



EUROPEAN COMMISSION
IMPACT ASSESSMENT BOARD

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Opinion

Title **DG SANCO - Impact Assessment on: Proposals on Alternative Dispute Resolution and Online Dispute Resolution in the EU**

(draft version of 20 June 2011)

(A) Context

This impact assessment accompanies the proposals on Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR). ADR and ODR are out-of-court mechanisms aiming at resolving disputes between consumers and businesses linked to the sale of goods and provision of services. Two Commission Recommendations (98/257/EC and 2001/310/EC) established principles for ADR schemes, and a number of sectoral EU Directives contain a clause that either obliges or encourages Member States to set up ADR schemes.

(B) Overall assessment

The IA report needs to be significantly improved in several important aspects. Firstly, the report should clarify the problem definition by demonstrating why the current situation is considered inadequate, while clarifying the cross-border dimension of schemes and linkages between ADR and ODR. On that basis the report should justify why the EU is better placed than the Member States to tackle the specific problems identified. Secondly, the report should further develop the description of policy options by providing greater clarity on what each of the options will entail in practice for different Member States and different actors involved. Thirdly, the report should analyse the implementation and administrative costs in greater detail, and should discuss the representativeness and the robustness of the estimated benefits. Fourthly, the comparison of options should be improved. Finally, the stakeholders' views should be better reflected throughout the report.

Given the nature of these concerns, the IAB requests DG SANCO to submit a revised version of the IA report, on which it will issue a new opinion.

(C) Main recommendations for improvements

(1) Strengthen the problem definition and the subsidiarity analysis. The report should better demonstrate the existence of the problems that require action at EU level, for instance by more clearly identifying the issues leading to a distortion of the functioning of the internal market. It should better demonstrate why, despite 750 existing national ADR schemes, the current situation is considered as inadequate, for instance by better reflecting consumer's principal concerns and by providing a better overview of existing gaps in the ADR coverage (sectoral and geographical). It should clarify the cross-border dimension of schemes and linkages between ADR and ODR schemes. The report should also discuss why the implementation of existing requirements laid down in the Commission Recommendations and in some sectoral legislation does not work in practice. More information should be provided about why in some sectors and Member States ADR schemes are not used and about the quality problems with existing ADR schemes. Finally, the report should discuss how this proposal is linked to other existing and planned initiatives (e.g. contract law) that aim to improve consumers' protection.

(2) Further develop the description of options. The report should provide greater clarity on what each of the options will entail in practice for different Member States and different actors involved. It should then clarify the choice of the legal instrument and discuss transposition and compliance issues. The report should also make clear whether there are synergies/overlaps between the ADR and ODR options.

(3) Strengthen the analysis of the costs and benefits. The report should analyse the implementation and administrative costs in greater detail. It should in particular be more precise about the expected implementation costs for setting up and running an ADR scheme. It should make clear which Member States and which sectors are likely to be significantly affected by the requirement in the preferred option which foresees that ADR schemes should be made available to solve domestic and cross-border consumer disputes in all Member States. The costs for setting up the ODR web-platform and the expected impact on the EU budget should be assessed more thoroughly. As regards the expected benefits, the report should discuss the representativeness and the robustness of the data used to extrapolate the presented figures and should consider indicating ranges of benefits. Finally, the report should discuss more extensively the proportionality of the preferred set of policy options.

(4) Improve the comparison of options. The impacts of the policy change options should be expressed as net changes compared to the baseline scenario. The report should ensure the necessary coherence between the scores in the partial tables related to specific options and the scores in the summary table comparing all the options. It should also clarify the method used to assign scores to different combinations of ADR and ODR options in section 8 as regards their effectiveness, efficiency and coherence.

(5) Better report the stakeholders' views. The positions of different stakeholders' groups should be transparently reflected throughout the report. The report should explain how these positions have been taken into account, or justify why they have been dismissed.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

Efforts should be made to shorten the report, for instance by avoiding repetitions in the impacts sections.

(E) IAB scrutiny process

Reference number	2011/SANCO/019
External expertise used	No
Date of Board Meeting	19 July 2011