

Übersetzung durch Eileen Flügel

Translation provided by Eileen Flügel

Stand: Verbraucherstreitbeilegungsgesetz vom 19. Februar 2016 (BGBl. I S. 254, 1039)

Version information: Act on Alternative Dispute Resolution in Consumer Matters of 19
February 2016 (Federal Law Gazette I p. 254, 1039)

Zur Nutzung dieser Übersetzung lesen Sie bitte den Hinweis auf www.gesetze-im-internet.de
unter "[Translations](#)".

For conditions governing use of this translation, please see the information provided at
www.gesetze-im-internet.de under "[Translations](#)".

Act on Alternative Dispute Resolution in Consumer Matters

(Gesetz über die alternative Streitbeilegung in Verbrauchersachen – Verbraucherstreitbeilegungsgesetz)

Act on Alternative Dispute Resolution in Consumer Matters of 19 February 2016 (Federal
Law Gazette I p. 254, 1039)

The Act was promulgated by the Bundestag as Article 1 of the Act of 19 February 2016 I
254. It came into force on 1 April 2016 in accordance with Article 24 (1) third sentence of this
Act. Section 40 (2) to (5) and Section 42 shall enter into force on 26 February 2016 in
accordance with Article 24 (1) first sentence of this Act. Sections 36 and 37 shall enter into
force on 1 February 2017 in accordance with Article 24 (1) second sentence of this Act.

Part 1

General provisions

Section 1

Scope of application

(1) This Act applies to the out-of-court resolution of disputes by a private consumer
conciliation body recognised under this Act or by an official consumer conciliation body
established under this Act, regardless of the conflict resolution procedure used. This Act
shall also apply to consumer conciliation bodies recognised, commissioned or established on
the basis of other legal provisions, insofar as these other legal provisions do not make a
deviating provision; deviations may not be made from Sections 2 and 41.

(2) This Act is not applicable to customer complaints offices or other dispute resolution
bodies that are supported or financed by only one single trader or by businesses associated
with it or that operate only on behalf of one such trader or by businesses associated with it.

Section 2

Consumer conciliation body

(1) A consumer conciliation body is a body that

1. carries out procedures for the out-of-court resolution of civil-law disputes
involving consumers or traders as applicants or respondents and
2. has been recognised, commissioned or established as a consumer conciliation
body under this Act or on the basis of other legal provisions.

(2) A body that has not been recognised, commissioned or established as a consumer
conciliation body under this Act or on the basis of other legal provisions may not refer to itself
as a consumer conciliation body. It may not be referred to as a consumer conciliation body
by its funding agency. The prohibition in the first and second sentences above does not
apply if the body is recognised in another State party to the agreement on the European

Economic Area under Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (OJ L 165/63 of 18 June 2013, p. 63) and has been included in the list kept by the European Commission of all the conciliation bodies in the European Economic Area.

Part 2

Private consumer conciliation bodies

Section 3

Supporting agencies of the consumer conciliation body

A supporting agency of the consumer conciliation body must be a registered association. If the supporting agency safeguards traders' or consumers' interests, or if the supporting agency is financed by an association that safeguards traders' or consumers' interests, a budget separate from the supporting agency's budget that is dedicated and sufficient must be available for the operation of the consumer conciliation body.

Section 4

Competence of consumer conciliation bodies

(1) Upon application by a consumer, the consumer conciliation body carries out procedures for the out-of-court resolution of disputes deriving from a consumer contract under Section 310 (3) of the Civil Code (*Bürgerliches Gesetzbuch* – BGB) or concerning the existence of such a contractual relationship; disputes concerning employment contracts are excluded.

(2) The consumer conciliation body can limit its competence to certain economic sectors, types of contract or traders. If the consumer conciliation body has not set out any limiting provisions on competence, it shall be called a "General Consumer Conciliation Body" (*Allgemeine Verbraucherschlichtungsstelle*) and is competent for applications under paragraph (1) with the exception of

1. disputes deriving from contracts on
 - a) non-economic services of general interest,
 - b) health services,
 - c) further and higher education by state institutions;
2. disputes for the resolution of which consumer conciliation bodies are recognised, commissioned or established under other legal provisions.

The General Consumer Conciliation Body can limit its competence to traders established in one *Land*; in this case, it shall be called a "General Consumer Conciliation Body" with an addition indicating the *Land* for which it is competent. Such a limitation of competence may also refer to several *Länder* and must then be indicated accordingly.

(3) The consumer conciliation body can extend its activity to the resolution of other civil-law disputes in which consumers or traders are involved as applicants or respondents; disputes concerning employment contracts are excluded.

