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*Committee on the Internal Market and Consumer Protection*

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**2011/0374(COD)**

17.4.2012

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## **DRAFT REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
on online dispute resolution for consumer disputes (Regulation on consumer  
ODR)

(COM(2011)0794 – C7-0453/2011– 2011/0374(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Róza Gräfin von Thun und Hohenstein

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on online dispute resolution for consumer disputes (Regulation on consumer ODR) (COM(2011)0794 – C7-0453/2011– 2011/0374(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0794),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0453/2011),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 28 March 2012<sup>1</sup>,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinion of the Committee on Legal Affairs (A7-0000/2012),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1** **Proposal for a regulation** **Recital 6**

*Text proposed by the Commission*

(6) Being able to seek easy and low-cost dispute resolution can boost consumers' and traders' confidence in the digital

*Amendment*

(6) Being able to seek easy and low-cost dispute resolution can boost consumers' and traders' confidence in the digital

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<sup>1</sup> Not yet published in the Official Journal.

market. Consumers and traders, however, still face barriers to finding out-of-court solutions *in particular* to their disputes arising from a cross-border online transaction. Thus, such disputes currently are often left unresolved.

market. Consumers and traders, however, still face barriers to finding out-of-court solutions to their disputes, *in particular those* arising from a cross-border online transaction. Thus, such disputes currently are often left unresolved.

Or. en

**Amendment 2**  
**Proposal for a regulation**  
**Recital 7**

*Text proposed by the Commission*

(7) Online dispute resolution offers a simple and low-cost out-of-court solution to disputes arising from cross-border online transactions. However, there is currently a lack of mechanisms that allow consumers and traders to resolve such disputes via electronic means. This leads to consumer detriment, acts as a barrier to cross-border online transactions, creates an uneven playing field for traders and thus hampers the development of electronic commerce.

*Amendment*

(7) Online dispute resolution offers a simple and low-cost out-of-court solution to disputes arising from **both** cross-border **and domestic** online transactions. However, there is currently a lack of mechanisms that allow consumers and traders to resolve such disputes via electronic means. This leads to consumer detriment, acts as a barrier *in particular* to cross-border online transactions, creates an uneven playing field for traders and thus hampers the **overall** development of electronic commerce.

Or. en

**Amendment 3**  
**Proposal for a regulation**  
**Recital 8**

*Text proposed by the Commission*

(8) This Regulation should apply to the out-of-court resolution of contractual disputes between consumers and traders that arise from the online sale of goods or provision of services by traders **across borders. It should not apply to disputes between** consumers and traders **that arise**

*Amendment*

(8) This Regulation should apply to the out-of-court resolution of contractual disputes between consumers and traders that arise from the online sale of goods or provision of services by traders. **Although** consumers and traders **carrying out cross-border online transactions, in particular,**

from *the online sale of goods or provision of services if at least one of them is not established or resident in a Member State of the Union at the time when the consumer orders such goods or services or the trader and the consumer are established or resident in the same Member State.*

*will benefit from such an online dispute resolution mechanism, this Regulation should also apply to domestic online transactions in order to allow for a true level playing field in the area of electronic commerce.*

Or. en

**Amendment 4**  
**Proposal for a regulation**  
**Recital 11**

*Text proposed by the Commission*

(11) The definition of ‘online sale of goods or provision of services’ should cover a transaction for the online sale of goods or provision of services where the trader, or the trader's intermediary, has offered goods or services through a website or by other electronic means and the consumer has ordered those goods or services on that website or by other electronic means. This should also cover cases where the consumer has accessed the website or other information society service through a mobile electronic device such as a mobile telephone.

*Amendment*

(11) The definition of ‘online sale of goods or provision of services’ should cover a transaction for the online sale of goods or provision of services where the trader, or the trader's intermediary, has offered goods or services through a website or by other electronic means and the consumer has ordered those goods or services on that website or by other electronic means. This should also cover cases where the consumer has accessed the website or other information society service through a mobile electronic device such as a mobile telephone. ***Services which are not provided by electronic processing/inventory systems, such as services provided via voice telephony or telefax, such as telephone or telefax consultation of a doctor, telephone or telefax consultation of a lawyer, or telephone or telefax direct marketing, should not be regarded as services provided by electronic means.***

Or. en

**Amendment 5**  
**Proposal for a regulation**  
**Recital 14**

*Text proposed by the Commission*

(14) This Regulation aims at creating an online dispute resolution ('ODR') platform at European level. The ODR platform should take the form of an interactive website offering a single point of entry to consumers and traders seeking to resolve disputes out-of-court which have arisen from *a cross-border e-commerce transaction. It should allow consumers and traders to submit complaints by filling in an electronic complaint form available in all official languages of the Union and transmit complaints to an alternative dispute resolution ('ADR') entity competent to deal with the dispute concerned.* The platform should *offer to ADR entities and the parties the possibility of conducting the dispute resolution procedure via the platform.*

*Amendment*

(14) This Regulation aims at creating an online dispute resolution ('ODR') platform at European level. The ODR platform should take the form of an interactive website offering a single point of entry to consumers and traders seeking to resolve disputes out-of-court which have arisen from e-commerce *transactions.* The platform should *be established on the 'Your Europe'-portal, which is an existing single point of entry for both consumers and traders looking for help or information.*

Or. en

**Amendment 6**  
**Proposal for a regulation**  
**Recital 14 a (new)**

*Text proposed by the Commission*

*(14a) The ODR platform should allow consumers and traders to submit complaints by filling in an electronic complaint form available in all official languages of the Union and transmit complaints electronically to an alternative dispute resolution ('ADR') entity competent to deal with the dispute concerned. The ODR platform should be interoperable with existing national ODR platforms. The complaint form should contain only that information which is*

*Amendment*



*necessary to determine the relevant ADR entities. The platform should offer to ADR entities and the parties the possibility of conducting the dispute resolution procedure via the ODR platform.*

Or. en

**Amendment 7**  
**Proposal for a regulation**  
**Recital 16**

*Text proposed by the Commission*

(16) Ensuring that all ADR entities notified to the Commission in accordance with Article 17(2) of Directive ....../.../EU [= Directive on consumer ADR] Office of Publications insert reference number] are linked electronically to the *European* ODR platform should allow the full coverage in out-of-court redress online for **cross-border** disputes arising from the online sale of goods or provision of services.

*Amendment*

(16) Ensuring that all ADR entities notified to the Commission in accordance with Article 17(2) of Directive ....../.../EU [= Directive on consumer ADR] Office of Publications insert reference number] are linked electronically to the ODR platform should allow the full coverage in out-of-court redress online for disputes arising from the online sale of goods or provision of services.

