 legal disputes. IFF Consumer Rights and Business Practices (prepared for BIS), March 2013.

<sup>51</sup> This would likely be the owner in the case of microbusinesses and small businesses.

<sup>52</sup> Based upon business using either a paralegal or newly qualified solicitor i.e. between costing grades C and D in: <http://www.judiciary.gov.uk/Resources/JCO/Documents/Guidance/guideline-hourly-rates-2010-v2.pdf>. Hourly rates converted to 2013 prices using GDP deflator at market prices.

\* Note this may overstate costs mitigated as there will be an upper limit (less than 100%) on the proportion of court cases that ADR can reasonably be expected to mitigate. For some court cases, ADR is unlikely to provide adequate substitute owing to (legal) complexity of the dispute or where the value of the claim is particularly high.

## Benefit to consumers

78. Consumers will also save time, effort and money to the extent that ADR mitigates the need for court action. To submit a claim to the County Courts, consumers have to pay a fee<sup>53</sup> and also prepare documentation to support their claim. Consumers don't typically make use of solicitors for small claims concerning consumer disputes given the cost relative to claim amounts and the fact that legal costs are not usually recoverable in small claims hearings.

79. We estimate the cost to a consumer of defending a money claim in court to be approximately £60 per case. This is based on the costs of defending a small claim up to £300.<sup>54</sup> We assume that most defended money claims by consumers will be small claims. Research has indicated that in 2009, almost all defended consumer cases were small claims.<sup>55</sup> The Consumer Focus survey (2012) also found an average financial detriment to consumers of £144 per problem<sup>56</sup> (2013 prices, excluding financial and professional service sectors<sup>57</sup>). Small claim fees could be lower (£35) if a consumer has used the Court mediation service and does not proceed to the full court hearing. However, it could also be higher (up to £70) for small claims between £300 and £1000. We do not expect that many cases will have a claim over £1000. The Consumer Focus survey (2012) found that "problems that cost a consumer more than £1,000 make up only 2% of consumer problems in 2012".<sup>58</sup> We estimate the total savings to consumers to be £0.3m per year (see table 6).

80. The costs of fees in small claims are recoverable if claims are successful. This means that some of this benefit may accrue to businesses. As it is not clear how often consumers do this we don't assume any benefit to business.

**Table 6:** Estimated savings to consumers in court costs due to additional ADR cases

	Voluntary membership			Statutory membership
	Low	Best	High	Best
Vol of Enquires	50,000	150,000	250,000	1,000,000
Case to enquiry ratio	5%	15%	20%	15%
Vol of cases	2,500	15,000	50,000	150,000
Court cases mitigated	625	5,625	12,500	37,500*
Costs mitigated per case	£60	£60	£60	£60
Court costs mitigated per year	0.04m	£0.3m	£0.8m	£2.25m*

\* Note this may overstate costs mitigated as there will be an upper limit (less than 100%) on the proportion of court cases that ADR can reasonably be expected to mitigate. For some court cases, ADR is unlikely to provide adequate substitute owing to (legal) complexity of the dispute or where the value of the claim is particularly high.

81. As calculated above in the cost to business section, consumers will benefit from additional redress estimated in the range £0.2m to £3.8m per year, with a best estimate of £1.7m per year (table 3).

<sup>53</sup> Ministry of Justice - Civil and Family court fees (2014) <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex050-eng.pdf>

<sup>54</sup> Same as above

<sup>55</sup> Law Commission (2011) Consumer Redress for Misrepresentation and Aggressive Practices: A Joint Consultation Paper

<sup>56</sup> A more recent survey carried out for the Department of Business, Innovation and Skills by TNS suggested an average detriment of £223 ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/319043/bis-14-881-bis-consumer-detriment-survey.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319043/bis-14-881-bis-consumer-detriment-survey.pdf)). However, it did not have an estimate of the number of unresolved complaints necessary to estimate the number of ADR cases and so we have used the older figure.

<sup>57</sup> Excluded as financial and some professional services are covered by statutory ADR. It isn't possible to easily exclude the other statutory sectors from this metric using the data presented in the Consumer Focus report.

