



ALTERNATIVE DISPUTE RESOLUTION (ADR)

The need to develop ADR in Ireland

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Introduction	Page 3.
Experience of the Irish Clearing House	Page 4.
ADR in Ireland	Page 5.
ADR in other Member States	Page 7.
The development of ADR in Ireland	Page 12.
Conclusion	Page 19.

Annexes:

1. European Commission Recommendation 98/274/EC.
2. European Commission Recommendation 2001/310/EC.
3. Report of consumer complaints received in the Clearing House.
4. Overview of the Danish consumer agency and complaints board.
5. Chartered Institute of Arbitrators Irish branch – Guidance notes on arbitration.
6. Chartered Institute of Arbitrators Irish branch – Scheme for Tours operators and consumers.
7. Chartered Institute of Arbitrators Irish branch – Scheme for the society of Irish Motor Industry Scheme (SIMI).
8. Chartered Institute of Arbitrators UK – EEJ-Net dispute resolution scheme.

Introduction

Alternative Dispute Resolution (ADR) is an increasingly important part of the European Commission's vision of the internal market. The creation and support of the EEJ-Net by the Commission and Member States shows the growing importance attached to ADR. Further evidence of the importance of ADR as a redress mechanism is that it is now being included in proposed legislation.

The November 2003 'Euro-barometer' survey showed that only 12.4 % of consumers had made a cross border purchase in the last 12 months. 48.5% felt they had a high level of consumer protection in their own country but only 20.3% when they shopped in another European country.

Why are these figures so small?

Consumer confidence (or lack of) is a major issue. Confident consumers shop more, they are good for business, good for the economy and good for the internal market.

Knowing that there is access to redress mechanisms wherever you shop or live is crucial to the development of consumer confidence. ADR is an integral part of that process.

Any difficulties arising are practical. Since the Clearing House of the EEJ-Net became operational in May 2002 it has become apparent that the Clearing House cannot operate to its full potential without the further development of ADR in Ireland.

For this reason the Clearing House has put together this report to address the problems and show that more importance needs to be placed on ADR development in Ireland.

This report will examine the experiences of the Irish Clearing House. It will consider the existing ADR situation in Ireland and look at the European situation.

Finally this report will put forward proposals for the positive development of ADR in Ireland

Experience of the Irish Clearing House

In 2003 the Irish Clearing House dealt with a total of 90 cases, compared with 29 cases received in the first 7 months of operation in 2002.

Of the 90 cases received, 12 of them were lodged by consumers from other Member States. These cases could not be referred to ADR in Ireland as there was either no ADR body available to deal with the particular complaint or the retailer refused to participate in the procedure. (A full break down of the cases dealt with by the Clearing House is provided in annex 3.)

The remaining 78 cases received related to Irish consumers with disputes against retailers in other Member State. Of these, 12 cases were sent to ADR bodies in other Member States. The 12 cases sent to ADR in another Member state are still active. Out of the remaining 66 cases, 10 were referred to the ECC, 1 was referred to SOLVIT and another to FIN-Net, in 4 instances there was an ADR body but the consumer did not agree, in 2 cases the company refused to accept the procedure and in the remaining 48 cases no ADR bodies were available. It has to be pointed out that of these 48 cases, 45 relate to timeshare, which due to the fraudulent nature of many of these companies do not offer ADR. It is clear that in other Member States there are good ADR systems but the area of timeshare still remains problematic.

The following are examples of some of the complaints received by the Clearing House:

While in Ireland on business a UK consumer purchased a suit from a retailer in Dublin. When the consumer returned to his accommodation he realised that the suit did not fit him and returned it to the shop the next day. The shop agreed to replace the suit for a larger size, but as they did not have any in stock they agreed to send it by post to the UK.

After several months of waiting for delivery of the suit the consumer contacted the European Consumer Centre (ECC) Dublin for assistance. The ECC Dublin made numerous attempts to resolve this matter through direct contact with the company however this course of action failed. The ECC Dublin requested the assistance of the Office of the Director of Consumer Affairs which was also unable to obtain a refund on behalf of the consumer. The dispute was then referred to the Clearing House. However due to the fact that there was no nominated ADR body to deal with this complaint the dispute was closed unresolved.

Another example of the type of complaint received by the Clearing House is airline complaints. Airline disputes account for 67% of the Clearing House's cases.

An Italian consumer booked flights for his child over the internet with an airline. At the time of the booking the child was 11 years of age. According to

the translation on the Italian version of the terms and conditions, children from 11 years and upwards could travel alone. However under the English terms and conditions the age limit was 12 years and over.

On the outward flight from Italy to Ireland there was no problem with the child flying alone. However on the homeward journey the child was denied boarding due to age. The consumer had to purchase a flight with another airline which cost over €400.00. After the intervention of the ECC Dublin the consumer received the price of the original flight ticket, €60.00, from the airline, however the airline in question refused to compensation the actual loss. The dispute was then referred to the Clearing House however due to the fact that the company refused to participate in the ADR procedure the case was closed unresolved.

Many of the complaints received by the Irish Clearing House could have been sent to the “Centre for Dispute Resolution” which is a nominated ADR body. This ADR body specialises in mediation and deals with complaints all natures. Unfortunately due to the lack of co-operation from the cited businesses, the Irish Clearing House has yet to avail of the services of this ADR body.

Although many businesses agree that ADR is very useful in the resolution of consumer disputes it is important to remember that ADR is voluntary and therefore when companies refuse to participate the Irish Clearing House must close a dispute unresolved.

An overview of ADR in Ireland

Currently Ireland has six ADR bodies which were notified in 2001 by the Department of Enterprise, Trade and Employment to the European Commission.

These nominations were based on the European Commission’s Recommendations¹. In order to become a nominated ADR body, the body must comply with the seven principles set out under these Recommendations. (See annex 1)

The following is a list of the ADR bodies that are currently recommended and details of their functions:

1. Ombudsman for Credit Institutions

The Ombudsman for Credit Institutions is responsible for resolving disputes between individual consumers and banks, building societies (and finance houses which have been prescribed as Credit Institutions under Section 2 of the Consumer Credit Act 1995)

¹ European Commission Recommendations on the Principles applicable to bodies responsible for the out-of-court settlement of consumer disputes (98/257/EC) and (2001/310/EC)

2. Insurance Ombudsman of Ireland

The Insurance Ombudsman provides independent settlement of disputes between personal policyholders and their insurance company.

3. ELCOM, the Electricity Supply Board, Arbitrator

ELCOM deals with complaints relating to services provided by the Electricity Supply Board (ESB) such as bill and payment queries; supply connection; network repairs; supply quality and continuity; communications and customer charter guarantee disputes.

4. Arbitration scheme for tour operators and consumers, Chartered Institute of Arbitrators, Irish Branch (see annex 6.)

This scheme is run by the Chartered Institute of Arbitrators and involves disputes which relate to holiday complaints against tour operators. The arbitration is dealt with by an individual arbitrator drawn from a list of arbitrators for the holiday complaints scheme. The tour operator has no role in the decision-making process nor can they interfere in the outcome.

5. Centre for Dispute Resolution

This centre is a not-for-profit limited company with membership drawn from different sectors of the business community. They deal with the mediation of business, commercial, workplace and consumer disputes of any value.

6. The Advertising Standards Authority for Ireland (ASAI)

The Advertising Standards Authority for Ireland is an independent self-regulated body set up and financed by the advertising industry. The objective of the ASAI is to ensure that all commercial advertisements and promotions are 'Legal, Decent, Honest and Truthful'. This is monitored under the rules of the Code of Advertising Standards and Sales Promotion Practice

While the context of this report looks at ADR in Ireland and the need for further development it is important to consider what redress mechanisms currently exist in Ireland for the settlement of consumer complaints.

The Small Claims procedure for resolving consumer disputes was set up as a pilot scheme in three District Court areas in 1991. The success of this scheme led to the establishment of the procedure on a nationwide basis in 1993.

The administration of the Small Claims procedure is through the Small Claims Registrar and the fee for taking a claim is €9.00. The aim of the procedure is to be an inexpensive, fast and easy way for consumers to resolve disputes without needing to employ a solicitor.

The type of claims which can be made relate to faulty goods or bad workmanship. Claims can also be made for minor damage to property and for the non-return of rental deposits. However the Small Claims procedure does not accept claims relating to debts, personal injuries, goods purchased on hire purchase or breach of leasing agreements.

The maximum claim accepted by the Small Claims procedure is €1,269.00. Although this is a very useful service for consumer who reside in Ireland it is of limited benefit for consumers from other Member States. The main reason for this is, in order to take a case through the Small Claims procedure the claimant must be available to appear in person during the court hearing.

Another barrier to this redress mechanism is that the maximum claim is relatively low in terms of prices for products today. Items like furniture, TVs and package holidays sometimes cost more than the €1,269.00. There is a need to develop a service which will give consumers access to justice for goods that exceed the Small Claims procedure limit.

It is important to note that in addition to the existence of the Small Claims procedure and nominated ADR bodies as methods of solving consumer disputes, other non-nominated ADR bodies exist in Ireland. Relevant non-nominated ADR bodies will be referred to in a later section of this Report.

ADR in the European Union

The traditions of ADR are different throughout the European Union. Some countries have a long and successful history of ADR whereas others do not. The following summaries provide a brief overview of ADR in other EU countries.

The Nordic ADR System.

Systems in the Nordic countries are not identical however they are similar. Denmark, Sweden, Finland and Norway all have a central complaints board run by the State.

The complaints boards are all independent bodies which consist of representatives from both consumer and business organisations as well as an impartial member who can be a judge or solicitor.

The national boards in Denmark, Sweden, Finland and Norway have competence for many disputes between businesses and consumers. The boards all adopt a written and adversarial procedure. The board's decisions are not binding, however in Norway complaints board recommendations

become binding and enforceable if a case is not appealed through the courts within a certain time frame.

70% of all recommendations are complied with by businesses. A reason for this is the recommendations are made public and are available for all to see.

Iceland

In Iceland there is 1 notified ADR body with the European Commission, however there are also 6 private complaint boards. Mediation is provided by the national consumer organisation which is also the Clearing House.

The Nordic schemes function well as they are well established and frequently used by the consumers. They handle cases in a swift and effective manner and their recommendations are implemented to large extent on a voluntary basis.

Austria

Like Ireland, Austria does not have a long tradition of ADR. Austria has 15 notified ADR bodies covering different sectors and regions. The competencies of these bodies include disputes relating to dentists, medical services, chimney sweeping disputes, dating and marriage agencies, telecommunications, problems relating to car repair and laundries.

Belgium

In Belgium there are 21 notified ADR bodies which include both arbitration and mediation/conciliation procedures.

There are 4 arbitration schemes which cover insurance, travel, furniture and laundry. The remaining 18 schemes cover areas such as used cars, banking, insurance, postal services, public administration, telecommunications, furniture and textiles.

France

There are 5 notified ADR bodies in France. Three of these have general competence. The other two are sectoral (finance and insurance).

“La boîte Postale 5000” is a publicly funded scheme under the Department of Competition, Consumer and Prevention of Fraud. This scheme provides a single address to which consumers may file a complaint. Professional organisations and consumer associations in the Department all contribute to the PO Box 5000 service. Complaints are separated into two categories, one panel deals with investigations and another with contractual disputes.

The consumer association or professional organisation in charge of the case will approach the company concerned, and work towards an amicable

settlement of the dispute. If this initial mediation is unsuccessful, the dispute will then go to a reconciliation board working for each PO Box 5000.

Germany

There are 203 notified ADR bodies in Germany. Three of these ADR bodies have national coverage but are limited to the specific area of financial services. The rest have regional coverage or local geographical competencies.

ADR has a long history in Germany and it is for this reason that so many ADR bodies exist. Some of the areas covered by ADR in Germany relate to craft industries; laundries; housing; bank transactions; electronic installations; radio and TV; painting; dentists; doctors; lawyers; hairdressers; repair of motor cars and trade of new and used cars, etc.

Greece

There are 57 notified ADR bodies with regional coverage but general competence; there is also a banking ombudsman and a body that deals with insurance.

Under Greek law², each Government Department in Greece has a "commission for out-of-court amicable settlement of disputes".

The commission is made up of a

- Lawyer - belonging to the competent law society
- Representative of the local chamber of commerce and industry,
- Representative of the local consumer associations,

The commission deals with all consumer-related disputes. The jurisdiction of the Department is where the supplier provided the good/service to the consumer.

The commission's recommendations are not binding.