(4) The consumer conciliation body may exclude its competence for consumers who do not have their domicile or habitual residence in a European Union Member State or in another State party to the European Economic Area Agreement, or for traders that are not established within domestic territory.

Section 5

Rules of procedure

(1) The consumer conciliation body must have rules of procedure. The rules of procedure determine the conflict resolution procedure and provide for the details of its implementation.

(2) The consumer conciliation body may not conduct any conflict resolution procedures that impose a binding solution on the consumer or exclude the consumer's right to take recourse to the courts.

Section 6 Dispute mediators

(1) The consumer conciliation body is to comprise at least one person who is entrusted with the out-of-court resolution of disputes and is responsible for conducting impartial and fair procedures (conciliator). If only one dispute mediator is appointed, he must have a deputy; the first sentence, paragraphs 2 and 3 and Sections 7 to 9 shall apply to the dispute mediator's deputy mutatis mutandis.

(2) The dispute mediator must have the legal knowledge, particularly of consumer law, the specialist knowledge and the skills required for the resolution of disputes in the area of competence of the consumer conciliation body. The dispute mediator must be qualified to hold the office of judge or be a certified mediator.

(3) During the last three years before his appointment, the dispute mediator may not have worked

1. for a trader that has committed itself to taking part in dispute resolution procedures of the consumer conciliation body or is committed to taking part on the basis of legal provisions,
2. for a business associated with a trader under no. 1,
3. for an association to which a trader belongs under no. 1 and that represents traders' interests in the economic sector for which the consumer conciliation body is competent,
4. for an association that represents consumers' interests in the economic sector for which the consumer conciliation body is competent.

An activity as a dispute mediator for an association under sentence 1 nos. 3 or 4 does not preclude a renewed appointment as a dispute mediator.

Section 7 Independence and impartiality of the dispute mediator

(1) The dispute mediator is independent and is not subject to any instructions. He must offer a guarantee of impartial dispute resolution.

(2) The dispute mediator may not be remunerated or employed by only one trader or by a business associated with only one trader. The remuneration of the dispute mediator may not be associated with the result of dispute resolution procedures.

(3) The dispute mediator is obliged to disclose without delay to the supporting agency of the consumer conciliation body any circumstances that could affect his independence or impartiality.

(4) The dispute mediator shall disclose to the parties any circumstances that could affect his independence or impartiality. Under such circumstances, the dispute mediator may only take action if the parties expressly consent to his activity as a dispute mediator.

(5) If the task of dispute mediator has been transferred to a body to which both representatives of consumers' interests and traders' interests belong, the two sides must be represented in equal numbers. Section 6 (3) does not apply to members of the body who represent traders' interests or consumers' interests.

Section 8 Period of office and dismissal of a dispute mediator

(1) The dispute mediator must be appointed for an appropriate period. The period of office should not be less than three years. Reappointment is permissible.

(2) The dispute mediator may only be dismissed in the event that

1. there are facts making it appear unlikely that the activity of the dispute mediator will continue to be conducted in an independent and impartial way,
2. he is prevented not only temporarily from carrying out the activity of dispute mediator or
3. there is another important reason.

Section 9

Involvement of consumer associations and trade associations

(1) If the supporting agency of the consumer conciliation body is an organisation that represents traders' interests, or if the supporting agency of the consumer conciliation body is financed by such an association, determining and changing the competence of the consumer conciliation body, the rules of procedure and the appointment or dismissal of a dispute mediator shall require the involvement of an association that represents consumers' interests (consumer association). The consumer association must be a qualified institution under Section 3 (1) first sentence no. 1 of the Act on Injunctive Relief (*Unterlassungsklagengesetz* - UKlaG) and be professionally suited to representing consumers' interests in the consumer conciliation body's area of competence. This involvement is to be provided for in the rules on the organisation of the consumer conciliation body.

(2) If the supporting agency of the consumer conciliation body is a consumer association or if the supporting agency of the consumer conciliation body is financed by a consumer association, paragraph 1 first and third sentences shall apply mutatis mutandis to the involvement of an association that represents the traders' interests (trade association). The trade association must be professionally suited to represent traders' interests in the consumer conciliation body's area of competence.

Section 10

Information obligations of the consumer conciliation body

(1) The consumer conciliation body maintains a website publishing the rules of procedure and clear and comprehensible information on the contact details and competence of the consumer conciliation body and on the dispute mediators, on its recognition as a consumer conciliation body and on the conduct and costs of the dispute resolution procedure.

(2) Information under paragraph (1) shall be transmitted in text form upon request.