Or. en

**Amendment 8**  
**Proposal for a regulation**  
**Recital 17**

*Text proposed by the Commission*

(17) This Regulation does not prevent the functioning of any existing online dispute resolution entity operating within the Union. It should not prevent ADR entities from dealing with **cross-border** online disputes which have been submitted to them by a means other than the ODR platform.

*Amendment*

(17) This Regulation does not prevent the functioning of any existing online dispute resolution entity operating within the Union. It should not prevent ADR entities from dealing with online disputes which have been submitted to them by a means other than the ODR platform.

Or. en

**Amendment 9**  
**Proposal for a regulation**  
**Recital 18**

*Text proposed by the Commission*

(18) A network of *online dispute resolution facilitators* should provide support to the resolution of disputes relating to complaints submitted via the ODR platform. That network should be composed of contact points for ODR in the Member States which host *online dispute resolution facilitators*.

*Amendment*

(18) A network of *consumer advisors* should provide support to the resolution of disputes relating to complaints submitted via the ODR platform. That network should be composed of contact points for ODR in the Member States which host *consumer advisors*.

Or. en

**Amendment 10**  
**Proposal for a regulation**  
**Recital 19**

*Text proposed by the Commission*

(19) The right to an effective remedy and the right to a fair trial are fundamental rights guaranteed in Article 47 of the Charter of Fundamental Rights of the European Union. Online dispute resolution procedures cannot be designed to replace court procedures *and* should *not* deprive consumers or traders of their rights to seek redress before the courts. Nothing in this Regulation should, therefore, prevent parties from exercising their right of access to the judicial system.

*Amendment*

(19) The right to an effective remedy and the right to a fair trial are fundamental rights guaranteed in Article 47 of the Charter of Fundamental Rights of the European Union. Online dispute resolution procedures *are not intended to and* cannot be designed to replace court procedures, *nor* should *they* deprive consumers or traders of their rights to seek redress before the courts. Nothing in this Regulation should, therefore, prevent parties from exercising their right of access to the judicial system.

Or. en

**Amendment 11**  
**Proposal for a regulation**  
**Recital 24**

*Text proposed by the Commission*

*Amendment*

***(24) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission in respect of the functioning of the ODR platform, the modalities for the submission of a complaint and co-operation within the ODR facilitators' network. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers. The advisory procedure should be used for the adoption of implementing acts relating to the electronic complaint form given its purely technical nature. The examination procedure should be used for the adoption of the rules concerning the modalities of cooperation between the ODR facilitators of the network of online dispute resolution facilitators.***

***deleted***

Or. en

**Amendment 12**  
**Proposal for a regulation**  
**Recital 25**

*Text proposed by the Commission*

*Amendment*

(25) Since the objectives of this Regulation, namely to set up a European online dispute resolution platform for cross-border online disputes governed by common rules, *because of the scale and effects of the action, cannot be sufficiently achieved by the Member States and therefore* be better achieved at Union level,

(25) Since the objectives of this Regulation, namely to set up a European online dispute resolution platform for cross-border ***and domestic*** online disputes governed by common rules, *cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects,* be better achieved at Union

the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

Or. en

**Amendment 13**  
**Proposal for a regulation**  
**Article 2 – paragraph 1**

*Text proposed by the Commission*

This Regulation shall apply to the out-of-court resolution of contractual disputes arising from the cross-border online sale of goods or provision of services between consumers and traders through the intervention of an alternative dispute resolution entity complying with Directive [Office of Publications please insert number of Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR)] and involving the use of a European online dispute resolution platform.

*Amendment*

This Regulation shall apply to the out-of-court resolution of contractual disputes arising from the cross-border **and domestic** online sale of goods or provision of services between consumers and traders through the intervention of an alternative dispute resolution entity complying with Directive ...\* and involving the use of a European online dispute resolution platform.

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\* OJ: please insert the number of Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Directive 2009/22/EC (Directive on consumer ADR)

Or. en

**Amendment 14**  
**Proposal for a regulation**  
**Article 4 – point b**

*Text proposed by the Commission*

(b) ‘trader’ means any natural **persons** or any legal person, irrespective of whether privately or publicly owned, who is acting, including through any person acting in his name or on his behalf, for purposes relating to his trade, business, craft or profession;

*Amendment*

(b) ‘trader’ means any natural **person** or any legal person, irrespective of whether privately or publicly owned, who is acting, including through any person acting in his name or on his behalf, for purposes relating to his trade, business, craft or profession;

Or. en

**Amendment 15**  
**Proposal for a regulation**  
**Article 4 – point d – paragraph 2 – indent 2**

*Text proposed by the Commission*

– services **having material content even though** provided via electronic devices such as automatic cash or ticket dispensing machines (banknotes, rail tickets), access to road networks, car parks, charging for use, even if there are electronic devices at the entrance or exit controlling access and/or ensuring correct payment is made;

*Amendment*

– services provided via electronic devices such as automatic cash or ticket dispensing machines (banknotes, rail tickets), access to road networks, car parks, charging for use, even if there are electronic devices at the entrance or exit controlling access and/or ensuring correct payment is made;

Or. en

**Amendment 16**  
**Proposal for a regulation**  
**Article 4 – point d – paragraph 2 – indent 3**

*Text proposed by the Commission*

– services which are not provided via electronic processing/inventory systems such as voice telephony services, telefax or telex services, services provided via voice telephony or **fax; telephone or telefax consultation of a doctor; telephone or**

*Amendment*

– services which are not provided via electronic processing/inventory systems such as voice telephony services, telefax or telex services, services provided via voice telephony or telefax;

*telefax consultation of a lawyer;  
telephone or telefax direct marketing.*

Or. en

**Amendment 17**  
**Proposal for a regulation**  
**Article 4 – point e a (new)**

*Text proposed by the Commission*

*Amendment*

*(ea) "domestic online sale of goods or provision of services" means the online sale of goods or provision of services where, at the time the consumer orders such goods or services, the consumer is resident in the Member State where the trader is established;*

Or. en

**Amendment 18**  
**Proposal for a regulation**  
**Article 4 – point g – paragraph 1**

*Text proposed by the Commission*

*Amendment*

(g) ‘alternative dispute resolution procedure’ (hereinafter ‘ADR procedure’) means a procedure for the out-of-court resolution of a dispute through the intervention of a dispute resolution entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution;

(g) ‘alternative dispute resolution procedure’ (hereinafter ‘ADR procedure’) means a procedure for the out-of-court resolution of a dispute through the intervention of a dispute resolution entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution *as set out in Article 2 of Directive ....\* which has been communicated to the Commission in accordance with Article 17(2) of that Directive;*

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*\* OJ: please insert the number of Directive of the European Parliament and of the Council on alternative dispute resolution*

*for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR).*

Or. en

**Amendment 19**  
**Proposal for a regulation**  
**Article 4 – point g – paragraph 2**

*Text proposed by the Commission*

*Amendment*

*Procedures before dispute resolution entities where the natural persons in charge of dispute resolution are employed exclusively by the trader, procedures before consumer complaint handling systems operated by the trader, direct negotiation between the consumer and the trader, whether represented or not, and attempts made by a judge to settle a dispute in the course of a judicial proceeding concerning that dispute shall not be regarded as ADR procedures;*

*deleted*

Or. en

**Amendment 20**  
**Proposal for a regulation**  
**Article 5 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The Commission shall establish a European online dispute resolution platform, (hereinafter ‘ODR platform’).

