

Title: Alternative Dispute Resolution IA No: BEIS029(C)-21-CCP RPC Reference No: n/a Lead department or agency: Department for Business Energy and Industrial Strategy Other departments or agencies:	Impact Assessment (IA)			
	Date: 16/06/2021			
	Stage: Development/Options			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
Contact for enquiries: Ingo Hanke				
Summary: Intervention and Options				RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option (in 2019 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status Qualifying provision
-£227.4m	-£932.4m	-£5.2m	

What is the problem under consideration? Why is government intervention necessary?

Every year, millions of consumers experience problems with a purchase and are unable to resolve them with the business. Alternative Dispute Resolution (ADR) could help these consumers enforce their rights faster and cheaper than court proceedings. However, ADR is currently used only in few cases, because of inconsistent standards, a confusing landscape, and insufficient incentives for businesses to participate. While some businesses see reputational benefit in ADR, others think it a marginal factor in consumer choice and worry about a loss of control over the outcome. These incentive structures, stakeholder feedback, and analysis of ADR case numbers in different sectors in recent years led us to conclude that business participation in ADR will be unlikely to increase significantly without regulatory action.

What are the policy objectives and the intended effects?


The policy's objective is to reduce consumer detriment. By improving consumer access to a fast and cheap redress mechanism, we expect more cases to be reviewed by a third party, rather than consumers abandoning their claim. We also expect that better access to efficient ADR will motivate more businesses to comply with consumer law and offer redress where appropriate (deterrent effect). Increased compliance should level the playing field, improve competition, and so lead to lower prices, better service quality, and finally higher productivity through better resource allocation. We expect currently compliant businesses to only incur low recurring cost from our proposals.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

We have considered (a) doing nothing, (b) pursuing non-regulatory options, (c) extending mandatory ADR to high-detriment sectors, and (d) extending mandatory ADR to all consumer sectors. We have dismissed options (a) and (b) as not delivering sufficient change to achieve the policy objective. Substantial consumer detriment will remain unaddressed, if we take no action or rely solely on voluntary approaches. Separate analysis suggested that extending mandatory ADR to all consumer sectors would produce a lower benefits-cost ratio (compared to the option c) because complaints values tend to be lower while process unit costs remain similar. Despite a negative NPSV, (c) provides a proportionate trade-off between maximising the absolute financial benefit to consumers and the relative consumer benefit compared to total policy costs.

Will the policy be reviewed? It will/will not be reviewed. If applicable, set review date: Month/Year				
Does implementation go beyond minimum EU requirements?		No		
Is this measure likely to impact on trade and investment?		No		
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Paul Scully  Date: 12 July 2021

Summary: Analysis & Evidence

Policy Option 1

Description: Do nothing

FULL ECONOMIC ASSESSMENT

Price Base Year 2019	PV Base Year 2023	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: -43.8

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	0		24.1	207.4

Description and scale of key monetised costs by 'main affected groups'

All below costs refer to expected ADR activity under current regulations, based on current activity levels.

Businesses:

Charges by ADR providers: £2.3m p.a.

Internal cost participating in ADR schemes and processing ADR cases: £0.8m p.a.

Compensation to consumers: £19.0m (not considered for EANDCB)

Consumers: Direct and indirect cost of working with ADR providers to bring a consumer dispute: £1.7m p.a.

ADR providers: compliance with competent authority approval requirements: £0.2m

Government: cost of oversight: c £0.1m p.a.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	0.0		19.0	163.5

Description and scale of key monetised benefits by 'main affected groups'

Consumers: Compensation awarded from successful ADR cases: £19.0m

Other key non-monetised benefits by 'main affected groups'

Key assumptions/sensitivities/risks	Discount rate	3.5%
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BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 1.1m	Benefits: 0.0	Net: 1.1m	
			4.9

Summary: Analysis & Evidence

Policy Option 2

Description: Policy options package

FULL ECONOMIC ASSESSMENT

Price Base Year 2019	PV Base Year 2023	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -1.561	High: -82.6	Best Estimate: -252.2

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	6.3	41.9	367.2
High	44.2	684.9	5,940
Best Estimate	17.7	146.8	1,282

Description and scale of key monetised costs by 'main affected groups'

Businesses:

One-off familiarisation cost with ADR obligations £6.3m - £44.2m

Charges by ADR providers: £3.6m - £106.2m p.a., of which £1.1m - £31.9m on compliant businesses.

Cost of processing ADR cases: £1.2m - £22.5m p.a., of which £0.4m - £6.8m on compliant businesses.

Compensation to consumers: £26m - £490m p.a. (not included in EANDC), of which £0m on compliant businesses.

Consumers:

Direct and indirect cost of working with ADR providers to bring a consumer dispute: £2.7m - £50.3m p.a.

Foregone compensation from resolving a dispute through ADR, rather than a court: £8.0m - £14.5m p.a.

ADR providers: compliance with competent authority approval requirements: £0.3m - £0.8m p.a. plus £0.2m - £0.4m one-off cost. Likely passed on to businesses, but separate to above ADR charges.

Government: cost of more in-depth oversight: c £0.2m - £0.7m p.a.

Other key non-monetised costs by 'main affected groups'

- Maximum of 5 lines

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	508.7	4,379
High	0	33.1	284.6
Best Estimate	0	119.6	1,029

Description and scale of key monetised benefits by 'main affected groups'

Business: lower cost from less use of courts to resolve consumer disputes: £4.1m - £13.2m

Consumers:

Lower cost from less use of courts to resolve consumer disputes: £3.0m - £5.5m

Compensation awarded from successful ADR cases: £26.0m - £490m (transfer from businesses)

Other key non-monetised benefits by 'main affected groups'

Consumers / society: We see large potential for second-order and wider economic benefits from the proposals:

- a deterrent effect could drive additional businesses to voluntarily offer compensation in consumer disputes.
- We also expect consumers' improved ability to sanction poor business practices to level the playing field and increase competitive pressure on businesses to offer better product/service quality and/or lower prices. As more consumer spending goes towards businesses that offer higher VfM, aggregate productivity increases in turn (allocative efficiency).
- Stronger redress mechanisms may increase consumer confidence and thus spending in these sectors, also benefiting businesses.

Government: Reduced costs of court system

Key assumptions/sensitivities/risks

Discount rate

3.5%

- Assumptions on how much time businesses and consumers need for various ADR related activities
- The business models and types of charges used by ADR providers. Fixed annual fees would affect micro and small businesses more than per-case charges.
- The number of ADR case expected additionally, especially how many more complaints become ADR cases.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 8.2	Benefits: 2.5	Net: 5.7	
			56.2

Evidence Base (for summary sheets)

Background

1. Alternative dispute resolution (ADR) refers to schemes that are available to help complainants resolve their disputes out of court. The most common forms are mediation, where an independent third party helps the disputing parties to come to a mutually acceptable outcome, and arbitration, offered e.g. by Ombudsman schemes, where an independent third party considers the facts and takes a decision, often binding on one or other of the parties. ADR can offer a low-cost and fast alternative for consumers and businesses seeking to resolve disputes, which they cannot resolve between themselves.
2. The ADR system was last reviewed in 2015 at the time of the implementation of the 2013 European Directive on Alternative Dispute Resolution (ADR) for consumer disputes and the 2013 Regulation on Online Dispute Resolution (ODR). While the directive's implementation has brought about some improvements, such as the Secretary of State for Business, Energy and Industrial Strategy acting as the competent authority for all sectors not covered by specific regulation, some structural problems remain, and new ones have emerged since.

Problem under consideration

3. A significant number of consumers encounter problems after buying goods and services.¹ In many cases these problems can be resolved through discussion with the business concerned, but in a significant minority of cases the consumer fails to get a resolution.² Seeking redress via the courts is often an expensive and a lengthy process which can deter consumers and so lead to considerable consumer detriment. This is especially the case for low value or minor problems; at least a fifth of consumers have stated this as a reason for not taking businesses to court to settle their dispute.³ ADR would be a low cost and faster means of resolving disputes between consumers and businesses and could be used as a means of seeking redress in many sectors.
4. However, low business and consumer take-up of ADR and continued high detriment in some sectors suggest that there are still problems preventing ADR from reaching its full potential to reduce consumer detriment. The responses to our Consumer Green Paper⁴ consultation indicated that these are caused by the following factors:
 - a) Businesses are obliged to engage with ADR in some sectors, but not in others
 - b) In some sectors, multiple ADR providers operate in parallel and it can be confusing for consumers to understand why an ADR provider of their choice cannot take on their case
 - c) Consumers are often confused around what powers and obligations ADR providers have, in particular those carrying the name Ombudsman
 - d) The quality of ADR provision varies between providers

¹ For instance, surveys for the European Consumer Scoreboard found that, on average, 12% of consumers who engaged with a market reported a problem. While a minority, this still represents several million consumers. European Consumer Scoreboard: https://ec.europa.eu/info/policies/consumers/consumer-protection/evidence-based-consumer-policy/consumer-scoreboards_en. The results from the 2015 and 2017 studies were averaged, because not all relevant sectors were covered in the 2017 wave.

² For example, the European Consumer Scoreboard found that an average of 10% of those who reported a problem complained to a third party – a indication that the internal complaints handling process of the business has not worked (well). According the latest consumer detriment survey, consumers experience a total of c 123m problems per year. In around a third of those, consumers sought a refund or compensation and only half of those who pursued a complaint resolved their problem satisfactorily and in a reasonable manner. The net detriment associated with these problems was estimated at c £22.9bn per year.

European Consumer Scoreboard: https://ec.europa.eu/info/policies/consumers/consumer-protection/evidence-based-consumer-policy/consumer-scoreboards_en.

Oxford Economics on behalf of Citizens Advice (2016): Consumer Detriment. Counting the cost of consumer problems.

³ Special Eurobarometer 342 Consumer Empowerment report 2011, page 204. Available at http://ec.europa.eu/consumers/consumer_empowerment/docs/report_eurobarometer_342_en.pdf

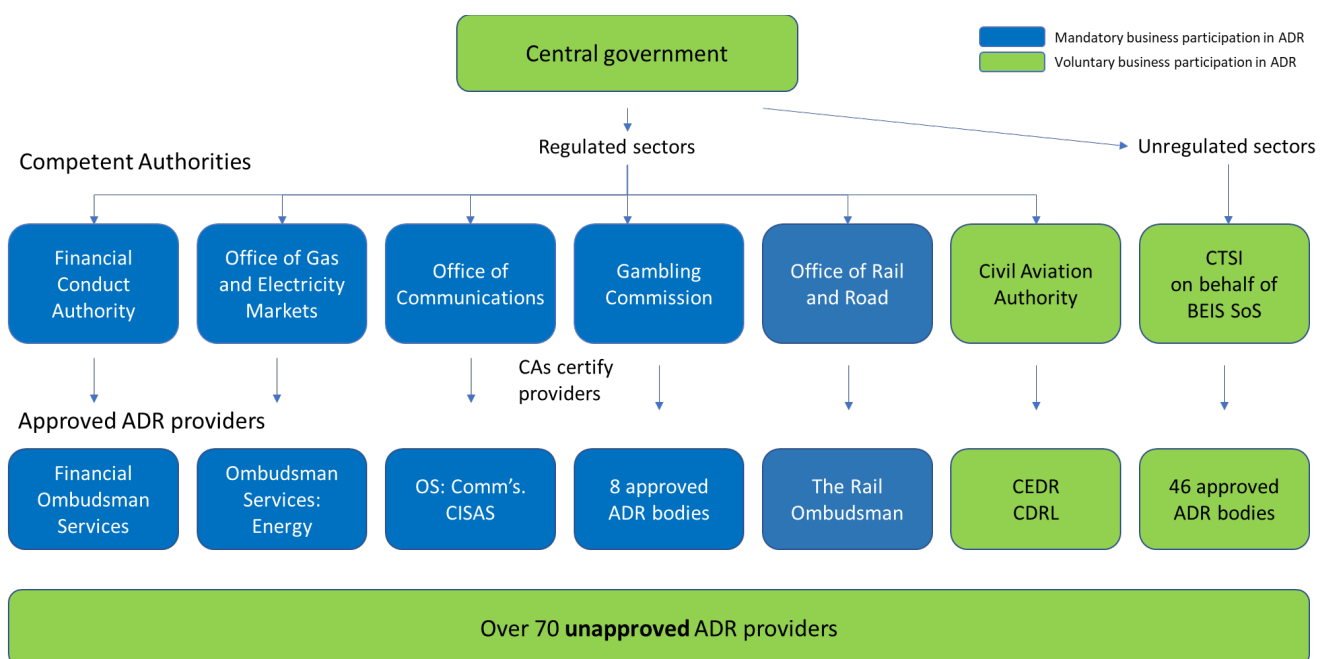
⁴ Department for Business Energy and Industrial Strategy (2018): MODERNISING CONSUMER MARKETS. Consumer Green Paper

- e) ADR providers generally require businesses and consumers to spend up to 8 weeks to settle a dispute before they would accept a case – a period perceived to be unnecessarily long in the digital age.

These causes broadly correspond to the barriers the European Commission has identified to the use of ADR: current coverage is incomplete across sectors, the quality of services is not always guaranteed and consumers lack awareness of ADR as a means to resolve problems.

5. As shown in Figure 1, the ADR landscape in the UK currently consists of over 70 schemes, which are operated under different models. ADR schemes in regulated sectors (financial services, energy, telecommunications etc.) are provided by both public (e.g. Financial Ombudsman Service, Legal Services Ombudsman) and private (e.g. Ombudsman Services⁵) bodies. Figure 1 also illustrates how business participation in ADR is mandatory in most, but not all, regulated sectors, with aviation the notable exception.⁶ ADR provision in non-statutory sectors is typically provided by trade associations that either offer in-house resolution or refer disputes to external ADR bodies (e.g. the Association of British Travel Agents) or by private ADR providers (e.g. the Furniture Ombudsman). In non-statutory sectors, membership in an ADR scheme is currently not mandatory.

Figure 1: Overview of the ADR landscape⁷



6. To assess the potential impact of mandatory ADR membership on ADR case activity, we have compared how the number of ADR cases and enquiries in relation to the number of consumer complaints differs between sectors.⁸ This showed that between 1% and 20% of complaints in mandatory sectors become ADR enquiries (average: 6%), compared to 0% to 3% (average 2%) in non-mandatory sectors.⁹ Responses to the Consumer Green Paper suggest this is down to a range of factors including:

- a) businesses' confidence in their own dispute resolution processes and ability to maintain close relationships with their customers;

⁵ Ombudsman Services provides ADR for the energy, telecommunications, property and copyright licensing sectors

⁶ ADR become mandatory in the train sector recently. In aviation, most airlines and airports are voluntarily signed up to one of the two approved ADR bodies, but there are some exceptions.

