

## **Information about a pilot project related to the cross-border ODR infrastructure using UNCITRAL ODR Rules**

The Czech Republic would like to inform the UNCITRAL Secretariat about the preparation of an international pilot project (Pilot) related to the provision of the cross-border ODR infrastructure based on the UNCITRAL ODR Rules. We propose that this Pilot should be presented in Vienna during the meeting of the UNCITRAL WG III on 14-18 November 2011. All participating countries will be invited to participate in the Pilot.

### **The basic concept of the proposed Pilot is the following:**

1. Participation in the Pilot will be open to any regulator and consumer organization and/or ADR/ODR provider(s) following input and/or endorsement by respective national regulator(s). In the future system, ADR/ODR providers will administer cases and consumer organizations will provide guidance to consumers and liaise with involved domestic online sellers to ensure their wide participation in the cross-border ODR.
2. The cross-border ODR infrastructure platform will be piloted as a set of services to participating ADR/ODR providers and possibly consumer centers; the platform itself will not be an ODR provider but will provide its services to the participating ODR providers and possibly consumer centers. The service will be developed by an international team of technical experts (service team) with input from national regulators, consumer centers and ODR providers;
3. Consistent with the above, at the conclusion of the pilot, the technical experts will finalize and publish an open communication standard and minimum technical requirements so that future ODR providers are able to implement their own unique ODR solutions in compliance (or consistent) with the published specifications. There should also be a duty of every user to communicate all additions or modifications of the communication standard to the service team and the right of the service team to publish selected additions and/or modifications as updates of the published communication standard.
4. To the extent necessary and practical, relevant components of the cross-border ODR infrastructure will incorporate documents being prepared by UNCITRAL: (i) disputes

will be processed and resolved consistent with UNCITRAL ODR Rules; (ii) participating ODR providers will agree to fulfill minimum criteria developed by UNCITRAL; (iii) participating ODR providers will ensure that they and their respective neutrals adhere to minimum prescribed criteria prepared by UNCITRAL;

5. As a direct consequence of the above (paragraphs 1 – 4), ODR programs participating in the cross-border ODR infrastructure will: (i) meet consistent criteria and operate under similar rules; (ii) either be accredited or reviewed by respective national regulator(s) prior to their participation; (iii) be assisted by interlinked consumer centers providing guidelines to consumers and outreach to domestic online sellers; (iv) incorporate common ODR procedural language/communication standard understandable to all ODR providers and consumer centers, in order to enable self-resolution as well as third-party mediation/arbitration; and (iv) operate as an online platform, implementing the common ODR language.
6. Participating ODR providers will be able to issue supplemental rules. Such supplemental rules cannot be in conflict with the ODR Rules but can complement them.
7. The Pilot will track and confirm the costs of maintaining the cross-border ODR infrastructure platform and specifications as well as best ways how to prevent forum shopping and cherry picking among participating ODR providers. Participants in the platform will agree to localize the communication standard(s) into their language(s) and to encourage the use of the UNCITRAL ODR Rules in their respective countries.
8. One role of the participating ODR providers (including public and/or private consumer centers and trustmark programs) will be to encourage appropriate online sellers to develop and participate in cross-border ODR as a standard business practice and a valuable service to customers. Businesses may opt into cross-border ODR either on a case-by-case basis or through formal, public participation in various ODR and/or trust mark programs

After the announcement of the Pilot in November, the Pilot will begin with an initial stage which might take from January 2012 to end of June 2012. During the initial stage, the following principle tasks are to be provided:

- Verification and testing of the proposed functions of the cross-border ODR infrastructure platform and the services to be provided by the service team;
- Clarification of costs involved for ODR providers with administering cross-border ODR disputes;
- Necessity/desireability of some type of coordination structure of the participating ODR stakeholders;
- Contacts and discussions with payment channels;
- Contacts and discussions with associations of online sellers and large online sellers;

It may be possible to report the results of the initial stage during a subsequent UNCITRAL WG meeting and – at the very least – issue a progress report at the ODR Forum (held on 27-29 June 2012 in Prague), together with proposed next steps.

We anticipate that the development of the infrastructure platform will be financed by the service team. Any costs associated with actual case handling will be covered by individual participating programs.

Czech Republic is prepared to endorse Czech Arbitration Court (ADR.EU) as the Czech ODR provider for the purposes of the Pilot. The confirmed participants in the pilot will likely include the Better Business Bureau (BBB) in the U.S. and Canada. In addition, other countries have been contacted to participate, including EU (ECC-NET), Korea, Japan, Singapore and Argentina.

Any interested participants are kindly requested to inform about their interest the Pilot coordinator, Mr. Zbynek Loebel, at [zbynek.loebel@adr.eu](mailto:zbynek.loebel@adr.eu).