1. The Commission shall establish a European online dispute resolution platform, (hereinafter ‘ODR platform’) *on its 'Your Europe' portal.*

Or. en

**Amendment 21**  
**Proposal for a regulation**  
**Article 5 – paragraph 3 – point d**

*Text proposed by the Commission*

(d) enabling the parties and the ADR entity to conduct the dispute resolution procedure online;

*Amendment*

(d) enabling the parties and the ADR entity to conduct the dispute resolution procedure online ***and free of charge via an electronic case management tool***;

Or. en

**Amendment 22**  
**Proposal for a regulation**  
**Article 5 – paragraph 3 – point e**

*Text proposed by the Commission*

(e) providing an electronic form by means of which ADR entities shall transmit the information referred to in Article 9(c);

*Amendment*

(e) providing an electronic form by means of which ADR entities shall transmit the information referred to in Article 9;

Or. en

**Amendment 23**  
**Proposal for a regulation**  
**Article 5 – paragraph 4**

*Text proposed by the Commission*

4. Alternative dispute resolution entities which have been notified to the Commission in accordance with Article 17(2) of Directive .../.../EU [Office of Publications please insert number of Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR)] and which, according to the elements necessary to establish their competence, as notified pursuant to Article

*Amendment*

4. Alternative dispute resolution entities which have been notified to the Commission in accordance with Article 17(2) of Directive ...\* and which, according to the elements necessary to establish their competence, as notified pursuant to Article 16(1)(g) of that Directive, which, based on the information contained in the electronic complaint form referred to in point (a) of paragraph 3, are competent to deal with disputes covered by this Regulation, shall ***be registered*** electronically with the ODR platform.



16(1)(g) of Directive ..../.../EU [Office of Publications please insert number of Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR)], which, based on the information contained in the electronic complaint form referred to in point (a) of paragraph 3, are competent to deal with disputes covered by this Regulation, shall **register** electronically with the ODR platform.

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\* OJ: please insert the number of Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Directive on consumer ADR)

Or. en

**Amendment 24**  
**Proposal for a regulation**  
**Article 5 – paragraph 6**

*Text proposed by the Commission*

6. The Commission shall adopt **measures** concerning the modalities for the exercise of the functions provided for in paragraph 3 **through implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(3).**

*Amendment*

6. The Commission shall adopt **delegated acts in accordance with Article 16** concerning the modalities for the exercise of the functions provided for in paragraph 3.

Or. en

**Amendment 25**  
**Proposal for a regulation**  
**Article 6 – title**

*Text proposed by the Commission*

Network of *online dispute resolution facilitators*

*Amendment*

Network of *consumer advisors*

Or. en

**Amendment 26**  
**Proposal for a regulation**  
**Article 6 – paragraph 1**

*Text proposed by the Commission*

1. *Each Member State* shall designate one ODR contact point *and communicate its name and contact details to the Commission. Member States may confer responsibility for the ODR contact points on their* centres of the European Consumer Centre Network, *on consumer associations or on any other body*. Each ODR contact point shall host at least two online *dispute resolution facilitators* (hereinafter '*ODR facilitators*')...

*Amendment*

1. *The Commission* shall designate one ODR contact point *in each Member State. The* responsibility for the ODR contact points *shall be conferred to the* centres of the European Consumer Centre Network. Each ODR contact point shall host at least two online *consumer advisors* (hereinafter '*consumer advisors*').

Or. en

**Amendment 27**  
**Proposal for a regulation**  
**Article 6 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. The *ODR facilitators* shall provide support to the resolution of disputes relating to complaints submitted via the platform by fulfilling the following functions:

*Amendment*

2. The *consumer advisors* shall provide support to the resolution of disputes relating to complaints submitted via the *ODR* platform by fulfilling the following functions:

Or. en

**Amendment 28**  
**Proposal for a regulation**  
**Article 6 – paragraph 2 – point a**

*Text proposed by the Commission*

*(a) if necessary, facilitating communication between the parties and the competent ADR entity;*

*Amendment*

*(a) providing information on the functioning of the ODR platform, including, if applicable, support for the complainant party in using the electronic complaint form;*

Or. en

**Amendment 29**  
**Proposal for a regulation**  
**Article 6 – paragraph 2 – point b**

*Text proposed by the Commission*

*(b) informing consumers of other means of redress when a dispute cannot be resolved via the platform, for example when the trader fails to agree to the use of ADR;*

*Amendment*

*(b) if necessary, contacting the competent ADR entity and providing all relevant information and translations to the parties;*

Or. en

**Amendment 30**  
**Proposal for a regulation**  
**Article 6 – paragraph 2 – point c**

*Text proposed by the Commission*

*(c) submitting, based on the practical experience gained from the performance of their functions, an annual activity report to the Commission and to the Member States;*

*Amendment*

*(c) if no competent ADR entity can be identified, providing support to the parties in finding an amicable solution;*

Or. en

**Amendment 31**  
**Proposal for a regulation**  
**Article 6 – paragraph 2 – point d**

*Text proposed by the Commission*

(d) informing *the parties of the advantages and disadvantages of the procedures applied by the proposed ADR entities.*

*Amendment*

(d) informing *consumers of other means of redress when a dispute cannot be resolved via the ODR platform, for example when the trader fails to agree to the use of ADR;*

Or. en

**Amendment 32**  
**Proposal for a regulation**  
**Article 6 – paragraph 2 – point d a (new)**

*Text proposed by the Commission*

*(da) submitting, based on the practical experience gained from the performance of their functions, an annual activity report to the Commission and to the Member States;*

*Amendment*

Or. en

**Amendment 33**  
**Proposal for a regulation**  
**Article 6 – paragraph 2 – point d b (new)**

*Text proposed by the Commission*

*(db) informing the parties of the advantages and disadvantages of the procedures applied by the proposed ADR entities.*

*Amendment*

Or. en

**Amendment 34**  
**Proposal for a regulation**  
**Article 6 – paragraph 3**

*Text proposed by the Commission*

3. The Commission shall establish a network of ***online dispute resolution facilitators*** (hereinafter the '***ODR facilitators***' network') which shall enable cooperation between ***ODR facilitators*** and contribute to the performance of the functions set out in paragraph 2.