⁷ Further acronyms:

CTSI: Chartered Trading Standards Institute

CISAS: Communications & Internet Services Adjudication Scheme

CEDR: Centre for Effective Dispute Resolution

CRDL: Consumer Dispute Resolution Limited

⁸ BEIS aggregation and analysis of ADR providers' case data from published reports and summaries provided by CTSI.

⁹ The complaint numbers were derived from the European Consumer Markets Scoreboard. The case numbers were derived as per the preceding footnote.

- b) their perception that there are few intractable disputes;
- c) a reluctance to cede control; and
- d) the cost of participation, which is borne by businesses but typically free to consumers.

Further, a study on the use of Alternative Dispute Resolution in the European Union found that two-fifths of ADR providers viewed a lack of ADR coverage as a reason why both businesses and consumers did not use ADR.¹⁰ From the consumer perspective, research by ICF for BEIS found that 70% of the surveyed consumers who took a consumer dispute to court without using ADR previously did so because the trader had refused to participate in ADR.¹¹ In aggregate, lack of (mandatory) ADR provisions therefore means that many problems with purchased goods or services often go unresolved and that consumers are not obtaining adequate redress.

7. Consumers can also find it confusing to navigate the landscape, because sectors differ in the type of service offered and number of ADR providers offering services. For instance, ADR is mandatory for businesses in most regulated sectors, notably financial services, energy, telecoms and rail, but is voluntary elsewhere. In the financial and energy sectors, there is one ADR provider each (Financial Ombudsman Services and Ombudsman Services: Energy respectively), while in the telecoms sector, there are two providers. We have identified 20 for the wider home improvement sector and six for the wider motoring sector. Where such choice is available, it is the business' decision which provider to use which can be confusing for the consumer when searching for a party to take their dispute to.¹² Also, the particular dispute resolution methods employed (conciliation, mediation, arbitration etc.) and the cost to the parties involved varies by provider and sector. Even terminology is not a clear guide, as some Ombudsmen have the power to effectively enforce their decisions in a court (e.g. Financial Services Ombudsman, OS: Energy, OS: Communications), while others do not (e.g. The Motor Ombudsman, The Furniture Ombudsman).
8. Where ADR is available, there is typically an 8-week period during which the consumer and business need to attempt to settle their dispute, before an ADR provider would accept a case. Many stakeholders argued this lengthy period is no longer justified in an era of instant document sharing and presents a significant barrier to consumer take-up of ADR. Responses to our Consumer Green Paper and our stakeholder engagement have suggested that a lengthy wait may be harmful for both consumers and businesses. Evidence provided by regulators shows that many consumers give up on complaints if they fail to resolve them promptly and their satisfaction with the business's complaint handling also falls significantly, affecting businesses' customer retention. Moreover, allowing extra time can entrench positions while making little difference to the eventual outcome.
9. There were also comments in the 2018 Consumer Green Paper and from subsequent stakeholder engagement on improving the current provision of ADR services and the scope of the current approval and oversight system. Currently there is a light touch system of accreditation of ADR providers which is run by the Chartered Trading Standards Institute (CTSI) on behalf of the Government. In the regulated sectors, the sectoral regulators act as competent authority and certify ADR providers, but there is variability in the methods and stringency of accreditation and oversight requirements applied. BEIS research found that 46% of consumers using ADR had problems including the quality and timeliness of communication, customer service or in some cases a perception that the process favoured the business.¹³ Many respondents to the Green Paper and the All-Party Parliamentary Group on Consumer Protection's recent Ombudsman report¹⁴ felt there needed to be a more demanding and consistent minimum set of standards for approval as an accredited ADR provider, and adherence to a code of practice, pointing to the Ombudsman model as the gold standard. There are also numerous non-accredited and unsupervised providers that currently operate outside of any systematic accreditation or quality

¹⁰ A study of ADR in the European Union available at http://ec.europa.eu/consumers/redress_cons/adr_study.pdf

¹¹ ICF Consulting on behalf of BEIS. RESOLVING CONSUMER DISPUTES: Alternative Dispute Resolution and the Court System. 2018.

¹² All-Party Parliamentary Group on Consumer Protection (2019): Report from the Ombudsman Inquiry Queen Margaret University and University of Westminster on behalf of Citizens Advice: Confusion, gaps, and overlaps - A consumer perspective on alternative dispute resolution between consumers and businesses. Which? (2021): Are Alternative Dispute Resolution schemes working for consumers?

¹³ ICF Consulting on behalf of BEIS. RESOLVING CONSUMER DISPUTES: Alternative Dispute Resolution and the Court System. 2018.

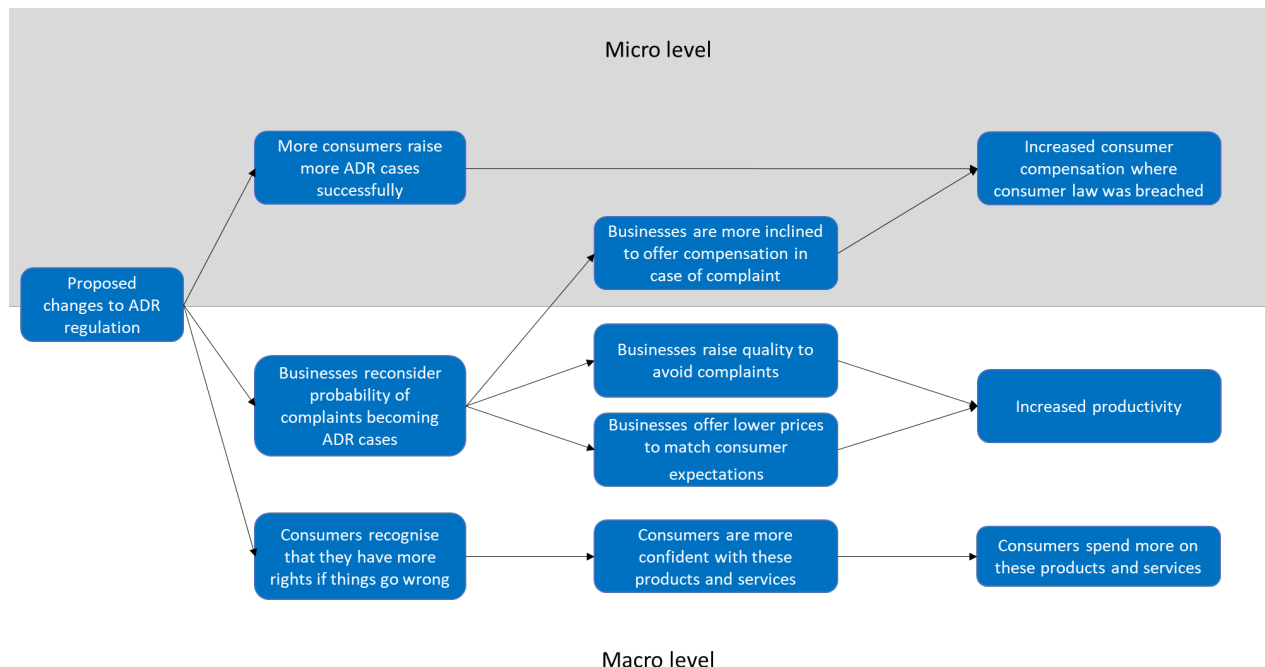
¹⁴ All-Party Parliamentary Group on Consumer Protection: Report from the Ombudsman Inquiry. 2019

monitoring. For example, some trade associations offer dispute resolution on an informal basis as part of a service package to members.

Rationale

10. The key motivation for simplifying and reforming consumer law is to make markets work more effectively and to drive economic growth. Well-functioning, competitive markets encourage growth by creating incentives for firms to become more efficient and innovative.¹⁵ Markets can only be fully competitive if consumers are active and confident, meaning that they are willing to challenge firms to provide a better deal, switch between suppliers, and take up new products.¹⁶ Consumer law and landscape reform can play a central role in empowering consumers and hence supporting more effective competition. As such, the policy intent for these proposals is to reduce consumer detriment in the markets under consideration. Equivalently, we want to reduce the number of cases where consumers had a legitimate cause for complaint and were unable to find redress.
11. Figure 2 below illustrates the logic model driving the policy and how we expect this policy to also benefit productivity in the sectors concerned. The proposed changes will motivate and allow more consumers to go through the ADR process, which will result in some consumers receiving compensation that they would not otherwise have received. Businesses will reconsider the likelihood of consumers escalating a complaint to an ADR case. To avoid this, they will be more likely to offer compensation for existing complaints (another direct benefit to consumers). Businesses will also be more incentivised to improve customer satisfaction (reduce complaints), e.g. by improved quality and/or lower prices. This will benefit aggregate sector productivity by increasing the value offered in relation to prices. Improved product/service quality and consumer confidence could drive sales for the industries concerned and so lead to net benefits for competitive businesses.

Figure 2: Logic flow model of policy intent and benefits



12. There is strong academic support for the position that some minimum degree of consumer protection is required in order for markets to function effectively.¹⁷ When making purchases, consumers typically face a problem of not having full information about competing firms' quality in

¹⁵ For references to literature on the links between competition and growth, see OFT (2011), 'Competition and growth'

¹⁶ Mark Armstrong (2008), 'Interactions between competition and consumer policy'

¹⁷ Armstrong (2008)

providing goods and services or how they will respond if something goes wrong (**asymmetric information**). Having to find out this information and potentially negotiate insurance agreements with firms for all purchases would be extremely costly, inhibiting consumers' willingness to shop around for the best deals and, in some cases, to make a purchase at all.

13. Firms and consumers have some methods of addressing this problem. For example, firms may signal (higher) quality by building brands (reputation) or by providing guarantees and warranties. Consumers can reduce the "search costs" of gathering information on different firms' quality by sharing information with each other about purchases through word of mouth e.g. review websites. However, these solutions do not cover all markets and all possible contingencies in goods and service provision. For instance, our stakeholder engagement suggested that voluntary sign-up to an ADR scheme is a relatively minor competitive advantage for businesses. It may thus be rational for an individual business not to sign-up to ADR if it does not have to, because it would risk process and potential compensation cost at limited benefits. The current system therefore only provides **weak incentives** for businesses to sign-up voluntarily. The limited competitive advantage of ADR membership may also be related to consumers prioritising short-term benefits at the time of purchase over additional protection in case of a dispute (**myopia**). A minimum level of consumer protection across all markets with recourse to resolving all types of problem addresses this, reducing search and transaction costs for consumers and providing them with confidence that avenues of redress are available in the event of problems.
14. Consumer law, enforced through the court system, is the obvious means of providing universal protection and an avenue for redress. As indicated though, the court system can be a time-consuming and costly process, deterring consumers from using this option. ADR offers a cheaper and faster process for resolving problems prior to involving the courts. Businesses find ADR to be beneficial, with a European Commission survey indicating that 82% of businesses who have used ADR would use it again.¹⁸ Similarly, research conducted for BEIS by ICF found that 69% of ADR consumer users were very or somewhat likely to use it again in the future, compared with 76% of those who used courts.¹⁹ ADR also scores well in simplicity to use, though a higher share of ADR consumers reported experiencing problems during the process compared to courts consumers. In particular, through lower direct and indirect cost, ADR may address **rationality failure** where consumers do not seek compensation even if the value of the expected compensation outweighs the expected cost. There is also a small element of public goods to personal (consumer) law enforcement in that it can have a deterrent effect on businesses.

Options

Do nothing

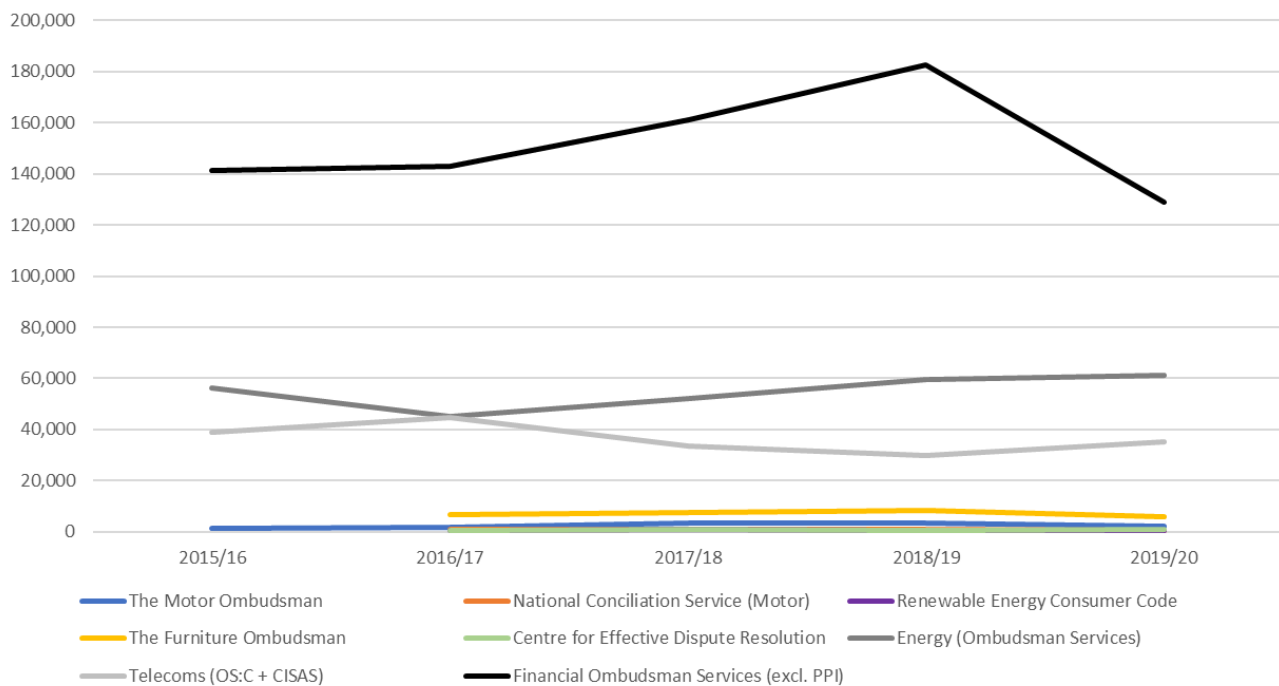
15. In this option we assumed no government action – regulatory or otherwise. The requirements on businesses and ADR providers remain as they are now as does the (minor) public funding towards the oversight structures. No consolidation occurs among ADR providers, nor do we expect a large increase in the number of unapproved providers seeking approval.
16. Figure 3 shows the number of ADR cases accepted by a selection of ADR entities in the regulated and non-regulated sectors.²⁰ We observe that activity in non-regulated sectors has not increased substantially. Some providers have experienced impressive growth over the period, but from a low basis. By the time the Covid-19 pandemic erupted, that there had still been far more cases in the three regulated sectors – financial services, energy and communications – than in the non-regulated sectors. While there may be some potential for further growth, we believe that the market failures presented above, combined with the weak incentives for businesses to voluntarily participate, make a step change in ADR activity unlikely in the absence of policy action. We therefore expect continued high consumer detriment in the sectors and productivity below potential levels.