Part 3

Dispute resolution procedure

Section 11

Form of notifications

Applications for a dispute resolution procedure to be conducted, statements, pieces of evidence and other notifications may be transmitted to the consumer conciliation body in text form.

Section 12

Language of procedure

(1) The language of the procedure shall be German.

(2) The rules of procedure may provide for a dispute resolution procedure to be conducted in other languages if a party applies for this and the other party accepts it. The dispute mediator may enter into an individual agreement with the parties that the procedures be conducted in a language not provided for in the rules of procedure.

Section 13

Representation

(1) The parties may be represented in a dispute resolution procedure by an attorney or another person insofar as he is authorised to provide out-of-court legal services.

(2) The parties may not be obliged to be represented in the dispute resolution procedure.

Section 14 **Reasons for refusal**

- (1) The dispute mediator shall refuse to conduct a dispute resolution procedure if
1. the dispute does not fall within the competence of the consumer conciliation body,
 2. the disputed claim has not previously been made against the respondent or
 3. the application manifestly has no prospects of success or appears to be frivolous, in particular because
 - a) the disputed claim was already statute-barred at the time the application was made and the trader invokes this limitation,
 - b) the dispute has already been resolved,
 - c) an application for legal aid concerning the dispute has already been rejected on the grounds that the intended legal action does not have sufficient prospects of success or appears to be frivolous.
- (2) The rules of procedure may provide for the dispute mediator to refuse to conduct the dispute resolution procedure initiated by a consumer under Section 4 (1) in the following cases:
1. a consumer conciliation body has already conducted procedures to resolve the dispute or the dispute is pending with another consumer conciliation body,
 2. a court has already taken a decision on the substance of the dispute or the dispute is pending with a court, unless the court orders that the procedures be suspended under Section 278a (2) of the Code of Civil Procedure (*Zivilprozessordnung* – ZPO) with regard to the procedure before the consumer conciliation body,
 3. the value of the dispute exceeds or falls below a certain amount,
 4. dealing with the dispute would seriously impede the effective operations of the consumer conciliation body, in particular because
 - a) the consumer conciliation body can only clarify the circumstances or legal questions at unreasonable cost in terms of effort and resources,
 - b) a fundamental legal question of significance for assessing the dispute has not been resolved.

The reasons for rejecting the application may not significantly impede consumers' access to the dispute resolution procedure. The restrictions concerning admissible reasons for rejecting an application provided for in the first and second sentences do not apply to applications under Section 4 (3).

(3) The consumer conciliation body shall inform the applicant and also, insofar as the application has already been transmitted to him, the respondent, of the rejection in text form, giving reasons. It shall transmit the rejection decision within three weeks of receiving the application.

(4) The dispute mediator may refuse to continue to conduct a dispute resolution procedure for the reasons given in paragraphs 1 and 2 if the reason for rejection only occurs or becomes known during the procedure. The reason for rejection under paragraph 1 no. 2 shall not apply if the respondent agrees to the dispute resolution procedure being conducted or gives declarations on the matter. Paragraph 3 first sentence is applicable.

(5) The dispute mediator shall suspend the dispute resolution procedure if the respondent claims that no more than two months have passed since the assertion of the disputed claim by the applicant against the respondent, and that during this time the respondent has neither

recognised nor rejected the disputed claim. The dispute mediator shall refuse to continue to conduct the dispute resolution procedure if the respondent admits the disputed claim in full within two months of its assertion; paragraph 3 first sentence shall apply. If the respondent does not admit the disputed claim in full within two months of its assertion, the dispute mediator shall continue to conduct the procedure after the expiration of two months of the assertion of the disputed claim.

Section 15

Termination of the procedure at the request of the parties

- (1) The dispute resolution procedure shall end when the applicant withdraws his application or objects to further implementation of the procedure.
- (2) If the respondent declares that he does not wish to take part in or continue the dispute resolution procedure, the dispute mediator shall terminate the procedure unless determined otherwise by legal provisions, statutes or contractual agreements.
- (3) The right of a party to end the dispute resolution procedure if there is a significant procedural violation may not be limited.

