

## Legal Protection for Consumers Regarding Default Through E-commerce According to Law Number 8 of 1999 Concerning Consumer Protection

Ayu Purbawati<sup>1)</sup> & Arpangi<sup>2)</sup>

<sup>1)</sup>Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: [ayupurbawati.std@unissula.ac.id](mailto:ayupurbawati.std@unissula.ac.id)

<sup>2)</sup>Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: [Arpangi@unissula.ac.id](mailto:Arpangi@unissula.ac.id)

**Abstract.** *This study aims to understand the legal protection provided to consumers in electronic transaction disputes, especially related to default and product defects. Using a sociological legal approach, this study analyzes how consumer protection law is applied in practice. The results of the study indicate that although there is a legal umbrella that regulates consumer protection, such as the Consumer Protection Law and the ITE Law, its implementation still faces various obstacles. This study concludes that more intensive efforts are needed to improve the effectiveness of consumer legal protection, both through improving regulations, increasing legal awareness, and strengthening the role of consumer protection institutions.*

**Keywords:** *Consumer; Information; Legal; Protection.*

### 1. Introduction

Basically, every person who lives in the world in fulfilling their life needs cannot be done alone without others. Everyone has a relationship with others to fulfill all their needs. The relationship that is carried out has legal consequences. Relationships that have legal consequences give rise to rights and obligations. The development of existing laws is followed by progress in the field of law and legislation. The interaction of increasingly universal society often brings legal conflicts in theory and practice of its implementation, another result of this interaction is the emergence of various forms of agreements. An agreement is a legal act where someone promises to one or two people, where they promise each other to carry out an agreement. While the agreement itself is one source of obligations other than the law.<sup>1</sup>One example of an agreement that is often done is a debt agreement. The practice of this agreement is common in society,

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<sup>1</sup>Subekti, 1982, Principles of Civil Law, PT.Intermasa, Bandung, p. 127.

where initially the parties have agreed to carry out rights and obligations. Regarding the debt agreement, the party who has the right to sue is called the creditor, while the party who is obliged to fulfill the demand is the debtor. Therefore, in an agreement it is considered to be born at the time of an agreement between the parties. The person who wants to make an agreement must state his will and willingness to bind himself and agree. So, the Agreement gives birth to rights and obligations to goods or assets for the parties who make the agreement, bind themselves in an agreement, state their will and willingness, here showing the voluntary nature of the parties.<sup>2</sup>If the person who owes does not fulfill his obligations, it can be called a default. A person in a state of default can be brought to court to be able to pay or settle his debt. Default often causes problems, even though the debt agreement is stated clearly and firmly in an agreement. Debt agreements that are made unwritten or verbally can occur, because of the good kinship between the creditor and the debtor. As a result, if the debtor defaults, the creditor will have difficulty collecting his debt.

A written debt agreement is followed by the submission of collateral. In a money loan, what is stated in the agreement only consists of the amount of money within a certain period of time. Therefore, the person who lends may not ask for back what has been lent before the agreed time has passed (Article 1759 of the Civil Code). Regarding the deed of debt acknowledgement, it is actually an accessory to the principal agreement that has been agreed upon first, the deed of debt acknowledgement will not appear before the principal debt agreement exists first. The deed of debt acknowledgement before a notary can be a force of proof. Because the deed of debt acknowledgement is often used in providing credit to banking institutions, non-bank institutions and individuals, this deed of debt acknowledgement has grown in society. The deed of debt acknowledgement made before a notary will be issued a copy of the deed by the Notary in the form of a Grosse deed and has executorial power. This is regulated in Article 1 number 11 of Law Number 30 of 2004 concerning the Regulation of the Position of Notaries. The executorial power referred to when the debtor is negligent in fulfilling his obligations, the debtor can immediately execute the collateral. In a deed of debt recognition, execution is carried out because the person who borrowed (the debtor) has defaulted. The Deed of Debt Recognition made by a notary is not only used for banking institutions, but also for individuals.

The business world is currently growing in line with developments in society, various activities can be carried out by someone in order to develop their business. Every businessman must see the prospects for progress in the future, with the hope that the business being carried out can run smoothly according to the desires to be achieved. Business is focused on commercial efforts and

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<sup>2</sup>Muhammad Abdulkadir, 1993, Principles of Engagement Law, Citra Aditya Bakti, Bandung, p. 78.

interactions between its actors, namely related to corporate economics/microeconomics. The characteristics of business are mainly located in the goal of achieving profit (profit). Business activities include production, distribution, and sales of goods and services to make a profit.<sup>3</sup>In running the business, it is possible for a relationship to occur between entrepreneurs/business people and their relations, the relationship is certainly related to the business world run by the entrepreneur/business person. Business relationships are often concreted through agreements or contracts so that there is accountability for each party in accordance with the contents of the agreed agreement. Based on the agreement, both parties exercise their rights and obligations. Article 1313 of the Civil Code states that "An agreement is an act by which one or more parties bind themselves to one or more people."<sup>4</sup>From the provisions of the article above, it can be understood that an agreement is an agreement between two parties regarding a certain matter, where both parties each have responsibilities and must comply with the agreement that has been mutually agreed upon. In line with developments in society, the number of business actors is increasing and they run various businesses, ranging from selling goods in the market to property businesses that are quite expensive. In addition, there is also a land plot business which is also quite promising because land prices continue to increase in line with city development. The land plot business is also a place to build houses, shophouses, and so on, which is land to develop businesses and can also be used for investment, because land prices are increasing over time, and can be used as capital to develop businesses or businesses. In a situation that is currently being hit by a multidimensional crisis like what Indonesia is currently experiencing, not everyone can afford to have their own home, so various efforts are made to meet the need for the house. Fulfillment of the need for a house for those who have not and/or cannot afford it is often done by renting. Renting is an agreement by which one party binds himself to give another party the enjoyment of an object, for a certain period of time and with the payment of a price which the latter party agrees to pay.<sup>5</sup>As with sales and other agreements in general, renting is a consensual agreement. This means that it is valid and binding at the moment an agreement is reached regarding its main elements, namely goods and price. Where they bind themselves to fulfill a certain achievement, then the law of obligation arises, namely a legal relationship between two or more people that causes one party to have the right to something and the other party to have an obligation to do or give something.<sup>6</sup>As in the case of renting a house, a homeowner (creditor) and a tenant (debtor) who have entered into a contract must fulfill their respective