¹⁸ European Business Test Panel Survey – Alternative Dispute Resolution. (297 respondents) Available at http://ec.europa.eu/yourvoice/ebtp/consultations/2010/adr/report_en.pdf

¹⁹ ICF Consulting on behalf of BEIS. RESOLVING CONSUMER DISPUTES: Alternative Dispute Resolution and the Court System. 2018.

²⁰ Based on ADR entities' statutory Schedule 5 reports and supplemented by information shared by the Chartered Trading Standards Institute.

Figure 3: No. of consumer disputes accepted by ADR entities per schedule 5 of ADR 2015 regulations



Policy package

17. We have developed a package of measures to make ADR more accessible where it can bring the most benefit and raise the quality of ADR provision across markets:
- Make business participation in ADR mandatory in sectors with a high volume of high value consumer problems
 - Increase oversight of ADR providers and raise quality standards of ADR provision
 - Make accreditation by a competent authority mandatory for all ADR providers
18. Given that these individual measures support each other, rather than being alternatives, we will assess their compound impact. We estimate the potential impact being largest from the first measure (mandatory business participation in ADR), because this has been the primary constraining factor on ADR take-up so far. Quality of ADR provision would become most relevant when this constraint has been removed. We have not encountered useful evidence on how much ADR take-up improvements to ADR quality might additionally yield. Accordingly, this assessment will focus on the impacts of the mandatory business participation and cover the other measures in less detail.
19. **We make participation in ADR mandatory in sectors with a high volume of high value consumer problems.** Many respondents to the 2018 Consumer Green Paper agreed with the Government view that it would not be proportionate to make business participation in ADR mandatory in every consumer market, because in many sectors businesses have a good track record of resolving customer complaints. However, there was widespread support for doing so in sectors with high levels of high value complaints. To inform our proposal, we have analysed evidence from the European Consumer Scoreboard, the detriment survey, Citizens Advice Consumer Scoreboard, and the components of household expenditure. Figure 4 shows the result of ranking consumer sectors along five criteria, including the number and severity of problems encountered and the diversity and comparability of offers. Our conclusion was that most of the sectors with low scores were regulated and already have mandatory ADR participation for businesses.²¹ Of those that were not, house and garden maintenance services, vehicle maintenance and repair services, and used car sales stood out. This led us to propose to make ADR mandatory for the home improvement and motoring sectors. The annex describes the

²¹ The low ranking of regulated sectors is not necessarily a reflection of regulators' (lack of) success, but will also reflect to an extent structural market features such as concentration and choice – which in turn are driven by large minimum efficient scales and natural monopolies.

ranking criteria and methodology in more detail, including underlying data in Table 18 and Table 19.

Figure 4: Ranking of consumer sectors

Sector	Compound score	Difference from average	Comparability	Trust	Probl & detr.	Expectations	Choice
Real estate services	6.9	-0.8	---	---	---	---	---
House and garden maintenance services	6.9	-0.7	---	---	---	---	---
Water supply	7.0	-0.6	---	---	---	---	---
Communication services	7.1	-0.6	---	---	---	---	---
Public transport	7.1	-0.6	---	---	---	---	---
Energy and gas services	7.1	-0.5	---	---	---	---	---
Vehicle maintenance and repair services	7.2	-0.5	---	---	---	---	---
Postal Services	7.2	-0.4	---	---	---	---	---
Second hand cars	7.3	-0.4	---	---	---	---	---
Banking, credit and financial services	7.4	-0.3	---	---	---	---	---
Legal and accountancy services	7.5	-0.2	---	---	---	---	---
Vehicle rental services	7.6	-0.1	---	---	---	---	---
Gambling	7.7	0.0	---	---	---	---	---
Airline services	7.7	0.1	---	---	---	---	---
Cafés, bars and restaurants	7.8	0.1	---	---	---	---	---
New cars	7.8	0.1	---	---	---	---	---
Insurance	7.8	0.1	---	---	---	---	---
Clothing and footwear	7.8	0.2	---	---	---	---	---
Cultural and entertainment services	7.8	0.2	---	---	---	---	---
Packaged holidays and tours	7.9	0.3	---	---	---	---	---
Furniture and furnishings	8.0	0.3	---	---	---	---	---
Electrical and electronic appliances	8.0	0.3	---	---	---	---	---
Holiday accommodation	8.1	0.5	---	---	---	---	---
House and garden maintenance products	8.2	0.5	---	---	---	---	---
Food and drink	8.2	0.5	---	---	---	---	---
Health and personal care products	8.2	0.6	---	---	---	---	---
Fuel for vehicles	8.3	0.6	---	---	---	---	---
Books, magazines and newspapers	8.3	0.7	---	---	---	---	---
Entertainment goods	8.4	0.8	---	---	---	---	---
Average across all sectors	7.7						

20. **We work with all the relevant authorities to increase oversight of ADR providers and raise quality standards.** We intend to clarify the minimum service expectations of all ADR providers, focusing on the areas of key concern such as setting clear expectations of the ADR process, improving communications on case progression, dealing with straightforward cases as promptly as possible, reporting publicly on outcomes, and stronger sanctions for poorly performing ADR providers. We intend to consult on amending the ADR regulations to achieve our quality and oversight objectives. This would help ensure that consumers and businesses can expect a fair and transparent resolution of their dispute.
21. **To increase consumer and business confidence in the system as a whole, we propose to require all ADR providers to be accredited and assessed for their fitness to provide an ADR service.** Currently there are numerous non-accredited and unsupervised providers that offer dispute resolution on an informal basis. Responses from the Consumer Green Paper and further stakeholder engagement indicated a link between increased oversight of ADR activity – including accreditation, monitoring, and sanction powers – and perceived quality of and/or

satisfaction with ADR services. Making accreditation mandatory would level the playing field and drive consistency across the sector through the application of a common legal framework around expertise, independence, impartiality, transparency, fairness and annual reporting. Accreditation ensures that consumers are not charged more than the nominal fee set out in the ADR Regulations and that ADR officials possess the necessary skills to be able to carry out their functions competently. Furthermore, making accreditation mandatory supports our objective to encourage low-cost ADR for businesses whilst ensuring all ADR bodies are providing a consistent minimum standard.

Alternatives to Regulation

22. We explored the scope for voluntary options and decided to apply them where we find them to be useful. For instance, we aim to reduce the 8-week period consumers have to wait to access ADR by encouraging regulators and businesses in regulated sectors to voluntarily agree to reduce the period significantly. Feedback and evidence from regulators, ADR providers and other stakeholders suggest that this lengthy period:
- a) is no longer justified in an era of instant document sharing,
 - b) leads to many consumers giving up on complaints,
 - c) decreases consumers' satisfaction with the complaints handling, and
 - d) can entrench parties' positions, while making little difference to the eventual outcome.

This strand of voluntary activity would not solve the problem in sectors in which business participation in ADR is not mandatory, because a) it would decrease incentives for voluntary participation and b) not address the main problem in those sectors. This activity is thus limited to regulated sectors at this point.

23. Furthermore, we have been seeking inputs from competent authorities and businesses on how the principles of good ADR provision could be outlined and communicated more clearly. We will also increase the information on ADR available to consumers on the gov.uk homepage linking to consumers advice websites. Further, we are reviewing how to better signpost consumers to the most relevant contacts, reduce redundancies in information provision and improve the consumer complaints experience more generally. There are, however, limits to the scope and effect of non-legislative options available.
24. We believe that voluntary actions are unlikely to increase ADR take-up by much in sectors in which business participation in ADR is not mandatory. Economically, businesses have little incentives to join voluntarily (see rationale section). Empirically, the data available suggests large and persistent differences between sectors with mandatory business participation and those without (see Figure 3 above). One voluntary way to tackle the issue of low business take-up, could be to work closely with Trade Associations to publicise and promote the availability of ADR to their members. In light of the above, we believe this would have only a small effect, particularly for those businesses most likely to experience disputes. Another idea could be to introduce an ADR kitemark to create a competitive advantage for businesses who use ADR, though as outlined above our stakeholder engagement suggests businesses see limited advantages to it. We are closely following a model developed by Resolver which offers ADR as part of a wider service to businesses aiming to reduce the number of complaints through the analysis of complaint data and outlining trends in specific sectors. This model has only been developed recently and therefore does not provide enough data currently to validate its efficiency.
25. Due to the limited effect of voluntary options to tackle the issues of low ADR take-up and consequently to reduce consumer detriment and contribute to economic productivity, we have not developed these options further or costed them in detail. Instead, we are working on a package of voluntary and legislative actions which balances improving consumer outcomes and costs to business to comply with the changes.

Policy objectives

26. The primary policy objective is to reduce consumer detriment by empowering more consumers to pursue disputes with businesses. This should lead to more direct consumer benefits – more redress secured through consumers’ actions – and more indirect benefits – through more businesses voluntarily offering redress where appropriate. The policy also supports BEIS’ objective to make the UK a great place to start and grow a business by levelling the playing field for compliant businesses and potentially increasing consumer spending in the sectors affected.
- **Specific:** the policy targets unresolved consumer problems in motoring and home improvement (see the following section and the Annex for the rationale on why we identified these two sectors). We have only limited robust information on the exact number of unresolved problems. Existing surveys either did not explicitly measure this or did not have large enough samples to robustly break down the data enough. Based on the available evidence, we estimate that up to 5m problems could be non-trivial and unresolved in these sectors.²²
 - **Achievable:** A large number of these problems are associated with consumers who did not take any actions to resolve the problem and had no intention of doing so. This is in line with other evidence that many consumers’ engagement with markets is relatively low. It is thus unrealistic to expect any individual policy to resolve a large portion of such unsolved problems. We would consider any large absolute change a success, so long as it compares favourably with the process costs involved for all parties.
 - **Time:** We acknowledge that benefits may not start in full from the time of the policy implementation, but would certainly expect the full benefits by the second or latest third year of operation.
27. These policies also address a recommendation that John Penrose MP raised in his recent report to make ADR services easily and widely accessible to consumers.²³
28. Improving the quality of ADR provision is a further policy objective. Firstly, it will help increase demand for ADR services by consumers and businesses and so support the primary objective. Secondly, raising the quality will improve users’ experience and satisfaction with ADR. While some aspects of quality can be measured, for instance time to respond to queries and time to complete a case, many aspects cannot. There are no baseline measures of users’ satisfaction with ADR that disentangle satisfaction with the process from satisfaction with the outcome, though it could be an area of further research and evidence gathering.

Cost-benefit analysis for mandatory business participation in ADR

29. ADR regulation involves costs and benefits for businesses, consumers, and government, through the funding of an ADR oversight regime. ADR regulation also affects providers of ADR services, such as Ombudsmen. However, as private organisations these need to cover any expenses from charges to businesses or consumers. Assuming that any cost towards operating an ADR scheme is fully passed on, this IA will count these additional costs under the business and consumer cost and so not analyse cost impacts on ADR providers. Also, unless otherwise stated, the costs and benefits will generally refer to the extension of mandatory ADR membership in the home improvement and motoring sectors. While all the package’s proposals support each other to bring about effective change, these will have the most clearly defined impact of businesses’ cost.

Cost to businesses

30. Businesses generally face three types of costs when dealing with Alternative Dispute Resolution: (a) internal staff cost to fulfil their obligations towards ADR, (b) external costs charged by the

²² BEIS calculations on underlying data from Oxford Economics on behalf of Citizens Advice (2016): Consumer Detriment. Counting the cost of consumer problems.

²³ John Penrose MP (February 2021): Power To The People: Stronger Consumer Choice And Competition So Markets Work For People, Not The Other Way Around.

ADR provider, and (c) compensation to consumers where cases are decided in their favour. Internal costs will occur as one-off costs upon joining an ADR scheme and as time needed to handle each ADR case as it emerges. This impact assessment will first present estimates for the one-off cost, which consist of familiarisation cost, cost to change website content, and cost to change terms and conditions. The assumptions on one-off costs have substantially been replicated from a 2015 impact assessment on changes to the ADR landscape, which was approved by RPC and RRC. While these assumptions are now based on old data, we are not aware of a newer or better evidence. To mitigate, we invite comments on these costs and other important variables through specific questions in this assessment.

31. A major component for several of the following calculations will be the number of businesses operating in the home improvement and motoring sectors. We have sourced information on the number of businesses operating in the sectors concerned from the Inter-Departmental Business Register.²⁴ While the IDBR is a good source of information, engagement with ADR providers already operating in the sectors have yielded lower figures. On the other hand, the IDBR includes only businesses registered with HMRC under VAT or PAYE schemes, so would be an underestimate.²⁵ The Business Population Estimates (BPE) include such unregistered micro businesses, but BPE figures do not break down to the same sectoral level.²⁶ The lowest common breakdown – 2-digit SIC codes – shows that the number of micro businesses estimated through BPE is 50% higher for motoring and three as high for home improvement, compared to IDBR figures. We then apply these 50% and 200% uplifts to the more granular IDBR sectoral scope, i.e. sale of cars, maintenance & repair of cars, and a selection of construction activities.
32. Further, there is uncertainty how well the scope of businesses will overlap with statistical industry codes with regards to home construction, e.g. extensions and building alterations. Other uncertainty stems from the number of businesses signed up in the absence of government intervention. We have received information on business sign-up from the ADR providers that we engaged with, but do not have such information from other, particularly unregistered, ADR providers. We have used this sign-up information to construct a baseline or “Do nothing” scenario on what level of business participation in ADR to expect in the absence of policy interventions. A comparison between our policy scenarios and the “Do nothing” scenario then allowed us to only capture the additional effects from government intervention. Table 1 summarises these findings, by business size.²⁷ The low estimate excludes all businesses from SIC 41 (construction of buildings) while the high estimate includes all of them. It also uses an industry-based figure for the number of businesses offering car service and repair. The central estimate is the mid-point and so assumes that some of these businesses would end up in scope.

Table 1: number of businesses operating in home improvement and motoring.

	Do nothing	Option 2 - central	Option 2 - low	Option 2 - high
Number of micro businesses using ADR		800,843	612,847	988,838
Number of small businesses using ADR		13,805	11,035	16,575
Number of medium businesses using ADR		1,883	1,575	2,190
Number of large businesses using ADR		330	270	390
Total number of businesses using ADR	15,565	816,860	625,727	1,007,993

²⁴ IDBR: prime source for number of businesses. Includes all business registered with HMRC under VAT or PAYE schemes.

