

## **FAQ on alternative dispute resolution (ODR Regulation)**

On 09.01.2016 the European Commission provided an own platform for alternative dispute resolution procedures. Consumers and traders can resolve their problems easily, quickly and simply at the click of a mouse.

### **Why are there new information requirements?**

Consumers are not yet aware of the alternatives to conventional court procedures. Therefore, many disputes often remain unresolved. Since 09.01.2016, online traders should work as “ambassadors” for the alternative dispute resolution and shall be obliged to inform the consumers of the ODR platform, so that as many consumers have knowledge of the existence of this platform.

### **Who is affected by the new information requirements?**

All shops in the EU where sales of goods or services take place are affected, that is to say including not only online shops but also shops in online marketplaces.

### **Are B2B shops also affected by the new information requirements?**

No. The ODR platform cannot be used for disputes in the B2B sector. Therefore, the newly introduced information requirements concern only shops where online sales and service contracts are concluded with consumers. There are no corresponding information requirements for B2B shops.

### **Are shops affected by the new information requirements which exclusively ship goods within Germany?**

Yes. The use of the ODR platform is open to all consumers and traders who have concluded a sales or service contract on the internet. It is irrelevant whether both parties are in different countries. Shops which do not provide deliveries abroad must also fulfil the new information requirements.

### **Is there an exception for small entrepreneurs?**

No, in accordance with the provisions of the ODR Regulation, small entrepreneurs are not exempted from the information requirements.

## How and where can the new information requirements be met?

All online traders of goods and/or services established in the European Union have to add a link to the ODR platform on their websites since 09.01.2016.

This link shall be easily accessible for consumers. We therefore recommend including the information text together with the link in the T&Cs and customer information as well as below the legal notice.

## What is the new mandatory information?

The Händlerbund recommends the following information text:

*“The European Commission provides a platform for the out-of-court resolution of disputes (ODR platform), which can be viewed under <http://ec.europa.eu/odr>.”*

## Does the new information text have to appear in the email signature?

The ODR Regulation stipulates that online traders have to indicate a link to the European Online Dispute Resolution platform (“ODR platform”) on their “websites”. According to the wording of the Regulation, email signatures are not affected by this information requirement.

## How much will it cost to use the ODR platform?

The use of the ODR platform is free of charge. However, the ODR platform does not perform activities as mediator on its own account. Rather, the complaints are forwarded to the national dispute resolution body (so-called “ADR entity”) competent and/or chosen by the parties. The respective procedural rules of this ADR entity shall apply for the costs.

## A consumer submits a claim through the platform. Am I obliged to participate in a dispute resolution through the ODR platform?

No. Online traders have to inform about the ODR platform on their websites where they conclude contracts. After receipt of a claim, the ODR platform forwards the claim to the trader as well as the request to indicate **whether** he is **ready** to use an ADR entity. Therefore, there is no obligation to participate.

However, the simple and low-cost resolution of legal disputes is a good alternative to conventional court procedures. Moreover, the impression which an online trader leaves behind on the consumer in rejecting such a procedure is not expected to be very positive.

## Following a dispute resolution, am I still able to use the regular judicial procedure?

The right to be heard by a court is a legally guaranteed fundamental right. The online dispute resolution wants and must not completely abolish or replace judicial procedures. Consumers and traders have the right to demand enforcement of their rights at any time.

### **What are the ODR contact points?**

In each Member State, one ODR contact point will be designated. This contact point is hosting at least two ODR advisors. The ODR contact points should support the parties involved in cross-border disputes by providing assistance for submitting the claim. In addition, the ODR contact point explains the procedural rules of the ODR entity to the parties and helps them with translations. They should make cross-border dispute resolution easier.