Section 16

Notification of the parties

(1) The consumer conciliation body must inform the applicant without delay upon receipt of the application for a dispute resolution procedure to be conducted, and the respondent at the same time as the transmission of the application, of the following:

1. that the procedure is being conducted according to the rules of procedure and that its text is available on the consumer conciliation body's website and will be transmitted in text form upon request,
2. that by taking part in the dispute resolution procedure, the parties agree to the consumer conciliation body's rules of procedure,
3. that the result of the dispute resolution procedure may differ from the result of court proceedings,
4. that the parties in the dispute resolution procedure may be advised or represented by an attorney or another person insofar as he is authorised to provide legal services,
5. that the parties in the dispute resolution procedure need not be represented by an attorney or another person,
6. of the possibility of terminating the dispute resolution procedure under Section 15,
7. of the costs of the procedure and
8. of the extent of obligation of confidentiality of the dispute mediator and the other persons involved in conducting the dispute resolution procedure.

(2) It is possible to refrain from making repeated notifications to a trader that regularly takes part in the consumer conciliation body's dispute resolution procedures and that has renounced its right to be notified.

Section 17

Right to be heard

(1) The parties shall be heard and can present facts and assessments. The consumer conciliation body can lay down a reasonable period of time for the parties to make a statement. As a rule, this period shall be three weeks and may be extended upon application.

(2) The dispute mediator can discuss the dispute orally with the parties if this possibility is provided for in the consumer conciliation body's rules of procedure and the parties agree.

Section 18 Mediation

If the dispute mediator carries out mediation under the consumer conciliation body's rules of procedure, the requirements of the Mediation Act with the exception of Section 2 (1) of the Mediation Act shall be applied additionally.

Section 19 Conciliation proposal

(1) If the dispute mediator has made a proposal to the parties to resolve the dispute under the rules of procedure (conciliation proposal), this proposal shall be based on the facts resulting from the dispute resolution procedure. The conciliation proposal should be based on applicable law and, in particular, should observe the compulsory consumer protection laws. The conciliation proposal shall include a substantiation from which the underlying facts of the case and the dispute mediator's legal assessment follow.

(2) The consumer conciliation body shall transmit the conciliation proposal to the parties in text form.

(3) Together with the transmission of the conciliation proposal, the consumer conciliation body shall notify the parties of the legal consequences of accepting the proposal and that the proposal may differ from the result of court proceedings. It shall refer to the possibility of not accepting the proposal and of taking recourse to the courts. The consumer conciliation body shall lay down a reasonable period of time for the parties to accept the proposal.

(4) Notification of a trader under paragraph 3 shall not take place if it has already subjected itself to the conciliation proposal in advance.

Section 20 Duration of the procedure

(1) The consumer conciliation body shall notify the parties as soon as it does not require any further documents and information (receipt of the complete complaint file). As a rule, receipt of the complete file shall be assumed when the parties have had the opportunity to make a statement under Section 17 (1).

(2) The consumer conciliation body shall transmit the conciliation proposal to the parties or, in such case as no conciliation proposal is to be made, the content of the agreement on the resolution of the dispute or a reference to the fact that agreement was not reached within 90 days of receipt of the complete complaint file.

(3) The consumer conciliation body may extend the period of 90 days in particularly difficult disputes or with the parties' agreement. It shall inform the parties of the extension of the period.

Section 21 Completion of the procedure

(1) The consumer conciliation body shall transmit the result of the dispute resolution procedure to the parties in text form with the required explanations. This notification constitutes the end of the dispute resolution procedure.

(2) If no agreement is reached, the notification under paragraph 1 is to be designated a certificate on an unsuccessful attempt to reach an agreement under Section 15a (3) third sentence of the Introductory Law to the Code of Civil Procedure (*Gesetz betreffend der Einführung der Zivilprozessordnung* - EGZPO) in the version promulgated in the Federal Law Gazette Part III, section 310-2, revised version, most recently amended by Article 3 of the Act of 5 December 2014 (Federal Law Gazette I p. 1962), in the respective applicable version.

Section 22 Confidentiality

The dispute mediator and the other persons involved in conducting the dispute resolution procedure shall be subject to a duty of confidentiality unless otherwise provided by law. This duty shall relate to all information of which they have become aware in the course of performing their activity. Section 4 third sentence of the Mediation Act shall apply mutatis mutandis.

Section 23 Charge

(1) If a trader is involved in the dispute resolution procedure, a charge may only be made on a consumer if the consumer's application is to be regarded as abusive when taking into account all the circumstances; in such a case, the charge shall be a maximum of 30 euro. In other cases, the consumer conciliation body may demand an appropriate charge from the consumer if

1. it has notified the consumer of these costs without delay upon becoming aware that no trader is involved in the procedure
2. the consumer wanted to continue to take part in the procedure.

(2) The consumer conciliation body may make an appropriate charge on a trader that is willing or obliged to take part in the dispute resolution procedure.