²⁵ A registration for VAT is necessary if a business' VAT taxable turnover goes over £85,000 for a financial year (threshold in FY 2019/20). Registration with HMRC for PAYE is necessary if a business pays any employee – including the sole director of a limited company – at or above the threshold for National Insurance Contributions (threshold at £120 income per week in FY 2019/20).

²⁶ Business population estimates: <https://www.gov.uk/government/collections/business-population-estimates>

²⁷ We have adopted the European Commission's classifications of micro, small, medium, and large businesses: https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en.

Thereof: in home improvement	8,000	737,151	557,670	916,631
Thereof: in motoring	7,565	79,710	68,057	91,362

Consultation question 1: Do you agree that this is a realistic view of the number of businesses likely affected by these changes?

Familiarisation Costs

33. We anticipate that businesses will incur some small familiarisation and training costs when they choose to sign up to an ADR service or a customer raises a complaint.. This is composed of the amount of staff time needed at a particular grade and the associated cost rate. We estimate that it will take approximately one hour for the senior staff responsible for customer complaints to familiarise herself or himself with the changes. Core customer service staff would receive a shorter 30-minute explanation on the most relevant points.
34. For micro businesses, we assume that consumer complaints are typically handled by a senior staff member (often the owner or proprietor). Therefore, we have based our familiarisation cost on the wages costs for managers, directors and senior officials, at £38.1 per hour.²⁸ We also assume that in the different scenarios, only between 25% and 90% of micro businesses will familiarise themselves with the new ADR regulation through having been required to participate by a consumer. This yields one-time cost estimates for microbusinesses of £4.7m - £41m.
35. For small, medium, and large firms, we have assumed that a staff member at management level would be familiarised with the reforms, at the same wage cost noted above for managers, directors and senior officials. We estimate that, in addition, small businesses would need to train 10 junior customer service staff on the reforms for half an hour at an hourly cost of £20.5.²⁹ This increases to 20 junior customer service staff for medium and large businesses. We also assume that all of these businesses will familiarise themselves with ADR during the appraisal period. Based on these assumptions, we estimate a one-time cost of £1.9m for small businesses and of £0.5m for medium and large businesses.
36. Total familiarisation costs to business are therefore estimated to be approximately £17.7m (one-time cost). We allow for uncertainty in this estimate of +/- 20% in addition to the uncertainty of the number of businesses operating in the home improvement sector and how likely micro businesses will be involved. This produced a range of one-off familiarisation cost of £6.2m-£44.2m.

C-Q 2: Do you have any further information on the likely level of effort and cost needed for businesses to familiarise themselves with the outlined regulations?

Cost charges by ADR providers to businesses

37. ADR providers are not publicly funded and so need to raise revenues to cover the cost of their operations. Given the ADR providers may only charge minimal fees to consumers (see paragraph 70 for more detail), they will generate most of their revenue from charging businesses. Several different costing models have emerged from different ADR providers in different sectors. Most ADR providers – such as Ombudsman Services: Communications and OS: Energy, Financial Ombudsman Service and the Legal Ombudsman – charge a fee per case processed, generally around £300 - £550. However, these fees can vary with the size of participating business and there are often a number of “free” cases to mitigate cost for smaller businesses. Most ADR providers also charge an annual membership fee per business, which also often varies by company size, with fees starting at around £100. This variation of charges is also reflected in a reported conducted by ICF on BEIS’ behalf, which found that traders reported between £50 and £1,500 to access ADR services.³⁰

²⁸ This was derived from the median annual wage for a full time equivalent staff from the Annual Survey of Hours and Earnings. The starting point of £ 43,774 was inflated by one year to bring the value to 2019/20, then increased by on-costs (NI, pensions) of 18.1% and by IT/estates overhead of c £9.5k per head. Lastly, the resulting annual wage cost was divided by average actual working hours of 1,635, which are composed of 7.5 working hours for 218 working days per year (365 less 104 weekends, 25 days leave, 8 public holidays and 10 sickness days).

²⁹ Same calculation as above, with starting annual salary for “Sales and customer service occupations” of £19,917.

³⁰ ICF Consulting on behalf of BEIS. RESOLVING CONSUMER DISPUTES: Alternative Dispute Resolution and the Court System. 2018.

38. While annual membership fees are the dominant charging method currently, we are sceptical that this would produce sensible results in the structure of the home improvement and motoring sectors. Reliably collecting membership fees for up to 1m businesses seems a major administrative challenge, unless (and maybe even if) there are strong penalties for non-compliance. The level of fees collected may also not be proportionate to the effort. For instance, using assumptions from the central scenario, a model financed purely by membership fees would require around £40 per business to fund the expected number and type of cases.³¹
39. Instead, we build our estimates on the cost to ADR providers of delivering the service, independent of how it will be charged to individual businesses. According to ADR providers, costs can vary strongly depending on the length and complexity of a case. It can be as low as around £120 for early resolution within days to £800 - £4,000 for long cases where inspections or expert opinions are needed. More typically, ADR cases cost providers between £200 and £550, which is slightly below but still comparable to per-cost case for Financial Ombudsman Service.³²
40. The total cost thus depends not just on the number of ADR cases raised, but their type. One ADR provider in a regulated sector shared that 17% - 25% of their cases are resolved early. We thus use 20% as our central estimate for the share of low-cost cases. ADR providers have signalled that complex cases generally make up a small proportion, which we assume to be 5% - 20%. Based on this split, we will use £350, £450, and £550 as low, central and high estimates for external cost of ADR cases. We also note that the weighted averages produced are relatively stable, so any reasonable changes in case type split have only moderate impacts.

C-Q 3: are these unit costs realistic? Do you have any information that would warrant different assumptions, e.g. how often early resolution could be realistic, how often expert assessment may be required or how much expert assessments would cost?

Internal cost to business of engaging with the ADR process

41. The total internal cost of handling a case is driven by the time needed for a business to process one case and the number of cases to be handled.

Cost to business to handle one ADR case

42. The European Commission's impact assessment estimated that businesses would take around 4 hours to process one case. This would involve retrieving information relating to the case, communication with the ADR scheme, and follow to the decision. All tasks would fall at professional or clerk level, so we have used a cost rate of £27.3 per hour based on ASHE rates.³³ **This has produced a total cost of £117 to handle one case.**³⁴

C-Q 4: do you have any information to suggest that the internal cost to businesses is different, either in duration or grade of staff involved? What assumptions could we make to reflect that cases will vary in their effort according to their complexity?

Number of additional ADR cases raised

43. The number of additional ADR cases raised due to the proposed policies is the most impactful, but also the most uncertain parameter in this impact assessment. We have no historic information of how ADR take-up has changed when business participation was made mandatory in other sectors, nor did we find practical international evidence. Fundamentally, it depends on the underlying level of detriment and how strongly consumers and businesses will change behaviour. Consumer behaviour may in turn be determined by attitudes and behavioural biases e.g. myopia or inertia, but also by policy parameters. We have used several approaches to estimating the number of additional cases:

³¹ 75,000 ADR cases x £450 per case / 828,000 businesses. Cost per case is derived in the following paragraphs, while No. of ADR cases is discussed in the next section.

³² Financial Ombudsman Service: annual report and accounts for the year ended 31 March 2017.

³³ This follows the same calculation method as set out above under one-off business cost, but averages the cost rates of customer service and professional occupations staff: $(20.5 + 34.2)/2 = 27.3$. This is because in the responses to the EC impact assessment calculations, different businesses indicated different grades in organisations performing these tasks.

³⁴ Note that this is higher than the £80 cost rate used in the 2015 ADR impact assessment from BIS. This is because the average European value was used, converted to £ and uplifted to 2015. However, UK wage and price levels are higher than average EU ones. The present figure also considers inflation since 2015.

- d) We combined estimates from the European Consumer Scoreboard with industry sources and other data to estimate how many consumers experience problems with purchases and complain to a third party.
- e) We spoke to ADR providers in motoring and home improvement to understand the level of activity they currently record in relation to businesses signed up and not signed up to them. We then used these 'ADR cases-per-business' rates to extrapolate based on the estimated total number of businesses.
- f) We added a parameter to method (a) to reflect that not all consumers who complained to a third party may go on to raise an ADR case. This parameter is based on the number of ADR cases raised in relation to the estimated number of third-party complaints across sectors.
- g) Some ADR providers record when a consumer tried to raise a case that they could not take on because the trader was not signed up to their service. We added to this an estimate of how many consumers who went to court indicated that they would have used ADR and not need court proceedings subsequently. We consider this combined figure the absolute low estimate for additional ADR activity.

a) Survey-based estimate

44. Under this approach, the number of additional ADR cases is based on the number of complaints which in turn depends on:

- how many people purchased products or services in a particular market (market penetration)³⁵,
- how many of these market participants experience a problem (problem incidence rate)³⁶ and
- how many of those experiencing a problem make a complaint to a third party (third-party complaints ratio).³⁷

45. **Number of transactions:** we have used sales figures and the number of cars repaired each year from the Society of Motor Manufacturers and Traders (SMMT), as these are more accurate than survey-based estimates using market penetration.^{38 39} For home maintenance, we use the number of households in the UK as a proxy for the number of dwellings and the market penetration to indicate the number of home maintenance and improvement projects per year.

46. **Problem incidence rate and third-party complaints ratio** were both sourced from the European Consumer Scoreboard.⁴⁰ We wouldn't expect those who don't currently complain to *any* third party to use ADR, whether available or not, though are conscious that the ratio may also reflect more limited complaints options. We further assume that the proposals will not affect the number of complaints, but rather how many of these complaints will become ADR cases – implicitly 100% under this approach. Over the long run, it is possible – and indeed one of the desired consequences – that problem incidence ratios decrease as a result of higher competitive pressure. However, we do not hold sufficient evidence to robustly quantify such an effect.⁴¹

47. Table 2 below summarises these calculations for the home improvement and motoring sectors based on the outlined methodology

³⁵ Specifically, the question posed was: "Thinking about <the market>, have you purchased a <product> in the past <X> year(s)?" and an equivalent for services. The number of years differed by product category between 1 – 3 years.

³⁶ The question asked was: "Within the past <X> year(s), did you experience any problem with <the product/service> you <purchased/paid for>, either with <the product or the retailer/the service or provider>, where you thought you had a legitimate cause for complaint?"

³⁷ See also: European Commission/Civic Consulting (2017): Operational guidance document on measuring personal consumer detriment

³⁸ <https://www.smmt.co.uk/vehicle-data/car-registrations/> and <https://www.smmt.co.uk/category/vehicle-data/used-car-sales-data/>

³⁹ SMMT MOTOR INDUSTRY FACTS 2020

⁴⁰ European Consumer Scoreboard: https://ec.europa.eu/info/policies/consumers/consumer-protection/evidence-based-consumer-policy/consumer-scoreboards_en. The results from the 2015 and 2017 studies were averaged, because not all relevant sectors were covered in the 2017 wave.

⁴¹ One possibility could be to compare problem incidence rates between sectors in which ADR membership is and is not mandatory. However, sectors with mandatory ADR are generally systematically different – natural monopolies or oligopolies and subject to sector-specific regulation – which makes comparisons more difficult.

Table 2: No. of ADR cases under method (a)

	Used car purchase	Car maintenance and repair	Home improvement	Total
Number of transactions/ households	7,945,040	30,000,000	27,227,700	
Market penetration	N/A	N/A	32%	
Problem incidence	20%	11%	17%	
Third-party-complaints ratio	6%	3%	15%	
Total complaints to third parties	98,107	102,262	221,323	421,692

C-Q 5: do you agree with the assumptions underlying this method? Are you aware of any more recent or adequate evidence?

b) Extrapolation based on cases-per-business ratios

- 48. In this approach we extrapolate cases to all businesses in the sectors, based on the number of cases associated with currently signed-up businesses. Figures from an ADR provider in home improvement imply that they received one ADR case for every 22 businesses signed up to them. Applying this to the 737,000 home improvement businesses in the central estimate would suggest 33,000 ADR cases in home improvement, including those already being raised.⁴²
- 49. For used cars, we differentiate between franchise dealers and independent garages. Most franchise dealers are already signed up to an ADR provider, so we expect few additional cases from mandatory business participation in ADR. However, the membership among independent garages is low. Feedback from ADR providers suggests each independent garage selling used cars might account for 1.75 ADR cases. Extrapolated to our estimate of around 20,000 such businesses, this would suggest around 35,000 used car ADR cases. For car service and repair, the similar calculation would be 0.14 ADR cases per S&R business times 53,000 business equals 7,800 potential S&R ADR cases in total.
- 50. Figures from this method may be either over or underestimates: on the one hand, traders that are already signed up may be larger than average and so produce more ADR cases than the many small non-signed up businesses; on the other hand, the non-signed up businesses may have higher underlying complaints bases and so have had less incentives to sign up voluntarily.

C-Q 6: how appropriate and accurate do you consider this method of estimating ADR cases?

c) Modified survey estimate

- 51. This approach starts from the estimated third-party complaints developed under (a), but adds a further parameter that only a portion of those complaints would turn into ADR cases. Between 1% and 20% of complaints in sectors with mandatory ADR become ADR enquiries (average: 6%), compared to 0% to 2% (average 1%) in sectors in which ADR is not mandatory.⁴³ For this impact assessment, we thus assume that 6% of all third-party complaints would become ADR cases. As shown in Table 3, this method estimates around 24,000 ADR cases across the motoring and home improvement sectors, or 17,000 beyond existing case loads.

Table 3: No. of ADR cases under method (c)

	Used car purchase	Car maintenance and repair	Home improvement	Total

⁴² A different ADR provider in home improvement reported one case for every 1.1 members. Extrapolated to the business population, this would imply around 660,000 cases. We consider this estimates unrealistically high based on historic consumer complaint inquiries and ADR cases raised on other sectors.

⁴³ Aviation is a special case in that it is a regulated sector but that ADR is not formally mandatory. In practice, most airlines are signed up to an ADR provider, producing an ADR case-complaints ratio of 8%. Given the regulatory and market structure differences to home improvement and motoring, we do not regard this as a realistic end point for take-up of voluntary ADR.

Complaints	98,107	102,262	221,323	
Complaints - ADR enquiries ratio	6%	6%	6%	
Total ADR cases	5,565	5,801	12,555	23,921
Difference from "Do nothing"	3,251	4,354	9,683	17,287
Cost to handle one case	117	117	117	
Total case handling cost [£m]	0.6	0.7	1.5	2.8
Difference from "Do nothing" [£m]	0.4	0.5	1.1	2.0

52. One limitation of this calculation is that it depends on accurate estimates for market penetration, problem incidence and complaint ratios across a wide range of sectors. Stress testing with the motoring and home improvement sectors showed that market penetration in particular yielded different results to industry data. An incorrect starting point of transactions could thus distort the number of complaints recorded which in turn impacts the ADR-to-complaints ratios.

