

EU Website Compliance, does it effect you?



You may start to receive instructions from your website developers telling you that to comply with a new EU law, you need to make changes to your website.]

The information below is not legal advice, it will tell you **what it is**, if it **affects you**, and what **you need to do**, and what could happen **if you don't!** This is the best and most sensible brief we have found on the subject, produced by Heather Burns - webdevlaw.uk

What is this new law about?

ADR ? ODR is a pair of EU e-commerce directives impacting all European B2C traders online.

ADR stands for *Alternative Dispute Resolution*. ADR is a process whereby an independent third party mediates a dispute between a business and a consumer, so that the dispute is resolved without ever having to go to court. ADR is a tightly regulated process and mediation providers are subjected to stringent professional standards. Many industries and trade associations require members to use the ADR process.

ODR stands for *Online Dispute Resolution*. In this context, it refers to a specific new EU platform which goes live on 15 February 2016. This site will allow consumers who have a complaint about a product or service bought online to submit the complaint via the platform to a trader based in another member state, rather than having to personally investigate the consumer rights and trading standards laws of a foreign country.

It's all part of the push to remove the obstacles which prevent the EU from truly acting as one unified market. And anything that stops the courts from being clogged up with silly consumer disputes has to be a good thing.

However, these directives come with compliance obligations for all European e-businesses. This briefing will educate you about what you need to do to comply.

As I am in the UK this briefing will address the UK's implementation. If you are elsewhere in Europe you will need to look into your own country's implementation requirements. You will likely find them through your country's [consumer advocacy and trading standards organisations](#).

Who does it affect?

If you are a European trader providing goods or services online to consumers in other European countries, the laws affect you.

The ADR regulation is B2C (business-to-consumer) only and affects **some businesses** trading online.

The ODR portion of the regulation affects **all businesses selling goods or services online**. As with ADR, this is applicable to **B2C**

(business-to-consumer) transactions only.

When does it come into effect?

ADR was transposed into EU member states' legislation to take effect in January 2016.

All European businesses are expected to be compliant by Monday 15 February 2016, which is the day the EU's ODR platform goes live at <http://ec.europa.eu/consumers/odr/>.

What about sole traders and microbusinesses?

There is no minimum business size, turnover, or income threshold for ADR and ODR compliance. If you sell to consumers online, you are affected.

What do I need to do to comply?

Because these are two separate but connected regulations, compliance obligations may sound a bit complex at first. Try to remember that in the context of this law, ADR is a process, and ODR is a specific web site.

ADR

Under the directive and regulation, you are not obliged to use the ADR process in your business *unless*

- you belong to an industry which requires it, such as travel or financial services;
- you belong to a trade association which requires its members to use ADR.

If you fall into one of those categories, you have to link to the ADR provider in your web site's terms and conditions, and also include that same ADR information in the conditions of sales or service contracts between you and your customers.

However, even if you do not intend to use ADR, or work in a sector which has no trade association, you are *still obliged* to inform your site visitors about an ADR option if a dispute arises. You have to do this even if you do not intend to take advantage of the ADR service yourself.

This means you will have to take the time to select an ADR provider [from this list](#) (UK only). As you will see, the vast majority of these bodies are industry-specific, with only a handful taking on any requested dispute. While most will handle a dispute to a maximum value of £25,000, some may also have minimum cash values for the disputes they will take on.

You will then have to inform your unhappy customer of the ADR option. [The UK's guidance](#) puts it this way:

Where a trader is considering a consumer complaint, then at the point where the trader's internal complaint-handling procedure is exhausted, they must provide the consumer with the following information:

*a statement that the trader cannot settle the complaint with the consumer
the name and website address of an ADR provider that could deal with the complaint, if the consumer wishes to use ADR
whether the trader is obliged or prepared to submit to an ADR procedure operated by that provider*

(In other words, the trader has to give the consumer details of an ADR provider but does not have to agree to use ADR.)

The information must be provided in a 'durable medium' ? for example, a letter or an email ? and it will normally form part of the final 'deadlock' letter in response to a consumer complaint.

ODR

If you sell goods or services online you need to comply with ODR.

You will need to provide a link to the EU's ODR platform on your web site, likely in the terms & conditions page. If you have a page containing a complaints procedure, put it there. You must also provide an email address for consumers, and dispute resolution providers, to use as a first point of contact.

Additionally, if you are required to use ADR through industry regulation or trade association rules, you also have to include a link

to [the EU's ODR platform](#) in any emails you send to the consumer offering them goods or services and in your terms and conditions page, *in addition to* information about your selected ADR provider.

If you have a business web site but do not sell any goods or services on it ? like this web site ? you do not have to comply with ODR. However, in the event of a dispute, you *do* have to provide your unhappy customer with information about the ADR process, as detailed above.

So what does compliance involve?

You will need to update your web site terms and conditions by 15 February. If you are required to use ADR, you will also need to update your terms of sale and contracts.

Here is an idea for the text to put into your terms and conditions. Please feel free to edit as required.

Complaints: Online dispute resolution

If you are unable to settle a dispute with (business name), you may also seek recourse through the EU's online dispute resolution platform. You can visit the platform at <http://ec.europa.eu/consumers/odr>. Please use complaints@yourdomain dot whatever as our contact address in the platform.

The UK has [run some numbers](#) on expected compliance costs, which means the time you spend learning about the law and implementing your compliance obligations rather than producing billable work. They have calculated that implementation will incur the equivalent of £85 in compliance costs for microbusinesses, £263 for small businesses, and £494 for medium size businesses.

I sell through a platform or a marketplace. Do I have to comply?

If you trade through a third party platform or marketplace, the platform is responsible for compliance. Of course, if you are named in a dispute, you still have to deal with it yourself.

What happens if you don't comply?

Enforcement authority for ADR ? ODR falls to Trading Standards offices in the seller's locality.

In theory, if you were found not to be compliant, Trading Standards could take you to court to order you to comply. It is always worth noting, though, that court action is a last resort in most digital laws, not a first action. You would always be politely asked to come into compliance first with no ensuing penalties. However, if you were brought to Trading Standards' attention by means of a consumer complaint over a dispute with your company, you would then have two disgruntled parties to please. In the UK the maximum penalty is 'an unlimited fine and two years' imprisonment,' which is silly scaremongering. No one goes to prison for failing to include a line in their web site terms & conditions.

Just one more thing. Why didn't we know about this before now?

As with all digital laws, [the EU](#) and [its member states](#) held extensive consultations about this law over the past four years with impacted industry groups, professional bodies, and trade associations. The web profession has no trade association to consult with. [We chose not to show up at the table.](#)

Same as it ever was.

This was brief was produced by Heather Burns - <http://webdevlaw.uk/briefings/briefing-adr-and-odr>