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WK 7948/2025 INIT

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NOTE

From:	General Secretariat of the Council
To:	Working Party on Consumer Protection and Information (Attachés) Working Party on Consumer Protection and Information
N° Cion doc.:	ST 14434/23
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2013/11/EU on alternative dispute resolution for consumer disputes, as well as Directives (EU) 2015/2302, (EU) 2019/2161 and (EU) 2020/1828 - Updated compromise proposals - 2nd part

Delegations will find attached updated Presidency compromise proposals in preparation for the Working Party on 17 June. Changes from WK 7336/25 are highlighted in blue.

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Main political issues

Air carriers	Geographical scope	Material scope
<p><u>Recital explaining that incentives should particularly include sectors with repeated complaints and that one of the ways to deal with sector specific problems can be mandatory participation.</u> <i>[after the recital on measures promoting participation]</i></p> <p>Recital (XX) In establishing and implementing measures promoting participation of the traders and consumers in the alternative dispute resolution procedures, Member States should pay particular attention to practices in specific business sectors with low participation level of traders in ADR procedures, such as air transport, e-commerce and telecommunications and practices in those sectors about which consumers have repeatedly lodged complaints, as demonstrated by available data and complaint statistics .</p> <p>Recital (XX) Alternatively to measures promoting participation of the traders in the alternative dispute resolution procedures in those sectors, Member States may decide to introduce mandatory participation in ADR procedures of traders in those sectors.</p>	<p><u>Extension of geographical scope based on Commission proposal with a possibility to set out additional conditions</u></p> <p>(3) Since at least two out of five online transactions currently made by consumers residing in the Union are with traders established in third countries, the scope of Directive 2013/11/EU should be extended to allow those third country traders that have a substantial connection to the Union and are willing to participate in an ADR procedure to do so. Such connection should be considered to exist when those traders direct their activities towards one or more Member States, within the meaning of Article 6(1), point (b) of Regulation (EC) No 593/2008 and Article 17(1), point (c), of Regulation (EU) No 1215/2012, as interpreted by the Court of Justice and the General Court. and are willing to participate in an ADR procedure to do so. No procedural impediments should hinder consumers residing in the Union from resolving disputes against traders, irrespective of their establishment, if the traders accept to follow an ADR procedure through an ADR entity established in a Member State. The Whether a third country trader is directing of its activities towards one or more Member States can be determined on the basis of all relevant circumstances, including factors such as:</p> <ul style="list-style-type: none"> - the use of a language or a currency generally used in that Member State, or - the possibility of ordering products or services, or the use of a relevant top-level domain, 	<p>-x</p>

Air carriers	Geographical scope	Material scope
	<p>- The targeting of activities towards a Member State could also be derived from the availability of an application in the relevant national application store,</p> <p>- from the provision of local advertising or advertising in a language used in that Member State, or</p> <p>- from the handling of customer relations such as by providing customer service in a language generally used in that Member State.</p> <p>Member States should be able to lay out conditions for the participation in ADR procedures of traders established in third countries, in particular to avoid excessive burden on ADR entities. These conditions may include in particular the trader's consent to the resolution of the dispute on the basis of the law applicable in the Member State in which the consumer's has their place of residence and the trader's commitment to the ADR procedural rules, including recurrent fees, where applicable.</p> <p style="text-align: center;">Article 2 Scope</p> <p>1. This Directive shall apply to procedures for the out-of-court resolution of <u>domestic, and cross-border and international</u> disputes between consumers <u>a trader established in the Union and a consumer</u> resident in the Union and a traders offering goods or services, including digital content and digital services, to those consumers, through the intervention of an ADR entity which proposes or imposes a solution or brings the parties together with the aim of facilitating an amicable solution concerning one of the following; <u>where a sales or service contract, including digital content and services contracts, is concluded between a consumer and a trader where the</u></p>	

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	<p data-bbox="898 234 1608 549"><u>consumer pays or undertakes to pay the price, and where a dispute arises relating to pre-contractual and contractual obligations. This Directive shall also apply where the trader supplies or undertakes to supply digital content which is not supplied on a tangible medium or a digital service to the consumer and the consumer provides or undertakes to provide personal data to the trader. It shall not apply to cases falling under the exceptions provided for in Article 4(2)(b) of Directive (EU) 2019/2161.</u></p> <p data-bbox="898 667 1608 1054">2. In Article 4(1), points (e) and (f) are replaced replaced by the following is amended as follows: (f1) 'international dispute' means a dispute between a consumer and a trader, related to contractual obligations as referred to in Article 2(1), where, at the time the consumer orders the goods or services, the consumer is resident in a Member State and the trader is established outside of the Union and directs its activities towards that Member State, within the meaning of Article 6(1), point (b) of Regulation (EC) No 593/2008 and Article 17(1), point (c), of Regulation (EU) No 1215/2012;</p> <p data-bbox="1205 1098 1301 1121" style="text-align: center;">Article 5</p> <p data-bbox="898 1134 1608 1377">1. Member States shall facilitate access by consumers to ADR procedures and shall ensure that disputes covered by this Directive and which involve a trader established on their respective territories, or a trader not established in the territory of any can be submitted to an ADR entity which complies with the requirements set out in this Directive</p>	

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	<p><i>Each</i> Member State but offering goods or services, including digital content and digital services, to shall also facilitate access by consumers residing in their respective territories, to ADR procedures and ensure that disputes covered by this Directive involving which involve a trader established outside of the Union that directs its activities towards to that Member State can be submitted to an ADR entity which complies with the requirements set out in this Directive, following a joint request by the consumer and the trader; Member States may make this access conditional on the traders' consent to the resolution of the dispute on the basis of the law applicable in the Member State in which the consumer's has their place of residence and the trader's commitment to the ADR procedural rules, including recurrent fees, where applicable. Member States may set out additional conditions.</p> <p><i>(...)</i> 2. (...) (e) accept domestic, cross-border and where applicable international disputes</p> <p>9. Paragraph 8 shall not apply to international disputes.</p>	