C-Q 7: do you agree with the assumptions underlying this method? Are you aware of any more recent or adequate evidence?

d) Lower bound of attempted cases plus diverted court cases

53. Under this approach, we identify ADR cases which consumers already tried to raise, but which could not be accepted because the trader was not signed up to an ADR provider. For instance, in 2019, ADR providers received over 1,400 valid ADR enquiries on used cars and over 600 on car service & repair that they could not accept for this reason. Evidence is scarcer for home improvement, but reports to the Chartered Trading Standards Institute suggest that in less than 500 instances could ADR providers not deal with a consumer complaint due to the business not being signed up.

54. Further, additional ADR cases could also arise from consumers that would have gone to court but use ADR instead. Paragraph 72 ff. will set out the full calculations, but it is useful to pre-empt the findings here. We estimate such diverted dispute cases at around 4,500 – 8,300.

Policy parameters adjustment

55. Finally, the above calculation methods do not consider how ADR would operate differently in motoring and home improvement compared to sectors in which business participation is currently mandatory. As per the accompanying consultation document, we are considering

- a) a nominal fee that consumers would need to pay but that would be refunded if the dispute were decided in their favour, and
- b) a minimum value threshold for claims to be raised.

56. For the purposes of this impact assessment, we assume that all ADR cases in motoring and home improvement would be subject to these limitations. However, this is still policy in development and we hope to learn more about the advantages, drawbacks and impact through consultation to inform final policy design.

57. Based on consumer responses to a representative survey, we estimate a nominal, refundable fee on consumers to reduce the expected number of cases by not more than 6% - 9%.⁴⁴ While the survey question fits the research question well, consumer behaviour may have changed since the 2011 survey date. Further, these questions offered multiple choice, so a fee may have been only one of several reasons why a consumer did not escalate a dispute to ADR.

⁴⁴ SPECIAL EUROBAROMETER 342 Consumer empowerment, questions 36 and 37.

58. We currently do not hold information on the value distribution of claims coming to ADR providers, though will liaise with providers to collect such information. Failing this, we can estimate the impact by combining complaints data from the Citizens Advice Consumer Service and the ICF research. This ICF research asked consumers who had used ADR how high a claim would need to be to prompt them to use ADR.⁴⁵ The data from Citizens Advice gives an indication of how many claims of different values consumers are, in principle, willing to take action on. Table 4 combines these and shows the impact on additional cases of a £100 and £500 minimum value threshold – 12% and 48% fewer additional cases respectively. Both threshold values are informed by available data, rather than a settled policy position.

Table 4: impact of minimum value threshold

Claim value	No. of CACS claims within claim value range	Claim value threshold	No. of claims No threshold	No claims <£100	No claims <£500
Under £50	286	34%	97	0	0
£50 - £100	304	17%	155	0	0
£101 - £500	1,111	17%	755	755	0
£501 - 1000	582	7%	437	437	437
£1001 - £5000	644	3%	502	502	502
£5000+	177	3%	143	143	143
Total	3,104		2,090	1,838	1,082
Difference to no threshold				-12.1%	-48%

C-Q 8: do you have any evidence or views on how strongly a £10 - £20 nominal case fee would deter consumers from using ADR, in particular for legitimate disputes?

C-Q 9: do you have any evidence or views on how strongly a minimum value threshold for ADR cases impact additional take-up of ADR?

Case handling cost - summary

59. To add context to the different methods' estimates, around 40,000 – 50,000 complaints have been recorded annually each in the energy and telecoms sectors and around 400,000 in financial services, though that includes PPI cases. These are sectors with well-known and trusted ADR providers and high market penetration. On the other hand, detriment per case may not always be as high as in motoring or home improvements, making it somewhat less attractive to raise a case. Further, home improvement and used cars have traditionally been the most complained-about products/services at the Citizens Advice Consumer Service helpline, at around 50,000 complaints annually each.⁴⁶

60. On balance and taking on board industry feedback, we believe that method (b) offers the most realistic estimate of additional ADR activity. Nevertheless, to account for the uncertainty of how consumers and business will respond to the proposals and the fact that the other approaches are valid as well, we treat method (a) as our high estimate and method (c) as the low estimate. Table 4 summarises our estimates. Figures under method (d) are likely an underestimate, because they do not account for increased consumer (and trader) awareness of and confidence in ADR as a result of the reforms. In fact, it assumes very little changed behaviour. However, they are still useful for context.

⁴⁵ ICF Consulting on behalf of BEIS (2018). RESOLVING CONSUMER DISPUTES: Alternative Dispute Resolution and the Court System, figure 38.

⁴⁶ <https://public.tableau.com/profile/citizensadvice#//vizhome/ConsumerAdviceTrendsDecember2019/Cover>

Table 5: No. of ADR cases under the different methods

	Do nothing	Low estimate	Central estimate	High estimate
Used car purchase	2,315	2,381	14,993	44,914
Car maintenance	1,447	2,482	3,432	46,816
Home maintenance & improvement	2,872	5,371	14,893	101,323
Total	6,634	10,234	33,319	193,053

61. Table 5 combines the case number information with the unit costs to produce the total recurring cost of ADR cases to businesses. The costs vary greatly, between £11.2m and £281.1m per year, which is mostly due to the large underlying variation of assumed ADR cases.

Table 6: Internal and external cost to businesses of handling ADR cases

	Do nothing	Option 2 - central	Option 2 - low	Option 2 - high
Total ADR cases	6,634	33,319	10,234	193,053
Difference from "Do nothing"		26,685	3,600	186,419
Cost to handle one case	117	117	117	117
Total case handling cost [£m]	0.8	3.9	1.2	22.5
Cost per case charged by ADR provider	350	450	350	550
Cost charged by ADR provider [£m]	2.3	15.0	3.6	106.2
Total cost of cases to businesses [£m]	3.1	18.9	4.8	128.7
Difference to "Do nothing" [£m]		15.8	1.7	125.6

Compensation - transfer to consumers

62. The total compensation that businesses need to pay to consumers following ADR case is driven by (a) the total number of ADR cases (see above), (b) the share of ADR cases decided in favour of consumers, and (c) the average amount awarded to consumers. While these clearly have a profit impact to businesses as a result of legislation, we do not count the compensation in the EANDCB, as these payments are to rectify breaches of consumer law, rather than imposing new obligations on businesses.

63. Data from the Ombudsman Services coverage of the communications and energy sector suggests that around 70% of cases are settled in the consumer's favour and resolve financial redress. Similarly, ICF research found that 61% of ADR cases were found in favour of a consumer and in a further 9% of cases a compromise solution (9%) was agreed. Of those combined 70%, 92% received compensation (64.4%).

64. We have used underlying data from the 2016 detriment survey⁴⁷ and engaged with ADR providers to obtain the average amounts of compensation paid to consumers. While there is research on compensation amounts⁴⁸, it does not specifically cover high-value sectors like home

⁴⁷ Oxford Economics on behalf of Citizens Advice (2016): Consumer Detriment. Counting the cost of consumer problems.

⁴⁸ ICF Consulting on behalf of BEIS. RESOLVING CONSUMER DISPUTES: Alternative Dispute Resolution and the Court System. 2018 suggests most consumers (59%) receive under £100, with 42% receiving £50-£100. However, there is a notable tail end of higher compensation awards, such that calculating a weighted average yields around £523.

improvements or motoring and would therefore likely underestimate the compensation levels. Tables 6 to 9 summarise the above assumptions and show the estimated cost for the different scenarios' case numbers. Table 10 compares the different scenarios and shows that we estimate total compensation to consumers to increase from around £19.0m to c £242m. We assume that the share of cases resulting in compensation and the average compensation awarded are independent of the level of ADR activity.

Table 7: Compensation to consumers by sector - do nothing

	Used car purchase	Car maintenance	Home improvement	Total
Number of ADR cases	2,315	1,447	2,872	6,634
Share of ADR cases decided in consumer's favour or compromise	70%	70%	70%	
Of those, share that received compensation	92%	92%	92%	
Average compensation paid to consumer	£7,364	£2,197	£3,230	
Total compensation cost [£m]	£11.0	£2.0	£6.0	£19.0

Table 8: Compensation to consumers by sector - central scenario

	Used car purchase	Car maintenance	Home improvement	Total
Number of ADR cases	14,993	3,432	14,893	33,319
Share of ADR cases decided in consumer's favour or compromise	70%	70%	70%	
Of those, share that received compensation	92%	92%	92%	
Average compensation paid to consumer	£7,364	£2,197	£3,230	
Total compensation cost [£m]	£71.1	£4.9	£31.0	£106.9
Difference to "Do nothing"	£60.1	£2.8	£25.0	£87.9

Table 9: Compensation to consumers by sector - low scenario

	Used car purchase	Car maintenance	Home improvement	Total
Number of ADR cases	2,381	2,482	5,371	10,234
Share of ADR cases decided in consumer's favour or compromise	70%	70%	70%	
Of those, share that received compensation	92%	92%	92%	

According to their respective 2016 annual reports (<https://www.ombudsman-services.org/about-us/annual-reports>), the most common award from Ombudsman Services Communication was £50 and the most common award from OS: Energy was £100.

Average compensation paid to consumer	£7,364	£2,197	£3,230	
Total compensation cost [£m]	£11.3	£3.5	£11.2	£26.0
Difference to "Do nothing"	£0.3	£1.5	£5.2	£7.0

Table 10: Compensation to consumers by sector - high scenario

	Used car purchase	Car maintenance	Home improvement	Total
Number of ADR cases	44,914	46,816	101,323	193,053
Share of ADR cases decided in consumer's favour or compromise	70%	70%	70%	
Of those, share that received compensation	92%	92%	92%	
Average compensation paid to consumer	£7,364	£2,197	£3,230	
Total compensation cost [£m]	£213.0	£66.2	£210.7	£490.0
Difference to "Do nothing"	£202.0	£64.2	£204.8	£471.0

Table 11: Compensation to consumers by scenarios

	Do nothing	Option 2 - central	Option 2 - low	Option 2 - high
Number of ADR cases	6,634	33,319	10,234	193,053
Share of ADR cases decided in consumer's favour or compromise	70%	70%	70%	70%
Of those, share that received compensation	92%	92%	92%	92%
Total compensation cost [£m]	£19.0	£106.9	£26.0	£490.0
Difference to "Do nothing" [£m]		£87.9	£7.0	£471.0
Average compensation paid to consumer	£2,864	£3,210	£3,210	£3,210

C-Q 10: how robust do you consider the derivation of consumers who receive compensation in relation to those raising ADR cases? Do you hold any more recent or accurate evidence?

C-Q 11: how robust do you consider the assumptions around the average cost of compensation paid? Do you hold any more recent or accurate evidence?

Cost to consumers

65. Consumers face both direct and indirect costs when they use ADR. The type of indirect costs consumers might face include a loss of earnings from time off work, while direct costs may include charges by ADR providers, expert advice or assistance, travel costs, telephone calls,

postage or stationery. For cases which consumers would successfully take to a court in the absence of ADR, we also need to consider the foregone compensation.

Cost to consumers of using ADR

66. Research by ICT on BEIS behalf showed that the time commitment for consumers can vary substantially. While over a third spent 4 hours or less to use ADR, 25% of respondents needed more than 20 hours. We do not expect our proposals to change the time consumers need to engage with an ADR case nor do we have a strong reason to assume time needed varies systematically between sectors. So, for this assessment we opted to use a weighted average of responses of c 14 hours as a best approximation. Together with an average wage of £14.7, this means a cost of time lost for consumer of, on average, £200.⁴⁹
67. The ADR regulations already provide that ADR providers may charge consumers a nominal fee to access ADR. However, such a fee should be considered a token and not in any way proportionate to the claim. Research by ICF found that 23% of consumers using ADR paid no fee, while a further 58% paid under £50 and 10% paid between £50 and £100.⁵⁰ Assuming average cost within a charge bracket, this yields an average cost to consumers of using ADR of c £22.⁵¹ This is broadly similar to the nominal fee mentioned in the accompanying consultation document. Table 11 combines this information with the number of cases to produce total cost to consumers for the “Do nothing” and different policy scenarios.

Table 12: Consumer cost of using ADR

	Do nothing	Option 2 - central	Option 2 - low	Option 2 - high
Number of ADR cases	6,634	33,319	10,234	193,053
Cost of time per ADR case	£239	£239	£239	£239
ADR charges per case	£22	£22	£22	£22
Total consumer cost to ADR [£m]	£1.7	£8.7	£2.7	£50.3
Difference to "Do nothing" [£m]		£7.0	£0.9	£48.6

C-Q 12: how adequate do you consider the assumptions on the time a consumer needs to spend on an ADR case?

Foregone compensation from successful courts cases

68. The components for this calculation are (a) the number of court cases avoided because consumers use ADR instead; (b) the share of court cases in which consumers were paid compensation; and (c) the average level of compensation awarded.
69. It is uncertain how many of the court cases could be avoided through more mandatory ADR provision. In a first step we estimate how many court cases currently relate to consumer disputes, as this sets the logical upper limit. According to Civil Justice statistics, around 2.1m civil court cases were filed in 2018. The Ministry of Justice’s statistics do not break down how many of these cases relate to consumers filing cases against a business. The best information on the matter is from the 2015 Civil Court User survey. From its sample we estimate that around 40% of all cases are brought by individuals and 20% - 33% of those cases related to consumer-to-

⁴⁹ Annual Survey of Households and Earnings. Median gross annual earnings 2018p of 29,574, less taxes and national insurance, inflated to 2019 and divided by average actual working hours of 1,635.

⁵⁰ ICF Consulting on behalf of BEIS. RESOLVING CONSUMER DISPUTES: Alternative Dispute Resolution and the Court System. 2018.

⁵¹ The remaining c 9% of the survey sample stated higher charges, in some cases as as £5,000. However, given the legal position set out above, we believe these instances refer to ADR cases handled by unaccredited ADR providers. Because our package of proposals includes making accreditation mandatory for all ADR providers, we therefore regard £100 as a reasonable maximum fee imposed.

business cases.⁵² Further, only between 41% and 54% of cases were defended, which means that the defending party disputed the case and court proceedings may have started. Taking these together, we estimate between 58,000 and 105,000 defended consumer-to-business court cases every year, with a mid-point of 84,000 cases.