*Amendment*

3. The Commission shall establish a network of ***consumer advisors*** (hereinafter the '***consumer advisors***' network') which shall enable cooperation between ***consumer advisors*** and contribute to the performance of the functions set out in paragraph 2.

Or. en

**Amendment 35**  
**Proposal for a regulation**  
**Article 6 – paragraph 4**

*Text proposed by the Commission*

4. The Commission shall at least ***once*** every year convene a meeting of members of the ***ODR facilitators***' network in order to permit an exchange of best practice, and a discussion of any recurring problems encountered in the operation of the ODR platform.

*Amendment*

4. The Commission shall at least ***twice*** every year convene a meeting of members of the ***consumer advisors***' network in order to permit an exchange of best practice, and a discussion of any recurring problems encountered in the operation of the ODR platform.

Or. en

**Amendment 36**  
**Proposal for a regulation**  
**Article 6 – paragraph 5**

*Text proposed by the Commission*

5. The Commission shall adopt the rules concerning the modalities of the cooperation between the ***ODR facilitators*** through ***implementing acts***. ***Those implementing acts shall be adopted in accordance with the examination***

*Amendment*

5. The Commission shall adopt ***delegated acts in accordance with Article 16 concerning*** the rules ***for*** the modalities of the cooperation between the ***consumer advisors***.

*procedure referred to in Article 15(3).*

Or. en

**Amendment 37**  
**Proposal for a regulation**  
**Article 7 – paragraph 2**

*Text proposed by the Commission*

2. The information to be submitted by the complainant party shall be sufficient to determine the competent ADR entity. *This information is* described in the Annex.

*Amendment*

2. The information to be submitted by the complainant party shall be sufficient to determine the competent ADR entity. *That information shall be entered in the electronic complaint form, the model of which is* described in the Annex.

Or. en

**Amendment 38**  
**Proposal for a regulation**  
**Article 7 – paragraph 3**

*Text proposed by the Commission*

3. The ODR platform shall provide the parties with information about the ADR entity or entities identified by the ODR platform as competent; if more than one option is available, the **ODR facilitators** of the Member States concerned shall provide the parties with details of the various entities so identified and advise them of the advantages and disadvantages of the procedures applied by each of these entities in order to enable the parties to make an informed choice.

*Amendment*

3. The ODR platform shall provide the parties with information about the ADR entity or entities identified by the ODR platform as competent; if more than one option is available, the **consumer advisors** of the Member States concerned shall provide the parties with details of the various entities so identified and advise them of the advantages and disadvantages of the procedures applied by each of these entities in order to enable the parties to make an informed choice.

Or. en

**Amendment 39**  
**Proposal for a regulation**  
**Article 7 – paragraph 5**

*Text proposed by the Commission*

5. The Commission shall lay down the modalities of the electronic complaint form **by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 15(2).**

*Amendment*

5. The Commission shall **adopt delegated acts in accordance with Article 16 to** lay down the **technical** modalities of the electronic complaint form.

Or. en

**Amendment 40**  
**Proposal for a regulation**  
**Article 8 – paragraph 1**

*Text proposed by the Commission*

1. A complaint submitted to the platform shall be processed if the complaint form is fully completed.

*Amendment*

1. A complaint submitted to the **ODR** platform shall be processed, if **all the necessary fields of the complaint form are fully completed. If the** complaint form **has not been** fully completed, **a competent consumer advisor from the Member State, which the complainant party has indicated as its Member State of residence, shall contact the complainant party and offer support in fully completing that form. Any complaint form not fully completed within seven working days from the date on which the complaint was submitted shall not be processed further.**

Or. en

**Amendment 41**  
**Proposal for a regulation**  
**Article 8 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. Upon receipt of a fully completed complaint form, the ODR platform shall communicate to the complainant party, in the language of the complaint, and send by e-mail to the respondent party, in the language of the contract, the following:

*Amendment*

2. Upon receipt of a fully completed complaint form **and without delay**, the ODR platform shall, **in an easily understandable way**, communicate to the complainant party, in the language of the complaint, and send by e-mail to the respondent party, in the language of the contract, the following:

Or. en

**Amendment 42**  
**Proposal for a regulation**  
**Article 8 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) *the information that the parties have to agree on one competent ADR entity in order for the complaint to be transmitted to it;*

*Amendment*

(a) *the complaint;*

Or. en

**Amendment 43**  
**Proposal for a regulation**  
**Article 8 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) *the information that in the event that the parties fail to agree on one competent ADR entity or that no competent ADR entity is identified, the complaint shall not be processed further;*

*Amendment*

(b) *a list of all competent ADR entities, if any are identified;*

Or. en



**Amendment 44**  
**Proposal for a regulation**  
**Article 8 – paragraph 2 – point c**

*Text proposed by the Commission*

**(c) a list of all competent ADR entities, if any are identified;**

*Amendment*

**(c) the information that the parties have to agree on one of the identified ADR entities in order for the complaint to be transmitted to that entity and that by choosing that ADR entity they agree to initiate dispute resolution procedure before it;**

Or. en

**Amendment 45**  
**Proposal for a regulation**  
**Article 8 – paragraph 2 – point d**

*Text proposed by the Commission*

**(d) the name and contact details of the ODR contact point in the place of residence for the consumer and in the place of establishment for the trader, as well as a brief description of the functions referred to in Article 6(2)(a), (b) and (d).**

*Amendment*

**(d) the information that in the event that the parties fail to agree on one competent ADR entity within seven working days from the date, on which the invitation from the ODR platform was received, or that no competent ADR entity is identified, the complaint shall not be processed further;**

Or. en

**Amendment 46**  
**Proposal for a regulation**  
**Article 8 – paragraph 2 – point e**

*Text proposed by the Commission*

**(e) an invitation to the consumer to select one or more ADR entities from the list provided, specifying that there is no obligation on the consumer to make such a selection;**

*Amendment*

**(e) the name and contact details of the ODR contact point in the place of residence for the consumer and in the place of establishment for the trader, as well as a brief description of the functions**

referred to in points (a), (b), (d) and (f) of Article 6(2).

