

Functioning of the ODR Platform: EU Commission Publishes First Results

Written by Emma van Gelder and Alexandre Biard, Erasmus University Rotterdam (PhD and postdoc researchers ERC project Building EU Civil Justice)

On 13 December 2017, the European Commission published a report on the functioning of the Online Dispute Resolution (ODR) Platform for consumer disputes, and the findings of a web-scraping exercise of EU traders' websites that investigated traders' compliance with their information obligations vis-à-vis consumers.

In 2013, two complementary and intertwined legislative instruments – the Consumer ADR Directive (Directive 2013/11/EU) and the ODR Regulation (Regulation 524/2013) – were adopted to facilitate the out-of-court resolution of consumer disputes in the EU. Among other things, the Consumer ADR Directive has promoted a comprehensive landscape of high quality ADR bodies operating across the EU, and the ODR Regulation has established an ODR platform that offers consumers and traders a single point of entry for complaints arising out from online sales and services. The ODR platform is operational since 15 February 2016.

Data about claims lodged between 15 February 2016 and 15 February 2017 reveals:

- **1,9 million individuals** visited the ODR platform, proving the considerable level of coverage and uptake of the platform, as well as a high level of awareness among consumers and traders;
- **Consumers submitted more than 24,000 complaints** via the ODR platform. Reasons for complaining included problems with the delivery of goods (21%), non-conformity issues (15%) and defective goods (12%). 1/3 of complaints related to cross-border issues;
- **85 % of cases were automatically closed within 30 days after submission**, which is the deadline for consumers and traders to agree on a competent ADR body. A large number of traders ultimately did not

follow through using the ODR platform. However, it appears that **40% of consumers were bilaterally contacted by traders to solve their problems outside the scope of the ODR platform**. As the European Commission highlights, the ODR platform has thus **behavioural effects** on traders and ‘consumers’ mere recourse to the ODR platform has a preventive effect on traders that are more inclined to settle the dispute rapidly without taking the complaint to a dispute resolution body through the ODR platform workflow’;

- **9 %** of complaints were not closed by the system, but **refused by the trader**. For 4% of them, parties both pulled backed before they reached an agreement with the ADR entity;**2% of complaints were submitted to an ADR body**. In half of these cases, the ADR body refused to deal with the case on procedural grounds (*e.g.* lack of competence or consumer’s failure to contact the trader first). **In the end, only 1% of the cases reached an outcome via an ADR entity.**

In parallel, the web-scraping exercise of 20,000 traders’ websites was conducted between 1 June and 15 July 2017. It aimed to investigate traders’ compliance with their information obligations, which include in particular the obligation to provide consumers with an easily accessible electronic link to the ODR platform on their websites, and an email address that consumers may use to submit complaint against them on the ODR platform. Key findings of can be summarized as follows:

- **Only 28% of controlled websites included a link to the ODR platform.** Compliance ultimately depended on traders’ size (*e.g.*, 42% of large traders included a link vs. 14% of small traders), location (*e.g.*, 66% of online traders located in Germany provided a link vs. 1% in Latvia), and sectors (*e.g.*, 54% in the insurances sector vs. 15% of ‘online reservations of offline leisure’);
- **85% of investigated traders provided an email address;**
- **Accessibility to the ODR link appears still limited:** for **82%** of websites, the link to the ODR platform was included in the Terms & Conditions, which for consumers might be difficult to retrieve considering the risk of information overload.

The EU Commission now intends to take actions to solve the identified issues. In particular, it will cooperate with national authorities to solve technical issues, and maximize the use of the platform with the view to strengthening its contribution

to the development of the Digital Single Market.