Part 4 Recognition of private consumer conciliation bodies

Section 24 Recognition

The competent authority shall recognise a body as a consumer conciliation body upon application if the body fulfils the organisational and professional requirements of dispute resolution in consumer matters under Parts 2 and 3, the body has its seat in Germany, it is established on a permanent basis and its financing appears to be sound. Any further requirements of the body arising from other legal provisions shall remain unaffected.

Section 25 Application for recognition and notification of amendments

(1) Reasons are to be given for an application for recognition as a consumer conciliation body. The following are to be attached to the application:

1. the body's rules of procedure and
2. the rules on the body's organisation and financing, including the rules concerning procedural costs.

(2) The consumer conciliation body shall inform the competent authority without delay of changes in circumstances relevant to the recognition and other information notified in the application.

(3) The result of the involvement of a consumer association or a trade association required under Section 9 shall be transmitted to the competent authority together with the information under paragraphs 1 or 2. Reasons are to be given for deviations from recommendations by the association involved unless the association played a part in making the decision as a member of a body with equal representation of consumers' and traders' interests.

Section 26 Revocation of recognition

(1) If the consumer conciliation body no longer fulfils the requirements for recognition or if it fails to meet the demands of a consumer conciliation body to a considerable extent in some other way, the competent authority shall inform the consumer conciliation body of the changes that are required in order for recognition to be maintained and shall call upon it to implement these changes within three months.

(2) The competent authority shall revoke recognition if the consumer conciliation body does not implement the changes within three months of receipt of a request under paragraph 1.

Section 27
Competent authority

(1) Unless otherwise specified by Federal law, the competent authority shall be the Federal Office of Justice (*Bundesamt für Justiz*).

(2) If it has been specified by Federal law that a body other than the Federal Office of Justice is competent for the recognition of a body as a consumer conciliation body, that other authority shall have exclusive competence in relation to the Federal Office of Justice. Recognition shall comply with the regulations relevant for recognition by this other authority, even if the competence of the consumer conciliation body goes beyond the scope of application of the regulation on which the competence of this other authority is based.

Part 5
Official consumer conciliation bodies

Section 28
Official consumer conciliation bodies

Sections 4 to 7 (1) and Section 7 (3) to (5) shall apply to official consumer conciliation bodies; Sections 8, 10 and 11 as well as 13 to 22 shall apply *mutatis mutandis*. Section 9 (1) shall only apply if the consumer conciliation body has been set up with a chamber. Requirements of official consumer conciliation bodies arising from other legal provisions shall remain unaffected.

Part 6
General conciliation bodies of the *Länder*

Section 29
General conciliation bodies and power to issue statutory ordinances

(1) The *Länder* shall establish supplementary consumer conciliation bodies (*Land* general conciliation body).

(2) A *Land* may refrain from establishing a general conciliation body if sufficient resolution opportunities exist. The resolution opportunities suffice for every dispute under Section 4 (2) second sentence with a trader established in this *Land* if a consumer conciliation body is available whose procedures are open to the participation of the trader.

(3) The *Länder* may

1. establish an official general conciliation body themselves,
2. entrust an appropriate recognised consumer conciliation body with the task of the general conciliation body including the power to charge fees for conducting the dispute resolution procedure or
3. commission an appropriate recognised consumer conciliation body with the task of the general conciliation body.

If a recognised consumer conciliation body has been commissioned with the task of the general conciliation body, it shall act as a private consumer conciliation body under Parts 2 and 3. The special provisions of Section 30 shall apply to its activity as a general conciliation body.

(4) The *Land* governments

1. shall, by means of a regulation, specify the authority competent for entrustment under paragraph 3 first sentence no. 2 and for commissioning under paragraph 3 first sentence no. 3 as well as for the legal and technical supervision of the *Land* general conciliation body and

2. may make provisions by means of regulations to terminate the entrustment under paragraph 3 first sentence no. 2 or a commission under Section 3 first sentence no. 3.

A *Land* Government may transfer the authorisation under the first sentence by means of a regulation to a supreme *Land* authority.

Section 30

Competence and procedure of the general conciliation body

(1) The *Land* general conciliation body shall refuse to conduct a dispute resolution procedure if

1. another consumer conciliation body is competent,
2. neither the trader is established in this *Land*, nor the consumer's domicile or habitual residence is in this *Land*,
3. the dispute concerned derives from a contract specified in Section 4 (2) second sentence no. 1,
4. the value of the matter in dispute is less than 10 euro or more than 5,000 euro,
5. the disputed claim has not previously been made against the trader or
6. the application manifestly has no prospect of success or appears to be frivolous, particularly because
 - a) the disputed claim was already statute-barred at the time the application was made and the trader invokes this limitation,
 - b) the dispute has already been resolved,
 - c) an application for legal aid concerning the dispute has already been rejected on the grounds that the intended legal action does not have sufficient prospects of success or appears to be frivolous.