Or. en

**Amendment 47**  
**Proposal for a regulation**  
**Article 8 – paragraph 2 – point f**

*Text proposed by the Commission*

(f) an invitation to the **trader** to select one or more ADR entities from the list provided, **in the event that none of those entities correspond to an entity the trader committed to use in accordance with Article 10(1) of Directive .../.../EU**[Office of Publications please insert number of Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Directive 2009/22/EC (Directive on consumer ADR)];

*Amendment*

(f) an invitation to the **consumer** to select **within seven working days from the date, on which the invitation from the ODR platform was received**, one or more ADR entities from the list provided **in accordance with point (b) of paragraph 2, specifying that there is no obligation on the consumer to make such a selection and offering information about other possibilities of redress, including the possibility to contact the trader as a first step;**

Or. en

**Amendment 48**  
**Proposal for a regulation**  
**Article 8 – paragraph 2 – point g**

*Text proposed by the Commission*

(g) **the information that** in the event that **the consumer chooses** an ADR entity the trader **has** committed to use in accordance with Article 10(1) of Directive .../.../EU[Office of Publications please insert number of Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Directive 2009/22/EC (Directive on consumer ADR)], **the platform shall automatically**

*Amendment*

(g) **an invitation to the trader to select within seven working days from the date, on which the invitation from the ODR platform was received, one or more ADR entities from the list provided in accordance with point (b) of paragraph 2,** in the event that **none of those entities correspond to** an entity the trader committed to use in accordance with Article 10(1) of Directive...\* **and offering information about other possibilities of**

*transmit the complaint to that ADR entity.*

*redress, including the possibility to contact the consumer as a first step;*

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*\* OJ: please insert the number of Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Directive 2009/22/EC (Directive on consumer ADR)*

Or. en

**Amendment 49**  
**Proposal for a regulation**  
**Article 8 – paragraph 2 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

*(ga) the information that, in the event that the consumer chooses an ADR entity, the trader has committed to use in accordance with Article 10(1) of Directive ... \*, the ODR platform shall automatically transmit the complaint to that ADR entity.*

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*\* OJ: please insert the number of Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Directive 2009/22/EC (Directive on consumer ADR)*

Or. en

**Amendment 50**  
**Proposal for a regulation**  
**Article 8 – paragraph 3 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

*(aa) their rules of procedure or, if applicable, an electronic link thereto;*

**Amendment 51**  
**Proposal for a regulation**  
**Article 8 – paragraph 3 – point d**

*Text proposed by the Commission*

(d) the need for the physical presence of the parties or of their representatives, if applicable;

*Amendment*

(d) the need, ***if applicable***, for the physical presence of the parties or of their representatives, if applicable;

Or. en

**Amendment 52**  
**Proposal for a regulation**  
**Article 8 – paragraph 4**

*Text proposed by the Commission*

4. Where the parties fail to reply to the platform or to agree on one competent ADR entity, the complaint shall not be processed further. ***The consumer*** shall be informed ***of the possibility of contacting an ODR facilitator for information*** on other means of redress.

*Amendment*

4. Where the parties fail, ***within seven working days from the date, on which the invitation from the ODR platform was received***, to reply to the ***ODR*** platform or to agree on one competent ADR entity, the complaint shall not be processed further. ***The complainant*** shall be ***contacted by a consumer advisor and*** informed on other means of redress.

Or. en

**Amendment 53**  
**Proposal for a regulation**  
**Article 8 – paragraph 5**

*Text proposed by the Commission*

5. Where the choice of the consumer corresponds to an ADR entity the trader has committed to use in accordance with Article 10(1) of Directive .../.../EU[Office

*Amendment*

5. Where the choice of the consumer corresponds to an ADR entity the trader has committed to use in accordance with Article 10(1) of Directive ... or where the

*of Publications please insert number of Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Directive 2009/22/EC (Directive on consumer ADR)] or where the parties choose the same ADR entity in their replies, the platform shall automatically transmit the complaint to that ADR entity.*

parties choose the same ADR entity in their replies, the **ODR** platform shall automatically **and without delay** transmit the complaint to that ADR entity.

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*\* OJ: please insert the number of Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Directive 2009/22/EC (Directive on consumer ADR)*

Or. en

**Amendment 54**  
**Proposal for a regulation**  
**Article 8 – paragraph 6**

*Text proposed by the Commission*

6. In the event that the parties agree on more than one ADR entity, the consumer shall be requested to select one of the ADR entities agreed upon. The platform shall automatically transmit the complaint to that ADR entity.

*Amendment*

6. In the event that the parties agree on more than one ADR entity, the consumer shall be requested to select one of the ADR entities agreed upon. The **ODR** platform shall automatically **and without delay** transmit the complaint to that ADR entity.

Or. en

**Amendment 55**  
**Proposal for a regulation**  
**Article 9 – paragraph 1 – introductory part**

*Text proposed by the Commission*

ADR entities to which a complaint has been transmitted in accordance with Article 8 shall:

*Amendment*

**1.** ADR entities to which a complaint has been transmitted in accordance with Article 8 shall:

**Amendment 56**  
**Proposal for a regulation**  
**Article 9 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) *without delay notify* the *parties* of the dispute *and inform them of their rules of procedure and of the fees applicable to the resolution of the dispute concerned;*

*Amendment*

(a) *conclude* the dispute *resolution* procedure *within 90 days from the date on which the ADR entity has received the complaint. In the case of complex disputes, the ADR entity may extend that time period;*

Or. en

**Amendment 57**  
**Proposal for a regulation**  
**Article 9 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) *if, following the notification of the dispute to the parties, the parties agree to institute proceedings before the entity, accomplish the conclusion of the dispute resolution procedure within 30 days from when the proceedings have been instituted. In the case of complex disputes, the ADR entity may extend this time limit;*

*Amendment*

(b) *without delay transmit the* following to the *ODR platform:*

Or. en

**Amendment 58**  
**Proposal for a regulation**  
**Article 9 – paragraph 1 – point b – point i (new)**

*Text proposed by the Commission*

(i) *date of receipt of the complaint and subject-matter of the dispute;*

*Amendment*

**Amendment 59**  
**Proposal for a regulation**  
**Article 9 – paragraph 1 – point b – point ii (new)**

*Text proposed by the Commission*

*Amendment*

*(ii) any request for additional information or translation regarding relevant documents that are needed from the parties;*

Or. en

**Amendment 60**  
**Proposal for a regulation**  
**Article 9 – paragraph 1 – point b – point iii (new)**

*Text proposed by the Commission*

*Amendment*

*(iii) date of conclusion of the dispute resolution procedure and result of that procedure.*