<sup>58</sup> Consumer Detriment 2012 – Prepared for Consumer Focus by TNS BMRB.

82. The additional redress to consumers is, in a narrow sense, a transfer from business i.e. it does not represent a net benefit in itself. However, the fact that redress occurs enables those consumers to re-direct their spending toward firms with a better track record for quality. It is also likely to enhance consumer confidence in participating in markets, both when making domestic and EU cross-border transactions (see Economic Rationale section). As such, society overall benefits from a better allocation of resources, improved competition and growth. Increased competition may arise through the supply side as well if improved ADR coverage across European markets increases certainty over dispute resolution and makes it more likely that businesses opt to supply markets in other Member States (increased cross-border trade and competition).

## **Option 2b: Minimal option plus consumer complaints helpdesk**

83. This option is identical to Option 2a but with the creation of a consumer-facing complaints helpdesk. The primary aim of this would be to help consumers navigate the ADR landscape and thereby to encourage them to make more use of ADR. Another aim would be to help consumers understand how to use ADR appropriately – i.e. after the business's internal complaints processes had been pursued. It could also be of assistance to businesses considering joining an ADR scheme.

84. The helpdesk would be an online and telephone access point for consumers to seek information about how to pursue a complaint with a business and, if appropriate, could be used to register a dispute. If a business agreed to use ADR, in principle the dispute could be registered online and the helpdesk could then direct the consumer to the most appropriate ADR provider to handle the dispute. The way the helpdesk worked would need to take into account the fact that under the Directive, the choice of ADR provider lies with the business, unless it is mandated by the Member State. In the UK, the ADR provider is currently mandated by Government in a limited number of regulated industries.

85. The following sections present the *additional* costs and benefits of this option over and above those for option 2a.

### Cost to government

86. There would be an additional cost to government under this option from the creation of a helpdesk to direct consumers to appropriate ADR providers. An online helpdesk would require a web design team to create a user friendly interface that consumers could use. As well as this a telephone contact centre would be created, involving either an unmanned automated service or a fully staffed customer contact point. We consulted on the most appropriate format for the helpdesk in order to estimate start-up costs. A significant majority of respondents agreed that the helpdesk should be both a telephone and online contact centre service which could sign-post consumers to appropriate ADR providers and provide general advice, information and guidance on ADR.

87. In the consultation stage IA, we estimated the ongoing costs to the contact centre to be £0.1m per year. Following the consultation, Citizens Advice was confirmed as the operator of the helpdesk. This was supported by the majority of respondents to the consultation. Based on information provided by Citizens Advice, we have updated our assessment of the annual costs of operating the helpdesk to £0.3m.

### Cost to business

88. We consulted on whether the ongoing costs of the helpdesk could be funded by business; however, the majority of responses felt it should be funded centrally or through a mix of Government funding and fees from businesses who make use of ADR but if the helpdesk becomes an extension to the Citizens Advice consumer service which is already an existing, Government funded service it would not seem appropriate to ask businesses to fund this complaints element.

### Benefits to business

89. One response to the consultation suggested a benefit to business of the helpdesk could come from saving existing ADR providers a significant amount of resources currently spent on signposting consumers to more appropriate ADR providers or back to businesses to try to resolve their disputes.

## Benefits to consumers

90. The primary aim of the helpdesk would be to help consumers navigate the ADR landscape.

91. There could still be a risk of confusion for consumers if it was still unclear to them whether the business was actually going to make use of ADR. There may be occasions where a consumer may take their dispute to the helpdesk but the business in question is not signed up to an ADR provider. We will explore the feasibility of designing the helpdesk in such a way that mitigates this risk.

92. The creation of a complaints helpdesk would need to take into account other requirements of the ADR and ODR legislation. The information requirements of the ADR Directive will oblige all businesses committed to ADR to provide information about the ADR provider they use, and in the event of an unresolved complaint, all businesses will be obliged to inform consumers of an appropriate ADR provider and whether they intend to use that body to settle the dispute. So a consumer should be informed whether or not the dispute will be referred to ADR and will be directed to an appropriate provider who will be considering their dispute. In addition, the ODR platform will direct all *online* consumers to an appropriate ADR provider.