Italy

ADR is a relatively new procedure in Italy. There are 3 ADR bodies nominated with the European Commission. All 3 have national coverage but are sector based. The ADR bodies are the banking ombudsman and the Arbitration Boards of Telecom Italia and the Chambers of Commerce (Rome and Milan). The first two bodies' competence is self explanatory.

The Chambers of Commerce (Rome and Milan) offer a mediation service and deal with 5 main areas of consumer disputes such as tourism, commerce,

² Article 11 of Act 2251/94 on consumer protection

construction, handcrafts and real estate. The procedure concludes with a conciliation report which establishes a private agreement between the parties.

Luxembourg

There are 4 notified ADR bodies with the European Commission. They all have national coverage but are limited to one sector of activity. The sectors covered by ADR are travel, insurance, car repair and financial services. ADR is not very wide spread in Luxembourg and like Ireland needs to be developed further.

Portugal

Prior to the creation of the “Consumer Arbitration Centre, Lisbon”, Portugal did not have a tradition of ADR schemes. The Arbitration Centre was originally a Portuguese pilot programme, which was set up in 1989 and funded by the EU in order to create access to justice for consumer disputes in Portugal.

There are 10 notified ADR schemes; four of these follow the model of the Arbitration Centre. The centre considers all disputes where:

- They arise from the supply of goods or the provision of services to consumers for private use by natural or legal persons exercising an economic activity of a professional nature for remuneration
- Value does not exceed €3,740.98
- Goods have been supplied or the services provided within the city of Lisbon

Procedure: The Arbitration Centre comprises: a legal service, which assists the Arbitration Tribunal, screens the claims, handles the proceedings and provides a permanent legal consultation service for consumers and traders.

Arbitration Tribunal comprising a single arbitrator, who is a judge appointed by the High Council of the Judiciary for an indefinite period. Proceedings are in writing. Claims may be submitted directly to the Centre, in writing or in person.

The decision delivered by the Centre’s Arbitration Tribunal is equivalent to decisions of the courts of first instance and is enforceable in law directly through the courts.

Portugal also has an ADR body with national coverage for complaints relating to the car industry, insurance schemes, financial services sector, etc.

Spain

There are 68 notified ADR bodies in Spain. These bodies are attached to a public authority and administer the arbitration system. Only one of these has

national coverage and is normally used in cross-regional or collective disputes. All boards are general as opposed to sector based.

The Consumer Arbitration Boards deal with consumer's complaints and claims regarding the consumer's rights as recognised by law. The consumer arbitration system is established throughout the whole of Spain. Each Consumer Arbitration Board covers a particular area which is laid down in the decision setting it up. The area covered always coincides with that of the public authority to which it reports. Given the Spanish public administration, there are regional, provincial and local boards and also a national arbitration board which deals with certain subjects. There is no limit on the value of disputes.

The proceedings come to their conclusion with the issue of an award which is binding on the parties.

The Netherlands

There are 3 notified ADR bodies in the Netherlands, including the Foundation for Consumer Complaints Board which is responsible for setting up sector schemes. The other two bodies deal with financial services and the Insurance Ombudsman.

The Foundation for Consumer Complaints Boards was established in 1970. The objective of this ADR Body is the resolution of disputes relating to complaints from consumers concerning goods and services purchased from suppliers.

Since Mid-2002, there have been 29 schemes under the umbrella of this ADR Body. Each of the schemes has sectoral competence such as banking, dry cleaning, public transport, postal services, travel, dating agencies, etc.

The foundation will only establish a new complaints board in a particular sector when certain conditions are met. The most important of these conditions are:

- Members of the trade association in the sector concerned must have reliable terms and conditions of supply
- The trade association must guarantee compliance with the decisions of the Complaints Board.

The Dutch Government offers a financial incentive³ only to complaint boards that fulfil certain requirements. The Complaints Boards pass decisions that are binding on both parties.

United Kingdom

³ "Rules of recognition of complaints board" 19th December 1996. Regulation No. 597868/896

There are 19 notified sectoral ADR bodies in the UK, mostly in the form of Ombudsmen or arbitration schemes. The Office of Fair Trading also gives its support to sectoral codes of practice which include provisions for access to ADR schemes.

The sectors covered are banking; building societies; carpet cleaning; consumer credit; direct selling; estate agents; financial services; finance and leasing, funerals; furniture, floor coverings and allied trades; housing insurance; Financial Ombudsman Service; legal services; mail order; pensions; travel; The Chartered Institute of Arbitrators and online dispute resolution services.

In Scotland the ADR bodies notified are, cars, legal services and Local Authority services.

The Development of ADR in Ireland

This report has already discussed the shortcomings of the current Irish system with particular regard to a shortage of ADR bodies. It has also touched on the lack of business participation. Ireland has the opportunity to learn from the ADR systems of the other European Countries and benefit from their experiences. Although Ireland does not have a long history of ADR there are many ADR bodies which could be developed in order to create a really effective system.

This report has identified five areas on which to concentrate the proposals for the development of ADR in Ireland. The first two, development of an umbrella ADR body and development of a Consumer Complaints board are new proposals for the future. The Clearing House considers either of these proposals to be beneficial for resolving consumer disputes.

The final three, nomination of ADR bodies, promotion of ADR with businesses and promotion of ADR with consumers, constitute ongoing work that needs to be developed further. This work can tie in with the proposed developments in the future.

Development of an Umbrella ADR body

When this report looked at ADR systems in the different Members States the number of similarities between these bodies and the ADR bodies in Ireland became apparent.

One of the schemes in particular which could be looked at closer is the Dutch scheme "The Foundation for Consumer Complaints Boards".

This ADR body operates by developing ADR schemes with different business sectors such as banking, dry cleaning, public transport, postal services, and travel. In total 29 schemes have been developed with different sectors.

To encourage business sectors to develop ADR schemes with this Foundation the Dutch government offers a financial incentive or 'recognition'. However this incentive is only offered to those who fulfil certain requirements. (One of the requirements is that the ADR scheme must represent a significant group within their sector).

In Ireland the Chartered Institute of Arbitrators operates in a very similar way to this Foundation in the sense that it has developed schemes with two major business sectors: the scheme for tour operators and consumers and the Society of Irish Motor Industry scheme. (See annexes 6 + 7)

The development of more ADR schemes with this particular body has the potential to be of great benefit in the resolution of cross-border consumer disputes.

The Irish Government, the Irish Clearing House and the Chartered Institute of Arbitrators, Irish Branch could work closely together to promote the development of ADR schemes with other large business sectors such as

1. Air Transport Council
2. Chamber of Commerce of Ireland
3. IBEC, Irish Business and Employers Confederation.
4. Small and Medium Enterprise Association
5. Irish Hotel Federation
6. Irish Internet Association.

These are just a few of the many associations representing businesses in Ireland.

The Irish Clearing House received a request from the Car Rental Council of Ireland to attend their Annual General Meeting in February 2004. This request followed a mail shot which was sent out to many businesses and associations. The mail shot contained information on the benefits of ADR and how it could create consumer confidence in their products and services.

The members of the Car Rental Council were interested in learning more about ADR schemes and how it could be of benefit to them. One of the concerns expressed by the council members at this meeting was the set up cost of such schemes.

With this concern in mind is there a possibility that the Irish Government could offer financial assistance to cover the set up cost of these schemes?

Would such an offer entice more businesses to develop schemes?

In order to gain a better understanding of the benefits of offering financial assistance, we could take a closer look at the Netherlands.

Development of a Consumer Complaints Board

The second proposal is the development of an ADR scheme that could work similarly to that of a consumer complaints board. A board could be set up by the Government to handle both domestic and cross-border consumer disputes.

The ODCA currently advises consumers on their domestic rights and the ECC advises consumer on their rights and assists with cross-border disputes. If consumers' complaints, whether domestic or cross-border, cannot be resolved amicably, the Consumer Complaints' Board would constitute the next step by providing independent resolution of a dispute.

The Nordic countries have a long and successful tradition of such consumer complaint boards. Due to the successful history of these complaints boards the Clearing House co-ordinator visited the Danish consumer complaints board (see annex 4) in order to learn more about the service offered by this type of ADR body.

The Danish complaint board is well respected and their decisions, although they are not binding on either party have a compliance rate of c. 85%. One of the reasons this compliance rate is so high is that decisions made by the board can be accessed by the public.

The creation of such a body in Ireland could also benefit Irish consumers by bridging the gap for disputes which exceed the Small Claims Court limit yet are not of sufficient 'value' to take to the District Court.

Furthermore it could also act as a very useful ADR system for the resolution of cross-border consumer disputes. The development of such a body would be a long term but worthwhile project.

These two suggestions are examples of how Ireland could develop ADR. From the information in this report and the Clearing Houses practical experience it is clear that there is consumer demand for a well functioning ADR scheme and the Irish Clearing House would urge the development of either scheme for consumers.

Nomination of Existing ADR bodies

An important objective of the Clearing House Dublin in 2003 was to work towards the development of ADR in Ireland. This continued in 2004 with the attendance by the Clearing House co-ordinator at the seminar 'How to Reinforce the Quality of ADR through the Notification Process'. This European Commission organised seminar discussed how to encourage ADR bodies to become nominated.

The ongoing nomination of ADR bodies is an important element of the development of ADR in Ireland. With this in mind discussions were held with the following ADR bodies:

- The Private Residential Tenancies Board (PRTB) is a Government body established to provide a dispute resolution service for landlords and tenants.

The PRTB can deal with complaints up to €20,000 and all landlords and tenants will be obliged to participate. Decisions made by the PRTB are enforceable, and the PRTB can fine landlords €3000 if they do not comply with any decisions.

This ADR body has expressed its wish to become a notified ADR body.

- The Direct Selling Association (DSA) of Ireland

This association represents direct selling companies in Ireland. The association's codes are supervised by an independent, legally qualified administrator appointed by the DSA council on behalf of the Association.

Where a consumer complains about a member of the DSA the code administrator will normally deliver the adjudication within two weeks of receiving all relevant representations documents/comments. Both parties receive a copy of the written adjudication.

The decision is binding on the member and any direct seller, the complainant is not bound by the adjudication.

This ADR body has expressed its wish to become a notified ADR body.

- The Chartered Institute of Arbitrators, Irish Branch.

Contact has been maintained throughout 2002 and 2003 and further talks will be held with this body to discuss the development of a scheme to deal with the Clearing House cases.

A proposal has been put forward by the Chartered Institute of Arbitrators, Irish Branch, to mirror the scheme which was developed by its UK branch. (Annex 8.)

- Scheme for the Society of the Irish Motor Industry (SIMI)

Following discussions with the Chartered Institute of Arbitrators, the Scheme for the Society of the Irish Motor Industry has been developed and is ready to be put forward for nomination.

- Electronic Consumer Dispute Resolution (ECODIR)

The aim of the ECODIR Project is to set up a system devoted to the electronic resolution of Internet disputes arising between consumers and merchants.

ECODIR have expressed an interest in becoming notified. However as this body has recently just come out of its pilot phase they would like to hold off nomination for some months until they become well established.

The above ADR bodies have been identified by the Clearing House as ADR bodies that could be notified with the European Commission.

The nomination of these ADR bodies will be beneficial for consumers. In relation to our proposals for an umbrella ADR body and a Consumer Complaints Board, these ADR bodies will still have a role to play. They can choose either to become part of the umbrella body or complaints board or to remain as independent ADR bodies.

Business Participation

The lack of ADR Bodies is not the only barrier to accessing ADR schemes; the lack of business participation also creates a problem.

Although the Clearing House is unable to ascertain the reasons why companies refuse to participate in ADR, we believe that one reason is the lack of understanding of ADR procedures.

With this in mind the Clearing House has taken the steps to educate businesses through advertising and also by attending conferences and informing them of the benefits of ADR for their businesses.

The Irish Clearing House will also link up the "Euro Info Centre's" this year in order to promote ADR and its benefits through this information centre.

The Euro Info Centre Network operates as a "First Stop Shop" for enterprises on information relating to the European Union. Euro Info Centres are the authoritative source of information and advice on the euro, EC legislation, EU initiatives for business, public contracts, funding programmes.

The Irish Clearing House also plans to hold a seminar in autumn 2004 on the development of ADR in Ireland, to which business associations will be invited. The seminar will provide a platform for the showcasing of the Clearing House and of existing ADR bodies, and will provide a forum for discussion on the development of ADR which includes the involvement of businesses.

Another reason why companies do not participate is simply that some businesses deny consumer their rights.

From the experience of both the European Consumer Centre and the Clearing House they find that some businesses simply refuse to resolve complaints. This is particularly the case when the complaint has been made by consumer in another Member State. This may be because they are aware that the consumer is unable to take the complaint through the Small Claims Court.

