



International Chamber of Commerce

The world business organization

Business-to-Consumer and Consumer-to-Consumer Alternative Dispute Resolution (ADR) Inventory Project

Summary Report

18 July 2002

Introduction

The Business-to-Consumer and Consumer-to-Consumer Alternative Dispute Resolution (ADR) Inventory Project was focused on building a comprehensive worldwide inventory of dispute resolution providers and to increase understanding of the services available to consumers around the world for disputes over online transactions.

The scope of this project focused narrowly on providers who offered dispute resolution services for disputes emerging from online transactions between businesses and consumers (B2C transactions) and between consumers and consumers (C2C transactions).

A detailed 15-page questionnaire, developed in partnership between the International Chamber of Commerce (ICC) and the Organisation for Economic Co-operation and Development (OECD), was sent to organizations offering ADR services around the globe. Responses were received from 37 organizations located in 16 countries from across the Americas, Europe, Asia, the Middle East, and Africa. In addition, information about the availability of dispute resolution services in several countries was provided by ICC National Committees in 13 countries.

Project Methodology

The ADR Inventory Project was carried out from January to March 2002. Throughout January and February, surveys were distributed to ADR providers in 29 countries around the world including Austria, Belgium, Brazil, Canada, Denmark, Egypt, Finland, France, Germany, Hong Kong, Iceland, Ireland, Italy, Kenya, Korea, Malaysia, Mexico, Netherlands, Nigeria, Norway, Peru, Portugal, Singapore, South Africa, Spain, Sweden, Switzerland, UK, and the USA.

These providers were identified from contact databases developed in earlier ICC work, new online and library research, and information provided by ICC National Committees around the world. Reflecting global trends in online access and electronic commerce, most of the survey recipients were located in a small subset of the world's countries. Put another way, more than four-fifths of survey recipients were in the United States and Europe [see Figure 1].



We faced significant obstacles in finding previously unidentified ADR providers in many regions of the world, especially in Asia and Latin America. In many developing countries, particularly those with low Internet penetration rates, the market for ADR services for online disputes is either still very young, or more likely, non-existent. Our ICC National Committees helped confirm this hypothesis in several countries around the world.

Some organizations that declined to respond to the survey, indicated that they did not offer dispute resolution services for disputes arising out of B2C and C2C online transactions.



FIGURE 1
Geographic Distribution of Survey Recipients

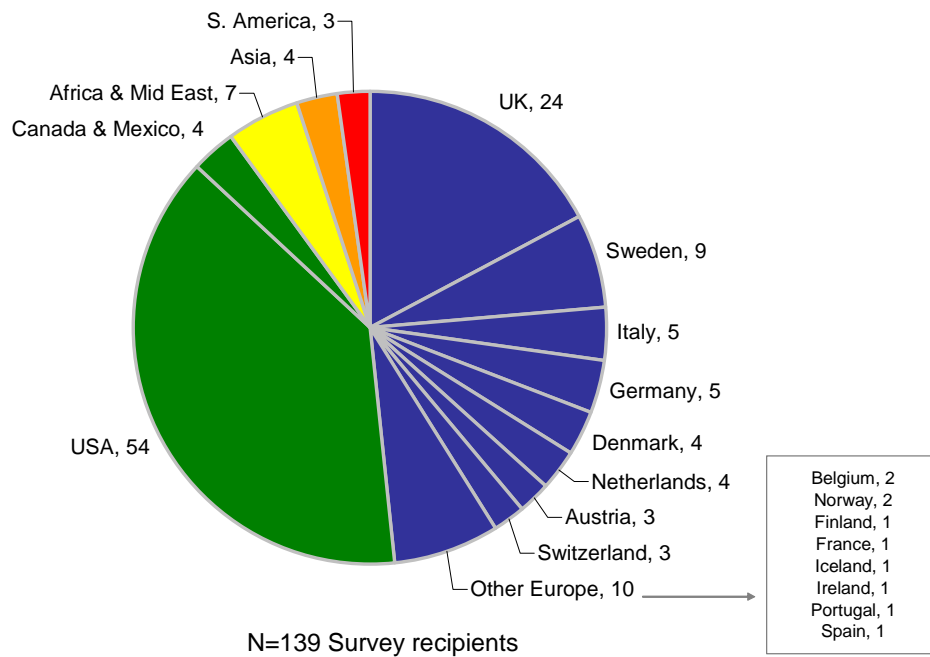
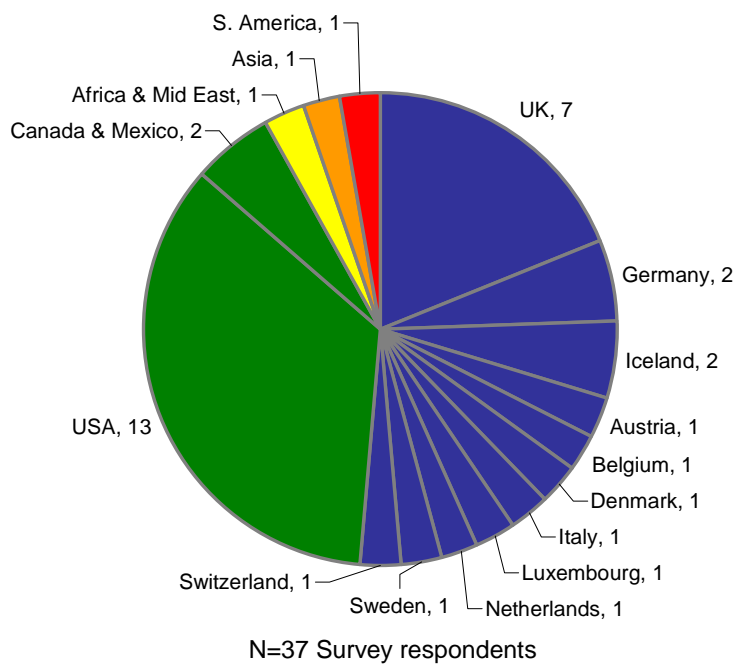