(2) The rules of procedure of the *Land* general conciliation body may provide for further admissible grounds for rejection under Section 14 (2) first sentence nos. 1, 2 and 4 and second sentence.

(3) In the case of Section 1 no. 1, the *Land* general conciliation body shall inform the consumer together with the rejection decision of a competent consumer conciliation body which he can address.

(4) The general conciliation body shall conduct conciliation procedures. It may make a conciliation proposal on the basis of the records if a trader that is willing or obliged to take part in the procedure of the general conciliation body does not make a statement on the consumer's application.

(5) It may be assumed that the trader is willing to take part in the dispute resolution procedure if it has declared to the consumer, on its website or in its terms and conditions, that it will take part in dispute resolution procedures before a general conciliation body. It may also be assumed that the trader is willing to take part in such a procedure if, although it has not declared its willingness to take part under the first sentence, it has not refused to take part in the procedure within three weeks following transmission of the consumer's application by the *Land* general conciliation body. Together with the transmission of the application, the general conciliation body must also refer the trader to the legal consequences provided for in the second sentence and also point out that a fee may be charged under Section 31 or, in the case of a commissioned general conciliation body, a charge may be made under Section 23 for conducting the dispute resolution procedure.

Section 31

Fee

(1) The *Land* general conciliation body under Section 29 (3) first sentence nos. 1 and 2 shall charge a fee from a trader that is willing or obliged to take part in the dispute resolution procedure for conducting a dispute resolution procedure; this fee shall cover the costs and take into account the amount in dispute. The fee shall be

1. 190 euro for amounts in dispute up to and including 100 euro,
2. 250 euro for amounts in dispute of more than 100 euro up to and including 500 euro,
3. 300 euro for amounts in dispute of more than 500 euro up to and including 2,000 euro and
4. 380 euro for amounts in dispute of more than 2,000 euro.

(2) If the trader recognises the claim asserted immediately and in full, the fee shall be reduced to 75 euro; the fee shall be waived if the continued conduct of the dispute resolution procedure is refused under Section 14 (5) second sentence. The *Land* general conciliation body may specify a lower fee or grant exemption from the fee if charging the fee appears to be unreasonable under Section 1 second sentence and under Section 1 first sentence under the specific circumstances of the individual case. Charging the fee appears to be unreasonable in particular when the general conciliation body refuses to conduct the dispute resolution procedure under Section 30 (1) no. 6 after the trader has expressed a view on the matter.

(3) A fee may only be charged from a consumer who has applied for a dispute resolution procedure to be conducted if, taking all the circumstances into account, the application is to be regarded as abusive. In such a case, the fee shall amount to 30 euro.

Part 7

Single Point of Contact for Consumer Conciliation, list of consumer conciliation bodies and reporting obligations

Section 32

Single Point of Contact for Consumer Conciliation and notification obligations of the competent authorities and supervisory authorities

(1) The Federal Office of Justice is the single point of contact for the European Commission (Single Point of Contact for Consumer Conciliation).

(2) The competent authority shall inform the Single Point of Contact for Consumer Conciliation of the following:

1. the recognition and the revocation and withdrawal of recognition of a private consumer conciliation body; a private consumer conciliation body under Section 4 (2) second and third sentences shall be identified accordingly;
2. the information required for inclusion of the private consumer resolution body on the list under Section 33 (1).

(3) The authority competent for the supervision of an official consumer conciliation body (supervisory authority) shall inform the Single Point of Contact for Consumer Conciliation of the following:

1. the establishment and dissolution of an official consumer conciliation body; an official consumer conciliation body under Section 29 (3) first sentence no. 1 is to be identified as a *Land* general conciliation body;
2. the information required for the inclusion of the official consumer conciliation body on the list under Section 33 (1).

(4) The entrustment or commissioning of a recognised consumer conciliation body with the task of general conciliation under Section 29 (3) first sentence nos. 2 or 3 and the

termination of such a commission or entrustment are to be notified to the Single Point of Contact for Consumer Conciliation by the *Land* authority competent in accordance with Section 29 (4).

(5) The Single Point of Contact for Consumer Conciliation shall be informed without delay of any amendments to the information under paragraphs (2) to (4).