Although current legislation offers consumers a good level of protection, currently there is no way to force businesses to give consumers their legal entitlements.

From the case example provided regarding the consumer who purchased a suit from a shop in Dublin, this shows that some companies disregard consumers rights and no authority other than the court system, can force them to resolve a consumer's dispute.

This type of problem is not isolated to cross-border consumer complaints, consumer who live in Ireland also experience this barrier. Problems like this arise for a consumer who purchases either goods or services that exceeds the small claims limits. Although they may well be entitled to a remedy to their problem this right is denied by some rogue traders.

How is this overcome in other countries?

In countries such as Denmark, Sweden, Finland and Norway the publication of so called 'black lists' seems to create a degree of respect. Companies do not wish to be put on such list and therefore they comply with legislation.

Denmark has also tried to overcome this problem by introducing new legislation which was enacted in January 2004. The Act is intended to incite more companies to show greater responsibility when dealing with consumer complaints.

Could Ireland develop similar legislation in order to resolve this problem?

New legislation could encourage businesses to show greater responsibility to consumers. This legislation could allow enforcement authorities to impose large fines on businesses who repeatedly deny consumers their rights under consumer law.

It is the opinion of the Clearing House that new legislation could be a positive development for consumers.

Promotion of ADR to businesses is the key to its further development. The Clearing House will continue its work to promote ADR to business however businesses and associations need to be encouraged to develop ADR schemes.

Promotion of ADR to consumers

The reason the European Commission developed networks such as the European Extra Judicial Network and European Consumer Centre is to create consumer confidence when shopping within the Internal Market.

One of the primary objectives of these networks is to educate consumers on their rights while shopping within the Internal Market and also of the redress mechanisms available to them if something goes wrong.

We must, therefore, not lose sight of the fact that the ultimate goal of the Clearing House is to assist consumers with their disputes and inform them of the existence of ADR and the Clearing House.

Fortunately, Irish consumers with cross-border disputes can be confident of the likelihood of the existence of a relevant ADR body in another Member State. Unfortunately, the same cannot be said for citizens of other Member States who have a dispute with an Irish retailer.

For this reason, the Irish Clearing House is obliged to encourage the development of ADR in Ireland which will benefit both foreign consumers and Irish consumers alike.

Nonetheless, the Irish Clearing House must also concentrate on its ultimate goal, and with this in mind, intends to focus its 2004 advertising on consumers.

Conclusion

ADR is an important part of the European Commission's vision of the internal market. The practical benefits for consumers in terms of its effectiveness for the resolution of disputes, is clear.

This report has looked at the experience of the Irish Clearing House and the barriers which currently exist that prevent the service from operating to its full potential.

The report identified the key barriers to development as the lack of nominated ADR bodies within a coherent ADR system and the lack of business participation.

These barriers were addressed with proposals for development and also considered ADR models from other Member States. There is a wealth of experience and knowledge to be gained from the European ADR models. Ireland is in the fortunate position of being able to glean the suitability and best practice from them to develop our own system.

Three key elements which needed to be further developed have been identified as:

1. Development of more relevant Alternative Dispute Resolution bodies, i.e. an umbrella ADR system and/or a Consumer Complaints Board and the immediate nomination of existing ADR bodies.
2. Promotion of the benefits for businesses in the use of Alternative Dispute Resolution Bodies
3. Education of consumers about Alternative Dispute Resolution and how it can help in the resolution of cross-border disputes.

As Ireland does not have a long history of ADR we are starting from an emergent position and building up. Ireland has an opportunity to create an ADR system which could be as good as, if not better than systems in other European countries.

Alternative Dispute Resolution has potential benefits for business and consumers. The development of ADR in Ireland and its promotion to consumers will promote confidence building in the internal market

The Irish Clearing House looks forward to continuing to work with the Government, ADR bodies, business and consumers towards these goals. In particular the Irish Clearing House looks forward to liaising with the Department of Enterprise, Trade & Employment with regard to the immediate nomination of ADR bodies and to further detailed discussion regarding proposals for the future development of ADR in this country.

Annexes:

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ANNEX 1.

Commission Recommendation on the principles
applicable to the bodies responsible for out-of-court
settlement of consumer disputes

(98/257/CE)

Commission Recommendation on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes (98/257/CE)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community and in particular Article 155 thereof,

Whereas the Council, in its conclusions approved by the Consumer Affairs Council of 25 November 1996, emphasised the need to boost consumer confidence in the functioning of the internal market and consumers' scope for taking full advantage of the possibilities offered by the internal market, including the possibility for consumers to settle disputes in an efficient and appropriate manner through out-of-court or other comparable procedures;

Whereas the European Parliament, in its Resolution of 14 November 1996 (European Parliament Resolution on the Commission Communication "Action plan on consumer access to justice and the settlement of consumer disputes in the internal market" of 14 November 1996, OJ No C 362, 2.12.1996, p. 275), stressed the need for such procedures to meet minimum criteria guaranteeing the impartiality of the body, the efficiency of the procedure and the publicising and transparency of proceedings and called on the Commission to draft proposals on this matter;

Whereas most consumer disputes, by their nature, are characterised by a disproportion between the economic value at stake and the cost of its judicial settlement; whereas the difficulties that court procedures may involve may, notably in the case of cross-border conflicts, discourage consumers from exercising their rights in practice;

Whereas the "Green Paper on the access of consumers to justice and the settlement of consumer disputes in the single market" (COM(93) 576 final of 16.11.1993) was the subject of wide-ranging consultations whose results have confirmed the urgent need for Community action with a view to improving the current situation;

Whereas the experience gained by several Member States shows that alternative mechanisms for the out-of-court settlement of consumer disputes - provided certain essential principles are respected - have had good results, both for consumers and firms, by reducing the cost of settling consumer disputes and the duration of the procedure;

Whereas the adoption of such principles at European level would facilitate the implementation of out-of-court procedures for settling consumer disputes; whereas, in the case of cross-border conflicts, this would enhance mutual confidence between existing out-of-court bodies in the different Member States and strengthen consumer confidence in the existing national procedures; whereas these criteria will make it easier for parties providing out-of-court settlement services established in one Member State to offer their services in other Member States;

Whereas one of the conclusions of the Green Paper concerned the adoption of a Commission Recommendation with a view to improving the functioning of the ombudsman systems responsible for handling consumer disputes;

Whereas the need for such a Recommendation was stressed during the consultations on the Green Paper and was confirmed during the consultation on the "Action Plan" Communication (Action Plan on consumer access to justice and the settlement of consumer disputes in the internal market, COM(96) 13 final of 14.2.1996) by a very large majority of the parties concerned;

Whereas this Recommendation must be limited to procedures which, no matter what they are called, lead to the settling of a dispute through the active intervention of a third party, who proposes or imposes a solution; whereas, therefore, it does not concern procedures that merely involve an attempt to bring the parties together to convince them to find a solution by common consent;

Whereas the decisions taken by out-of-court bodies may be binding on the parties, may be mere recommendations or may constitute settlement proposals which have to be accepted by the parties; whereas for the purposes of this Recommendation these various cases are covered by the term "decision";

Whereas the decision-making body's impartiality and objectivity are essential for safeguarding the protection of consumer rights and for strengthening consumer confidence in alternative mechanisms for resolving consumer disputes;

Whereas a body can only be impartial if, in exercising its functions, it is not subject to pressures that might sway its decision; whereas, therefore, its independence must be guaranteed without this implying the need for guarantees that are as strict as those designed to ensure the independence of judges in the judicial system;

Whereas, when the decision is taken by an individual, the decision-maker's impartiality can only be assured if he can demonstrate that he possesses the necessary independence and qualifications and works in an environment which allows him to decide on an autonomous basis; whereas this requires the person to be granted a mandate of sufficient duration, in the course of which he cannot be relieved of his duties without just cause;

Whereas, when the decision is taken by a group, equal participation of representatives of consumers and professionals is an appropriate way of ensuring this independence;

Whereas, in order to ensure that the persons concerned receive the information they need, the transparency of the procedure and of the activities of the bodies responsible for resolving the disputes must be guaranteed; whereas the absence of transparency may adversely affect the rights of the parties and cause misgivings as to out-of-court procedures for resolving consumer disputes;

Whereas certain interests of the parties can only be safeguarded if the procedure allows them to express their viewpoints before the competent body and to acquaint themselves with the facts presented by the opposing party and, where applicable, the experts' statements; whereas this does not necessarily necessitate oral hearings of the parties;

Whereas out-of-court procedures are designed to facilitate consumer access to justice; whereas, therefore, if they are to be effective, they must remedy certain problems

associated with court procedures, such as high fees, long delays and cumbersome procedures;

Whereas, in order to enhance the effectiveness and equity of the procedure, the competent body must play an active role which allows it to take into consideration any element useful in resolving the dispute; whereas this active role is all the more important when, in the framework of out-of-court procedures, the parties in many cases do not have the benefit of legal advice;

Whereas the out-of-court bodies may decide not only on the basis of legal rules but also in equity and on the basis of codes of conduct; whereas, however, this flexibility as regards the grounds for their decisions should not lead to a reduction in the level of consumer protection by comparison with the protection consumers would enjoy, under Community law, through the application of the law by the courts;

Whereas the parties are entitled to be informed of the decisions handed down and of grounds for these decisions; whereas the grounds for decisions are a prerequisite for transparency and the parties' confidence in the operation of out-of-court procedures;

Whereas in accordance with Article 6 of the European Human Rights Convention, access to the courts is a fundamental right that knows no exceptions; whereas since Community law guarantees free movement of goods and services in the common market, it is a corollary of those freedoms that operators, including consumers, must be able, in order to resolve any disputes arising from their economic activities, to bring actions in the courts of a Member State in the same way as nationals of that State; whereas out-of-court procedures cannot be designed to replace court procedures; whereas, therefore, use of the out-of-court alternative may not deprive consumers of their right to bring the matter before the courts unless they expressly agree to do so, in full awareness of the facts and only after the dispute has materialised;

Whereas in some cases, and independently of the subject and value of the dispute, the parties and in particular the consumer, as the party who is regarded as economically weaker and less experienced in legal matters than the other party to the contract, may require the legal advice of a third party to defend and protect their rights more effectively;

Whereas, in order to ensure a level of transparency and dissemination of information on out-of-court procedures in line with the principles set out in the Recommendation and to facilitate networking, the Commission intends to create a database of the out-of-court bodies responsible for resolving consumer disputes that offer these safeguards; whereas the database will contain particulars communicated to the Commission by the Member States that wish to participate in this initiative; whereas, to ensure standardised information and to simplify the transmission of these data, a standard information form will be made available to the Member States;

Whereas, finally, the establishment of minimum principles governing the creation and operation of out-of-court procedures for resolving consumer disputes seems, in these circumstances, necessary at Community level to support and supplement, in an essential area, the initiatives taken by the Member States in order to realise, in

accordance with Article 129a of the Treaty, a high level of consumer protection; whereas it does not go beyond what is necessary to ensure the smooth operation of out-of-court procedures; whereas it is therefore consistent with the principle of subsidiary,

RECOMMENDS that [all existing bodies and bodies to be created](#) with responsibility for the out-of-court settlement of consumer disputes respect the following principles:

I. Principle of independence

The independence of the decision-making body is ensured in order to guarantee the impartiality of its actions.

When the decision is taken by an individual, this independence is in particular guaranteed by the following measures:

- the person appointed possesses the abilities, experience and competence, particularly in the field of law, required to carry out his function;
- the person appointed is granted a period of office of sufficient duration to ensure the independence of his action and shall not be liable to be relieved of his duties without just cause;
- if the person concerned is appointed or remunerated by a professional association or an enterprise, he must not, during the three years prior to assuming his present function, have worked for this professional association or for one of its members or for the enterprise concerned.

When the decision is taken by a collegiate body, the independence of the body responsible for taking the decision must be ensured by giving equal representation to consumers and professionals or by complying with the criteria set out above.

II. Principle of transparency

Appropriate measures are taken to ensure the transparency of the procedure. These include:

1. Provision of the following information, in writing or any other suitable form, to any persons requesting it:

- a precise description of the types of dispute which may be referred to the body concerned, as well as any existing restrictions in regard to territorial coverage and the value of the dispute;
- the rules governing the referral of the matter to the body, including any preliminary requirements that the consumer may have to meet, as well as other procedural rules, notably those concerning the written or oral nature of the procedure, attendance in person and the languages of the procedure;
- the possible cost of the procedure for the parties, including rules on the award of costs at the end of the procedure;
- the type of rules serving as the basis for the body's decisions (legal provisions, considerations of equity, codes of conduct, etc.);
- the decision-making arrangements within the body;

- the legal force of the decision taken, whereby it shall be stated clearly whether it is binding on the professional or on both parties. If the decision is binding, the penalties to be imposed in the event of non-compliance shall be stated, as shall the means of obtaining redress available to the losing party.

