



# ALTERNATIVE DISPUTE RESOLUTION

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# Definition of ADR

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Out-of-Court mechanisms for the resolution of disputes

- Complements court procedure, not replaces
- Consensual - based on the voluntary participation of the disputing parties
- A 3<sup>rd</sup> party, such as an Arbitrator or Mediator, assists the parties to reach a solution



# Types of ADR

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- Conciliation/Negotiation: non-binding, involves active input from an outsider
- Mediation: Independent 3<sup>rd</sup> party assists the the disputants to find mutually agreed solution
- Arbitration: Legally binding decision, limited grounds for appeal
- Ombudsman: a 'trusted intermediary'



# Why do we need ADR?

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Legal action is –

- Expensive
- Slow
- Complicated
- Offers a limited range of redress

ADR tries to avoid these difficulties



# Advantages of ADR

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- “Civil litigation is extremely expensive and any sensible person would look in horror at the costs and risks involved. Clearly alternatives to litigation need to be found”

*(Lord Chief Justice, 2006)*



# Advice from Arbitrators

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“What advice would you give to litigants to resolve a dispute?”

- 52%      Mediation
- 30%      Some other form of ADR
- 13%      Arbitration

*(Chartered Institute of Arbitrators)*



# EU promotion and development of ADR

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Recommendation 2001/310/EC

established minimum criteria for ADR  
systems:

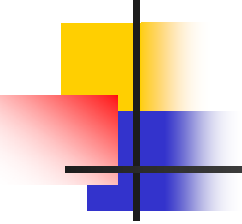
- Principles of impartiality, transparency, effectiveness, fairness
- Member States required to notify the Commission of their responsible ADR body



# Advantages to the consumer

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- Cost
- Less formal than the Court system
- Wider range of redress options
- The Arbitrator/Mediator may have expertise in the subject
- Conciliation/mediation not binding on the parties



# Skills required in Mediation/Arbitration

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- Communication
- Listening
- Understanding
- Impartiality
- Facilitate
- Managing the process



# ADR in Europe

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- **Sweden**: Government Consumer Agency (Ombudsman) offers a simple, fast and inexpensive way of solving disputes.
- **Denmark**: Consumer Ombudsman under the Danish Consumer Agency
- **Finland**: Municipal consumer advice is guaranteed by law for everyone
- **Poland**: Trade Inspectorate Conciliation Courts; local Consumer Ombudsman



# Norway

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- A Consumer Ombudsman to prevent market abuses
- Recently ruled that iTunes music stores contract terms violated Norway's consumer and market law



# Alternative Dispute Resolution

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