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<sup>3</sup>Sanusi Bintang and Dahlan, *Principles of Economic and Business Law*, (Bandung: PT. Citra Aditya Bakti, 2000), p.2

<sup>4</sup>Salim HS, *The Development of Innominate Contract Law in Indonesia*, (Jakarta: Sinar Grafika, 2010), p.15

<sup>5</sup>R. Subekti, *Various Agreements*, Citra Umbara, Bandung: 1995.

<sup>6</sup>CST Kansil, *Introduction to Indonesian Law and Legal System*, Balai Pustaka, Jakarta: 1979, P. 247

obligations in accordance with the agreement that has been agreed upon. In the rental relationship, it often happens that the obligations are not carried out by one of the parties. This act is known in legal terms as a breach of contract. In addition to the above, there are also many cases of unlawful acts in renting where the unlawful act is carried out by someone for various reasons, including; demands for a residence that must be met, while economic conditions do not allow it.

Abdulkadir Muhammad in his book "Law of Contracts" quotes the opinion of the Hoge Raad defining an unlawful act as "an act or omission to act that violates the rights of others, or is contrary to the legal obligations of the perpetrator or violates morality, or is contrary to the obligations that must be observed in social relations regarding other people or goods."<sup>7</sup> Between unlawful acts and criminal acts there are similarities and differences, where criminal law concerns public order, while unlawful acts aim to protect individual interests and only slightly offend public order. Basically, unlawful acts with criminal acts are acts that violate a prohibition, but regarding the scope of unlawful acts, it is broader than criminal acts. This is because there is no act that can be punished other than by the power of existing laws (*nulla poena sine lege*). Every criminal act is always formulated carefully in the law, so that its nature is limited. On the other hand, in unlawful acts, the law only determines one general article that provides legal consequences for an unlawful act. The unlawful act is certainly detrimental to one party, so that the party who feels that his interests have been harmed will defend his rights in accordance with the applicable legal regulations by taking legal action to obtain compensation, where the legal action taken must of course be based on the applicable substantive legal regulations. The legal provisions relating to compensation are contained in Article 1365 of the Civil Code, where the perpetrator is obliged to pay compensation, but the law does not further stipulate compensation caused by unlawful acts. Compensation due to breach of contract and compensation based on unlawful acts are similar. For the latter, some of the provisions applicable to compensation caused by breach of contract can be applied.<sup>8</sup> To defend their rights, the party who feels aggrieved can file a legal action against an unlawful act, in this case the legal action is a lawsuit for damages. A lawsuit for damages can be made by filing a lawsuit with the District Court, of course it must go through a process in accordance with applicable legal provisions, namely civil procedure law (formal civil law), where formal civil law is a legal regulation that functions to defend a person's rights, because those rights are violated by others, causing losses. Here the injured party can ask for legal protection, namely by asking for justice through a judge (court) from the time the lawsuit was filed until the implementation of the judge's decision.

For the judge's decision in a lawsuit for damages due to unlawful acts, the judge

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<sup>7</sup>Abdulkadir Muhammad, *Law of Contracts*, Citra Aditya, Bandung: 1992, P. 146

<sup>8</sup>Rachmat Setiawan, *Elementary Review of Unlawful Acts*, Alumni, Bandung: 1982, P. 28

will burden the losing party to perform the performance by paying a sum of money to the opposing party. In this case, it is from the debtor who committed an unlawful act to the creditor whose interests have been harmed.

Various claims that can be filed due to unlawful acts are:

- 1) Compensation in the form of money for losses incurred.
- 2) Compensation in kind or returned to its original condition.
- 3) Statement that the act committed is an unlawful act.
- 4) Prohibiting certain actions from being carried out.

According to the provisions of Article 1365 of the Civil Code, anyone who commits an unlawful act and causes a loss is obliged to compensate for the loss. Of course, what is meant by the legislators is that the compensation is paid with money. Consumer protection is an inseparable part of healthy business activities. In healthy business activities, there is a balance of legal protection between consumers and producers. The absence of balanced protection causes consumers to be in a fairly weak position. Losses experienced by consumers can arise as a result of the legal relationship of the agreement between the producer and the consumer, or as a result of unlawful acts committed by the producer or business actor.<sup>9</sup>One of the responsibilities of the State is to provide protection, guidance and recovery in the event of disputes or disputes which cannot be separated from the existence of law as social control. Apart from that, the Constitution of the Republic of Indonesia in Article 28 I paragraph (4) states that "The protection, promotion, enforcement and fulfillment of human rights is the responsibility of the state, especially the government." Agreements made between parties do not always run smoothly in the sense that each party is satisfied, because sometimes the recipient or consumer does not receive goods or services according to their expectations.<sup>10</sup>Default committed by one of the parties in the agreement is negligence to fulfill the requirements stated in the agreement. In addition to default, losses can also occur outside the agreement relationship, namely if the unlawful act can be in the form of a defect in the goods or services that results in losses to consumers, either due to damage or destruction of the goods themselves or damage or destruction of goods due to defects in the goods. In carrying out business activities, both business actors and consumers must pay attention to the guidelines for organizing business activities that have competitive and responsible competitiveness.