FIGURE 2
Geographic Distribution of Survey Respondents





Summary Results

This section provides highlights from preliminary analysis of the collected surveys from ADR service providers around the world. Results are presented concisely and are intended to provide an overview of general trends and notable results that have been identified.

It should be noted that the trends and results presented here may not reflect the characteristics of all global ADR service providers. There was no effort to create a statistically significant survey sample, though every attempt was made to distribute the survey to as large a population as possible. The responses we received represent a self-selected group that is not necessarily representative of the larger survey recipient sample or of the entire universe of ADR service providers around the world. As a result, these results should be taken more as indicative of the range and scope of services currently offered throughout the world, rather than as a definitive analysis of the state of the ADR industry for disputes that arise out of B2C and C2C online transactions.

More than half of the survey respondents offered online assisted negotiation, and online mediation is offered by 2 in 5 of the service providers surveyed. As such online services become more widely available, there may be an important need to help establish guidelines and standards for the provision of such services.

Forms of Dispute Resolution Services Offered

Forms of Services Offered Online and Offline

Survey respondents were asked to check off which of four broad types of dispute resolution services they offered online and offline: arbitration, mediation, assisted negotiation, and automated negotiation. Notably, the majority of survey respondents offer a mix of both online and offline services. This suggests that a growing number of traditional ADR providers have begun to offer online ADR services to complement existing offline ADR mechanisms. Consumers Association of Iceland, for example, offers arbitration and assisted negotiation offline, and now has begun providing online assisted negotiation. The Chamber of National and International Arbitration of Milan has added online mediation to their traditional offline arbitration and mediation services. Only 6 of the 37 respondents offered only online services while 9 offered no online services.



The table below shows the frequency with which the various dispute resolution services were offered. Within our respondent pool, providers tended to offer more services offline than online. In the online arena, assisted negotiation was the most widely offered service, provided by 54% of respondents. Automated negotiation, which does not require a human intermediary and relies only on a computerized process was the least popular online service, available from only 27% of providers. In the offline world, mediation was the most popular service and was offered by 70% of respondents.

Respondents also had the option of listing other offered services that did not fit in the four suggested categories. Examples of such listed services include conciliation, early neutral evaluation, and non-binding expert opinions.

Table 1. Proportion of Providers Offering ADR Service (N=37)

	Offered ONLINE	Offered OFFLINE
Arbitration	35%	57%
Mediation	41%	70%
Assisted Negotiation	54%	68%
Automated Negotiation	27%	16%

Cross-border Disputes

The vast majority of survey respondents indicated that their services were available for cross-border disputes. For example, only 2 of the 13 American survey respondents do not offer services for cross-border disputes. It is not clear how frequently such cross-border disputes are presented for resolution.

Scope of Services Offered

Most Frequent Types of Disputes Handled

Survey respondents list a wide range of disputes that are frequently handled, including delay of delivery, false product specifications, unexpected additional costs, and non-delivery of goods.