Section 33

List of consumer conciliation bodies and access to the list of the European Commission and to the European Online Dispute Resolution platform

(1) The Single Point of Contact for Consumer Conciliation maintains a list of the consumer conciliation bodies. This list is transmitted to the European Commission with reference to Article 20 (2) of Directive 2013/11/EU and is regularly updated. The Single Point of Contact for Consumer Conciliation makes the respective current version of the list accessible on its website and announces the list as of 1 January each year in the Federal Gazette.

(2) The competent authorities and the Single Point of Contact for Consumer Conciliation make accessible on their websites the list of all the recognised dispute resolution bodies in the European Economic Area compiled by the European Commission by creating a link to the European Commission's website. They make this list available in text form upon request.

Section 34

Reporting and disclosure obligations of the consumer conciliation body

(1) The consumer conciliation body compiles an annual activity report. It publishes this activity report on its website and transmits it in text form upon request. It may demand from the recipient the reimbursement of the necessary expenses for transmitting a hard copy of the report.

(2) The consumer conciliation body compiles a report every two years with a comprehensive presentation and evaluation of its activities (evaluation report). The private conciliation body transmits the evaluation report to the competent authority and the official consumer conciliation body transmits the evaluation report to the supervisory authority. The *Land* general conciliation body transmits its report to the authority competent in accordance with Section 29 (4) and communicates it to the Single Point of Contact for Consumer Conciliation.

(3) The consumer conciliation body reports in particular on business practices that conspicuously frequently were the occasion for applications for conducting dispute resolution procedures.

(4) The consumer conciliation body also provides current information on business practices under paragraph 3 in addition to the reports under paragraph 1 or paragraph 2 if, within the context of its competence, a competent authority requests this under Section 2 of the EC Consumer Protection Enforcement Act (*EG-Verbraucherschutzdurchsetzungsgesetz – VSchDG*) of 21 December 2006 (Federal Law Gazette I p. 3367), most recently amended by Article 2 (4) of the Act of 1 April 2015 (Federal Law Gazette I p. 434).

(5) If no general conciliation body has been established in a *Land*, the *Land* shall inform the Single Point of Contact for Consumer Conciliation on 1 October each year, for the first time on 1 October 2016, which consumer conciliation body ensures that there are sufficient conciliation services for this *Land*. Any amendments shall be notified without delay.

Section 35

Consumer conciliation report

(1) The Single Point of Contact for Consumer Conciliation shall publish a report on the activities of the consumer conciliation bodies in the territory of the Federal Republic of Germany on 9 July 2018 and every four years thereafter (consumer conciliation report) and shall transmit this to the European Commission.

(2) The competent authorities and the supervisory authorities as well as the competent authorities of the Single Point of Contact for Consumer Conciliation in accordance with Section 29 (4) shall transmit for the consumer conciliation report an evaluation of the

evaluation reports transmitted to them in accordance with Section 34 (2); they shall do this for the first time on 31 March 2018 and every two years thereafter.

Part 8

The trader's obligations to provide information

Section 36

General obligation to provide information

(1) A trader who maintains a website or uses terms and conditions shall, in an easily accessible, clear and comprehensible way,

1. inform consumers of the extent to which it is willing or obliged to take part in dispute resolution procedures before a consumer conciliation body and,
2. if the trader has committed itself to taking part in a dispute resolution procedure before a consumer conciliation body, or if it is obliged to take part on the basis of legal provisions, it shall refer to the competent consumer conciliation body; this reference must contain information on the address and website of the consumer conciliation body and a declaration by the trader that it will take part in a dispute resolution procedure before this consumer conciliation body.

(2) The information under paragraph 1 must

1. appear on the trader's website if it maintains a website,
2. be given together with its terms and conditions if the trader uses terms and conditions.

(3) A trader who employed ten or fewer persons on 31 December of the previous year is exempted from the obligation to provide information under paragraph 1 no. 1.

Section 37

Information following the start of the dispute

(1) If it was not possible for the trader and the consumer to resolve the dispute about a consumer contract, the trader shall refer the consumer to a consumer conciliation body competent for him, providing its address and website. The trader shall also indicate whether it is willing or obliged to take part in a dispute resolution procedure with this consumer conciliation body. If the trader is willing or obliged to take part in the dispute resolution procedure of one or more consumer conciliation bodies, it shall indicate this body or these bodies.

(2) The information must be given in text form.

Part 9

Cross-border cooperation

Section 38

Cooperation with foreign dispute resolution bodies

The consumer conciliation body cooperates with dispute resolution bodies which, in implementation of Directive 2013/11/EU, are competent for the out-of-court resolution of comparable disputes in another European Union Member State or in another State party to the European Economic Area Agreement.