70. We then consider how many of these cases could potentially be avoided through access to ADR and how many of these cases relate to the home improvement and motoring sectors. Research by ICF found that 38% of court cases could have gone to ADR previously, had mandatory provision existed.⁵³ However, even if all of these did go to ADR, some might still end up going to court also. We apply a further split, based on the share of court cases in the report that had gone to ADR previously to estimate that around 21% of all defended court cases could be avoided.
71. Further, the ICF research also found that motoring and home improvement accounted for 46% of all court cases in its sample. This is reinforced by analysis of a sample of 1,500 court cases provided by HMCTS: 48% of consumer-to-business cases related to car sales, car repairs or home improvement. This sample may not be fully representative of all consumer court cases and classification may have been imprecise, but we are broadly confident in these estimates.
72. Consequently, we estimate that up to around 10,000 court cases could be avoided by making business participation in ADR in these sectors mandatory.⁵⁴ To err on the side of caution, we apply a 20% optimism bias across all scenarios and use the range of 58,000 to 105,000 defended consumer-to-business court cases as a calculation basis. Together, these assumptions mean that between 6,600 and 8,300 court cases could be avoided through these policy options.
73. Regarding compensation through courts, the ICF research found that 70% of court cases were decided in the consumer's favour or reached a compromise. Of these, 91% of consumers were awarded compensation. Compensation was, on average higher, than for ADR cases: c £1,584 compared to c £523 for ADR.⁵⁵ Taken in isolation, this could imply that consumers would obtain lower compensation for the same case in ADR than they would in courts, and this would present a net negative to their welfare. However, this may also be a compositional effect. The ICF report showed that the type of disputes that consumers take to courts differs from those used in ADR. For instance, just over half (51 per cent) of consumers who used ADR said they would take a dispute to ADR if the value was under £100. In contrast, only 18 per cent of consumers who went to court indicated they would only go to courts for a dispute valued under £100.⁵⁶ In the absence of more evidence and a strong opposing argument, we thus assume that compensation levels are the same for courts and ADR. For the cases concerned, the net effect is therefore the lower cost from using ADR instead of courts (see paragraphs 80 and 81 for further details). Table 12 summarises the findings and calculates associated compensation foregone from not taking consumer cases to courts.

Table 13: Foregone compensation through courts

	Option 2 - central	Option 2 - low	Option 2 - high
Number of court cases avoided	5,684	3,905	7,107
Share of court cases decided in consumer's favour or compromise	70%	70%	70%

⁵² The Civil Court User survey does not distinguish "consumer" as such. It disaggregates cases by type, such as "An unpaid bill or unpaid debt" or "Compensation for personal injury relating to employment". We spoke to MoJ officials and applied judgement on what share of cases in each category likely related to consumer-to-business claims.

⁵³ Of the remainder, approximately 43% of court cases had previously gone to ADR without success and 19% of cases would not have been affected by the existence of ADR.

⁵⁴ 105,000 total defended consumer-to-business court cases (high estimate) x 21% that could be avoided through ADR x 46% share of policy sectors in sample's court cases = ~ 10,000.

⁵⁵ ICF Consulting on behalf of BEIS. RESOLVING CONSUMER DISPUTES: Alternative Dispute Resolution and the Court System. 2018. The difference between £523 stated here and the compensation levels discussed in paragraph 67 are due to £523 being an average across consumer sectors, whereas the other values are specific to high-value goods and services.

⁵⁶ ICF Consulting on behalf of BEIS. RESOLVING CONSUMER DISPUTES: Alternative Dispute Resolution and the Court System. 2018.

Of those, share that received compensation	91%	91%	91%
Compensation awarded per case	£3,210	£3,210	£3,210
Difference to "Do nothing" [£m]	£11.6	£8.0	£14.5

C-Q 13: how realistic do you consider the assumptions on how many court cases might be avoided?

C-Q 14: how accurate is it to assume similar compensation for ADR and court processes? What evidence do you hold that the same dispute would attract different levels of settlement through different routes?

Benefits to businesses

74. Some of the ADR cases that we expect to be handled additionally because of the reforms would otherwise have gone to courts. To avoid double counting, we remove the cost of these avoided court cases from the gross cost to business. Beyond avoiding double counting, we also expect a net benefit for businesses because ADR is a cheaper, less resource-intensive process to settle a consumer dispute, compared to court proceedings. We consider this a direct impact on businesses because this is part of the reforms' first-round consequence of consumers resolving more disputes through ADR instead of courts. The components for this calculation are (a) the total number of court cases avoided; (b) the costs charged by the court, and (c) the internal (staff time) cost of engaging in a court case.

75. The number of court cases avoided (a) matches that calculated for the cost of consumers. The ICF research found that traders' reported cost of using the courts system varied greatly with 34% stating less than £50, but also 12% between £1,001 and £5,000. A weighted average of bands and reported share yields an average cost of c £516 (b). Unfortunately, the research did not cover businesses' internal cost of handling court cases (c). The 2015 impact assessment assumed two hours of a customer service manager and two to three hours of a junior solicitor.⁵⁷ However, in light of effort reported in the ICF research for consumers using ADR and courts (see paragraphs 69 and 81), these seem underestimates. For our high-cost scenario, we assume that businesses will spend as much time resolving a court case, on average, as consumers do. We assume that two thirds of this time will be from activities by case managers, and that for one third a legal specialist will be needed. This may be overestimate, because businesses will typically have, on average, more experience engaging with courts than consumers, but is a useful upper ceiling. For the low-cost estimate we will adopt the assumptions for the 2015 impact assessment. The central scenario is an average of the low and high assumptions. Case managers are costed at the rate of professionals or administrative positions, solicitors at the cost of a junior solicitor at £159 per hour, similar to the treatment in the 2015 impact assessment.⁵⁸ Table 13 presents total estimated benefits to business from reducing the number of court cases through increased use of ADR.

Table 14: Benefits of ADR for businesses

	Do nothing	Option 2 - central	Option 2 - low	Option 2 - high
Number of <u>additional</u> court cases avoided		5,684	3,905	7,107
Court charges per case		£516	£516	£516

⁵⁷ The Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015. <https://www.legislation.gov.uk/uksi/2015/1392/impacts>.

⁵⁸ HM Courts & Tribunals Service (2010): Solicitors' guideline hourly rates. <https://www.gov.uk/guidance/solicitors-guideline-hourly-rates>. Average of payband C and D in national grade 3, inflated to 2019 using GDP deflator.

Staff cost per court case		£940	£532	£1,348
Difference to "Do nothing"		£8.3	£4.1	£13.2

C-Q 15: how adequate do you consider the assumptions on the cost of a court case to a business?

Benefits to consumers

76. We can quantify two main types of benefits that consumers receive from using the ADR system. One is the compensation received from businesses, if an ADR case is decided in their favour. This was already described in paragraphs 65 to 67 as the compensation cost to businesses. The other type of benefit is the lower cost of using ADR compared to the small claims court for those consumers that would have used the courts system instead. Since the aggregate cost to consumers of using the ADR system was calculated in paragraphs 69 and 70, the benefit is effectively court action avoided. To quantify this component, we need to know (a) the number of court cases avoided (same as in cost to consumers and benefits to companies), (b) the charges to the consumer of using the courts system, and (c) the consumer's time needed to engage with the courts system.
77. Evidence suggests the direct costs associated with court proceedings are, in general, higher than ADR but can vary substantially (depending on the amount claimed and the location).⁵⁹ The costs of the small claims track are relatively small (as it does not involve a solicitor), but fees may vary considerably depending primarily on the value of the dispute, and on how far the claim goes through the courts' process. Pursuing claims outside the small claims track involves a more complicated process, and this can be costlier for consumers and takes longer. A solicitor may be required to prepare a case in which case legal fees will be incurred.⁶⁰ The ICF research found that 40% of courts consumers incurred costs between £101 and £500. A weighted average of all cost bands produced a cost of c £491.
78. A survey of small courts consumer users conducted by ICF found that the time spent by consumers using the courts system varied substantially. While almost a fifth reported spending 4 hours less, a quarter reported needing over 40 hours. We don't expect these proposals to change the average time needed by a consumer to engage with courts, so opted to use a weighted average of the estimates which produced c 19 hours. Using the same cost rate as in paragraph 69 for consumer costs of using ADR, this yielded an indirect cost for consumers of using courts of £277. The following Table 14 combines the direct and indirect cost saved with the number of cases and compensation awarded to produce a total benefit to consumers.

Table 15: Benefits of ADR for consumers

	Do nothing	Option 2 - central	Option 2 - low	Option 2 - high
Number of <u>additional</u> court cases avoided		5,684	3,905	7,107
Court charges per case		£491	£491	£491
Cost of time per court case		£277	£277	£277
Total courts cost saved		£4.4	£3.0	£5.5
Total compensation from additional ADR cases	£19.0	£106.9	£26.0	£490.0
Total additional benefits to consumers		£111.3	£29.0	£495.4

⁵⁹ Which?. 'When should I use the small claims court?' Available at: <http://www.which.co.uk/consumer-rights/problem/when-should-i-use-the-small-claims-court>

⁶⁰ Which?. 'When should I use the small claims court?' Available at: <http://www.which.co.uk/consumer-rights/problem/when-should-i-use-the-small-claims-court>

C-Q 16: how adequate do you consider the assumptions on the cost of a court case to a consumer?

Non-monetised costs and benefits

79. Availability to consumers of a fast, low-cost mechanism to pursue a complaint may incentivise some businesses to resolve additional disputes before they escalate to ADR. However, we have found no robust evidence to estimate such a **deterrent effect**, which is why we have not incorporated it into our main calculations. A survey commissioned by BEIS found that, across different sectors, between 42% and 70% of consumers who reported a problem were able to resolve it directly with the provider.⁶¹ While sectors where business participation is mandatory show a higher resolution rate (66% on average) than sectors where it is not (49%), it would be inaccurate to attribute the difference solely to ADR access.⁶²
80. The level of first-round **impacts on NPSV** depends on how many additional ADR cases are raised, i.e. how many of these disputes would not have gone to courts without these policy changes. The more additional cases are raised, the higher the net benefit will be to consumers – compensation/transfers from businesses – but also the higher the process cost will be to both consumers and businesses. In the short term, this policy is thus likely to produce a negative NPSV. However, two wider and long-term effects may lead to positive NPSV impacts:
- a) As mentioned, some traders may offer redress to avoid an ADR case being raised where they deem a consumer success likely or more generally increase their product/service quality. Further, some consumers may spend any refunded money in the same markets, but with a different trader. In both of these cases, refunds would not be a net loss for the industry, but rather an improvement of **allocative efficiency** towards traders that offer better value for money for consumers. Indirectly, this could raise productivity by requiring businesses to compete harder and so contribute to long-term GDP growth. Unfortunately, we do not hold enough evidence to quantify these effects.
 - b) Better access to redress could **increase consumer confidence** in these markets and so lead to **increased spending**. Second-hand cars, home improvement services and car maintenance and repair services were the second, fourth and fifth least trusted out of 49 sectors in the European Consumer Markets Scoreboard.⁶³ This matches with economic theory of asymmetric information around non-standardised goods and services. However, we do not hold enough evidence to estimate how much consumer confidence might increase or how that increased confidence might impact spending. In 2019, consumers spent around £31bn on motoring and £36bn on home improvements.⁶⁴ A consumer-confidence triggered spending increase of around 0.1% would be needed to compensate the net cost associated with these measures.⁶⁵ However, for such an increase to have a positive NPSV effect, it must not come from lower savings or lower spending on other products and services. Theoretically, higher incomes could fund such an increase in consumer spending, though we consider it unlikely that the changes in this assessment would result in large increases of consumer incomes.
81. As shown previously, an ADR case tends to cost less compared to a court case (£22 vs. £500 charges for consumers; £350 - £550 vs. £500 for businesses) and require less time investment (13.5h vs. 19h for consumers; 4h vs. 12h for businesses). There are also non-monetised benefits from **resolving problems earlier** through ADR than through courts, beyond the time inputs needed by participants. Research by ICF on behalf of BEIS found that 54% of ADR cases took

⁶¹ Department for Business Energy and Industrial Strategy (2018): PUBLIC ATTITUDES TRACKER. Wave 26.
<https://www.gov.uk/government/statistics/beis-public-attitudes-tracker-wave-26>

⁶² This roughly matches data from the Financial Conduct Authority that 60% of internal complaint cases (not ADR cases!) which businesses report to the FCA, are upheld: <https://www.fca.org.uk/data/complaints-data/aggregate-complaints-data/aggregate-complaints-data-2018-h2>

⁶³ The figures are an average between the 2015 and 2017 values, where both years are available. Otherwise, the figures for the available year were used. Calculated with underlying data shared to BEIS. The survey question was “On a scale from 0 to 10, to what extent do you trust <retailers/providers> to respect the rules and regulations protecting consumers?”

⁶⁴ ONS – Family spending statistic 2018/19 - Workbook 1 - Detailed Expenditure and Trends.

⁶⁵ Annual net cost as per table 14 is around £-61.4, (excluding one-off cost). $\frac{£61.4m}{(£31bn + £34bn)} = 0.09\%$.

more than 90 days to resolve, while this applied to 65% of court cases. However, no information exists as to how much this earlier resolution is worth to either businesses or consumers, so this benefit could not be monetised. We would also expect the increased competition on a macro-economic level to feed down to better general customer service.

82. The ICF report also asked questions around the **user experience** for ADR. For instance, 62% of consumers reported finding ADR simple to use, while this was true for 53% of those who used the courts system. While a similar share of consumers who won their ADR and court cases perceived the process to be fair, a much lower share of ADR consumer users did so, if the outcome was in the business' favour or a compromise was reached (17% vs. 53% for courts). ADR users also reported more problems (46%) compared to users of the courts system (16%). The report did not survey businesses' views on ADR experience, so no similar comparison is possible.
83. As outlined, we expect the changes to the ADR system to lead to a reduction in the number of court cases of around 500 to 1,500. This would represent a **saving to the taxpayer** from less use of a public service, including courts facilities and the time needed by judges and supporting personnel to hear cases. We were not able to monetise this effect, because we are not aware of robust data on the unit costs for court cases. Judging from the small number of cases and the benefits accrued for businesses and consumers, it would seem unlikely that this would amount to major savings.

C-Q 17: are you aware of any evidence that could help quantify or narrow down the scope of wider impacts and the cost-benefit balance for the proposals?

C-Q 18: do you have any other evidence that could help assess the impacts of these proposals? This could relate to impacts described in this assessment or other impacts not yet considered.

Summary

84. Table 15 summarises the various costs and benefits accruing to different parties for the central scenario. It shows that in the central scenario, consumers would stand to gain a net benefit of around £111m per annum. Businesses will likely incur a net annual cost of around £10.6m as a result of the proposed changes, plus around £107m in additional compensation to consumers. However, we expect that businesses who already comply with substantive consumer protection regulation will only incur a net cost of around £3.2m per annum.⁶⁶ The large remainder falls on the 70% of businesses who were found by the ADR process to have not complied with consumer law and includes process cost and pay-outs to consumers. Such costs are excluded from Equivalent Annual Net Direct Cost to Business, in line with Better Regulations guidance. Further, we expect a positive impact on product/service quality and/or prices, as businesses will have stronger incentives to avoid consumer complaints.