Language of Service

English is the most popular language of service and is offered by all but a few survey respondents. A few respondents, primarily government consumer bodies, offer service in only the official language of their country. Many European providers offer services in more than one language, usually including English, French, German, Spanish or Italian. Many American providers offer services in English only or English and French or Spanish. Japanese and Chinese services were offered by several providers outside of Asia. Several providers indicated that they were capable of providing services in several languages, but in practice have never had to use certain languages. Eurochambres (Europe-wide), NovaForum (Canada), WIPO Arbitration and Mediation Center (Switzerland), and SquareTrade (USA) were the only providers offering services in more than 5 languages.

Specific language capabilities have been tabulated and can be found in the accompanying online resource.

Geographic Scope of Service

Many governmental and quasi-governmental consumer agencies offer dispute resolution services that tend to focus on consumers and businesses within their respective countries. Among private initiatives, few limits seem to exist on the potential geographic scope of services offered. In practical terms, many providers tend to focus on their home regions, with international dispute resolution limited by language and other practical considerations. NovaForum (Canada) offers services internationally, though their focus is the U.S., Canada, and Western Europe. Cibertribunal (Peru) offers offline services primarily in Peru, but can provide online services worldwide. ADR Group (UK) focuses on the U.K. and Europe but also promises service in most of the world.

Filing a Dispute Resolution Request

Typical Value of Disputed Transactions

The typical value of disputed transactions handled by ADR providers varies widely but can be quite high. For Mediation Arbitration Resolution Services (USA), transaction values of online disputes typically range from \$100 to \$50,000. For traditional ADR disputes, the transaction values typically range from \$5,000 to \$1,000,000 or more. At Consensus Mediation (UK), nearly all consumer disputes handled are for transactions under £5000. Squaretrade (USA) has handled disputes for transactions up to \$1,000,000 with average dispute size being under \$1000.



Case Results

The outcomes of ADR decisions vary widely from provider to provider. ADR decisions made by Internet Ombudsmann of Austria or the National Consumer Agency of Denmark, for example, are not legally binding to any party. Meanwhile, agreements facilitated by ADR Group in the UK are considered legally binding to both parties. Variations in legal environments can also affect the enforceability of ADR decisions. In Italy, for example, courts can enforce arbitral awards made by the Chamber of National and International Arbitration of Milan. Off the continent, neither Iceland's Appeals Committee on the Sale of Goods and Services nor the Consumers Association of Iceland offer any provision for the enforcement of ADR decisions.

Requirements for Mediators, Arbitrators, or Neutrals

Nearly all respondents reported that they had specific requirements for their mediators, arbitrators, or neutrals. Most respondents provided detailed information on these training and experience requirements.

Security, Technical Details, and Privacy Policy

Among those providers of online services, E-mail and web forms were the most frequently mentioned mode of online communication tool. In regards to security, nearly all providers of online services generally took the time to provide detailed responses about the use of encryption and other data and privacy protection measures.

Cost of Services

Pricing information was not reliably offered by a large portion of survey respondents. In general, respondents indicated that filing and service fees varied according to the size of the dispute. Fees ranged from zero in the case of several community and government organizations to several thousand US dollars. For respondents who did provide such information, summary pricing data has been entered into the accompanying Excel file *ADR_Survey.xls*.



Company Information

Certifications of ADR service providers vary enormously around the world. Many providers have some form of certification by a national agency. No single international body has emerged as a central certification agency or governing body over the industry.

Primary sources of funding also vary widely by organization. Aside from internal business-related revenue streams, many public and quasi-public organizations received public funding, like the Danish National Consumer Agency, the Swedish National Board for Consumer Complaints, and Eurochambres. Some private firms like NovaForum in Canada and ACB Conflict Management for Commerce and Industry in the Netherlands also reported receiving government funds. Among firms that received outside private investment were several Internet-based dispute resolution providers like Cybersettle, SquareTrade, and Online Resolution, all in the United States.



Notes

Potential Market for ADR for Online Disputes Remains Limited

Within the United States, the world's largest consumer market, total e-commerce retail sales for 2001 were estimated at \$32.6 billion, an increase of 19.3 percent from 2000. As a portion of total sales, however, e-commerce sales in 2001 accounted for only 1.0 percent of total retail sales, up from 0.9 percent of retail sales in 2000.¹ Online retail sales, while growing rapidly, still represents only a tiny fraction of the business-to-consumer retail market. Moreover, most disputes over retail transactions are resolved within a company's internal customer care department and never reach a stage requiring third-party involvement. These trends have capped the size of the potential market for ADR for online disputes.

