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EU consumer redress tool a blunt knife?

EU Member States finalise their position tomorrow on plans for how consumer/business disputes can be resolved in future without resorting to court.

Known as Alternative Dispute Resolution (ADR) and with online formats also envisaged (ODR), this procedure standardises across Europe consumer access to 3rd parties such as mediators or ombudsmen when products are defective or service providers breach obligations.

As most consumers remain inactive when faced with such problems for fear of the expense and hassle of court action, BEUC largely supports the proposed law as one way of easing access to redress. However, this final stage of negotiations has roused strong concerns that:

- The 3rd party 'independence' requirement is not strong enough and risks outcomes biased in favour of companies.
- In most cross-border cases consumers will not be able to rely on their national law.
- There is no requirement to suspend 'limitation periods', meaning those consumers whose attempts to resolve their problem by ADR/ODR are unsuccessful, may be barred from going to court. This also risks fraudulent companies engaging in delaying tactics.

Monique Goyens, Director General of The European Consumer Organisation, said:

"If EU lawmakers want consumers to actually use alternative and online dispute resolution mechanisms, they simply must build in the relevant safeguards. Taking the option of going to court off the table swings the balance far too heavily in favour of traders and leaves consumers in a legal dead end.

"Such laws are often branded with words like 'effective' and 'efficient', but if consumers cannot rely on their national law or trust the mediator to be independent, then ADR will be neither. Sorting consumer disputes should be made fairer, not just shorter.

"Europe heralds these plans as a key tool in its Single Market Act, but as it stands they may be more a blunt knife. However, an opportunity still remains to turn it around and we hope EU decision makers put the consumer interest first in the final negotiations."

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