93. We consulted on what actions we could take to improve access to ADR. Although few respondents had specific evidence to give some felt consumers would benefit from a helpdesk which could help minimise confusion and assist consumers in navigating the very complex ADR landscape and go some way to building awareness of ADR in general.

## **Option 3: Simplification of ADR Landscape**

94. Initial conversations with stakeholders prior to consultation, indicated some academic and industry support for the Government to use the adoption of the new ADR Directive as an opportunity to simplify the UK ADR landscape by reducing the number of schemes and providers. We have identified over 70 ADR schemes operating in the UK.

95. This option proposes to simplify the ADR landscape by reducing the number of ADR providers. Simplification could take several different models. We used the consultation to ask whether other approaches which might involve more or fewer than three ombudsman schemes would be preferable, for example, one large single ombudsman scheme, or a range of sectoral ADR bodies operating underneath a single umbrella ADR body. The consultation responses suggested that the best option was for the creation of a single umbrella ADR body. Therefore this is the model of simplification that we use in this impact assessment. This approach would minimise the difficulty in attempting to rationalise or merge a large number of existing public and private ADR bodies. However, to maximise the benefits of simplification, it would still require an attempt to reduce the number of ADR bodies operating in each sector (other EU countries who operate an umbrella ADR model have only one body operating in each sector to maximise efficiencies and benefits), and harmonisation of the sector bodies in operation to ensure consumers experience a similar service regardless of the issue they are complaining about.

96. Another issue is that the use of ADR is compulsory in the statutory schemes, such as those in the telecoms, energy and estate agency markets. If these were merged into a single model that also covered areas where ADR was voluntary, this could add confusion for consumers which could undermine the benefits of simplifying the ADR landscape in the first place.

97. To avoid this, one option could be to make use of a simplified ADR model compulsory in all sectors. This would increase cost to business as they would be required to use ADR. It would also go beyond the minimum requirements of the Directive. Alternatively, use of a simplified ADR model could be made voluntary in all sectors. Clearly, the volume of incremental ADR cases would be influenced by the simplification approach chosen. If ADR was voluntary for all sectors, incremental case volumes could be lower than assumed. However, simplification under a voluntary arrangement would mean that consumers would lose the current protection they get in regulated sectors. If ADR was mandatory for all sectors then the volume of cases would be higher than assumed.

98. A further complication is that whereas some ADR schemes are statutory and could be merged or harmonised under a single umbrella ADR system by statute, several schemes are operated by private providers, and currently the Government has no legislative powers to merge or harmonise these private schemes.

99. In this impact assessment we assume that simplification of the landscape would not include changing the current balance of mandatory and voluntary sectors. Determining the best route to take for further simplification, all voluntary or all compulsory, requires further consideration.<sup>59</sup> There would be no requirement for a helpdesk to direct consumers to different ADR providers under this option as the landscape would be sufficiently simplified. For these reasons most of the costs of this option are the same as under option 2a. Thus the costs and benefits sections below consider how they differ from option 2a.

100. Although the Government's view is that a residual ADR scheme is the most appropriate option for implementing the ADR Directive, we do see there could be merit in attempting to simplify the landscape to reduce confusion caused by a multitude of ADR schemes and to therefore improve accessibility. This would be a longer term and more costly project, probably requiring primary legislation (depending on how extensive any reforms are). Any attempt to rationalise existing schemes would require a lengthy preparation period. The Government used the consultation to take views on using the implementation of the ADR Directive as a step towards larger reforms of the ADR landscape and may develop further proposals in the future.

## Costs

### Cost to government

101. The upheaval of combining all existing schemes so that they operate in a uniform manner under a single umbrella ADR body would cost more than contracting with an established provider to cover the gaps between existing providers. This would be a major undertaking and we do not have estimates for how much it will cost. Furthermore if simplification leads to more use of ADR, this would add further to the cost. The additional cost of the helpdesk in option 2b offers a lower bound of the cost. We use this as our estimate an extra 0.1m. The additional cost involved in doing this more ambitious reform is not quantified. As before, after transition, government may partially fund the ongoing costs of the merged ADR provider though at this stage such costs are assumed to fall on business through fees.