Section 39

Cooperation with the European Online Dispute Resolution platform

The consumer conciliation body is the body for alternative dispute resolution within the meaning of Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (OJ L 165 of 18.6.2013, p. 1).

Section 40

Support for consumers in cross-border disputes; point of contact for the European Online Dispute Resolution platform

(1) The Federal Office of Justice

1. supports consumers in identifying the competent dispute resolution body in another European Union Member State or in another State party to the European Economic Area Agreement,

2. fulfils the tasks of the point of contact for the European Online Dispute Resolution platform under Article 7 (2) of Regulation (EU) No 524/2013.

(2) The Federal Office of Justice is authorised to entrust a legal person under private law, a partnership having legal capacity or another appropriate body with the tasks under paragraph 1. The entrusted entity shall offer the requisite guarantee of the orderly fulfilment of the tasks assigned to it. It offers the requisite guarantee if

1. it has the equipment and organisation required to fulfil the tasks assigned to it, and

2. the persons who perform its management or representation are reliable and professionally qualified.

The entrusted entity shall be subject to the legal and technical supervision of the Federal Office of Justice.

(3) If the entrusted entity does not fulfil the tasks transferred to it under paragraph 2 first sentence, the Federal Office of Justice may end the entrustment without compensation notwithstanding Section 49 of the Administrative Procedures Act (*Verwaltungsverfahrensgesetz – VwVfG*).

(4) The entrusted entity may request the termination of the entrustment in writing at any time. This request shall be met within an appropriate period that is required to continue the fulfilment of the tasks.

(5) The Federal Office of Justice shall announce the entrustment in the Federal Gazette.

Part 10 Concluding provisions

Section 41 Fine provisions

(1) A regulatory offence is committed by anyone who, by intent or through negligence

1. refers to himself as a consumer conciliation body, contrary to Section 2 (2) first sentence or

2. refers to an institution as a consumer conciliation body, contrary to Section 2 (2) second sentence.

(2) Such a regulatory offence is punishable by a fine of up to fifty thousand euro.

(3) The Federal Office of Justice is an administrative authority within the meaning of Section 36 (1) no. 1 of the Act on Regulatory Offences (*Gesetz über Ordnungswidrigkeiten - OWiG*).

Section 42 Power to issue statutory ordinances

(1) In agreement with the Federal Ministry of Economics and Energy, the Federal Ministry of Justice and Consumer Protection is authorised by statutory ordinance with the agreement of the Bundesrat

1. to define more closely the requirements in terms of the content and form of the application for recognition as a consumer conciliation body under Section 25 (1) and of the documents and evidence to be attached to such application,

2. to define more closely the information on a consumer conciliation body to be notified to the Single Point of Contact for Consumer Dispute Resolution by the competent authority under Section 32 (2) and (5) or by the supervisory authority under Section 32 (3) and (5),
3. to define more closely the contents of the information the consumer conciliation body is required to provide on its website under Section 10 (1), and to make provisions for further information for the website,
4. to define more closely details of the content and form of the activity report and the evaluation report of the consumer conciliation body under Section 34 (1) and (2), the content and form of the consumer conciliation report of the Single Point of Contact for Consumer Conciliation under Section 35 (1) and the evaluations of the competent authorities and supervisory authorities under Section 35 (2),
5. to lay down rules for the cooperation of the consumer conciliation bodies
 - a) with the authorities competent under Section 2 of the EC Consumer Protection Enforcement Act pursuant to Section 34 (4),
 - b) with dispute resolution bodies of other European Union Member States or other States party to the Agreement on the European Economic Area pursuant to Section 38.

(2) The Federal Ministry of Justice and Consumer Protection is authorised to regulate by means of a statutory instrument with the agreement of the Bundesrat the details of the procedures of the general conciliation bodies under Sections 29 and 30.

Section 43

Project funding, research projects, report

(1) The Federal Ministry of Justice and Consumer Protection shall promote the work of a selected General Consumer Conciliation Body that operates throughout the Federal Republic of Germany until 31 December 2019 (Section 4 (2) second sentence).

(2) To accompany this, the Federal Ministry of Justice and Consumer Protection shall examine the functioning of this General Consumer Conciliation Body in an academic research project in order to collect and assess information relating to its utilisation, number of cases, working methods, duration of the procedure, success rates, costs and charges. The research project must be completed by 31 December 2020.

(3) Upon completion of the academic research project, the Federal Ministry of Justice and Consumer Protection shall report to the German Bundestag and the Bundesrat on the results; an intermediary report shall be submitted by 31 December 2018.