Consumer protection law today has received quite a lot of attention because it

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<sup>9</sup>Ahmadi Miru, 2008, *Contract Law and Contract Drafting*, Jakarta, PT Raja Grafindo Persada, p.4.

<sup>10</sup>Ahmadi Miru, 2011, *Principles of Legal Protection for Consumers in Indonesia*, 1st edition Jakarta, Rajawali Pers. P. 1

concerns regulations to improve the welfare of society. However, it is not only the public as consumers who receive protection, but business actors also have the same rights to receive protection, each of which has rights and obligations and there is government intervention that plays a role in regulating, supervising, and controlling so that a conducive system is created that is related to one another. Thus, the goal of improving the welfare of society in general can be achieved. There are several institutions that oversee consumer protection, including the National Consumer Protection Agency (BPKN), the Community-based Consumer Protection Agency (LPKSM), the Consumer Dispute Resolution Agency (BPSK), and the Indonesian Consumer Foundation (YLKI) which are in various provinces in Indonesia.<sup>11</sup> Law No. 8 of 1999 regulates consumer protection which is regulated by Law In Book, but in Law In Action it is believed that there is a gap in the level of practice in society. The existence of YLKI is certainly very helpful in providing protection for consumer rights. If seen from its history, YLKI which is popularly seen as a pioneer of consumer advocacy in Indonesia at that time was very helpful in efforts to increase awareness of the importance of consumer rights. This institution does not only conduct research, testing, publishing, or receiving complaints about complaints experienced by consumers. However, this institution can also carry out direct advocacy efforts through the courts. Consumer rights that are ignored by business actors need to be examined carefully. In the current era of globalization and free trade, many kinds of products or services have emerged that are marketed to consumers in the country, either through promotions, advertising, or direct offers of goods.<sup>12</sup> If not careful in choosing the desired product or service, consumers will only become objects of exploitation by irresponsible business actors. Without realizing it, consumers simply accept the goods or services they consume. The development of the economy, trade, and industry that is increasing day by day has provided extraordinary pampering to consumers because there are various variations of products and services that can be consumed.

The purpose of this study is to comprehensively examine the legal liability of business actors and the implementation of legal protection for consumers in the context of losses arising from misleading information on goods or services in e-commerce transactions. This study analyzes relevant legal provisions, especially Law Number 8 of 1999 concerning Consumer Protection, and evaluates the practice of its implementation in cases that occur.

## **2. Research Methods**

This study uses an empirical legal approach with a field method to obtain primary data through interviews with respondents. The study was conducted by focusing on legal protection for consumers related to default in e-commerce transactions

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<sup>11</sup>Kriswanti, dahaddress17.blogspot.com accessed on September 12, 2024 at 13.00. wib

<sup>12</sup>Zulham, Consumer Protection Law, Kencana Prenada Media Group, Jakarta, 2013, p. 15.

based on Law Number 8 of 1999 concerning Consumer Protection. The specifications of this study are descriptive, aiming to describe and analyze the legal protection available to consumers in cases of default. Research data were obtained through two main sources, namely library research and field research. Library research involves primary legal materials, including Law Number 8 of 1999 concerning Consumer Protection, the Civil Code, Law Number 19 of 2016 concerning Information and Electronic Transactions, and Law Number 30 of 1999 concerning Arbitration and Dispute Resolution. In addition, secondary legal materials are used in the form of relevant scientific literature, as well as tertiary legal materials in the form of legal dictionaries and Indonesian language dictionaries. Field research was conducted at the Surakarta District Court, with research subjects including judges who decide cases of default and clerks who receive compensation claims. The data obtained were analyzed qualitatively to explain and evaluate legal protection for consumers in e-commerce transactions based on the applicable legal framework.

### **3. Results and Discussion**

#### **3.1. Business Actors' Responsibility Towards Consumers Who Suffer Losses Due to Misleading Information on Goods/or Services Through E-Commerce According to Law Number 8 of 1999**

The word consumer comes from the English word, namely consumer, or in Dutch "consument", "konsument", a consumer is literally a person who needs to spend or use; user or needer. The legal definition of a consumer has been placed in various laws and regulations, such as Law No. 8 of 1999 concerning UUPK article 1 formulates as follows: "A consumer is every person who uses goods and / or services available in society, whether for the benefit of themselves, family, others, or other living creatures and not for trade.<sup>13</sup>The balance of protection between business actors and consumers is a manifestation of the function of law as a regulator of social life. Law plays a role in balancing the interests of various parties, including in economic relations. Principles such as freedom, equality, and solidarity are the basis for regulating legal relations. Freedom provides space for individuals to act, but is limited by common interests. Equality ensures that every individual has the same standing in the eyes of the law. Solidarity encourages individuals to maintain social order. In the context of consumers and business actors, the state has an important role in maintaining balance through regulation, in order to ensure protection for both parties and maintain a healthy business climate.

Regulations governing the relationship between consumers and business actors aim to protect the rights and obligations of both parties. Consumers are

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<sup>13</sup>Miru Ahmadi and Yodo Sutarman, 2008. Consumer Protection Law, Jakarta, Raja Grafindo Persada, p. 1

expected to be more vigilant in choosing goods or services to avoid losses.<sup>14</sup>The relationship between the two is interdependent:<sup>15</sup> Business actors need consumers to develop their businesses, while consumers need the products or services offered. In short, this regulation encourages awareness of the importance of a balance between rights and obligations in every transaction, in order to create a mutually beneficial relationship.