2. Publication by the competent body of an annual report setting out the decisions taken, enabling the results obtained to be assessed and the nature of the disputes referred to it to be identified.

III. Adversarial principle

The procedure to be followed allows all the parties concerned to present their viewpoint before the competent body and to hear the arguments and facts put forward by the other party, and any experts' statements.

IV. Principle of effectiveness

The effectiveness of the procedure is ensured through measures guaranteeing:

- that the consumer has access to the procedure without being obliged to use a legal representative;
- that the procedure is free of charges or of moderate costs;
- that only short periods elapse between the referral of a matter and the decision;
- that the competent body is given an active role, thus enabling it to take into consideration any factors conducive to a settlement of the dispute.

V. Principle of legality

The decision taken by the body may not result in the consumer being deprived of the protection afforded by the mandatory provisions of the law of the State in whose territory the body is established. In the case of cross-border disputes, the decision taken by the body may not result in the consumer being deprived of the protection afforded by the mandatory provisions applying under the law of the Member State in which he is normally resident in the instances provided for under Article 5 of the Rome Convention of 19 June 1980 on the law applicable to contractual obligations.

All decisions are communicated to the parties concerned as soon as possible, in writing or any other suitable form, stating the grounds on which they are based.

VI. Principle of liberty

The decision taken by the body concerned may be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this.

The consumer's recourse to the out-of-court procedure may not be the result of a commitment prior to the materialisation of the dispute, where such commitment has the effect of depriving the consumer of his right to bring an action before the courts for the settlement of the dispute.

VII. Principle of representation

The procedure does not deprive the parties of the right to be represented or assisted by a third party at all stages of the procedure.

THIS RECOMMENDATION is addressed to the bodies responsible for the out-of-court settlement of consumer disputes, to any natural or legal person responsible for the creation or operation of such bodies, as well as to the Member States, to the extent that they are involved.

ANNEX 2.

COMMISSION RECOMMENDATION

Of 4 April 2001

on the principles for out-of-court bodies involved in
the consensual resolution of consumer
disputes

(notified under document number C(2001) 1016)

(Text with EEA relevance)

(2001/310/EC)

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION RECOMMENDATION

of 4 April 2001

**on the principles for out-of-court bodies involved in the consensual resolution of
consumer**

disputes

(notified under document number C(2001) 1016)

(Text with EEA relevance)

(2001/310/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 211 thereof,

Whereas:

- 1) In order to ensure a high level of consumer protection and to promote consumer confidence, the Community should ensure that consumers have simple and effective access to justice and encourage and facilitate the settling of consumer disputes at an earlier stage.
- 2) The continuing development of new forms of commercial practices involving consumers such as electronic commerce, and the expected increase in cross-border transactions, require that particular attention be paid to generating the confidence of consumers, in particular by ensuring easy access to practical, effective and inexpensive means of redress, including access by electronic means. The e-Europe Action Plan, agreed by the Feira European Council on 19 and 20 June 2000, recognised that for e-commerce to reach its full potential consumer confidence must be enhanced, in partnership with consumer groups, industry and Member States, by promoting access to alternative dispute resolution systems.
- 3) On 30 March 1998 the Commission adopted Recommendation 98/257/EC on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes. However the scope of that Recommendation was limited to procedures which, no matter what they are called, lead to the settlement of a dispute through the active intervention of a third party, who proposes or imposes a solution. It did not concern procedures that merely involve an attempt to bring the parties together to convince them to find a solution by common consent.

- 4) The Council, in its Resolution of 25 May 2000 on a Community-wide network of national bodies for the extra-judicial settlement of consumer disputes, noted that those out-of-court bodies falling outside the scope of Recommendation 98/257/EC play a useful role for the consumer and invited the Commission to develop in close cooperation with Member States common criteria for the assessment of such bodies which should ensure, *inter alia*, their quality, fairness and effectiveness. In particular it indicated that Member States apply such criteria to include such bodies or schemes in the network referred to in Commission working document on the creation of a European extra-judicial network (EEJ-Net).
- 5) Article 17 of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce in the internet market stipulates that Member States should ensure their legislation does not hamper the use of out-of-court schemes available under national law, for dispute settlement.
- 6) Electronic commerce facilitates cross-border transactions between business and consumers. Such transactions are frequently of low value and therefore the resolution of any dispute needs to be simple, quick and inexpensive. New technology can contribute to the development of electronic dispute settlement systems, providing a mechanism to effectively settle disputes across different jurisdictions without the need for face-to-face contact, and therefore should be encouraged through principles ensuring consistent and reliable standards to give all users confidence.
- 7) The Council, in conclusions adopted on 29 May 2000, invited the Commission to draw up a Green Paper on alternative methods of settling disputes under civil and commercial law to take stock of and review the existing situation and initiate wide-ranging consultation.
- 8) The European Parliament in its opinion on the proposal for a regulation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, called for the extensive use of extra-judicial dispute resolution for consumers transactions, in particular where the parties are domiciled in different Member States and in view of the cost and delay associated with going to court. The Council and Commission in their statement for the adoption of the abovementioned Regulation stressed that in general it is in the interest of consumers and undertakings to try to settle their disputes amicably before resorting to the courts and reiterated the importance of continuing the work on alternative methods of dispute settlement at European Community level.
- 9) The principles set out in this Recommendation do not affect the principles laid down in Commission Recommendation 98/257/EC which should be respected by those out-of-court procedures which, no matter what they are called, lead to the settling of a dispute through the active intervention of a third party, who proposes or imposes a solution, usually by means of a binding or non-binding formal decision, upon the parties. The present principles should be respected by any other third party procedures, no matter what they are called, which

facilitate the resolution of a consumer dispute by bringing the parties together and assisting them, for example by making informal suggestions on settlement options, in reaching a solution by common consent. The principles are limited to consumer dispute resolution procedures which are designed as an alternative to resolving the dispute in a court. Therefore customer complaint mechanisms operated by a business and conducted directly with the consumer, or where a third party carries out such services by or on behalf of a business, are excluded as they form part of the usual discussions between the parties prior to any dispute materialising that would be referred to a third party body responsible for dispute resolution or a court.

- 10) The impartiality of these dispute resolution procedures must be guaranteed to ensure that all parties have confidence in its fairness. Whether it is an individual or a group responsible for the dispute resolution procedure, appropriate measures should be taken to ensure impartiality and to ensure the disclosure of information to the parties demonstrating their impartiality and competence to allow the parties to make an informed choice as to whether to participate in the procedure.
- 11) In order to ensure that both parties have access to the information they need, the transparency of the procedure must be guaranteed. The agreed solution resolving the dispute should be recorded and made available to the parties by the body responsible for the procedure to avoid later uncertainty or misunderstanding.
- 12) In order to enhance the effectiveness of these procedures in resolving cross-border disputes, they need to be easily accessible and available to both parties wherever they are situated. In particular electronic measures to facilitate this should be encouraged.
- 13) If such procedures are to provide a realistic alternative to a dispute going through the courts, they should aim to overcome the associated problems of cost, delay, complexity and representation. Measures guaranteeing proportionate or no costs, easier access, efficiency, the monitoring of the progression of the dispute and keeping the parties informed are necessary to ensure its effectiveness.
- 14) In accordance with Article 6 of the European Human Rights Convention, access to the courts is a fundamental right. Since Community law guarantees free movement of goods and services in the common market, it is a corollary of those freedoms that operators, including consumers, must be able, in order to resolve any disputes arising from their economic activities, to bring actions in the courts of a Member State in the same way as nationals of that State. Consumer dispute resolution procedures cannot be designed to replace court procedures. Therefore use of such procedures may not deprive consumers of their right to bring the matter before the courts unless they expressly agree to do so, in full awareness of the facts and only after the dispute has materialised.
- 15) The fairness of the procedures should be safeguarded by allowing the parties to provide any necessary and relevant information. Depending on the

organisation of the procedure, information provided by the parties should be treated as confidential unless they expressly agree otherwise, or, if an adversarial approach is used at any stage appropriate measures should ensure its fairness. Measures should be envisaged to encourage and monitor the parties' cooperation with the procedure, in particular by requiring information that may be necessary for the fair resolution of the dispute.

- 16) Before the parties agree to a suggested solution on how to settle the dispute they should be allowed a reasonable amount of time to consider the details and any possible conditions or terms.
- 17) In order to ensure that procedures are fair and flexible and that consumers have the opportunity to make a fully informed choice, they must be given clear and understandable information in order that they can reflect on whether to agree to a suggested solution, obtain advice if they wish or to consider other options.
- 18) The Commission will include in its database of the out-of-court bodies responsible for resolving consumer disputes information provided by Member States regarding the use of such principles by consumer dispute resolution bodies falling within the scope of this recommendation in order to participate in the European extra-judicial network (EEJ-Net).
- 19) Finally, the setting out of principles for bodies responsible for consumer dispute resolution procedures not covered by the principles in recommendation 98/257/EC seems, in these circumstances, necessary at Community level to support and supplement, in an essential area, the initiatives taken by the Member States in order to realise, in accordance with Article 153 of the Treaty, a high level of consumer protection. It does not go beyond what is necessary to ensure the smooth operation of consumer dispute resolution procedures. It is therefore consistent with the principle of subsidiarity,

HEREBY RECOMMENDS:

That the principles set out in Part II are respected by all existing and future bodies providing out-of-court consumer dispute resolution procedures falling within the scope of this recommendation as defined in

Part I:

I. SCOPE

1. This recommendation applies to third party bodies responsible for out-of-court consumer dispute resolution procedures that, no matter what they are called, attempt to resolve a dispute by bringing the parties together to convince them to find a solution by common consent.
2. It does not apply to customer complaint mechanisms operated by a business and

concluded directly with the consumer or to such mechanisms carrying out such services operated by or on behalf of a business.

II. PRINCIPLES

A. Impartiality

Impartiality should be guaranteed by ensuring that those responsible for the procedure:

- a) are appointed for a fixed term and shall not be liable to be relieved from their duties without just cause;
- b) have no perceived or actual conflict of interest with either party;
- c) provide information about their impartiality and competence to both parties prior to the commencement of the procedure.

B. Transparency

1. The transparency of the procedure should be guaranteed.
2. Information about the contact details, functioning and availability of the procedure should be readily available to the parties in simple terms so that they can access and retain it before submitting a dispute.
3. In particular, information should be made available on:
 - a) how the procedure will operate, the types of disputes that can be dealt by it and any restrictions on its operation;
 - b) the rules governing any preliminary requirements that the parties may have to meet, and other procedural rules, notably those concerning the operation of the procedure and the languages in which the procedure will be conducted;
 - c) the cost, if any, to be borne by the parties;
 - d) the timetable applicable to the procedure, particularly with regard to the type of dispute in question;
 - e) any substantive rules that may be applicable (legal provisions, industry best practice, considerations of equity, codes of conduct);
 - f) the role of the procedure in bringing about the resolution of a dispute;
 - g) the status of any agreed solution for resolving the dispute.
4. Any agreed solution for resolving the dispute by the parties should be recorded on a durable medium and should clearly state the terms and the grounds on which it is based. That record should be made available to both parties.

5. Information on the performance of the procedure should be made publicly available, including:

- a) the number and types of complaints it has received and their outcome;
- b) the time taken to resolve complaints;
- c) any systematic problems arising from complaints;
- d) the compliance record, if known, of agreed solutions.

C. Effectiveness

1. The effectiveness of the procedure should be guaranteed.
2. It should be easily accessible and available to both parties, for instance by electronic means, irrespective of where the parties are situated.
3. The procedure should be either free of charge to consumers, or any necessary costs should be both proportionate to the amount in dispute and moderate.
4. The parties should have access to the procedure without being obliged to use a legal representative. Nonetheless the parties should not be prevented from being represented or assisted by a third party at any or all stages of the procedure.
5. Once a dispute has been submitted it should be dealt with in the shortest possible time commensurate with the nature of the dispute. The body responsible for the procedure should periodically review its progress to ensure the parties' dispute is being dealt with expeditiously and appropriately.
6. The conduct of the parties should be reviewed by the body responsible for the procedure to ensure they are committed to seeking a proper, fair and timely resolution of the dispute. If one party's conduct is unsatisfactory, both parties should be informed in order to enable them to consider whether to continue the dispute resolution procedure.