### Cost to business

102. A number of ADR providers are private businesses that provide a service under statute, for trade association members or to individual businesses when a dispute arises. The approach favoured by respondents to our consultation whereby sectoral ADR schemes could continue to operate under a single umbrella ADR body would lead to transitional costs if attempts were made to reduce the number of ADR providers in each sector to one, or to harmonise the processes of existing providers to ensure a similar service across all sectors. Alternative approaches, such as a rationalisation of the ADR landscape to only a few significant providers, would impose even greater transitional costs upon existing private ADR providers as a result of the need to merge them into a third ombudsman. We consulted on possible transitional costs, however, we received no specific responses from consultation on such costs.

103. The ongoing costs of in a simplified landscape are likely to be similar to those in option 2a. They may be less if there are economies of scale in the provision of ADR. We used the consultation to explore potential further benefits to business derived through efficiency savings brought about for example, by shared IT and resource costs resulting from mergers. The benefits identified by the responses to the consultation were largely anecdotal and several said that the costs would outweigh any benefits. Also if simplification leads to more use of ADR, this would add further to the cost.

104. A further downside is the potential loss of competition between ADR providers. Some sectors currently have multiple ADR providers and businesses benefit from being able to choose between competing providers on the basis of cost (membership and case fees) and quality.

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<sup>59</sup> Costs of mandatory ADR in all sectors are given in this IA for comparison purposes.

## Benefits

### Benefits to consumers

105. The main benefit of consolidating the ADR landscape would be to make the process much easier for consumers to navigate which would support consumer confidence in participating in markets.

106. Bringing a significant number of sectors under a single umbrella ADR body could yield benefits in terms of business ADR membership. Businesses would potentially face greater pressure from consumers to be members of the simplified ADR system if their sector was ‘under-represented’.

107. Consumers will also benefit from universal ADR coverage in terms of increased confidence in participating in markets. Simplifying the ADR landscape could support this aim if it incentivises greater business membership in ADR versus the other policy options. Consumers may also have more confidence in and be more likely to make use of an ADR landscape that is easier to navigate.

## Key assumptions and risks underpinning options

108. The key assumptions and risks underpinning the cost-benefit assessments are:

- the volume of additional ADR cases generated. This will depend upon:
  - the number of businesses that sign up to become part of an ADR scheme as a result of the policy option pursued – this is a key source of uncertainty in our analysis
  - there is an associated risk that if very few additional businesses sign up, the ‘fixed’ costs of universal ADR provision (creating a residual provider / simplifying the landscape) will yield little actual benefit
- the volume of court hearings that universal ADR coverage mitigates i.e. cost savings
  - there is a potential risk that most of the current court hearings are ones that are not amenable to resolution through ADR owing to complexity. ADR could simply add an additional level of dispute resolution to the redress system (with associated cost) without mitigating costs elsewhere

## One-In-Two-Out status

### EU requirements and gold plating

109. The EC Directive gives Member States some flexibility on the options for implementation. E.g. Chapter II Article 5 of the ADR Directive states that:

“Member States should have the possibility to provide for the creation of a residual ADR entity that 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 access to an ADR entity.”

110. The Directive does not force Member States to make the use of ADR compulsory but Article 1 states that:

“This Directive is without prejudice to national legislation making participation in such procedures mandatory”.

111. Nevertheless, any attempt to introduce new mandatory requirements to use ADR when implementing the ADR Directive would be going beyond our minimum legal requirements and would therefore gold-plate the Directive.

112. Option 2a, a residual ADR scheme which businesses can choose to use, would be the minimum required by the ADR Directive and ODR Regulation and would not therefore involve 'gold-plating'.

113. Our preferred option (Option 2b), which is Option 2a plus the creation of a consumer facing complaints helpdesk, would go beyond the minimum requirements of the ADR Directive. The helpdesk is funded wholly by Government, as such while this option is partially in scope of 'One In Two Out' (OITO) there is no cost to business in scope of OITO.