As a result of low consumer awareness and knowledge of the rights they should receive, business actors exploit them as a means of transaction that is not in good faith and forgets their obligations and responsibilities. This often causes problems in the relationship between consumers and business actors. Problems that occur between consumers and business actors place consumers in a weak position. The weak position of consumers is based on:<sup>16</sup>

- 1) In modern society, business actors offer various types of new products resulting from technological and management advances. These goods are mass-produced.
- 2) There are fundamental changes in the consumer market (customer market), where consumers often do not have the bargaining position to make a proper evaluation.
- 3) Modern advertising methods often misinform consumers rather than provide information on an objective basis.
- 4) Basically, consumers are in an unbalanced bargaining position.
- 5) The achievement must be an achievement that is permitted by law, propriety, morality, public order and customs prevailing in the wider community (halal clause).

According to Herlien Budiono, the Sales and Purchase Agreement (PPJB) is an initial agreement that aims to prepare and bind both parties to carry out the main sales and purchase transaction. PRJB serves as a legal basis before the official sales and purchase deed is made. With PRJB, both parties have agreed on the object of the sale and purchase, price, and other conditions. In short, PRJB is a crucial initial step in the sales and purchase process, providing legal certainty and protecting the interests of both parties.<sup>17</sup>

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<sup>14</sup>Az. Nasution Consumer Legal Protection, Grasindo, Jakarta, 2001, p. 24

<sup>15</sup>Ridwan Khairandy, Indonesian Contract Law in Comparative Perspective (Part One) FH UII Press, Yogyakarta, 2013, p. 6.

<sup>16</sup>Abdul Halim Barkatullah, Legal Protection for Consumers in E-Commerce Transactions

<sup>17</sup>Herlien Budiono, article "Sales and Purchase Agreement and Absolute Power of Attorney" Renvoi Magazine, first edition, No. 10, March 2004, p. 57.



The existence of legal cases in electronic transactions has encouraged the government to provide legal protection for consumers, as regulated in Law No. 8 of 1999 concerning Consumer Protection (hereinafter referred to as UUPK). UUPK regulates a number of rights that consumers should obtain and responsibilities that should be carried out by business actors. In addition, the government also issued UUIE as a reference for the parties to determine the rights and obligations in electronic transactions and legal efforts that can be taken if consumer rights are not fulfilled. Article 4 of UUPK states several consumer rights, namely: 1) The right to comfort, security, and safety in consuming goods and/or services; 2) The right to choose goods and/or services and to obtain goods and/or services in accordance with the exchange rate and conditions and guarantees promised; 3) The right to correct, clear, and honest information regarding the conditions and guarantees of goods and/or services; 4) The right to be heard for opinions and complaints regarding the goods and/or services used; 5) The right to receive advocacy, protection, and efforts to resolve consumer protection disputes appropriately; 6) The right to receive consumer guidance and education; 7) The right to be treated or served properly and honestly and without discrimination; 8) The right to receive dispensation, compensation and/or replacement if the goods and/or services received do not comply with the agreement or are not as they should be; and 9) Rights regulated in other statutory provisions.

Basically, to realize the objectives of the law, there are three elements of the objectives of the law that must run in balance, namely legal certainty (*rechtssicherheit*), justice (*gerechtigheit*) and benefit (*zweckmasigkeit*). If connected with the theory of law enforcement expressed by Gustav Radbruch in the idea of *recht*, law enforcement must fulfill these three principles. First, the law must provide justice. Justice is a unifier of the moral order of society. The law was created to regulate so that every society and government take the necessary actions to maintain social ties and achieve common goals in life. Order in society will occur when justice can be upheld. In order to resolve disputes concerning losses suffered by consumers, so that the UUIE can be used to ensnare perpetrators of fraud in online buying and selling, especially in Article 28 paragraph (1) which regulates false and misleading news that causes consumers to lose in electronic transactions. Article 28 paragraph (1) prohibits everyone from spreading false and misleading news that results in consumer losses in Electronic Transactions.

In general, the implementation of buying and selling is regulated in the Civil Code and the buying and selling transaction occurs after an agreement and contract between the two parties. Article 1313 of the Civil Code states the meaning of the agreement. An agreement is an act in which one or more people bind themselves to one or more other people. Civil Law Scholars state that this definition is incomplete and still too broad. Furthermore, Subekti defines an agreement as an

event in which someone promises to another person, or when two individuals promise each other to do something.<sup>18</sup> Overall, UUIITE regulates 2 things, namely information and electronic transactions as well as regulations related to prohibited acts in electronic transactions. In addition, regulations related to electronic transactions are also regulated in Law Number 7 of 2014 concerning Trade in Article 1 number 24 which states that: trade through an electronic system is trade whose transactions are carried out through a series of electronic devices and procedures. Then in Article 65 paragraph 1 it is stated that every business actor who trades goods and/or services using an electronic system is required to provide complete and correct data and/or information. Electronic contracts greatly assist the electronic transaction process so that it can run properly and correctly. Consumer approval in purchasing goods online by clicking on the agreement to the transaction is a form of acceptance that states agreement to the electronic transaction agreement. The acceptance action is generally preceded by a statement of agreement to the terms and conditions of online buying and selling which can also be called a form of Electronic Contract.

Article 4 UUPK states that Consumers have rights as consumers, including the right to choose goods and/or services and receive goods and/or services according to the exchange rate and conditions agreed upon, the right to correct, clear and honest information regarding the condition of goods and/or services, the right to obtain compensation, damages, and/or replacement if the goods and/or services received do not match those agreed upon. To guarantee this, it is necessary to strive for legal protection for the parties so that the parties, especially consumers, feel safe conducting electronic buying and selling.<sup>19</sup> Specifically stated in Article 20 paragraph 1 of the ITE Law that unless otherwise specified by the parties, electronic transactions occur when the transaction offer sent by the sender has been received and approved by the recipient. Then in Article 20 paragraph 2 it is also stated that approval of the electronic transaction offer must be made with an electronic statement of acceptance. The requirements for the validity of an Electronic Contract are contained in Article 52 of the PPMSE. Then Article 53 paragraph 1, the Electronic Contract itself must contain at least the following: 1. identity of the parties; 2. details of the goods and/or services agreed upon; 3. legality of the goods and/or services; 4. value of the trade transaction; 5. terms and terms of payment; 6. operational stages of delivery of goods and/or services; 7. stages of returning goods and/or services in the event of a discrepancy between the goods and/or services received and those agreed upon; 8. stages when there is a cancellation by the parties; and 9. alternative legal remedies for resolving Electronic Transactions.