Or. en

**Amendment 61**  
**Proposal for a regulation**  
**Article 9 – paragraph 1 – point c – introductory part**

*Text proposed by the Commission*

*Amendment*

*(c) without delay transmit the following information to the ODR platform:* *deleted*

*(i) date of receipt and subject-matter of the dispute;*

*(ii) date of notification of the dispute to the parties;*

*(iii) date of conclusion and result of the procedure.*

**Amendment 62**  
**Proposal for a regulation**  
**Article 9 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The ODR platform shall transmit without delay the relevant information referred to in point (b) of paragraph 1 to the parties of the dispute and competent ADR entity.***

Or. en

**Amendment 63**  
**Proposal for a regulation**  
**Article 9 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. If the language of the dispute resolution procedure is the same as that of the complainant party, the ADR entity may choose not to conduct that procedure through the ODR platform. In such cases, Article 9(1a) shall not apply.***

Or. en

**Amendment 64**  
**Proposal for a regulation**  
**Article 10**

*Text proposed by the Commission*

*Amendment*

The Commission shall take the necessary measures to establish and maintain an

The Commission shall take the necessary measures to establish and maintain an



electronic database in which it shall store the information processed in accordance with Article 5(3) and Article 9(c).

electronic database in which it shall store the information processed in accordance with Article 5(3) and Article 9(1)(b).

Or. en

**Amendment 65**  
**Proposal for a regulation**  
**Article 11 – paragraph 1**

*Text proposed by the Commission*

1. Access to information, including personal data, related to a dispute and stored in the database referred to in Article 10 shall be granted, for the purposes referred to in Article 9, only to the ADR entity to which the dispute was transmitted in accordance with Article 8. Access to the same information shall be granted also to **ODR facilitators** for the purposes referred to in Article 6(3).

*Amendment*

1. Access to information, including personal data, related to a dispute and stored in the database referred to in Article 10 shall be granted, for the purposes referred to in Article 9, only to the ADR entity to which the dispute was transmitted in accordance with Article 8. Access to the same information shall be granted also to **consumer advisors, in so far as it is necessary**, for the purposes referred to in Article 6(3).

Or. en

**Amendment 66**  
**Proposal for a regulation**  
**Article 11 – paragraph 2**

*Text proposed by the Commission*

2. The Commission shall have access to information processed in accordance with Article 9 for the purposes of monitoring the use and functioning of the ODR platform and drawing up the reports referred to in Article 17. It shall process personal data of the users of the platform in so far as it is necessary for the operation and maintenance of the platform, including for the purposes of monitoring the use of the platform by ADR entities and **ODR facilitators**.

*Amendment*

2. The Commission shall have access to information processed in accordance with Article 9 for the purposes of monitoring the use and functioning of the ODR platform and drawing up the reports referred to in Article 17. It shall process personal data of the users of the platform in so far as it is necessary for the operation and maintenance of the platform, including for the purposes of monitoring the use of the platform by ADR entities and **consumer advisors**.

**Amendment 67**  
**Proposal for a regulation**  
**Article 11 – paragraph 3**

*Text proposed by the Commission*

3. Personal data related to a dispute shall be kept in the database referred to in paragraph 1 only for the time necessary to achieve the purposes for which they were collected and to ensure that data subjects are able to access their personal data in order to exercise their rights, and shall be automatically deleted, at the latest, after 6 months following the date of conclusion of the dispute which has been transmitted to the ODR platform in accordance with Article 9(c)(iii). The above-mentioned retention period shall also apply to personal data kept in national files by the ADR entity or the **ODR facilitator** which dealt with the dispute concerned, except if the rules of procedure applied by the ADR entity or any specific provisions of national law provide for a longer retention period.

*Amendment*

3. Personal data related to a dispute shall be kept in the database referred to in paragraph 1 only for the time necessary to achieve the purposes for which they were collected and to ensure that data subjects are able to access their personal data in order to exercise their rights, and shall be automatically deleted, at the latest, after 6 months following the date of conclusion of the dispute which has been transmitted to the ODR platform in accordance with Article 9(c)(iii). The above-mentioned retention period shall also apply to personal data kept in national files by the ADR entity or the **consumer advisor** which dealt with the dispute concerned, except if the rules of procedure applied by the ADR entity or any specific provisions of national law provide for a longer retention period.

Or. en

**Amendment 68**  
**Proposal for a regulation**  
**Article 11 – paragraph 4**

*Text proposed by the Commission*

4. Each **ODR facilitator** and each ADR entity shall be regarded as a controller, in accordance with Article 2(d) of Directive 95/46/EC, with respect to their own data processing activities under this Regulation and shall be responsible to ensure that these activities comply with data protection rules laid down in national legislation

*Amendment*

4. Each **consumer advisor** and each ADR entity shall be regarded as a controller, in accordance with Article 2(d) of Directive 95/46/EC, with respect to their own data processing activities under this Regulation and shall be responsible to ensure that these activities comply with data protection rules laid down in national legislation

adopted pursuant to Directive 95/46/EC. In relation to its responsibilities under this Regulation and the processing of personal data involved therein, the Commission shall be regarded as a controller in accordance with *Article 2(d)* of Regulation (EC) No 45/2001.

adopted pursuant to Directive 95/46/EC. In relation to its responsibilities under this Regulation and the processing of personal data involved therein, the Commission shall be regarded as a controller in accordance with *point (d) of Article 2* of Regulation (EC) No 45/2001.

Or. en

**Amendment 69**  
**Proposal for a regulation**  
**Article 12 – paragraph 1**

*Text proposed by the Commission*

1. **ODR facilitators** and ADR entities shall be subject to rules of professional secrecy or other equivalent duties of confidentiality laid down in national legislation.

*Amendment*

1. **Consumer advisors** and ADR entities shall be subject to rules of professional secrecy or other equivalent duties of confidentiality laid down in national legislation.

Or. en

**Amendment 70**  
**Proposal for a regulation**  
**Article 12 – paragraph 2**

*Text proposed by the Commission*

2. The Commission shall take the appropriate technical and organisational measures to ensure the security of information processed under this Regulation, including appropriate data access control, a security plan and a security incident management, in accordance with Article 22 of Regulation (EC) No 45/2001.

*Amendment*

2. The Commission shall take the appropriate technical and organisational measures to ensure the security of information processed under this Regulation, including appropriate data access control, a security plan, **privacy impact assessment** and a security incident management, in accordance with Article 22 of Regulation (EC) No 45/2001.

