The European Union Consumer Online Dispute Resolution Platform: 5 Years On

Submitted by: University of Leicester
The EU Consumer ODR Platform: 5 Years On

Professor Pablo Cortés
Chair in Civil Justice
Leicester School of Law
University of Leicester

Promoting Consumer Protection in the Dispute Resolution and Redress Mechanisms in eCommerce
27-29 April 2021
The rationale behind the EU legislation

- Effective redress increases consumer trust in the market
- ODR is particularly suited to promote e-commerce and cross-border trade
- In 2010 the EC found that 60% of traders refused to sell in another EU economy due to the risk of disputes
- EC surveyed ADR in the EU and found:
  - Patchy coverage
  - Varied quality
  - Lack of awareness (3% of consumers & 9% of traders used ADR)
- Justified to take legislative action
The EU Legal Framework

**Aims:** increase consumer access to justice and cross-border trade within the EU

**Goals:**

- **ADR Directive 2013/11/EU**
  - Availability of ADR
  - Quality assurance
  - Awareness

- **ODR Regulation (EU) 524/2013**
  - *Consumers can submit ecommerce claims against EU traders and choose an ADR*
  
  [https://ec.europa.eu/consumers/odr](https://ec.europa.eu/consumers/odr)
EU ODR Platform after its first 5 years

• Operational since 15 February 2016
• 111k+ claims
• 2,8 million visitors p.a.
• 55% domestic and 45% cross-border
• >400 certified ADR/ODR bodies
• Clearly below its potential

The complaints life-cycle

- Complaints refused by trader: 9%
- Complaints withdrawn by either party before reaching ADR: 4%
- Complaints reaching ADR: 2%
- Submitted complaints automatically closed after 30 day legal deadline: 85%
Recent changes to the ODR Platform

- **New self-test tool**
  - Contacting the trader bilaterally (draft claim), the ECC or an ADR entity
  - Information on consumer rights
- Direct negotiation between the parties
- Traders can register with the platform in advance
- The Commission plans to develop new features
Have the aims and goals been realised?

• Aims:
  – Increased access to justice?
  – Promoted trade?

• Goals:
  – Full coverage (*optional participation)
  – Minimum quality standards monitored by competent authorities and via the reporting requirements
  – Increased awareness
Proposal

- Increase trust in the market will be achieved if consumers choose traders based on their adherence to ODR
  - Trustmark
  - Mandatory participation for traders in regulated sectors
  - Opt-in model for the rest
    - link should be easily accessible (e.g. via its customer services)
    - trader details should have been previously uploaded
    - reply complaints within the 30 days

- If it remains available for all traders, then consumers must be able to identify if traders are adhered to an ADR and be offered more information on non-ADR options (e.g. charge backs)
Concluding remarks

- Effective redress will increase consumer trust in commerce
- Domestic ODR infrastructure before cross-border
- Common standards for ADR/ODR
- Single gateway for ODR
- ODR platform should start with direct negotiation and ensure engagement
- Growth of ODR will increase access to justice