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<sup>18</sup>Barkatullah, Abdul Halim., & Prasetyo, Teguh. (2005). *E-commerce Business Study of Security and Legal Systems in Indonesia*. Yogyakarta: Pustaka Pelajar. P.87.

<sup>19</sup>Muhammad, A. (2010). *Contract Law*. Bandung: PT. Alumni.

E-commerce payment models include Cash On Delivery (COD), internet banking, ATM, credit cards, and others. After payment is confirmed, the seller is required to send the goods using a delivery service, with the costs borne by the seller or buyer based on the agreement. Transactions involve consumer rights, namely security, information, freedom of choice, and the right to be heard. Business actors must provide correct and complete information about products, contracts, and manufacturers in accordance with Article 9 of the ITE Law. Buyers can ask about product availability and specifications via online chat or email. If interested, the product can be added to the shopping cart before finalization. Buyers fill out an order form that includes product details, payment method, and shipping address. After that, the buyer is deemed to agree to the terms of sale and purchase and is required to pay for the product ordered.

E-commerce offers ease of transaction, but often ignores consumer rights. Lack of awareness of their rights makes consumers vulnerable to fraud. UUPK Article 4 guarantees consumer rights, such as the right to correct information and product guarantees. Default often occurs in e-commerce due to the lack of direct interaction. Therefore, consumer protection is emphasized more than business actors. Article 7 of UUPK requires business actors to provide clear and correct information about the product, and to provide compensation if there is a discrepancy. So consumers need to understand their rights protected by UUPK, especially in e-commerce transactions. Business actors must also fulfill their obligations in order to create fair and safe transactions.

There are various legal regulations that protect consumers in electronic transactions, including in the ITE Law and PP No. 80 of 2009 concerning Trading Through Electronic Systems (PP PMSE). Article 13 paragraph 1 of the PP PMSE requires business actors to provide correct, clear, and honest information about the goods/services traded, including the electronic system used. The ITE Law is the legal basis for e-commerce transactions and problem solving, while the UUPK functions as the basis for consumer protection. According to Subekti, breach of contract includes four forms of not fulfilling promises, fulfilling promises but not as they should be, being late in fulfilling promises, or doing something prohibited by the agreement. Article 8 of the UUPK prohibits business actors from trading goods/services that do not match the promise. Consumers have the right to compensation or damages (Article 7 letter g of the UUPK). Article 1267 of the Civil Code provides legal alternatives for the injured party, including compensation or cancellation of the agreement. In the ITE Law, the responsibility for electronic transactions is regulated in Article 21 paragraph 2 letter a, which emphasizes that the transacting parties are responsible for the legal consequences. Consumers can sue in civil court according to Articles 38 and 39 of the ITE Law, including through arbitration or alternative dispute resolution. In addition to civil aspects, protection also includes criminal aspects. Article 28 paragraph 1 of the ITE Law prohibits the spread of false news that is detrimental

to consumers in electronic transactions with a criminal penalty of up to six years or a maximum fine of IDR 1 billion. Online buying and selling transactions require good faith according to Article 1338 paragraph 3 of the Civil Code. Civil relations can become criminal if they are not based on good faith. With this provision, consumers have clear legal protection to demand their rights in cases of default or loss in electronic transactions.

There are two terms that refer to accountability, namely: liability (the state of being liable) and responsibility (the state or fact of being responsible):<sup>20</sup>

1) *Liability/Responsibility* is a broad legal concept (state law) which includes, among other things, that responsibility is intended in the broadest sense and includes almost all types of risks or responsibilities, certain, conditional or possible. Responsibility is defined in such a way that all signs of rights and obligations are visible. In addition, responsibility is also; actual or potential circumstances that are subject to obligations; conditions that are responsible for actual or potential things such as losses, threats, crimes, costs or expenses; Conditions that create obligations to apply the law now or in the future.

2) *Responsibility/Responsibility* means (things that can be held accountable for tasks and include choices, abilities, skills and competencies). Liability also means the obligation to be responsible under applicable law and to repair or replace losses incurred.

The legal principles of responsibility are divided into three: responsibility, accountability, and obligation. Responsibility involves the fulfillment of losses, while accountability relates to financial responsibility, such as accountants are responsible for accounting results. The rights of entrepreneurs include receiving payment according to the general price of goods/services. The rights in letters b, c, and d are more relevant to government officials, consumer dispute resolution institutions, or courts in resolving disputes between consumers and business actors.