Or. en

**Amendment 71**  
**Proposal for a regulation**  
**Article 13 – paragraph 1**

*Text proposed by the Commission*

1. Traders established within the Union engaging in the ***cross-border*** online sale of goods or provision of services shall inform consumers about the ODR platform and about their e-mail address. This information shall be made easily, directly, prominently and permanently accessible on the traders' websites and, if the offer is made by e-mail or another textual message transmitted by electronic means, in that message. It shall include an electronic link to the ODR platform's homepage. Traders shall also inform consumers about the ODR platform when the consumer submits a complaint to the trader, a consumer complaint handling system operated by the trader or to a company ombudsman.

*Amendment*

1. Traders established within the Union engaging in the online sale of goods or provision of services shall inform consumers about the ODR platform and about their e-mail address. This information shall be made easily, directly, prominently and permanently accessible on the traders' websites and, if the offer is made by e-mail or another textual message transmitted by electronic means, in that message. It shall include an electronic link to the ODR platform's homepage. Traders shall also inform consumers about the ODR platform when the consumer submits a complaint to the trader, a consumer complaint handling system operated by the trader or to a company ombudsman.

Or. en

**Amendment 72**  
**Proposal for a regulation**  
**Article 13 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. The consumer information provided for in this Article shall be grouped in the same place as the traders' websites in order to allow consumers to have an overview of all their respective rights in this regard.***

Or. en

**Amendment 73**  
**Proposal for a regulation**  
**Article 15**

*Text proposed by the Commission*

*Amendment*

***Implementing acts***

***deleted***

***1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.***

***2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.***

***3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.***

Or. en

**Amendment 74**  
**Proposal for a regulation**  
**Article 16 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***2. The delegation of power*** referred to in ***Article 7(4)*** shall be conferred for an indeterminate period of time from the *[Office of Publications insert same date as in Art. 18(1) = date of entry into force of this Regulation]*.

***2. The power to adopt delegated acts*** referred to in ***Articles 5 (6), 6 (5) and 7(4)*** shall be conferred ***on the Commission*** for an indeterminate period of time from ... \* .

\* *OJ: please insert the date of entry into force of this Regulation.*

Or. en

**Amendment 75**  
**Proposal for a regulation**  
**Article 16 – paragraph 3**

*Text proposed by the Commission*

3. The delegation of **powers** referred to in Article 7(4) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

*Amendment*

3. The delegation of **power** referred to in **Articles 5 (6), 6 (5) and** 7(4) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Or. en

**Amendment 76**  
**Proposal for a regulation**  
**Annex – heading 1**

*Text proposed by the Commission*

**Information to be provided when filling in** the electronic complaint form

*Amendment*

**Model of** the electronic complaint form

Or. en

**Amendment 77**  
**Proposal for a regulation**  
**Annex – point 1**

*Text proposed by the Commission*

(1) **Name, address and, if applicable, e-mail and website address** of the complainant party;

*Amendment*

(1) **Whether** the complainant party is a consumer or a trader\*;

Or. en

**Amendment 78**  
**Proposal for a regulation**  
**Annex – point 2**

*Text proposed by the Commission*

(2) **Whether** the complainant party is a consumer or a trader;

*Amendment*

(2) **Name, e-mail, and, geographical address** of the consumer;

Or. en

**Amendment 79**  
**Proposal for a regulation**  
**Annex – point 3**

*Text proposed by the Commission*

(3) Name, address **and, if applicable, e-mail** and website **address** of the respondent party;

*Amendment*

(3) Name, address, **e-mail, geographical address** and website of the trader;

Or. en

**Amendment 80**  
**Proposal for a regulation**  
**Annex – point 4**

*Text proposed by the Commission*

(4) **Whether** the respondent party is a consumer or a trader;

*Amendment*

(4) **Type of goods or services to the sale or provision of which the complaint relates\***;  
(\* **to be chosen from a drop-down list**

**Amendment 81**  
**Proposal for a regulation**  
**Annex – point 5**

*Text proposed by the Commission*

**(5) Type of goods or services to the sale or provision of which the complaint relates;**

*Amendment*

**(5) Consumer's language\*\***

**(\*\*) possibility to choose more than one language from the drop-down list**

Or. en

**Amendment 82**  
**Proposal for a regulation**  
**Annex – point 6**

*Text proposed by the Commission*

**(6) Grounds on which the complaint is based;**

*Amendment*

**(6) Communication method by which the goods or services were offered and communication method by which the order was made\*;**

Or. en

**Amendment 83**  
**Proposal for a regulation**  
**Annex – point 7**

*Text proposed by the Commission*

**(7) Consumer's place of residence at the time the goods or services were ordered;**

*Amendment*

**(7) If applicable, where the trader's offer was made or the goods or services delivered or supposed to be delivered out of the operations of a branch, agency or other establishment, the place where that branch, agency or other establishment is situated;**



**Amendment 84**  
**Proposal for a regulation**  
**Annex – point 8**

*Text proposed by the Commission*

**(8) Communication method by which the goods or services were offered and communication method by which the order was made;**

*Amendment*

**(8) Language of the contract or, if not known, language used on the website;**

Or. en

**Amendment 85**  
**Proposal for a regulation**  
**Annex – point 9**

*Text proposed by the Commission*

**(9) If applicable, where the trader's offer was made or the goods or services delivered or supposed to be delivered out of the operations of a branch, agency or other establishment, the place where that branch, agency or other establishment is situated;**

*Amendment*

**(9) ADR entities the trader is committed to use [if known].**

Or. en

**Amendment 86**  
**Proposal for a regulation**  
**Annex – point 10**

*Text proposed by the Commission*

**(10) Language of the contract;**

*Amendment*

**(10) Grounds on which the complaint is based [Description of the complaint, up to 1000 words]**

Or. en

**Amendment 87**  
**Proposal for a regulation**  
**Annex – point 11**

*Text proposed by the Commission*

*Amendment*

**(11) ADR entities the trader committed to use in accordance with Article 10(1) of Directive ....../.../EU[Office of Publications please insert number of Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and amending Directive 2009/22/EC (Directive on consumer ADR)], if known.**

**(11) Attachments**

Or. en

## EXPLANATORY STATEMENT

The Commission's draft proposal aims at establishing a European Online Dispute Resolution platform "*ODR platform*". It will be an interactive website offering consumers and traders a single point of entry for out of court resolution of certain disputes – contractual disputes arising from the cross-border online sale of goods or the provision of services by a trader established in a Member State to a consumer resident in another Member State. The platform will be free of charge and available in all official languages of the EU.

