

European Commission

DG SANCO

Saksbehandler:

Vår dato: 15.03.2011

Vår referanse:

Public paper on the use of Alternative Dispute Resolution

The European Consumer Centre in Norway supports the European Commission's initiative to investigate alternative dispute resolution in Europe. The European Consumer Centre in Norway assists both Norwegian as well as foreign consumers, provided that the traders are located in another European country than where the consumer is located. In order for consumers to take full advantage of the internal market, they must be able to get a quick and efficient handling of complaints across borders. On this basis, the European network of Consumer Centers we are part of was created in 2006. In 2010, the European Consumer Centre in Norway treated 23% more complaints than in 2009, which clearly demonstrates consumers' confidence in our network. Most likely, the number of complaints will continue to increase in line with the visibility of the network as a result of actions both at a European and national level.

Our Ministry will elaborate his views on alternative dispute resolution at a national level. The European Consumer Centre in Norway will therefore focus on some aspects of cross-border alternative dispute resolution.

The aim of our network is to resolve disputes either through mediation or arbitration. Our experience shows that we are an important part of the alternative cross-border dispute resolution system. If our network is able to find an amicable solution through mediation, the case is straightforward. If the case has no ground, we advise consumers not to bring their complaint to an alternative dispute resolution body. With other words our network alleviates the various alternative dispute resolution bodies in Europe because of the contact we have with consumers, prior to passing on cases to alternative dispute resolution bodies. We do believe that is necessary for the functioning of the system.

We therefore consider our role in cross-border disputes as crucial, both for the dissemination of information on alternative dispute resolution and for the case handling. As a result, we believe that our role and visibility should be enhanced. Our network also has the advantage that we have knowledge of the language and culture in the countries where consumers / traders have their residence / place of business. This enhances consumer's confidence, necessary for them in order to entrust their interests to us.

Information about alternative dispute resolution in Europe is available on the European Commission's website. Unfortunately, not all information is available in English, which to some extent lessens consumers' awareness of existing alternative dispute resolution bodies.

Forbruker Europa / ECC Norway

Rolf Wickstrøms vei 15 · P.B. 4594 Nydalen, 0404 Oslo

Telefon: 23 400 500 · Faks: 23 400 501

E-post: post@forbrukereuropa.no

Web: www.forbrukereuropa.no

We are further of the opinion that it is important that consumers can turn to our network they largely rely on as today. Our network is funded both by the European Commission and by the Member States, and in addition to that, the centers are hosted by a national consumer organization. We do assume that this system enhances consumer confidence in our network. Therefore we cannot see that a "single entry point" will improve consumers' position in comparison with the current situation.

Regarding a centralized ODR scheme for e-commerce transactions we believe this is unlikely to have an added value in comparison with the present system. We do not see that e-commerce requires a different type of dispute resolution because e-commerce more or less is based on the same challenges as other types of sales (non-delivery, lack of conformity with the contract, delays, etc.), when it comes to regular goods. Moreover, this solution will only apply to cross-border trade, when the national alternative dispute resolution currently treats both complaints with and without cross-border element, thanks to our network. We agree with the Norwegian Consumer Council that to be feasible, it appears that this solution requires a fully harmonized legislation, which not only will cover consumer issues, but also more general aspects of contract law. Today there is strong disagreement about this process, and for that reason the European Consumer Centre in Norway choose to focus on what is important and feasible for consumers in the coming years.

A number of factors argue against the use of alternative dispute resolution by small and medium-sized enterprises. Disputes arising in this context do not rely on the same challenges as consumers' ones. In surveys conducted by our network it appears that small and medium-sized businesses more than consumers take advantage of the European small claims procedure in order to get their disputes resolved. It is encouraging, but also demonstrates that the solution might not be necessary. On the contrary, European consumers should take more advantage of the European small claims procedure. Finally the European Consumer centre in Norway is positive to the possibility for consumer organizations or consumer authorities to bring class action lawsuit in the frame of alternative dispute resolution bodies, both opt-in or opt-out. Experiences from other countries such as Sweden, Finland, and Spain can be of benefit in that context.

Yours sincerely,

Forbruker Europa / ECC Norway

Mathieu Veulemans