114. Option 3 would add additional costs in implementing the Directive and the transitional costs in harmonising or merging existing ADR providers under a single umbrella ADR body would likely be higher than both creating a residual ADR provider and establishing a consumer complaints helpdesk. As such this option would be *in* scope of OITO.

**Table 8:** - Summary of costs and benefits to business

Cost/benefit	Type	Included in EANCB	Size	Profile of costs	See paragraph
Familiarisation costs	Direct cost to business	No – as part of meeting EU requirement	£17.0m	One off	21-24
Website costs	Direct costs to business	No – as part of meeting EU requirement	£6.8m	One off	25-26
T&C costs	Direct cost to business	No – as part of meeting EU requirement	£7.9m	One off	27-32
Costs of Notifying Consumers in Event of Non-Resolution of Dispute	Direct cost to business	No – as part of meeting EU requirement	£0.6m	Annual post transition*	33-34
Creation of a competent authority	Direct cost to business	No – as part of meeting EU requirement	£0.09m	Annual post transition*	39
Fees to residual ADR provider as a result of additional ADR cases	Direct cost to business	No – as part of meeting EU requirement	£5.6m	Annual post transition*	55-64
Admin costs of preparing additional ADR cases	Direct cost to business	No – as part of meeting EU requirement	£1.8m	Annual post transition*	65
Redress from additional ADR cases in consumer's favour	Direct cost to business	No – as part of meeting EU requirement	£1.7m	Annual post transition*	66-69
Reduced costs of preparing court cases	Direct benefit to business	No – as part of meeting EU requirement	£1.4m	Annual post transition*	73-76

\*These costs will begin in July 2015

# ANNEX

## *Summary of main requirements of the Directive*

Member States must ensure that ADR is available for any contractual dispute between a consumer and a business. Business to business disputes are not covered, nor are disputes initiated by a business against a consumer. Further exclusions apply to health services and public providers of education.

### *Requirements for ADR providers*

ADR procedures must be free of charge or available for a nominal fee for consumers.

ADR providers will have to meet several requirements. In summary, ADR providers:

- Must conclude disputes within 90 days of receiving the complete complaint file. This timeframe can be extended in the case of highly complex disputes
- Have three weeks from receiving an application in which to inform the parties concerned if they are rejecting a case (with the grounds allowed for rejecting a complaint set out in the Directive, see below).
- Must ensure the individuals who oversee disputes have the necessary expertise and are independent and impartial. ADR providers will have to take steps to avoid any potential conflicts of interest, such as passing disputes to alternative case handlers or alternative ADR providers.
- Must make available specific information about their organisation, methods and cases they deal with, and provide annual activity reports.

Member States may permit ADR providers to follow certain procedural rules which will allow them to reject unsuitable disputes. These include frivolous or vexatious claims, or claims which have not been submitted within a pre-specified time limited (although this time limit cannot be set at less than a year from the date when the consumer first submitted the complaint to the trader).

### *Information requirements for businesses*

Any business that is obliged to use an ADR provider to resolve disputes (e.g. solicitors are obliged to refer disputes to the Legal Ombudsman) must provide information about that ADR provider on their website and, if applicable, in the terms and conditions of any sales or service contracts.

In the event of an unresolved dispute, ***all*** businesses must provide information about an appropriate ADR provider (or providers) to the consumer, and advise whether they intend to refer the dispute to that ADR provider or not.

All businesses who sell their goods or services online must also provide a link to the ODR platform on their website. All websites which act as a platform for businesses to sell their goods and/or services must also provide a link to the ODR platform.

### *Competent Authorities*

Member States must designate one or more competent authorities to maintain and monitor a list of ADR providers who meet the required standards of the ADR Directive.

If an ADR provider is found to no longer comply with the requirements of the Directive then the competent authority must give warning before removing that provider from the list and notifying the Commission.

#### *ODR contact points*

Each Member State must designate one Online Dispute Resolution (ODR) contact point which must host at least two ODR advisors. When requested, the ODR advisors will be able to assist with disputes submitted via the ODR platform, by providing information or helping with documentation.