In this case, if we review that Article 7 of the Consumer Protection Law Number 8 of 1999 mentions six obligations of traders, including: (1) in good faith in running their business; (2) providing accurate, clear and honest information about the provisions and guarantees of goods and/or services and explanations about use, repair and maintenance; (3) treating or serving consumers fairly and evenly and without discrimination; (4) guaranteeing the quality of goods and/or services produced and/or sold based on the provisions of applicable quality standards for goods and/or services; (5) offering consumers the opportunity to test and/or try certain goods and/or services and providing guarantees and/or warranties for goods produced and/or sold; (6) Providing compensation, damages and/or

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<sup>20</sup>Ridwan HR, State Administrative Law, Rajawali Press, Jakarta, 2016, pp. 318-319.

refunds if the goods and/or services received or used by consumers do not comply with the agreement. Business Responsibilities in Law No. 8 of The theory of the obligation to maintain the obligations of entrepreneurs to consumers is based on the idea that buyers and consumers are not the same, so that consumer interests are very vulnerable to the same knowledge and knowledge goals, skills that do not belong to consumers. Therefore, the Consumer Protection Law No. 8 of 1999 which is the main legal umbrella to protect consumer interests, and other related laws are expected to be able to prioritize consumer interests and align the positions of both parties. According to Nurmadjito, the principle of prohibition is to ensure that goods and/or services circulating in the community are products that can be delivered (deliverable products), including origin, quality in accordance with the information provided by the entrepreneur, either through labels, tags.

In e-commerce transactions, the aspect of responsibility<sup>21</sup>also applies to business actors, in this case merchants, if consumers find that the goods and/or services they purchase do not match the agreement. The aspect of business actor responsibility in the Consumer Protection Law (UUPK) is regulated in Articles 19 to 28, including responsibility for losses in the form of damage or contamination of goods and/or services, including those produced, advertised, imported, or provided by foreign business actors. If business actors do not act in good faith and commit crimes in online sales transactions, they can be subject to criminal penalties based on Article 62 of the UUPK with a maximum prison sentence of 5 (five) years or a maximum fine of IDR 2,000,000,000.00 (two billion rupiah). Consumer rights are regulated in Article 4 of the UUPK, including the right to obtain clear information about goods or services, so as to prevent misunderstandings. Consumers also have the right to compensation or replacement of goods if there is a product mismatch. On the other hand, business actors are required to fulfill their obligations in accordance with Article 7 of the UUPK, such as acting in good faith and providing correct and clear information to consumers. If business actors fail to provide the promised goods or services, they are required to compensate for losses in accordance with the provisions of Article 7 of the Consumer Protection Act, so that online transactions can run fairly and safely for consumers.

### **3.2. Implementation of Legal Protection for Consumers Regarding Consumer Losses Due to Misleading Information Regarding Goods and/or Services**

The Consumer Protection Law does not define standard agreements, but provides a formulation regarding standard clauses, namely, every rule or provision and conditions that have been prepared and determined in advance unilaterally by business actors which are stated in a document and/or agreement

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<sup>21</sup> Rendytha Khansa Amandha and Heru Sugiyono, "The Responsibilities of Influencer Doctors Promoting Skincare Products on Social Media," *Jurnal Daulat Hukum* 7, no. 2 (2024): p. 119–133.

that is binding and must be fulfilled by consumers. Standard clauses are usually made by parties who have a stronger position, which in reality are usually held by service providers (business actors) which often harms the party receiving the standard clause, namely consumers. This standard clause/agreement cannot be avoided by consumers because if it is avoided, consumers will not get the goods/services they need and this standard clause will always be found in every other service provider (business actor). This method is the most efficient, practical, and fast way without any fuss for business actors, but for consumers it is actually an unfavorable choice because they are only faced with one choice, namely accepting it even though with a heavy heart.<sup>22</sup> Mariam Darus defines a standard agreement as an agreement whose contents are standardized and stated in a form. Hondius formulates a standard agreement as a concept of written promises, which are drawn up without discussing the contents and are usually stated in an agreement of a specific nature.<sup>23</sup>

Based on these unbalanced conditions, the Consumer Protection Law regulates standard agreement provisions to create a balance between consumers and business actors. Therefore, Article 18 of the Consumer Protection Law regulates provisions that are prohibited by business actors in making standard clauses/agreements and every standard clause that has been determined by business actors that meets the provisions prohibited in the article is declared null and void by law. The provisions regulated in Article 18 of the Consumer Protection Law are as follows: a. Stating the transfer of responsibility of business actors; b. Stating that business actors have the right to refuse to return goods purchased by consumers; c. Stating that business actors have the right to refuse to return money paid for goods/services purchased by consumers; d. Stating the granting of power from consumers to business actors, either directly or indirectly, to take all unilateral actions related to goods purchased by consumers in installments; e. Regulating matters of proof of loss of use of goods or use of services purchased by consumers; f. Granting rights to business actors to reduce the benefits of services or reduce the consumer's assets that are the object of the sale and purchase of services; g. Declare that the consumer is subject to regulations in the form of new, additional, continuation and/or further changes made unilaterally by the business actor during the period the consumer uses the services purchased; h. Declare that the consumer authorizes the business actor to impose mortgage rights, lien rights, or guarantee rights on goods purchased by the consumer in installments.

The regulation regarding the inclusion of standard clauses is not biased towards consumers and detrimental to business actors but in accordance with the principle of balance in consumer protection law, the interests of all parties must

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<sup>22</sup>Abdulkadir Muhammad, *Standard Agreements in Trading Company Practices*, Citra Aditya Bakti, Bandung, 1992, p. 6.

<sup>23</sup>Mariam Darus Badruzaman, 2019, *Agreements in Civil Law*, Bandung, p. 48.

be protected. Standard agreements are very much needed to shorten the negotiation time, therefore the limitation of the standard clauses is intended to prevent abuse of the situation by parties who have a stronger position, which will ultimately harm consumers.<sup>24</sup>

The development and implementation of consumer protection is the state's responsibility to realize the objectives of consumer protection which is carried out through the following efforts:<sup>25</sup>

- a. The creation of a business climate and the growth of healthy relationships between business actors and consumers.
- b. The development of legal protection institutions for consumers, both by the state and community self-help.
- c. Increasing the quality of human resources and increasing research and development activities in the field of legal protection for consumers.