D. Fairness

1. The fairness of the procedure should be guaranteed. In particular:
 - a) the parties should be informed of their right to refuse to participate or to withdraw from the procedure at any time and access the legal system or other out-of-court redress mechanisms at any stage if they are dissatisfied with the performance or operation of the procedure;
 - b) both parties should be able to freely and easily submit any arguments, information or evidence relevant to their case on a confidential basis to the procedure unless agreement has been given by the parties to pass such information to the other party. If at any stage, the third party suggests possible solutions for resolving the dispute, then each party should have the

opportunity to present their viewpoint and comment on any argument, information or evidence presented by the other party;

- c) both parties should be encouraged to fully cooperate with the procedure, in particular by providing any information necessary for a fair resolution of the dispute;
- d) prior to the parties agreeing to a suggested solution for resolving the dispute, they should be allowed a reasonable period of time to consider this solution.

2. The consumer should be informed in clear und understandable language, before agreeing to a suggested solution, of the following points:

- a) he has the choice as to whether or not to agree to the suggested solution;
- b) the suggested solution may be less favourable than an outcome determined by a court applying legal rules;
- c) before agreeing to or rejecting the suggested solution he has the right to seek independent advice;
- d) use of the procedure does not preclude the option of referring his dispute to another out-of-court dispute resolution mechanism, in particular within the scope of Recommendation 98/257/EC, or of seeking legal redress through his own judicial system;
- e) the status of an agreed solution.

THIS RECOMMENDATION

is addressed to Member States in so far as it affects them, in relation to those procedures designed to facilitate the out-of-court settlement of consumer disputes and to any natural or legal person responsible for the creation or operation of such procedures.

Done at Brussels, 4 April 2001.

For the Commission
David BYRNE
Member of the Commission

ANNEX 3.

Statistics off the Irish Clearing house from May
2002 till December 2003

Statistics off the Irish Clearing House
from May 2002 till August 2003

	May – December 2002	January - December 2003	Total Cases
Number of cases	29	90	119

Subject			
Cars	3	1	4
Air travel	6	8	14
Other Travel	0	1	1
Education, Culture & Leisure	0	3	3
Distance Selling	3	15	18
Electric products	2	1	3
Financial Services	1	1	2
Rental accommodation	3	0	3
Furniture	2	0	2
Insurance	1	2	3
Jewellery	1	0	1
Information requests	1	5	6
Package Travel	1	5	6
Clothing & Accessories	1	1	2
Timeshare/holiday clubs	0	45	45
House purchases	1	1	2
Telecommunications	2	0	2
Referrals to other organisations	1	1	2
Active cases	1	13	14
Closed Cases	28	77	105

What happened to the cases			
Sent to ADR and Settled in favour of the consumer	0	?	0
Sent to ADR and settled in favour of the company	1	?	1
Sent to ADR but yet to hear the result	1	12	13
No ADR available	13	55	68
Rejected by ADR body	0	0	0
Company refused to except the procedure	0	2	2
Consumer decided not to proceed	1	4	5
Referred to ECC	11	10	21
Referred to Solvit	0	0	0
Referred to Fin-net	1	1	2
Referred to other	0	1	1
Rejected by consumers CH	0	0	0
Rejected by company CH	0	0	0

Consumers Country of Residence			
Austria			
Belgium			
Denmark		1	1
Finland			
France			
Germany	5	2	7
Greece			
Ireland	20	78	98
Iceland			
Italy	1	1	2
Luxembourg		1	1
Netherlands			
Norway	1	3	4
Portugal			
Spain	2	1	3
Sweden			
UK		3	3

ANNEX 4.

Overview of the Danish Consumer Agency and Complaint Board

Danish Consumer Complaint Board.

To allow the Clearing House co-ordinator to gain a greater knowledge and understanding of ADR it was decided to look to ADR systems in other member states. The Clearing co-ordinator travelled to Denmark to review the ADR System of the Danish Complaints Board due to its success over the years.

The Danish Consumer Complaint Board was established 1975. It is an impartial, public funded complaints board.

In Denmark there are also 12 private ADR bodies which are approved by the minister.

The Danish Consumer Complaints Board is housed within the Danish Consumer Agency. Which also has responsibility for the:

- Secretariat for the Consumer Complaints Board and the Consumer Ombudsman
- Consumer Advice Service
- Serving the minister (questions from parliament, press preparedness, etc.)
- The Consumer Ombudsman. The Consumer Ombudsman observes the Danish Marketing Practice Act and lays down guidelines for good marketing practice. The Consumer Ombudsman's priorities are the Internet, children and hidden advertising.
- Danish Clearing House.
- Preparation of laws, coordination and administration, implementation of EU directives.
- Consumer policy development and projects
- International co-operation (EU, OECD, WTO, NCM, etc.)
- The consumer agency receives over 30,000 calls per year. The agency also provides advice services with the libraries throughout Denmark.

This is just a simple overview of some of the services provided within the Consumer Agency.

The following information concerns the actual ADR body or complaints board as they are named in Denmark. The complaints board hears complaints from consumers concerning goods, work and services.

In order to take a case through the consumer complaint board there is certain criteria which must be met first.

- Products or service must be no less than €107.00
- Shoes and textiles must be over €67.00
- Complaints in regards to cars must be €1,333.00 and no more than €13,333.00
- The cost of a case with the complaint board is €20.00

The handling system is as follows:

- Cases are handled in writing – there are no oral hearings
- Only a consumer can take a case against a company to the complaint board
- If a business takes a case against a consumer to Court a Judge can redirect it back to the complaints board if the consumer agrees.
- Cases are prepared by the consumer agency and meetings take place every 2nd week for an afternoon.
- During this time the Complaints board will examine about 25 cases.
- The complaints board is made up by:
 - A Chairman: this is a Judge from the supreme court (paid €1,000 per hearing)
 - Two business representatives (€70.00 per hearing)
 - 2 members of the consumer council (€70.00 per hearing)

Once a decision is made it is written up by the Danish Consumer Council and approved by the Judge. Once it has been approved it is then sent to both parties involved.

The board's decision is not binding on either party involved however decisions are complied with 80-85% of the time. Both parties involved will still have the right to take the case to court.

In January 2004 a New Act on Consumer Complaints came into force. It was decided to include this in this report as it shows that although Demark has a very efficient ADR System it is believed that greater consumer protection can reduce the number of disputes which arise between consumers and retailers.

The main areas covered under this Act are:

- inciting more companies to show greater responsibility to dealing with consumer complaints
- setting up more private complaints boards
- a new scheme for financing the handling of consumer complaints, and
- The possibility of displaying the names of businesses that do not comply with the decisions of the complaint board.

The Danish system is an example of the positive use of ADR in consumer 2 business cases. ADR is organised in a similar way in other Scandinavian countries, For example, the Consumer Complaints Board in Sweden, operates as a similar one-stop-shop for all unresolved consumer disputes.

Other examples of good, but differently organised ADR systems exist in countries such as Spain and the UK, where sector based ADR systems are in place.

Other systems are not always appropriate to import, given differences in culture, tradition and existing models, but all offer good experiences from which Ireland can learn when looking to develop its own ADR system.

ANNEX 5.

**Chartered Institute of Arbitrators - Irish
branch**

Guidance Notes on Arbitration.

THE CHARTERED INSTITUTE OF ARBITRATORS – IRISH BRANCH

GUIDANCE NOTES ON ARBITRATION

THE ARBITRAL PROCESS

Arbitration is an alternative method of determining disputes according to the principles of natural justice.

The main statute law applicable to commercial arbitration is:

Northern Ireland

Arbitration Act 1996

Ireland (Republic)

Arbitration Act 1954

Arbitration Act 1980

Arbitration (International Commercial) Act 1998

ADVANTAGES

Privacy

The proceedings are private and neither known to or reported by outsiders.

Speed and Economy

With the co-operation of the parties and the adoption of the most suitable procedures for a dispute, the arbitral process can be expeditious and less expensive than Court action.

Finality of Award

The Arbitrator's Award is final and binding on the disputants.

APPOINTMENT OF ARBITRATOR

Where a dispute has arisen and negotiations have failed, the parties may request the nomination of an arbitrator by applying to the branch at 31 Mespil Road, Dublin 4.

REPRESENTATION OF PARTIES

It is not essential for the parties to be legally represented in Arbitration.

A party may represent itself or it may be desirable to appoint legal representation in certain cases.

PROCEDURES

There is no necessity to follow Court procedures in Arbitration. The procedures for Arbitration under the Holiday Scheme are set out in the Arbitration Guidelines for use under this scheme.

HEARINGS

It is in the interest of the parties to reduce the length and, therefore, the cost of the hearing, partly by proper preparation of documents and partly by agreeing as much as possible in advance. In this respect, the following alternative methods of presenting evidence may be used.

Documents Only

Submission of documents only (including statements of the argument for each party) without hearing. This may be appropriate where the matters in dispute are entirely or mostly ones of legal interpretation or where there is little or no conflict of evidence as to the facts and the disputes are concerned with opinions or amounts.

Hearing

Formal hearings would generally follow the same procedures as in a Court hearing that the Claimant may give a short summary of its claim and call its witnesses to give evidence. These witnesses will be subject to cross examination by the Respondent. Following the presentation of the Claimant's case the Respondent will call its witnesses who will give evidence and be cross examined by the Claimant. Closing statements may be called for by the Arbitrator.

SETTLEMENT

At any time prior to the making of the Award, the parties may settle their dispute by agreement on what ever terms they wish.

It is advisable that the Arbitrator be asked to make the Award incorporating the agreed terms so that the agreement can easily be enforced by the Courts if necessary.

THE AWARD

As soon as possible after the conclusion of the hearing, the Arbitrator will issue his Award in writing. The Awards will normally be a short document, stating in effect which party or parties is/are to pay what damages and costs.

An Award is said to be 'Published' when it has been signed and witnessed.

An Arbitrator's Award may be enforced through the Courts if necessary.

SEALED OFFERS

In order to provide protection against having to pay costs (where a party had made an offer which may exceed the mount of the Award), a written offer of settlement can be made without informing an Arbitrator and, at the conclusion of the hearing, the offer can be handed to the Arbitrator in a sealed envelope.

The Arbrator, having decided on the substance of his Award, will then open the envelope and establish the date and amount of the offer. In the event of the offer exceeding the amount of the Award, the Arbitrator may award the costs incurred after

the date of the offer against the party who refused the offer. Any such letter of offer should contain an explanation of the possible effect of the offer.

EARLY DISCLOSURE

It must be emphasised that for a quick and economic arbitration it is essential that the parties be prepared to disclose all available information and documents from the beginning of the dispute.

Such disclosure can be sometimes eliminate and often reduce the dispute or at least clarify the subject matter at an early stage.

ANNEX 6.

Chartered Institute of Arbitrators - Irish branch

Scheme for Tours operators and consumers.

**ARBITRATION ARRANGED BY THE CHARTERED INSTITUTE OF
ARBITRATORS
- IRISH BRANCH –
ON BEHALF OF TOUR OPERATOR (Organiser)**

**Administered under the Rules of
the Chartered Institute of Arbitrators – Irish Branch**

DEFINITIONS

Arbitration is a private dispute resolution procedure and is legally binding means of resolving disputes. An Arbitration Agreement is an agreement to refer to arbitration, usually in the form of an Arbitration clause as included in the standard booking conditions of the Organiser. A submission to arbitration is called a reference and the decision of an arbitrator is an Award.

APPOINTMENT OF AN ARBITRATOR

Where a dispute (see Clause X of the Booking Conditions) arises between the parties attempts shall first be made by the parties to settle the dispute.

If the dispute cannot be settled either party may then, and only then, apply in writing directly to the Institute at 31 Mespil Road, Dublin 4, for a request for a “Nomination of Arbitrator” form.

This form requires the insertion of the full names and addresses of the parties involved, how the Arbitration is to be conducted i.e. by oral hearing or written submission (document only) and the amount of the claim. There is a separate form (FORM A2) for use in cases where the claim is for **PERSONAL INJURIES** in excess of a sum of €9,500.00.

When completed the form should be returned to the Institute accompanied by the Holiday Booking Form, a brief statement of the nature and circumstances of the dispute and an administration fee of €75.00. The form refers to the Institute’s Arbitration Rules. A copy of the Rules, adopted for use in Travel Arbitration, together with an abridge copy of the Institute’s Arbitration Guidelines will be supplied to the party seeking Arbitration. The administration fee in respect of **PERSONAL INJURIES** claims in EXCESS of €9,500.00 is €150.00.

PROCEDURE

Once an Arbitrator has been appointed he is in complete charge of the reference, deciding the procedure as he considers best, and the Institute’s Rules deliberately give him this flexibility.