Table 16: Summary of costs and benefits

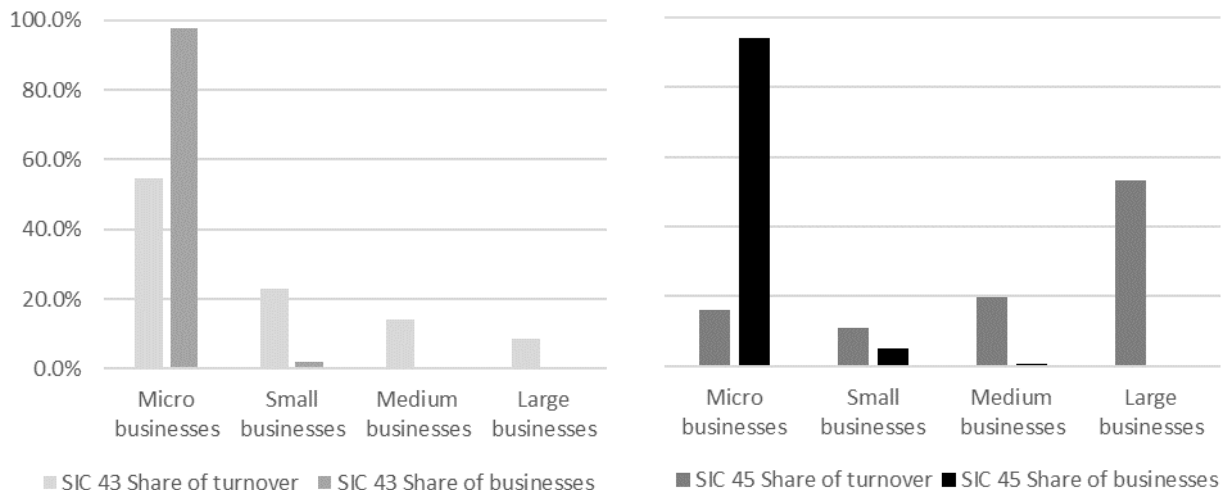
£m	Businesses	ADR providers	Government	Consumers
One off cost	17.7	0.2	0	0
Annual cost	18.9	0.5	0.2	20.3
Annual cost of non-compliance	106.9	0	0	0
Benefits	8.3	0	0	111.3

⁶⁶ E.g. regulations around pre-contractual information, quality, rights to return and the like, rather than membership in an ADR scheme.

Small and micro business analysis

85. Figure 5 below shows the distribution of turnover and the number of businesses in the two policy sectors.⁶⁷ In home improvement, micro businesses make up over 50% of sector turnover, while micro and small businesses accounted for over 77% of turnover. This is less pronounced in the motoring sector, where micro and small businesses generated around 27% of sector turnover. In both sectors, 99% of all businesses are micro or small businesses. This data suggests that excluding small businesses from the planned obligation to participate in ADR would severely reduce the policy's effectiveness, particularly in home improvement. Further, it would continue the current confusion whether a consumer could use ADR, and with which provider, which was one of the major concerns triggering these policy changes.

Figure 5: distribution of turnover and number of businesses for SIC 43 (Specialised construction activities) and SIC 45 (Wholesale and retail trade and repair of motor vehicles and motorcycles)



86. What share of the cost will be carried by micro and small business depends on how many ADR cases their customers will raise and the businesses' cost structure.
- If they receive the same number of complaints per customer as larger businesses, then their share of cost will likely mirror the turnover breakdown shown above. However, we have no information whether that would be the case.
 - We hold no information whether it takes smaller businesses more or less time to participate in ADR and that implication for cost. Smaller organisations could mean faster communication and less internal bureaucracy. On the other hand, larger organisations with established procedures could mean more efficient handling of complaints.
 - We assumed that costs charged by ADR providers are independent of business size. However, we have seen examples of tiered costs by business turnover in the regulated markets, so similar models for smaller business may emerge in the policy sectors as well.
 - We generally assumed that smaller businesses incurred smaller one-off costs per business than larger ones, so this would lead to an under-proportionate cost impact. On the other hand, these are costs that *all* businesses, even compliant ones, would generally incur, though in practice it depends on the level of business engagement.

C-Q 19: do you hold any further evidence on how micro and small businesses would be affected differently by the policy, compared to larger businesses?

⁶⁷ Business Population Estimates. These sectors do not mirror exactly those in scope of the policy. 'Other construction activities' includes some service outside of our scope, such as drilling and boring, and excludes services in scope, notably core construction. Similarly, the motoring category includes wholesale activities, sale of vehicle parts and accessories and other vehicle sales. However, BPE remains the best data source for the full business population. Estimates based on the Inter-Departmental Business Register exclude very small businesses, which would defeat the purpose of a small and micro business analysis.

Sensitivity analysis

87. As indicated by the tables throughout this assessment, there is substantial uncertainty in these calculations, most importantly relating to the level of take-up of ADR by consumers and businesses. In this assessment, we have presented a wide range, based on different estimation methods. Our ambition is to narrow this range with evidence collected through our consultation exercise and forthcoming research on consumer detriment.
88. Other uncertainties relate to the unit costs incurred by businesses and consumers on participating in an ADR case and to adapting to the changed rules. Again, we have presented what we consider reasonable ranges and have invited comments on the key uncertain parameters.

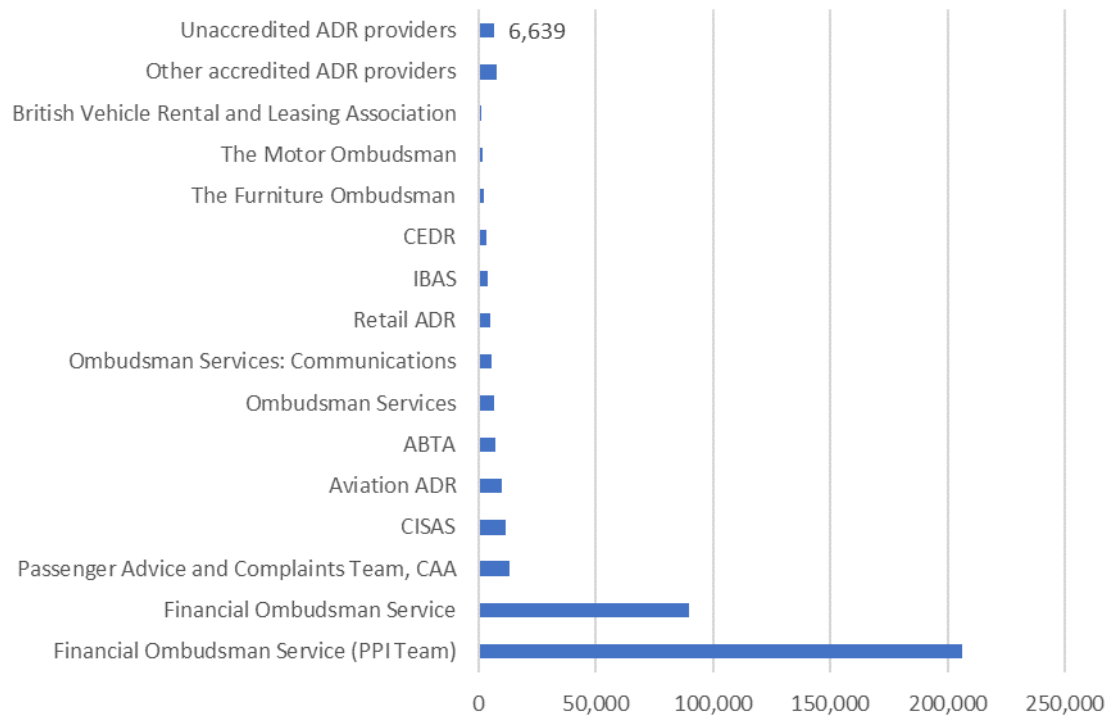
Cost-benefit assessment of mandatory ADR provider accreditation and standards

Cost to ADR providers

89. ADR providers may be public or private organisations. In non-regulated sectors, some ADR providers are trade associations who offer this service to their members as part of a range of membership benefits. The main way in which the policy package will impact ADR providers' cost is through requiring all ADR providers to become approved. There may also be some cost implications from our work with regulators to raise quality standards. In principle, the higher ADR case volumes following the proposed changes will increase both ADR providers' cost (to handle cases) and revenues (from charges to businesses and consumer). We assume that revenues cover costs and they were already discussed above as ADR provider charges to businesses. The below costs concern the relationship between ADR providers and the competent authorities (see also next section on competent authorities).
90. We do not know how many organisations offer ADR services, because accreditation is not mandatory and there is no register of unapproved ADR providers. A report prepared for Citizens Advice identified 91 unaccredited ADR schemes delivered by 69 ADR providers in 2017.⁶⁸ Further, Resolver has shared a breakdown of how many cases have been escalated to which ADR provider through its portal since the portal's launch. The portal recorded disputes being referred to around 94 different domestic ADR providers, including accredited ones. While the demographic of Resolver users is not representative of the UK population, the more than 5m disputes handled through its portal make it unlikely that any large ADR provider is not captured. Any omitted providers would thus likely handle only relatively few cases.
91. We hold very little information about how many cases the unaccredited ADR providers process. Figure 6 below shows the number of cases recorded by Resolver as having been referred to an ADR provider since the portal's launch in 2014 until February 2021. In line with administrative data from ADR providers, a large majority of ADR cases relate to financial services, specifically Payment Protection Insurance disputes. Cases by unaccredited ADR providers make up around 6,600 for the full period or around 1,100 per year. While it is likely an incomplete picture based on a biased sub-sample of the population, Figure 6 can still give an order of magnitude. To account for these limitations, we conservatively assume that unaccredited providers handle 5,000 cases per year.

⁶⁸ Queen Margaret University and University of Westminster on behalf of Citizens Advice (2017): Overview of ADR Providers Informing the report: Confusion, gaps, and overlaps - A consumer perspective on alternative dispute resolution between consumers and businesses.

Figure 6: No of Resolver cases referred to ADR, by ADR provider (2014 - 2020)



92. We also do not hold much information about the cost to ADR providers of becoming and staying approved. From our engagement with ADR providers, the largest component seems to be the cost of initially becoming approved and of participating in regular audits by the competent authority. We have not been able to obtain costs of approval from ADR providers. However, the Chartered Trading Standards Institute have indicated that it would require around eight to ten working days of work to prepare a provider for approval and then conduct it. We will assume that ADR providers incur comparable efforts on their end. The approval itself carries a fee between £2,500 and £3,000.⁶⁹ For the central scenario, we assume that strengthened requirements will bring accreditation costs to £3,000 on average. The high-cost scenario assumes this will rise to £4,000, while for the low-cost scenario it will remain at the current average of £2,750.
93. As regards annual audits, ADR providers have suggested this may take between 8 and 21 staff days per year to prepare for, participate in, and follow up on. Providers have also indicated requiring an additional ten days to respond to case investigations or bespoke data requests by CTSI. On the other hand, providers felt that a requirement for regular reporting did not represent notable additional cost, because this would merely summarise information which they collect regardless to steer their operations.
94. Unaccredited providers could also incur costs of having to leave the market, mainly in the form of lost revenue from stopping ADR activities. This would happen if the additional compliance costs exceeded any profits from offering ADR services. Barring any significant transition cost, the impact on unaccredited ADR providers can thus not be higher than the compliance cost – and may be lower for market exists involving very low levels of activity.
95. Table 16 summarises these assumptions and presents cost estimates for the different scenarios. The scenarios differ in the number of unaccredited ADR providers assumed to currently operate and the unit cost assumptions for the different compliance activities. We expect that these costs are partly or fully passed on to businesses in the form of higher fees for ADR services. Given that mandatory accreditation is, in principle, separate from mandatory business participation in ADR, this is an additional cost on business.

Table 17: cost to ADR providers

	Do nothing	Option 2 - central	Option 2 - low	Option 2 - high

⁶⁹ <https://www.tradingstandards.uk/media/documents/commercial/adr/ctsi-adr-guidance-brochure-final-15-06-17.pdf>

Number of ADR providers approved and supervised by competent authority	35	104	94	126
Days required for approval	9	9	8	10
CA approval fee	£2,750	£3,000	£2,750	£4,000
Days required for audit	15	15	8	21
Days required for case investigations and ad hoc queries	10	10	10	10
Cost rate per day	£195	£195	£195	£195
One-off cost	£0.0	£0.2	£0.2	£0.4
Annual cost	£0.2	£0.5	£0.3	£0.8

96. We believe that most ADR providers are either small or micro businesses due to the number of cases they process and the average cost to manage a case, in line with the assumptions outlined above. This would apply especially for unaccredited providers. However, ADR services may be only a (small) part of some organisations' wider activities, e.g. for trade associations. Further, with Financial Ombudsman Services and Ombudsman Services two bigger organisations offer ADR services. So, most impacts from changes to the accreditation and oversight system will likely be on micro and small businesses, but some larger businesses will also be impacted.

C-Q 20: do you hold any further evidence on the number and/or level of ADR activity of unaccredited ADR providers?

C-Q 21: do you have any further evidence on the regulatory cost of being an accredited ADR provider?

Cost to government

97. Because some ADR providers are private organisations, e.g. trade associations, it is appropriate that an independent competent authority approves ADR providers and oversees their continued adherence to quality standards. This shall ensure impartial decisions that consider both parties' views as well as all documentation shared and the legal position. Currently, this competent authority function is performed by the Chartered Trading Standards Institute (CTSI) in non-regulated markets – on behalf of the Secretary of State for Business Energy and Industrial Strategy – and by the sector regulators in regulated markets. We expect our proposals to strengthen oversight and require all ADR providers to become approved by the competent authority to require additional funding.
98. Based on our engagement with different competent authorities (CAs), the cost of approval and oversight consists primarily of staff costs and, if the competent authority uses them, periodic external reviews. Costs are driven by the number of ADR providers under the remit and the kind of activities performed, which include regular reviews of key performance indicators, on-site or desk-based process audits, and initial process and compliance audits. The frequency of these activities differs across CAs. For instance, most CAs in the regulated sectors receive and review KPI information quarterly, compared to CTSI which generally receives only annual information, except in cases of concern. On the other hand, CTSI visits ADR providers' sites annually to review processes, random case samples, training programmes and others, whereas the regulators mostly rely on external reviews for this.
99. In terms of cost and resources, CTSI currently receives £102,000 from BEIS which funds two staff allocated to approval and oversight tasks for 35 ADR providers. This compares to around 1.5 FTEs in Ofcom, for instance, who oversee 2 ADR providers. For our central scenario, we assume that the number of ADR providers stays constant and that twice the staff is needed to deliver a marked improvement in oversight quality. Together with the requirement that all ADR providers have to be accredited, this implies that either currently unapproved providers exit the

market, or that existing providers merge, i.e. the number of providers on the market reduces. The high-cost scenario models cost and staff impact, if all currently unapproved providers seek and obtain approval and there will be no consolidation. It also considers potential one-off IT cost to integrate the CA's access to several dozen different case management systems. Because there is no register of unaccredited ADR providers, we do not know how many organisations offer such services. We have included here information about those unaccredited ADR providers that we are aware of. The low cost scenario assumes a more aggressive consolidation scenario – an average of two ADR providers for each of the seven non-regulated sectors in which there currently is at least one ADR provider.