The proposal has to be looked at in conjunction with the draft proposal for a directive on alternative dispute resolution for consumer disputes ("*ADR Directive*"). This draft Directive aims at enhancing redress for consumers by ensuring that all consumer complaints can be submitted to an ADR entity (e.g. arbitrator, conciliator, ombudsman or complaints board) for out of court resolution.

The ODR platform will be able to identify a competent ADR entity falling under the ADR Directive and communicate core information about that entity (fees, language(s) of the procedure, binding/non-binding nature of the outcome of the procedure etc) to the parties. Upon agreement between the parties on which ADR shall treat the complaint, the platform will automatically transmit the complaint to that ADR entity, which will seek to resolve the dispute within 30 days applying its own rules of procedure. The trader's agreement to use ADR will be presumed if, according to the provisions on customer information in the ADR Directive, it has committed to use the ADR entity concerned on its website.

The platform will enable the parties and the ADR entity to conduct the dispute resolution procedure online. A "network of ODR facilitators" will be established to support the resolution of disputes which will be transmitted via the ODR platform.

### **Scope of the Regulation**

Your Rapporteur supports the basic principle of making available voluntary ADR systems in every economic sector to facilitate consumer redress.

Your Rapporteur welcomes the fact that the draft Regulation applies to complaints filed not only by customers but also by traders. While your Rapporteur agrees that, in purely statistical terms, most complaints will be lodged by consumers, it is important that the tool is also available to complaints by traders in cases of, for example, non-payment or refusal to accept delivery of goods. This is all the more important in light of the fact that the ADR system laid out by the draft Directive is voluntary and therefore it is essential that the legislation provides incentives for traders to commit to ADR.

However, your Rapporteur deplores the fact that the draft Regulation applies only to disputes arising from the cross-border online sale of goods or provision of services by a trader established in a Member State to a consumer resident in another Member State.

Your Rapporteur encourages Members to seek a more ambitious solution to that contained in the draft Regulation and proposes that its scope be extended to include domestic online disputes as it is often difficult for consumers to ascertain if they are buying products and services on a cross-border basis when carrying out online transactions.

Moreover, as the Internet economy is driven by the so-called network effect (i.e., the more a tool such as Google or Facebook is used, the more advantageous it is for users); the greater the number of disputes submitted by users to the ODR platform, the greater the incentive for ADR entities and for traders to cooperate with it, generating a "virtuous circle" that will benefit consumers, promote e-commerce and improve the functioning of the retail Internal Market. As the fixed costs of creating the platform will remain the same regardless of its scope, this "network benefit" will be achieved without causing a large increase in the total cost of running the enlarged platform.

### **Role of Facilitators**

Your Rapporteur notes that the role of the network of ODR facilitators (which the Rapporteur intends to rename "consumer advisors") is quite limited in the draft Regulation. It is envisaged that these ODR consumer advisors will intervene only as a "last resort" to inform consumers of other means of redress when a dispute cannot be solved via the platform. They will also, only upon request, facilitate communication between the parties and the competent ADR entity. Additionally, they will draw up an annual activity report on the operation of the platform.

This is a direct consequence of an inherent contradiction in the draft Regulation – that the platform will be an IT tool operated by the European Commission from Brussels but facilitators will be based in the Members States.

Your Rapporteur calls for an increased role for the consumer advisors, so that they can be contacted by complainants at any point during the process of resolution of their complaint. They should be closely associated with the operation of the platform and available to "hold the hand" of consumers from the moment that the complaint form is filled in. Consumer advisors will help parties in choosing an ADR entity if more than one is identified by the ODR platform. They can also help to resolve language and translation problems if the dispute is cross-border in nature. Apart from helping complainants to use the ODR platform, consumer advisors should provide general information to consumers about their rights and suggest other courses of action, such as contacting the trader, starting judicial proceedings etc. If no ADR entity competent to resolve the dispute can be identified, the consumer advisors will also be a "last resort" for the parties by helping them to find an amicable solution.

### **Role of European Consumer Centres**

The draft Regulation provides that Member States may confer the responsibility for carrying out the tasks assigned to facilitators to the European Consumer Centre network, consumer associations or any other body. Your Rapporteur would like to draw attention to the fact that ECCs are mentioned in EP and Council Decision 1926/2006 establishing the 2007-2013 consumer policy programme and that they already provide information and assistance to consumers to help them exercise their rights and obtain access to appropriate dispute resolution.

On this basis, it seems appropriate to amend the draft Regulation to set out that consumer advisors will be based in ECCs. This reinforcement of the role of ECCs will go a long way towards establishing a "one stop shop" for all queries from EU citizens. In order to achieve

this, your Rapporteur proposes that the ODR be housed in the European Commission operated portal "Your Europe" which offers practical help and advice about the rights of EU citizens.

### **Time Periods**

Your Rapporteur would like to remind you of the old principle “delayed justice is justice denied” and notes that the provisions on processing and transmitting complaints do not set any deadlines for the time period between filling in the complaint form on the ODR platform and either the submission of the complaint by the platform to the relevant ADR entity or, in the absence of agreement between consumer and trader to refer the matter, the moment in which the complaint shall not be processed further. Therefore, a time limit of seven working days is proposed for the processing of the complaint by the platform. This proposed change is accompanied by other modifications to clarify and streamline the workflow of the ODR platform.

On this basis, Your Rapporteur believes that the maximum time period of 30 days for the resolution of disputes by ADR entity should be amended. Instead, it is proposed that the time period for dispute resolution is extended to 90 days, in line with the provisions of the ADR directive. This time period will begin once the dispute is received by the ADR entity.

### **Data Protection**

Your Rapporteur would like to recall the opinion of the European Data Protection Supervisor welcoming the fact that data protection principles have been included in the text, in particular in relation to the purpose and access limitation, the limitation of the retention period and the security measures provided in Article 11. Additionally, your Rapporteur proposes that data are shared with consumer advisors only on a "need to know" basis and that the Commission conducts privacy impact assessments.

### **Implementing and Delegated Acts**

Your Rapporteur understands that the Commission needs some room to manoeuvre for the creation of this new instrument and its practical implementation.

However, in order to ensure that the European Parliament fulfils its role of oversight for the benefit of consumers, it is proposed that the implementing powers requested by the Commission in relation to (i) the functions of the platform, (ii) the modalities of cooperation between ODR facilitators, and (iii) the modalities of the electronic complaint form are replaced by delegated acts.

In particular, Your Rapporteur is concerned about the translation capabilities of the ODR platform and wants to ensure that it works correctly in every language combination. She also wants to ensure that the interface between consumers and the platform (i.e. the electronic complaint form) is customer friendly and easy to use. The best way to achieve these objectives is to make sure that the Parliament maintains a veto right over the Commission's proposals in this regard.