QUESTIONNAIRE FORM

In this scheme the Arbitrator will first send out a detailed form for completion by both parties. This will provide him with the details of the actual dispute so he can decide when and where to hold a hearing with both parties to present their cases.

HEARING

Where the sum in dispute is small or the claim relates to quantum only a ‘document only’ Reference should be considered. This process is quicker than an

oral hearing. in such cases the Arbitrator will make his award based on the documentary evidence sent to him by the parties.

It is, however, open to both parties to present their case to him at the oral hearing.

AWARD

The Arbitrator's decision is made formally in his Award which is sent to both parties. The Award is final and binding resolution of the dispute.

Before initiating Arbitration the Claimant ought to carefully consider his or her claim. Should an award be made against him or her the Respondent's cost and the Arbitrator's fee may also be awarded against the Claimant.

THE CHARTERED INSTITUTE OF ARBITRATORS – IRISH BRANCH

ARBITRATION RULES

(FOR USE ONLY IN THE HOLIDAY & TRAVEL DISPUTES)

RULE 1 **Applicability**

- 1.1 Where any agreement, submission or reference provides for arbitration under the Arbitration Rules of the Chartered Institute of Arbitrators (Irish Branch) “the Branch”, the arbitration shall be conducted in accordance with the following rules.

RULE 2 **Request for Nomination of Arbitrator**

Where a request for the nomination of an Arbitrator is made to the Branch, the Request for Nomination Form should be completed and sent to the Branch at 31 Mespil Road, Dublin 4.

RULE 3 **Selection of Arbitrator**

On accepting a Request for Nomination of an Arbitrator, the Chairman or, in his absence, the Vice-Chairman shall nominate an Arbitrator to determine the dispute and shall advise the parties.

RULE 4 **Number of Arbitrators**

The nomination shall be of a single arbitrator

RULE 5 **Replacement of Arbitrators**

If, after appointment, any Arbitrator dies, refuses, fails, or in the opinion of the Branch becomes unable or unfit to act, the Chairman shall, upon request, appoint another Arbitrator in his place.

RULE 6 **Communications**

- 6.1 Where a party sends out any communication including any notice or Statement under these Rules to the Arbitrator, it shall send copies to all of the other parties at the time and confirm to the Arbitrator that it has done so.

- 6.2 The Arbitrator shall likewise copy any communications to a party to all other parties at the same time.

- 6.3 For the purpose of all communications during the proceedings, the address of a party shall be that set out in the Request for Nomination of Arbitrator unless otherwise notified to the Arbitrator.

6.4 Any notice or communication shall be deemed to have been properly delivered if dispatched by post, telex, facsimile transmission or by hand to the address of the party concerned.

6.5 The Arbitrator may, where appropriate, upon the application of either party, order substituted service of any communication in such form as the Arbitrator thinks fit.

RULE 7 Jurisdiction

The Arbitrator shall have the jurisdiction and the powers to direct the procedure in the Arbitration necessary to ensure the just, expeditious, economical and final determination of the dispute.

RULE 8 Procedure

In the absence of any other Directions, the Procedure of the Arbitration shall be that set out in the following Rules.

RULE 9 Directions

Directions from the Arbitrator to the parties shall be in writing or, if given orally, shall be confirmed in writing by the Arbitrator.

RULE 10 Orders

If the parties shall themselves agree upon any procedural matters, they shall seek the approval of the Arbitrator to them.

RULE 11 Objections

Any application to the Arbitrator shall be in writing. On receiving a copy of such application, any party may within seven days thereof make an objection in writing to the Arbitrator, with a copy to the other party (See Rule 6.1). On receipt of any such application or objection, the Arbitrator may give Directions as appear to him appropriate with or without hearing the parties.

RULE 12 Adjournments

The Arbitrator may adjourn a meeting or hearing for such a period as he may deem appropriate, if the party appears by a legal or professional representative without proper notice having been given to the other parties, or for such other reason as he may deem sufficient.

RULE 13 Statement of Claim Defence and Reply

13.1 The party who request the arbitration (“the Claimant”) shall send to the Arbitrator a Statement of claim setting out in sufficient details the

facts, contention of law on which it relies, and the relief it claims.

- 13.2** The other party (“the Respondent”) shall send out to the Arbitrator a Statement of Defence stating in a sufficient detail which of the facts and contentions of law in the Statement of Claim it admits or denies, on what grounds and on what other facts and contentions of law it relies. If it has a counterclaim, this shall be set out in the Statement of Defence, as a Statement of Claim.
- 13.3** After receipt of the Statement of Defence, the Claimant may send the Arbitrator a Statement of Reply.
- 13.4** Where there is a counterclaim, the Claimant shall send the Arbitrator a Statement of Defence to the counterclaim, to which the Respondent may make a Statement of Reply.
- 13.5** All Statements of Claim, Defence and Reply shall be accompanied by copies of the essential documents on which the party concerned relies.
- 13.6** The Arbitrator shall determine the time limits within which the Statement of Claim, Defence and Reply are to be submitted.

RULE 14 Meetings and Hearings

- 14.1** The Arbitrator shall fix the date, time and place of any hearing
- 14.2** Alternatively, the Arbitrator may determine the dispute on the documents submitted to him by the parties, without any hearing.

RULE 15 The Award

The Arbitrator shall make in writing as soon as practicable after the conclusion of the final hearing.

RULE 16 Settlement

If, before the publication of the Arbitrators final Award the parties arrive at a settlement of their disputes, they shall immediately so notify the Arbitrator in writing, and shall pay to the Arbitrator his costs incurred to that time in such proportions as they shall agree or, failing agreement, as the Arbitrator shall determine.

RULE 17 Costs

- 17.1** The parties shall be jointly and severally liable to the Arbitrator for his costs until they are paid.
- 17.2** The Arbitrator shall have full power and discretion to tax and settle costs of the arbitration and, where appropriate, his own costs and

determine which party shall pay such costs.

17.3 If the Arbitrator has determined that all or any cost shall be paid by any party other than the party which has already paid them, that party shall have the right to recover the appropriate amount from the party liable.

RULE 18 Exclusion of Liability

The Arbitrator and the Branch shall not be liable to any party for any act or omission or negligence in connection with any Arbitration conducted under these rules.

REQUEST FOR NOMINATION OF ARBITRATOR

IN AN ARBITRATION TO BE ARRANGED BY THE CHARTERED INSTITUTE OF ARBITRATORS – IRISH BRANCH, ON BEHALF OF A TOUR OPERATOR OR TRAVEL AGENT ACTING AS “AN ORGANISER” (AS DEFINED IN SECTION 3 OF THE PACKAGE HOLIDAYS AND TRAVEL TRADE ACT 1995).

TO: The Chartered Institute of Arbitrators – Irish Branch 31 Mespil Road, Dublin 4.

*I/We hereby apply to the Chartered Institute of Arbitrators – Irish Branch to nominate an Arbitrator who is to be appointed to resolve the matters in dispute between us in accordance with the Arbitration Acts 1954 to 1998 and any statutory amendments thereof.

*I/We agree that the Arbitration Rules of the Chartered Institute of Arbitrators – Irish Branch shall apply with reference.

*I/We enclose non-returnable administration fee of **€75.00** (*Delete as appropriate)

Claimant(s)	Respondent (Tour Operator not Travel Agent)
Name: _____	_____
Address: _____	_____
_____	_____
_____	_____
Tel No: _____	_____
Date: _____ / _____ / _____	_____
Signature: _____	_____

Do you wish the Arbitration to be conducted by:

Written Submission Only Written Submission & Oral Hearing (*Please express your preference*)

AMOUNT OF CLAIM (if applicable)

Note: The Arbitration fee of €600.00 is paid by Respondent (normally the Tour Operator)

Claimant should state here the approximate amount Claim

€.....

Have negotiations with the Respondent failed? Yes No

Documents to be submitted with form this Form:

1. Copy of **Original Signed Booking Form** under which the Arbitration arises
2. A brief statement of **the Nature and Circumstances of the Dispute**
3. **Administration fee** of €75.00 (non-refundable).

If Claimant's claim is for Personal Injuries in Excess of €9,500.00, application form A2 must be used which is available by telephoning (01) 6697678 or on written application

REQUEST FOR NOMINATION OF ARBITRATOR

IN AN ARBITRATION TO BE ARRANGED BY THE CHARTERED INSTITUTE OF ARBITRATORS – IRISH BRANCH, ON BEHALF OF A TOUR OPERATOR OR TRAVEL AGENT ACTING AS “AN ORGANISER” (AS DEFINED IN SECTION 3 OF THE PACKAGE HOLIDAYS AND TRAVEL TRADE ACT 1995).

TO: The Chartered Institute of Arbitrators – Irish Branch 31 Mespil Road, Dublin 4.

*I/We hereby apply to the Chartered Institute of Arbitrators – Irish Branch to nominate an Arbitrator who is to be appointed to resolve the matters in dispute between us in accordance with the Arbitration Acts 1954 to 1998 and any statutory amendments thereof.

*I/We agree that the Arbitration Rules of the Chartered Institute of Arbitrators – Irish Branch shall apply with reference to this reference.

*I/We enclose non-returnable administration fee of **€150.00** (*Delete as appropriate)

Claimant(s)	Respondent (Tour Operator not Travel Agent)
Name: _____	_____
Address: _____	_____
_____	_____
_____	_____
Tel No: _____	_____
Date: _____ / _____ / _____	_____
Signature: _____	_____

Do you wish the Arbitration to be conducted by:

Written Submission Only Written Submission & Oral Hearing *(Please express your preference)*

AMOUNT OF CLAIM (if applicable)
way

Note: The Arbitrator’s fee shall be by

- of:
- i. Initial payment of €1,000.00; and
 - ii. €200.00 per hour of hearing, both initially paid by the Respondent

Claimant should state here the approximate amount Claim €.....

Have negotiations with the Respondent failed? Yes No

Documents to be submitted with form this Form:

1. Copy of **Original Signed Booking Form** under which the Arbitration arises
2. A brief statement of **the Nature and Circumstances of the Dispute**
3. **Administration fee** of €150.00 (non-refundable).

ANNEX 7.

**Chartered Institute of Arbitrators - Irish
branch**

**The society of Irish Motor Industry Scheme
(SIMI)**

**ARBITRATION ARRANGED BY THE CHARTERED INSTITUTE OF
ARBITRATORS - IRISH BRANCH
ON BEHALF OF SIMI**

**Administered under the Rules of the Chartered Institute of Arbitrators –
Irish Branch**

DEFINITIONS: Arbitration is a private dispute resolution procedure and is legally binding means of resolving disputes. An Arbitration Agreement is an agreement to refer to arbitration, usually in the form of an Arbitration clause as included in the standard booking conditions of the Organiser. A submission to arbitration is called a reference and the decision of an arbitrator is an Award.

APPOINTMENT OF AN ARBITRATOR:

Where a dispute arises between the Parties attempts shall first be made by the Parties to settle the dispute.

If the dispute cannot be settled either party may then, and only then, should the Claimant apply in writing directly to the Institute at 31, Mespil Road, Dublin 4, for a request for a “Request for Nomination of Arbitrator” form, SIMI 1.

This form requires the Claimant to insert the full names and addresses of the parties involved, to express a preference as to he/she wishes the Arbitration to be conducted i.e. by written submission only or by way of written submission plus Oral Hearing. The Claimant must also state whether he/she feels a vehicle inspection is desirable and must state the amount of the claim.

When completed, the form should be returned to the Institute accompanied by a copy of the contract containing the Arbitration Clause, a brief statement of the nature and circumstances of the dispute and an administration fee of €100.00. The form refers to the Institute’s Arbitration Rules; a copy of the Rules, adopted for use in industry related arbitrations, together with an abridge copy of the Institute’s Arbitration Guidelines will be supplied to both parties.

PROCEDURE

Once an Arbitrator has been appointed he/she is in complete charge of the Reference and may decide upon the procedure as he/she considers best in the circumstances. The Institute’s Rules deliberately give the Arbitrator this flexibility.

HEARING

Where the sum in dispute is small or the claim relates to quantum only a 'written submissions only' Reference should be considered. The additional cost of an oral hearing is saved. In such cases the Arbitrator will make his/her Award based on the documentary evidence sent to him by the parties.

It is; however, open to both parties to present their case to the Arbitrator at an oral hearing should they so wish.

AWARD

The Arbitrator's decision is made formally in his/her Award which is sent to both Parties. The Award is final and binding resolution of the dispute.

Before initiating Arbitration, the Claimant ought to carefully consider the strengths of his/her claim. Should the Arbitrator ultimately make no monetary Award to the Claimant, or should the Claimant have rejected an offer of settlement by the Respondent that exceeds the arbitrator's Award, the Claimant would ordinarily have to pay the cost of Arbitration and the Respondent's costs.