Table 18: Cost of ADR provider oversight

	Do nothing	Option 2 - central	Option 2 - low	Option 2 - high
Number of ADR providers approved and supervised by competent authority	35	104	94	126
FTEs allocated to approval and oversight tasks	2	5	4	7
Building case management backend at competent authority				0.3
Total cost of approval and oversight tasks [£m]	0.1	0.3	0.2	0.7

Equalities and consumer vulnerability analysis

100. We have only limited data on different consumers' awareness or use of ADR or how they are affected by detriment in these sectors:

- **Age:** The 2018 ICF research found that 69% of sampled ADR users were 50 years or older – a far higher proportion than in the general UK adult population.⁷⁰ Interestingly, it is also higher than the 48% of court users in the sample that were over 50 years old. In contrast, a survey by Populus for Which? magazine found that around 20% - 22% of respondents aged 35 – 44 or over 55 had previously used ADR, compared to 8% - 17% for respondents in other age categories.⁷¹ According to the 2020 BEIS Public Attitudes Tracker, 40% of respondents aged 16 to 24 were aware of the term 'Consumer Dispute Resolution', compared to 75% of those over 55. According to ONS family spending statistics, spending on used cars was highest for those households whose reference person was between 30 and 64 years old. For car service and repair, spending was highest between 50 and 64 with the wider 30 – 74 bracket closely behind.
- **Sex:** a survey by Populus for Which? magazine found no notable differences between genders in their prior use of ADR for consumer disputes (18% vs 17%).⁷² Similarly, the 2020 BEIS Public Attitudes Tracker did not find any notable differences in awareness of 'Consumer Dispute Resolution' (65% vs. 66%).
- **Disability:** According to the 2020 BEIS Public Attitudes Tracker 75% of households who had at least one member with a disability or long-standing illness were aware of 'Consumer Dispute Resolution', compared to 64% without such members.
- **Families:** the 2020 BEIS Public Attitudes Tracker found that around 70% of households with 1 or 2 members are aware of 'Consumer Dispute Resolution' compared to around

⁷⁰ ICF Consulting on behalf of BEIS. RESOLVING CONSUMER DISPUTES: Alternative Dispute Resolution and the Court System. 2018

⁷¹ Populus on behalf of Which? magazine. ADR research. March 2017

⁷² Populus on behalf of Which? magazine. ADR research. March 2017

58% of households with 4 or more members. While not a perfect measure of family status, it may be a useful proxy. BEIS PAT has “Children Yes/No” directly, so maybe better figure.

- **Income:** Used cars made up the largest share of disposable income for the upper middle income deciles: 2.8% - 3.4%, compared to 2.5% across all households. Spending on vehicle service and repair was relatively constant at around 1.2% of disposable incomes across most income deciles. Only for the highest and lowest income deciles was it lower.
- **Social grades:** A survey conducted by Populus for Which? magazine found that 80% of respondents who belong to AB social grades were very or somewhat familiar with the term ‘Ombudsman’, compared to 63% for DE social grades.⁷³ However, the same survey found very little difference between social grades in use of ADR – only the C2 group showed a moderately higher use (21% vs 17%). The 2020 BEIS Public Attitudes Tracker found relatively little differences in awareness of ‘Consumer Dispute Resolution’ between social grades: 68% for AB, compared to 62% for DE.
- **Education:** the ICF research found that 66% of ADR users had a degree level qualification.⁷⁴

101. We are not aware of relevant data that differentiates consumer detriment in these sectors or awareness or use of ADR by the other protected characteristics: religion/belief, ethnicity, sexual orientation, gender reassignment, maternity/pregnancy and marriage/civil partnership.

C-Q 22: are you aware of any additional evidence to help us assess the equalities and vulnerability dimension of the problem identified and the potential impact of the proposals?

⁷³ Populus on behalf of Which? magazine. ADR research. March 2017

⁷⁴ ICF Consulting on behalf of BEIS. RESOLVING CONSUMER DISPUTES: Alternative Dispute Resolution and the Court System. 2018

Annex: data and methodology for assessing sectors

103. Based on previous analysis and responses to the Consumer Green Paper, we identified a core set of criteria that could ideally aid in identifying and evidencing sectors where for extending mandatory ADR could benefit both businesses and consumers. These were:

- Nature of the purchase – Complexity, Level of competitiveness
- Nature of consumers – Vulnerability, Importance (e.g. essential or high cost)
- Consumer experience – Consumer confidence/trust, Level of complaints
- Availability and effectiveness of other types of consumer protection/enforcement

While we unfortunately do not hold information to quantify each of these aspects, we were able to cover most criteria in some fashion.

104. The European Consumer Scoreboard was the richest data source to systematically assess consumers views of different sectors.⁷⁵ It is based on a survey of over 3,000 consumers with at least 500 for each of the c 60 product/service markets. Consumers are asked to indicate on a scale of 0 – 10:

- How difficult or easy they found it to compare the services/products sold by different suppliers/retailers;
- to what extent they trust suppliers/retailers to respect the rules and regulations protecting consumers;
- Whether they had experienced any problems with their purchases and if so how much detriment it has caused them;
- to what extent the services/products on offer lived up to their expectations; and
- to what extent they are satisfied with the number of suppliers/retailers they can choose from.
- Consumers were also asked to rate the importance of each of these five criteria to them, also on a 0 – 10 scale.

Combined, these cover elements on the consumer experience (trust/confidence; level of complaints) and the nature of the purchase (choice; complexity/ability to compare products or services). Unfortunately, we do not hold sufficient data on how outcomes in these markets differ for vulnerable consumers. Also, the scoreboard does not assess every market in every year. Therefore, the results from the 2017 iteration were combined with those from the 2015 wave. Where data from both years was available, an average was used, as we are generally interested in structural market features and wanted to limit the potential for outliers to impact the analysis.

105. The analysis also incorporated data from the 2016 Consumer Detriment Survey.⁷⁶ The smaller sample size and different industry definitions meant that we need to aggregate or omit some sectors and limit the analysis to problem incidents. The information on detriment value and type rested on too few respondents, including none for several categories, to qualify as a robust evidence source.

106. A further dataset was the number complaints reported to the Citizens Advice Consumer Service. Aggregate information is published to detailed product categories and we were able to link these to the EU Consumer Scoreboard classifications in most cases.⁷⁷ One problem was that these cases represent absolute figures, rather than a share of purchases. No good solution existed to robustly address this, but we could relate the number of complaint cases to household

⁷⁵ https://ec.europa.eu/info/policies/consumers/consumer-protection/evidence-based-consumer-policy/consumer-scoreboards_en

⁷⁶ <https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/consumer-policy-research/consumer-policy-research/consumer-detriment-counting-the-cost-of-consumer-problems/>

⁷⁷ <https://www.citizensadvice.org.uk/about-us/difference-we-make/advice-trends/consumer-advice-trends/consumer-advice-trends-20182019/>

expenditure in given sectors to take into account the size of a sector.⁷⁸ The weakness in this approach is that it would understate the number of problems in sectors with high average purchase and detriment value, e.g. housing or car purchases. However, analysis of the data indicated that high-value sectors actually showed above average relative complaints.

107. We based the final scores on the five categories established by the European Consumer Scoreboard and the weights assigned to these by consumers. The problem category is informed by the value from the Consumer Scoreboard itself, by the information from CACS and by the detriment survey as set out above. While it would be attractive to place extra importance on the problem and detriment aspect, this would conflict with the evidence obtained from the survey that consumers view some other aspects as equally important.⁷⁹ As mentioned, while the quantitative data has not considered existing regulation and availability of enforcement options, these considerations were then applied to the shortlist of sectors to determine which would benefit most from making ADR provision mandatory.
108. All data has been transformed to fit to the 0 – 10 scale from the Consumer Scoreboard, with 0 denoting undesirable and 10 denoting desirable consumer outcomes. To facilitate reading, the second data column in Figure 4 shows the difference of each sector from the average performance and the last column shows how this difference breaks down to the sub-components. So, for instance, the below average score for “Water supply” is mainly driven by the difficulty to compare service offerings and lack of choice. Similarly, the low score for house and garden maintenance services is driven by all factors to some extent, though somewhat less by consumer expectations of the market.
109. Table 18 overleaf shows the scores for each of the index’ five components, at the aggregated sectoral level. Table 19 describes how we constructed the problem and detriment component from the different data sources and the formulas used to make data roughly comparable.

⁷⁸ ONS. Components of household expenditure: Table A1.

<https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/expenditure/datasets/componentsofhouseholdexpenditureuktablea1>.

⁷⁹ Another potential weakness is that, in practice, there was fairly little variation in how important consumers ranked different categories. This may be due to the way the question was asked. Intuitively, consumers would not tend to rate a given criterion as unimportant as long as they are not forced to rank them or resolve some trade-off between criteria.

Table 19: Components of sectoral assessment composite index

	Comparability - average score 2015-2017	Trust - average score 2015-2017	Problems & detriment aggregate score	Expectations - average score 2015-2017	Choice - average score 2015-2017	Composite index
Food and drink	7.8	7.8	7.9	8.5	8.7	8.1
Clothing and footwear	7.9	7.5	6.9	8.2	8.6	7.8
House and garden maintenance products	8.2	8.2	7.4	8.6	8.3	8.2
Furniture and furnishings	7.8	7.9	7.6	8.3	8.2	8.0
Electrical and electronic appliances	8.5	8.0	6.6	8.5	8.4	8.0
Entertainment goods	8.6	8.2	8.2	8.8	8.4	8.4
New cars	7.7	7.0	7.7	8.3	8.2	7.8
Second-hand cars	7.5	5.8	7.5	7.8	7.8	7.3
Fuel for vehicles	7.4	7.5	9.1	8.7	8.1	8.2
Books, magazines and newspapers	8.1	8.1	8.5	8.5	8.3	8.3
Health and personal care products	7.7	8.2	8.0	8.4	8.7	8.2
Real estate services	6.3	5.8	8.1	6.7	7.7	6.9
House and garden maintenance services	6.3	6.5	6.9	7.7	7.1	6.9
Vehicle maintenance and repair services	6.1	6.6	7.2	8.2	7.5	7.1
Banking, credit and financial services	7.0	7.2	6.9	8.0	7.8	7.4
Insurance	7.6	7.4	7.6	8.1	8.3	7.8
Postal Services	6.2	7.7	6.7	8.2	7.0	7.2
Communication services	7.0	6.9	6.4	7.7	7.4	7.1

Public transport	6.5	7.4	7.1	7.5	6.3	7.0
Airline services	7.9	7.4	7.3	8.1	7.9	7.7
Vehicle rental services	7.5	6.7	8.0	7.9	7.8	7.6
Holiday accommodation	8.2	7.7	7.3	8.5	9.0	8.1
Packaged holidays and tours	7.9	7.5	7.5	8.3	8.2	7.9
Cafés, bars and restaurants	7.4	7.6	7.2	7.7	8.5	7.7
Cultural and entertainment services	7.5	7.7	7.6	8.3	7.9	7.8
Water supply	5.4	7.4	8.9	8.4	5.5	7.3
Energy and gas services	6.8	6.7	8.0	8.0	7.5	7.4
Legal and accountancy services	6.0	7.7	7.7	7.9	7.9	7.5
Gambling	7.4	7.1	8.4	7.6	7.7	7.6

Table 20: Sub-components of problems and detriment parameter

Column title	A	B	C	D	E	F
	Problems and detriment - average score 2015-2017	£1m consumer spending / CACS complaint	£1m consumer spending / complaints normalised	Detriment survey - share of problems reported	Detriment survey - share of problems reported inverted	Detriment survey - share of problems reported normalised
Source / computation formula	Aggregated from EU Consumer Markets Scoreboard	ONS family spending statistics x 52.2 / complaints	5 + 5 x B-Value / Max(B-values among sectors)	Underlying data from 2016 detriment survey	100 / D-value	5 + 5 x PercentRank(E-value)
Food and drink	9.7	9.44	6.4	1.8%	55.3	7.7
Clothing and footwear	9.3	2.25	5.3	4.4%	22.7	6.1
House and garden maintenance products	9.8	0.48	5.1			
Furniture and furnishings	9.5	1.36	5.2	1.4%	69.1	8.2

Electrical and electronic appliances	9.3	0.35	5.1	5.3%	18.8	5.5
Entertainment goods	9.6	1.36	5.2	0.3%	305.2	9.6
New cars	9.3	2.33	5.3	1.4%	72.6	8.4
Second hand cars	8.9	0.41	5.1	1.4%	72.6	8.4
Fuel for vehicles	9.8	22.51	8.3	0.7%	148.9	9.1
Books, magazines and newspapers	9.8	7.39	6.1	0.4%	224.7	9.5
Health and personal care products	9.8	1.38	5.2	0.8%	118.4	8.9
Real estate services	8.6			1.9%	51.7	7.5
House and garden maintenance services	9.0	0.70	5.1	2.2%	45.1	6.6
Vehicle maintenance and repair services	9.3	0.55	5.1			
Banking, credit and financial services	9.5	0.22	5.0	4.1%	24.1	6.3
Insurance	9.7	0.66	5.1	1.8%	55.6	7.9
Postal Services	9.1	0.33	5.0	4.5%	22.4	5.9
Communication services	8.6	2.18	5.3	11.4%	8.8	5.2
Public transport	8.5	9.47	6.4	2.5%	40.4	6.4
Airline services	9.1	2.95	5.4	2.0%	51.0	7.3
Vehicle rental services	9.2	3.30	5.5	0.7%	152.8	9.3
Holiday accommodation	9.6	3.24	5.5	2.1%	47.0	6.8
Packaged holidays and tours	9.3	10.06	6.5	2.1%	47.0	6.8
Cafés, bars and restaurants	9.0	13.24	6.9	4.6%	21.8	5.7
Cultural and entertainment services	9.7	0.77	5.1	1.5%	65.5	8.0
Water supply	9.5	34.23	10.0	2.0%	50.8	7.1
Energy and gas services	9.3	30.62	9.5	5.9%	17.1	5.4
Legal and accountancy services	9.3	0.16	5.0	1.2%	86.3	8.8

Gambling	9.8	3.41	5.5	0.1%	708.7	9.8
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