Our survey results indicate that many ADR providers are equipped and ready to handle all forms of consumer disputes, but few have actively been engaged in resolving *online* disputes. At the high end, CyberSettle reports handling over 50,000 disputes through its online service while SquareTrade has settled over 100,000. Several survey respondents reported having received no service requests for online disputes as of yet.

Online Provision of Dispute Resolution Services is Increasingly Popular

Even as the market for online disputes remains small, there appears to be a very strong move towards increased *online* provision of ADR services. Such online services are typically available to help resolve all forms of disputes, whether occurring offline *or* online.

Of the 37 survey respondents, 28 offered some form of online service, with online assisted negotiation being offered by more than half of all respondents and online mediation being offered by 2 in 5. As such online services become more widely available, there may be an important need to help establish guidelines and standards for the provision of such services.

¹ United States Department of Commerce, Monthly Retail Trade Data.



Appendix I: List of Survey Respondents

Completed surveys were received from the following 37 organizations located across 16 different countries around the world:

1. A Commercial Initiative for Dispute Resolution (UK)
2. ACB Conflict Management for Business and Industry (Netherlands)
3. ADR Group (UK)
4. Appeals Committee on the Sale of Goods and Services (Iceland)
5. Association of British Travel Agents (UK)
6. Camera Arbitrale di Milano (Italy)
7. Centre Européen des Consommateurs – Luxembourg (Luxembourg)
8. Centre for Dispute Resolution (CEDR) (UK)
9. Cibertribunal Peruano (Peru)
10. Consensus Mediation (UK)
11. Council of Better Business Bureaus Dispute Resolution Division (USA)
12. Cybersettle (USA)
13. Eurochambres (Belgium)
14. gwmk (Gesellschaft fuer Wirtschaftsmediation und Konfliktmanagement e.V.) (Germany)
15. Hong Kong International Arbitration Centre (China)
16. Internet Neutral Mediation Services (USA)
17. Internet Ombudsman (Austria)
18. Israeli Institute of Commercial Arbitration (Israel)
19. Mediation Arbitration Resolution Services (MARS) (USA)
20. National Arbitration Forum (USA)
21. National Board for Consumer Complaints (Sweden)
22. National Consumer Agency of Denmark - Forbrugerstyrelsen (Denmark)
23. Neytendasamtökin (Consumers Association of Iceland) (Iceland)
24. NovaForum (Canada)
25. Online Resolution (USA)
26. SmartSettle (Canada)
27. SquareTrade (USA)
28. TRUSTe (USA)
29. Trusted Shops GmbH (Germany)
30. USsettle.com (USA)
31. WebAssured.com (USA)
32. WebMediate (USA)
33. WeCanSettle.com (UK)
34. West Angeles Community Mediation Center (USA)
35. Westchester Mediation Center of Cluster (USA)
36. Which? Web Trader (UK)
37. WIPO Arbitration and Mediation Center (Switzerland)



APPENDIX II: Selected Anecdotes and Quotes

From Stan Reisch of Mediation Arbitration Resolution Services (USA):

“I want to thank you personally for the opportunity to participate in answering this questionnaire. I found it to be most comprehensive and well organized. We firmly believe that surveys and studies such as yours, will go a long way in helping consumers to find ways to resolve disputes that come about through online business transactions.”

From Jenny Besch at the Westchester Mediation Center (USA):

“I very strongly oppose the use of online mediation. There is a cloak of invisibility and lack of transparency with such online services. The purpose of ADR, especially mediation, is interpersonal contact so disputants can come together and collaborate. If you put ADR online, it turns into arbitration not mediation. There is a greater tendency to separate parties rather than to bring them together. The assumption that every dispute is appropriate for mediation is incorrect. Both parties must be willing to come together. This may not be the case in many online B2C transaction disputes.”

From Li Haifeng at ICC China:

“After extensive research we found that there is currently no provider of dispute resolution services for online B2C or C2C transactions in China. All disputes of such nature are taken up by courts of law are up to now there are very few such cases.”

From Leah Gates at the Auckland Regional Chamber of Commerce & Industry (New Zealand):

“I had a discussion this morning with David Williams QC who is the New Zealand representative on the Arbitration Court in Paris. He advises me that in New Zealand there are currently no providers for that type of dispute. The action a consumer might take is directly with the company they purchased from.”

From the Indonesian National Board of Arbitration:

“In 1999 a new Law on Arbitration was enacted in Indonesia. The new Law includes provisions on alternative dispute settlements. It provides streamlined and effective procedures with respect to recognition and enforcement of International Arbitration Awards analysis.”