THE CHARTERED INSTITUTE OF ARBITRATORS – IRISH BRANCH

CIARB/ARBITRATION RULES

(FOR USE IN DISPUTES CONNECTED WITH THE MOTOR INDUSTRY)

RULE 1 Applicability

Where any agreement, submission or reference provides for arbitration under the Arbitration Rules of the Chartered Institute of Arbitrators (Irish Branch) “the Branch”, the arbitration shall be conducted in accordance with the following rules.

RULE 2 Request for Nomination of Arbitrator

Where a request for the nomination of an Arbitrator is made to the Branch, the Request for Nomination Form should be completed and sent to the Chartered Institute of Arbitrators (Irish Branch), 31, Mespil Road, Dublin 4.

RULE 3 Selection of Arbitrator

On accepting a Request for Nomination of Arbitrator, the Chairman or, in his absence, the Vice-Chairman shall nominate an Arbitrator to determine the dispute and shall advise the parties.

RULE 4 Number of Arbitrators

The nomination shall be of a single arbitrator

RULE 5 Replacement of Arbitrators

If, after appointment, any Arbitrator dies, refuses, fails, or in the opinion of the Branch becomes unable or unfit to act, the Chairman shall, upon request, appoint another Arbitrator in his/her place.

RULE 6 Communications

6.1 Where a party sends out any communication (including any notice or Statement under these Rules to the Arbitrator), it shall send copies to all of the other parties at the time and confirm to the Arbitrator that it has done so.

6.2 The Arbitrator shall likewise copy any communications to a party to all other parties at the same time.

6.3 For the purpose of all communications during the proceedings, the address of a party shall be that set out in the Request for Nomination of Arbitrator unless otherwise notified to the Arbitrator.

6.4 Any notice or communication shall be deemed to have been properly delivered if dispatched by post, telex, facsimile transmission or by hand to the address of the party concerned.

6.5 The Arbitrator may, where appropriate, upon the application of either party, order substituted service of any communication in such form as the Arbitrator thinks fit.

RULE 7 Jurisdiction

The Arbitrator shall have the jurisdiction and the powers to direct the procedure in the Arbitration necessary to ensure the just, expeditious, economical and final determination of the dispute.

RULE 8 Procedure

In the absence of any other Directions, the Procedure of the Arbitration shall be that set out in the following Rules.

RULE 9 Directions

Directions from the Arbitrator to the parties shall be in writing or, if given orally, shall be confirmed in writing by the Arbitrator.

RULE 10 Orders

If the parties shall themselves agree upon any procedural matters, they shall seek the approval of the Arbitrator to them.

RULE 11 Objections

Any application to the Arbitrator shall be in writing. On receiving a copy of such application, any party may within seven days thereof make an objection in writing to the Arbitrator, with a copy to the other party (See Rule 6.1). On receipt of any such application or objection, the Arbitrator may give Directions as appear to him/her appropriate with or without hearing the parties.

RULE 12 Adjournments

The Arbitrator may adjourn a meeting or hearing for such a period as he may deem appropriate, if the party appears by a legal or professional representative without proper notice having been given to the other parties, or for such other reason as he may deem sufficient.

RULE 13 Statement of Claim Defence and Reply

13.1 The party who request the arbitration (“the Claimant”) shall send to the Arbitrator a Statement of claim setting out in sufficient details the

facts, contention of law on which it relies, and the relief it claims.

13.2 The other party (“the Respondent”) shall send out to the Arbitrator a Statement of Defence stating in a sufficient detail which of the facts and contentions of law in the Statement of Claim it admits or denies, on what grounds and on what other facts and contentions of law it relies. If it has a counterclaim, this shall be set out in the Statement of Defence, as a Statement of Claim.

13.7 After receipt of the Statement of Defence, the Claimant may send the Arbitrator a Statement of Reply.

13.8 Where there is a counterclaim, the Claimant shall send the Arbitrator a Statement of Defence to the counterclaim, to which the Respondent may make a Statement of Reply.

13.9 All Statements of Claim, Defence and Reply shall be accompanied by copies of the essential documents on which the party concerned relies.

13.10 The Arbitrator shall determine the time limits within which the Statement of Claim, Defence and Reply are to be submitted.

RULE 14 Meetings and Hearings

14.3 The Arbitrator shall fix the date, time and place of any hearing

14.4 Alternatively, the Arbitrator may determine the dispute on the documents submitted to him by the parties, without any hearing.

RULE 15 The Award

The Arbitrator shall make his/her Award in writing as soon as practicable after the conclusion of the exchange of documentation or Oral Hearing. An arbitrator may publish two Awards; one related to substantive issues and one related to Costs.

RULE 16 Settlement

If, before the publication of the Arbitrators final Award, the parties arrive at a settlement of their disputes, they shall immediately so notify the Arbitrator in writing.

RULE 17 Costs

17.1 The parties shall be jointly and severally liable to the Arbitrator for his/her costs until they are paid.

17.2 The Arbitrator shall have full power and discretion to tax and settle costs of the arbitration and, where appropriate, his/her own costs and

determine which party shall pay such costs.

- 17.3** If the Arbitrator has determined that all or any cost shall be paid by any party other than the party which has already paid them, that party shall have the right to recover the appropriate amount from the party liable.

RULE 18 Exclusion of Liability

The Arbitrator and the Branch shall not be liable to any party for any act or omission or negligence in connection with any Arbitration conducted under these rules.

THE CHARTERED INSTITUTE OF ARBITRATORS – IRISH BRANCH

GUIDANCE NOTES ON ARBITRATION UNDER THE SIMI SCHEME

THE ARBITRAL PROCESS

Arbitration is an alternative method of determining disputes according to the principles of natural justice.

The main statute law applicable to commercial arbitration is:

- Arbitration Act 1954
- Arbitration Act 1980
- Arbitration (International Commercial) Act 1998

ADVANTAGES:

- **Privacy**
The proceedings are private
- **Speed and Economy**
With the co-operation of the parties and the adoption of the most suitable procedures for a dispute, the arbitral process can be expeditious and less expensive than Court action.
- **Finality of Award**
The Arbitrator's Award is final and binding on the disputants.

APPOINTMENT OF ARBITRATOR

Where a dispute has arisen and negotiations have failed, the Parties may request the nomination of an arbitrator by applying to the Chartered Institute of Arbitrators (Irish branch), 31 Mespil Road, Dublin 4.

REPRESENTATION OF PARTIES

It is not essential for the parties to be legally represented in Arbitration.

A party may represent itself or it may be desirable to appoint legal representation in certain cases.

PROCEDURES

There is no necessity to follow Court procedures in Arbitration. The procedures for Arbitration under the SIMI Scheme are set out in the Arbitration Guidelines for use under this scheme.

TYPE OF ARBITRATION

It is in interest of the Parties to reduce the length and, therefore, the cost of the Arbitration, partly by proper preparation of documents and partly by agreeing as much as possible in advance. In this respect, the following alternative methods of presenting evidence may be used:

- **Documents Only**

Written submission only (including statements of the argument for each party) without an Oral Hearing. This may be appropriate where the matters in dispute are entirely or mostly ones of legal interpretation or where there is little or no conflict of evidence as to the facts and the disputes are concerned with opinions or amounts.

- **Oral Hearing**

Formal hearings would generally follow the same procedures as in a Court hearing that the Claimant may give a short summary of its claim and call its witnesses to give evidence. These witnesses will be subject to cross-examination by the Respondent. Following the presentation of the Claimant's case the Respondent will call its witnesses who will give evidence and be cross-examined by the Claimant. Closing statements may be called for by the Arbitrator.

- **Vehicle inspection**

The Parties may ask the Arbitrator to inspect the vehicle. Alternatively, they may retain an expert to examine the vehicle and present a Report to the Arbitrator.

SETTLEMENT

At any time prior to the making of the Award, the parties may settle their dispute by agreement on whatever terms they wish.

It is advisable that the Arbitrator be asked to make the Award incorporating the agreed terms so that the agreement can easily be enforced by the Courts if necessary.

THE AWARD

As soon as possible after all documentation has been exchanged, or at the conclusion of the hearing, the Arbitrator will issue his/her Award in writing. The Awards will normally be a short document, stating in effect which party or parties is/are to pay what damages and costs.

An Award is said to be 'Published' when it has been signed and dated by the Arbitrator.

An Arbitrator's Award may be enforced through the Courts if necessary.

SEALED OFFERS

In order to provide protection against having to pay costs (where a party had made an offer which equalled or exceeded the amount of the Award), a written offer of settlement can be made without informing an Arbitrator and, at the conclusion of the exchange of documentation or Hearing, the offer can be handed to the Arbitrator in a sealed envelope.

The Arbitrator, having decided on the substance of his/her Award, will then open the envelope and establish the date and amount of the offer. In the event of the offer equalled or exceeded the amount of the Award, the Arbitrator would ordinarily award the costs incurred after the date of the offer against the party who refused the offer. Any such letter of offer should contain an explanation of the possible effect of the offer.

EARLY DISCLOSURE

It must be emphasised that for a quick and economic arbitration it is essential that the parties be prepared to disclose all available information and documents from the beginning of the dispute.

Such disclosure can be sometimes eliminate and often reduce the dispute or at least clarify the subject matter at an early stage.

(Form to be completed by company)

REQUEST FOR NOMINATION OF ARBITRATOR

TO: The Chartered Institute of Arbitrators – Irish Branch 31 Mespil Road, Dublin 4.

*I/We hereby apply to the Chartered Institute of Arbitrators – Irish Branch to nominate an Arbitrator who is to be appointed to resolve the matters in dispute between us in accordance with the Arbitration Acts 1954 to 1998 and any statutory amendments thereof.

*I/We agree that the Arbitration Rules of the Chartered Institute of Arbitrators – Irish Branch shall apply this reference.

*I/We enclose non-returnable administration fee of **€200.00** (*Delete as appropriate)

Claimant(s)	Respondent
Name: _____	_____
Address: _____	_____
_____	_____
_____	_____
Tel No: _____	_____
Date: _____ / _____ / _____	_____
Signature: _____	_____

Do you wish the Arbitration to be conducted by:

Written Submission Only Written Submission & Oral Hearing (Please express your preference)

AMOUNT OF CLAIM (if applicable)

Note: The Arbitration will contact the parties out his/her terms of appointment

Claimant should state here the approximate amount Claim

€.....

Have negotiations with the Respondent failed? Yes No

Documents to be submitted with form this Form:

4. Copy of **Arbitration Agreement** (containing a provision making us the Nomination Body) – OR –
5. **Written Agreement** signed by all/both parties agreeing that we should nominate an Arbitrator
6. A brief statement of **the Nature and Circumstances of the Dispute**
7. **Administration fee** of €200 (non-refundable).

REQUEST FOR APPOINTMENT OF ARBITRATOR

IN AN ARBITRATION TO BE ARRANGED BY THE CHARTERED INSTITUTE OF ARBITRATORS – IRISH BRANCH, ON BEHALF OF THE SOCIETY OF THE IRISH INDUSTRY (SIMI)

**TO: The Chartered Institute of Arbitrators – Irish Branch
31 Mespil Road, Dublin 4.**

*I/We hereby apply to the Chartered Institute of Arbitrators – Irish Branch to nominate an Arbitrator who is to be appointed to resolve the matters in dispute between us in accordance with the Arbitration Acts 1954 to 1998 and any statutory amendments thereof.

*I/We agree that the Arbitration Rules of the Chartered Institute of Arbitrators – Irish Branch shall apply with reference to this reference.

*I/We enclose non-returnable administration fee of **€100.00**

Claimant(s)	Respondent(s) (garage/dealership)
Name: _____	_____
Address: _____	_____
_____	_____
Tel No: _____	_____
Date: _____ / _____ / _____	_____
Signature: _____	_____

Do you prefer the Arbitration to be conducted on the basis of: (Please express your preference)*

Written Submission Only (€500) Yes / No

or

Written Submission & Oral Hearing (€750) Yes / No

Do you wish the vehicle to be inspected by the Arbitrator? (Additional €250.00) Yes / No

AMOUNT OF CLAIM

Claimant should state here the approximate amount Claim €.....

ANNEX 8.

Chartered Institute of Arbitrators – UK Branch

The EEJ-Net Dispute Resolution Scheme

The EEJ-Net Dispute Resolution Scheme

Scheme Rules - 2002 Edition

This Dispute Resolution Scheme ("the Scheme") has been developed by the Chartered Institute of Arbitrators ("the Institute") to resolve disputes between Consumers and Traders regardless of national boundaries. In order to use the Scheme the consumer must be referred to the Institute by the relevant clearinghouse designated under the EEJ-Net.