The aim of organizing, fostering, developing and regulating legal protection for consumers is to increase the dignity and awareness of consumers and indirectly encourage business actors in

Consumer protection remains an important issue. Many consumers are harmed due to negligence or deliberate actions of business actors. The Consumer Protection Law (UUPK) is here to protect consumers. Guidance and supervision are key in realizing consumer protection. The government plays a role in fostering, while supervision is carried out jointly by the government, the community, and non-governmental organizations. The goal is to create healthy business relationships and a conducive business climate. One form of protection in the UUPK is the regulation regarding standard agreements. Article 18 of the UUPK was created to protect consumers from fraud by business actors who often make agreements that are detrimental to consumers. This is in line with the goal that should protect society at large. Thus, the UUPK and efforts to foster and supervise aim to protect consumers and create a fair market for all parties in society, not for the interests of certain groups.

The above aspects of consumer protection law will apply if the business actor and consumer are in the same jurisdiction, namely the jurisdiction of Indonesia. Problems will arise if the business actor and consumer have different jurisdictions. For business actors outside the territory of Indonesia, it actually depends on the agreement between the parties that has been agreed upon previously. Usually the contract will contain a choice of law clause, but from

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<sup>24</sup>Zulham, *Consumer Protection Law*, Kencana Prenada Media Group First Edition, Jakarta, 2013, p. 15

<sup>25</sup>Abdul Halim Barkatullah, *Consumer Rights*, Nusa Media, Yogyakarta, 2010, p. 26.

some in the field, such as amazon.com, in the condition of use clause it publishes, amazon.com emphasizes that for every transaction it carries out, The Law of the State of Washington applies as its choice of law.<sup>26</sup>The Consumer Protection Law does not regulate this matter in depth, and if a dispute ever occurs, the appropriate legal instrument to use is international civil law, such as agreements and jurisprudence.

In Article 7 of Law Number 8 of 1999 concerning Consumer Protection, the obligations of business actors are: 1. to have good intentions in carrying out their business activities; 2. to provide correct, clear and honest information regarding the condition and guarantee of goods and/or services and to provide an explanation of their use, repair and maintenance; 3. to treat or serve consumers correctly and honestly and without discrimination; 4. to guarantee the quality of goods and/or services produced and/or traded based on the provisions of applicable goods and/or service quality standards; 5. to provide consumers with the opportunity to test and/or try certain goods and/or services and to provide guarantees and/or warranties for goods made and/or traded; 6. to provide compensation, indemnity and/or replacement for losses due to the use, consumption and utilization of goods and/or services traded; 7. to provide compensation, indemnity and/or replacement if the goods and/or services received or utilized do not comply with the agreement. From several existing laws and regulations, both the Civil Code and Law Number 8 of 1999 concerning Consumer Protection, it is clear that the use of standard agreements is not prohibited. Standard agreements are still considered valid if they are in accordance with the valid conditions of an agreement based on Article 1320 of the Civil Code, and their contents do not conflict with Article 18 of Law Number 8 of 1999 concerning Consumer Protection. For District Court Decisions regarding objections to the BPSK Decision, if the parties feel aggrieved, they can take further legal action. Based on Article 72 of the Arbitration and APS Law, it is formulated that against the District Court decision, the parties who feel aggrieved by the decision can file an Appeal directly to the Supreme Court, not to the High Court. For appeal cases, the Supreme Court has the duty and authority to examine, try, and decide on appeal cases at the first and final levels. So an appeal is the last legal effort, there are no other legal efforts that can be taken by the parties to cancel the consumer dispute decision.

The main principle of online transactions in Indonesia still prioritizes the aspect of trust or "trust" towards sellers and buyers. The principle of online transaction infrastructure security such as guarantees of the truth of the seller/buyer's identity, guarantees of payment gateway security, guarantees of security and reliability of e-commerce websites have not become a primary concern for sellers or buyers, especially in small to medium-scale transactions with nominal

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<sup>26</sup>Az. Nasution, "Technological Revolution in Business Transactions Through the Internet", (Jurnal Keadilan Volume I No.3 September 2001),, Op.Cit., p. 29



transaction values that are not too large (for example, buying and selling transactions through social networks, online communities, online stores, or blogs). The existence of a clear legal umbrella related to consumer protection and public awareness of product awareness is expected to reduce or minimize the risk of fraudulent trade practices that can protect consumers, especially e-commerce consumers.

If consumers are indeed harmed in conducting online transactions, the UUPK has provided an alternative space to resolve disputes that occur in online transactions, namely through the courts and outside the courts. In resolving it through the courts, this has been regulated in Article 45 paragraph (1) of the UUPK which stipulates that "Every consumer who is harmed can sue the business actor through an institution tasked with resolving disputes between consumers and business actors or through a court in the general court environment." Article 45 paragraph (2) of the UUPK which stipulates as follows "Resolution of consumer disputes can be carried out through the courts or outside the courts based on the voluntary choice of the disputing parties". Furthermore, the settlement of consumer disputes outside the courts is regulated in Article 47 of the UUPK which stipulates as follows "Resolution of consumer disputes outside the courts is held to reach an agreement on the form and amount of compensation and/or regarding certain actions to ensure that the losses suffered by consumers will not happen again or will not be repeated." With these two methods that can be applied by consumers who suffer losses from business actors, consumers can choose one of these methods to obtain justice as regulated in the UUPK, either through the courts or outside the courts.<sup>27</sup>In Article 17 paragraph (1) of Law Number 11 of 2008 concerning Information and Electronic Transactions, it is stated that "electronic agreements can be made in public or private scope". Furthermore, Article 19 states that "parties conducting electronic transactions must use an agreed electronic transaction system". So before conducting an electronic transaction, the parties agree on the electronic system that will be used to conduct the transaction. Unless otherwise specified by the parties, an electronic transaction occurs when the transaction offer sent by the sender has been received and approved by the recipient.