1. Introduction and Scope of the Scheme

1.1 The Consumer Dispute Resolution Scheme for EEJ-Net Referred Disputes ("the Scheme") applies to applications for arbitration made to the Institute in respect of disputes between Traders and Consumers. A dispute may only be referred to arbitration under the Scheme where the Consumer has:

- (a) Referred the matter to the Trader's internal complaints procedure and/or Trade Association (if any) and an amicable settlement has subsequently failed to be reached, and then
- (b) Referred the matter to EEJ-Net.

1.2 The Consumer has the choice of taking advantage of this Scheme or using the courts instead. If the Consumer wishes to use the Scheme, application must be made on the prescribed form obtainable online from www.arbitrators.org/cdrs or through the post from Dispute Resolution Services, The Chartered Institute of Arbitrators, The International Arbitration & Mediation Centre, 12 Bloomsbury Square, London, WC1A 2LP, England.

1.3 Upon receipt of an application for arbitration the Institute will contact the Trader for their consent to proceed to resolution of the dispute by arbitration. If the Trader agrees to arbitration, the parties will be bound by the Arbitrator's decision subject to either parties right of appeal under the relevant law, and also the Consumer's right to reject the award by pursuing the claim afresh by other means. See Rules 2.9 and 6.1 for further information.

1.4 These Rules apply to applications for arbitration received on or after 1st January 2002.

1.5 All claims for compensation under this Scheme must specify the currency in which a successful monetary award must be made.

1.6 Under the Scheme claims cannot be made where the Trader or their Trade Association subscribes to an alternative dispute resolution scheme provided by the Chartered Institute of Arbitrators. Details of the list of schemes can be accessed at http://www.arbitrators.org/DRS/con_schem.htm, from <http://www.eej-net.org.uk> or direct from the relevant clearinghouse.

1.7 The Scheme is designed to deal with claims for general compensation arising from alleged breaches of contract and/or negligence. The Scheme cannot be used for disputes concerning personal injury, illness, nervous shock, death or the consequences of any of these.

1.8 In considering the Parties' cases, the Arbitrator shall have regard to the legal position, the relevant Code of Practice (if any) and best practice. In the event of a conflict between a rule of law and a provision of a Code, the interpretation most favourable to the Consumer shall prevail.

1.9 The Scheme has been developed as an online version of the Institute's Consumer Dispute Resolution Scheme. However, it is acknowledged that some Consumers may no longer have Internet access or some documents may not be in electronic format. Where this is the case the Consumer should submit a postal application in duplicate.

1.10 References to email below can be replaced by references to the postal system if the parties do not wish to make use of information technology.

2. Commencement of Arbitration Proceedings and Arbitration Procedure

2.1 The arbitration begins after the person making the claim ("the Consumer") has signed and submitted an application form forming their full schedule and statement ("the Claim") to the Institute on the application form via the Internet or through the post.

2.2 The Consumer's registration fees are charged on the scale set out in the application form. The Trader is required to pay a separate fee direct to the Institute, which should be submitted with the Defence to Claim.

2.3 Registration fees are non-returnable save for Rules 2.5 and 2.14.

2.4 Upon receipt of the Claim, the Institute will email the application form (but not the supporting documentation) to the Trader, giving the Trader 14 days in which to agree to arbitration or decline the invitation. If the Trader agrees to arbitration the supporting documentation will be forwarded to them and 21 days will be given in which time the Trader must submit their Defence to Claim and registration fee.

2.5 If the Trader declines the invitation to arbitrate, or does not respond within 21 days of the notification by the Institute, the Institute will notify the Consumer and return their registration fee in full. The Consumer will be free to pursue the matter in the relevant courts.

2.6 Upon receipt of the Trader's Defence to Claim, which shall be submitted by email, the Institute will forward a copy of the Defence to Claim to the Consumer, who shall be given 21 days to submit final Comments on the Defence. The Comments on the Defence should not include any new claims, but simply reply to the Defence to Claim submitted.

2.5 The Institute will send a copy of the Consumer's Comments on the Defence to the Trader, who is not permitted to make any further comment without the express approval of the Arbitrator.

2.6 The President or a Vice-President of the Institute will then appoint a single Arbitrator and the Institute will inform the Parties of the name of the Arbitrator. The appointment of the Arbitrator is under the Institute's exclusive and unfettered control, with the Institute reserving absolute discretion to appoint any Arbitrator it considers appropriately qualified and experienced.

2.7 An award cannot be made for an amount of more than the amount claimed on the application form.

2.8 Any Award made under this Scheme is final and legally binding on all Parties, subject to the provisions of Rule 1.2 which gives the Consumer the right to reject the Arbitrator's Award by pursuing the claim afresh in the courts. The Consumer may not reject an Award where they have won their claim in full. Claims that are not rejected by the Consumer will not be open to review.

2.9 If either Party wishes to appeal against the Award, then they must seek leave to appeal in the relevant court, and will have 28 days from the date of publication of the Award in which to do so. It should be noted that Parties cannot appeal to the courts on a point of fact. Neither the Institute nor the Arbitrator can advise the Parties on how to seek leave to appeal.

2.10 Payment ordered by an award must be made within 21 days of the date of the award, unless directed otherwise in the award. Payment of an award must be made directly between the Parties and not through the Arbitrator or the Institute.

2.11 The Arbitrator may request the provision of any further documents, information or submissions that he/she considers would assist them in their decision. If these are not sent to the Institute or to the Arbitrator within the time prescribed, the Arbitrator will proceed on the basis only of the documents already before him.

2.12 If a Trader does not submit its Defence to Claim within the time allowed, the dispute will be decided by reference to the documents submitted by the Consumer.

2.14 If, in the Arbitrator's opinion (which shall be final), the dispute is not capable of proper resolution on under these Rules, the Arbitrator's appointment shall be revoked and the Parties fees will be reimbursed.

3. Powers of the Arbitrator

3.1 Any Arbitrator appointed shall be, and remain at all times during the arbitration, impartial and independent of the Parties, and shall decide the case in accordance with the relevant law and Code of Conduct (if any).

3.2 Any Arbitrator should also act reasonably expeditiously, and in a way that provides a fair means for resolving the dispute.

3.3 The Arbitrator may, in his/her absolute discretion, refuse to consider documents that are not submitted within timescales set down by these Rules.

3.4 The Arbitrator shall have full jurisdiction to consider whether any claim made falls within his/her powers to determine, and, assuming such course is reasonable in all the circumstances, and having regard to cost, to request legal or expert assistance provided that the Parties should have had a full opportunity to comment upon such assistance.

3.5 The Arbitrator shall direct the procedure of the arbitration including the amendment of time limits and other procedural matters and have the power to:

- (a) Allow submission of further evidence and the amendment of the Claim or Defence to Claim
- (b) Order the Parties to produce goods, documents or property for inspection
- (c) Conduct such enquiries as may be desirable
- (d) Receive and take into account any relevant oral or written evidence
- (e) Proceed with the arbitration if either Party fails to comply with these Rules or with any Direction

4. Costs

4.1 The Arbitrator's fees and expenses and those of any expert or legal adviser appointed by him shall be paid by the Trader. The registration fees cover the Institute's fees.

4.2 The maximum amount that may be awarded to either Party as recompense for costs expended in the arbitration shall be an amount equal to the Consumer's registration fee for the arbitration.

4.3 In exercising his/her discretion, the Arbitrator may have regard to offers made to settle the dispute prior to commencement of the arbitration.

4.4 No legal proceedings may be brought by one Party against the other for recovery of costs incurred during the arbitration.

4.5 These provisions for costs will not apply to any application for appeal against the Award.

4.6 Each Party shall bear its own costs of preparing and submitting its case (including legal costs).

5. Finality of the Award

5.1 The Award of the Arbitrator will be final and binding on both Parties subject to Rule 1.2. Any payments that the Arbitrator directs to be paid must be paid within 21 days of the date of the award.

6. Confidentiality

6.1 No party involved in any arbitration under the Rules, or the Institute or the Arbitrator, shall disclose explicit details of the proceedings, award, and reasons for the award to any stranger to the proceedings unless it is necessary to do so in order to enforce the Award.

7. Miscellaneous

7.1 The law to apply shall be determined by the Arbitrator if the Parties fail to agree.

7.2 The documents forming the arbitration will be in written English only.

7.3 If either party wish to have the Arbitrator's Award translated in to an alternative language to English the party making the request will be liable for the costs of translation.

7.4 The Institute reserves the right to appoint a substitute Arbitrator if the Arbitrator originally appointed dies, is incapacitated or is for any reason unable to deal expeditiously with the dispute. The Parties shall be notified of any substitution.

7.5 Neither the Institute nor the Arbitrator shall be liable to any Party for any act or omission in connection with any arbitration conducted under these Rules, save that the Arbitrator (but not the Institute) shall be liable for any wrongdoing on his/her own part arising from bad faith.

**THE CONSUMER DISPUTE RESOLUTION SCHEME
FOR EEJ-NET REFERRED DISPUTES
Rules (2002 Edition)**

Please read the Rules & Guidance Notes of the Dispute Resolution Scheme for EEJ-Net Referred Disputes carefully before you complete and submit this form.

1. PARTY DETAILS (Please complete in block capitals and black ink)

Full name(s) of Customer

(Claimant).....
(Please give title, e.g. Mr, Mrs, Miss, Ms, Dr, Professor etc)

Address.....
.....
.....
.....

Daytime Telephone:..... Mobile:..... Fax:.....

Email Address:.....

Full name of Trader

.....
.....
Address.....
.....
.....
.....

Telephone:..... Fax:..... Email:.....

2 DISPUTE DETAILS

2.1 The dispute has arisen in connection with the following transaction or service:

Date of Booking or service:.....

Total Cost of Transaction..... *(i.e. the amount paid to the trader)*

Booking Reference:.....

2.2 We are claiming a total amount of.....
(This figure should indicate the sum amount claimed and should clearly specify the unit of currency (e.g. Euro, £ Sterling). The figure indicated here cannot be altered at a later date and will be the maximum that can be awarded by an arbitrator if your claim is successful. The figure indicated should not exceed the amount set out in the relevant sections of the Scheme Rules.)

3. FORMALITIES

- 3.1 I/We apply for the appointment of an arbitrator in accordance with the Rules of the above Scheme to determine the dispute between me/us and the Trader. The Arbitrator's powers are set out in the Rules of the Scheme.
- 3.2 I/We have attempted to resolve this matter through the complaints procedure offered by the Trader without success.
- 3.3 In support of this application I/we have completed the schedule of claim and other relevant information below, and attached on separate sheets my/our completed schedule and full statement giving reasons why the Trader is in breach of their contractual obligations, and which obligations have been broken.
- 3.4 I/we agree and understand that the Arbitrator's award is final and binding subject to my/our right to reject the award under Rule 1.2 of the Scheme Rules, and our rights of appeal under our home country laws (e.g. in England & Wales, the Arbitration Act 1996).
- 3.5 A payment of the sum of £... .. in respect of the Claimant's registration fee is enclosed. The registration fee is in accordance with the following scale, and is non-refundable in any circumstances.

	Total Amount of Claim £1-£1,000	Total Amount of Claim £1,001- £5,000	Total Amount of Claim £5,001- 10,000	Total Amount of Claim £10,001- £50,000	Total Amount of Claim £50,001 upwards
Consumer Fees	£23.50 (Includes £3.50 VAT)	£23.50 (Includes £3.50 VAT)	£58.75 (Includes £8.75 VAT)	£117.50 (Includes £17.50 VAT)	£293.75 (Includes £43.75 VAT)
Trader Fees	£205.62 (Includes £30.62 VAT)	£293.75 (Includes £43.75 VAT)	£587.50 (Includes £87.50 VAT)	£881.25 (Includes £131.25 VAT)	£2,350 (Includes £350.00 VAT)

- 3.6 The Trader is entitled to require that any payment previously offered as full and final settlement and not accepted by the Consumer on the terms on which it was offered should be returned to the Trader before submission of this application.
- 3.7 The person signing this form as Consumer declares that he/she is authorised to do so and to receive monies ordered by an arbitrator's award, and that he/she has read and understood the Rules & Guidance Notes of the Scheme.

Dated...../...../.....

Signed.....
(by or for the claimant)

Dated...../...../.....

Signed.....
(by or for the Trader)

Schedule of Claim

1 Item No	2 Brief description of each item claimed	3 Date reported to Trader	4 Amount Claimed for Each Item
		Total Amount Claimed	(please specify unit of currency)