There are four general principles of liability, namely liability due to fault, presumption of liability, presumption of not always liability, and direct liability. Liability due to fault is a liability adopted in criminal and civil law. Liability due to fault is a form of liability adopted in criminal and civil law. Presumption of liability or commonly referred to as reversed proof is a person is considered responsible until he can prove that he is not guilty. While the presumption of not always liability is the opposite of the principle of presumption of always liability,

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<sup>27</sup>Mahardika, Putu Surya, And Dewa Gde Rudy. "Responsibility of Online Store Owners in Online Buying and Selling (E-Commerce) Reviewed Based on Consumer Protection Law." *Kertha Semaya: Journal of Legal Science* (2018): p. 12

where it is not always the business actor who is responsible. Strict liability states that the business actor must be responsible for consumer losses without having to prove whether or not there is a fault on his part.<sup>28</sup>

So, in this case, a new electronic transaction occurs if there is an offer sent to the recipient and there is an agreement to accept the offer after the offer is received electronically. Settlement of disputes through the courts is by filing a lawsuit to a court within the scope of general courts as regulated in Article 48 of the Consumer Protection Act. Meanwhile, settlement outside the courts is by filing a lawsuit or complaint to the authorized institution, namely the Consumer Dispute Resolution Agency (BPSK) which has been regulated in Article 45 paragraph (1).

So in resolving disputes outside the court, the government has formed BPSK which is intended to resolve consumer and business actor problems. BPSK has duties and authorities in resolving disputes outside the court. Article 52 of the Consumer Protection Act contains the duties and authorities of BPSK which contain 13 points. One of the duties and authorities of BPSK is to handle consumer problems through mediation or arbitration or conciliation. Provisions regarding the duties and authorities of BPSK in resolving disputes are further regulated in the ministerial decree, namely in Kepmen 13 Perindag 350/2001. Based on Article 4 paragraph (1) of the Ministerial Decree, there are several ways to resolve disputes carried out by BPSK, namely through conciliation or mediation or arbitration where this is made with the agreement of the parties concerned.<sup>88</sup> The resolution of online transaction problems can also be through deliberation where in the deliberation consumers can ask for compensation from business actors in the form of accountability either in the form of money or goods. If no bright spot is found in the deliberation, a lawsuit or complaint can be made to BPSK. Settlement of online sales disputes through the courts is considered less efficient considering that it takes more time, costs and energy so that most people who experience losses will choose to resolve their disputes outside the courts. However, if the settlement does not find a bright spot and agreement, the only way is through litigation to get justice.

Implementation of legal protection for consumers from losses due to misleading information regarding goods and/or services can be done through several steps:

1) Rules and Regulations: The government needs to issue and enforce clear regulations regarding advertising and promotion of goods and services. The Consumer Protection Act should include sanctions for violators who provide misleading information.

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<sup>28</sup>Ari Wahyudi Hertanto. Inclusion of Limitation of Owner/Manager of Site Liability in Online Buying and Selling Transactions and Its Impact on Consumers. *Journal of Law and Development* Year 45 No.1 January-March 2015. pp. 131-132.

2) **Supervision and Law Enforcement:** Supervisory institutions such as the National Consumer Protection Agency (BPKN) must actively supervise marketing practices. Law enforcement against violations that occur is very important to provide a deterrent effect.

3) **Socialization and Education:** The public needs to be educated about consumer rights and how to recognize misleading information. Socialization programs through media and seminars can help increase consumer awareness.

4) **Complaint Channel:** Provide an effective complaint channel for consumers who feel aggrieved. This can be a responsive customer service or an online platform for filing complaints.

5) **Redress:** Encourage a mechanism for redress for consumers who suffer losses due to misleading information. This can be through mediation or litigation in court.

6) **Collaboration with the Private Sector:** Inviting companies to commit to transparent and honest marketing practices. Collaboration between the government and the private sector can create a more responsible business environment.

The majority of consumers in this study were unaware of the legal regulations related to consumer rights, which caused them to tend to be passive towards violations. Low legal knowledge makes consumers choose to remain silent, forgive, or accept business actors' defaults without prolonging the problem. Although some consumers filed complaints, they were reluctant to continue the process because business actors were unresponsive. The complicated and time-consuming procedure for returning goods on the Shopee e-commerce is an additional obstacle. Not all consumers pay attention to the requirements of business actors, such as the obligation to make unboxing videos. However, even though there are consumers who are careful, business actors still often break their promises. The most severe action is that business actors block consumer accounts that provide honest reviews of the goods received. Instead of improving themselves, business actors avoid without admitting their mistakes or apologizing, so that consumers do not get justice for the losses they experience.

Default between business actors and consumers often occurs, especially on online store platforms such as Shopee. Consumers often do not carefully read the rules or consider unboxing videos unimportant, making it difficult to file complaints. Both business actors and consumers often do not understand the applicable legal regulations. This problem is an ongoing social symptom, with business actors often cheating, not resolving problems properly, and not responding to complaints even though they have been accompanied by unboxing videos according to the requirements.

The form of legal protection provided by the Government to consumers in its efforts to obtain protection from things that are detrimental to consumers themselves is stated in Law Number 8 of 1999 concerning Consumer Protection. However, legal protection for consumers has not been implemented. Consumers in this study, totaling 45 out of 50 consumers, admitted that they did not receive legal protection as they should because business actors were not responsible for the losses suffered by consumers. The author found the fact that consumers' rights were not protected based on this legal regulation. Consumers still suffer losses caused by business actors. However, business actors do not fulfill their responsibilities for the losses caused by them to consumers at all. Therefore, the form of legal protection has not been implemented for consumers in reality, the applicable laws cannot protect consumers as they should. Consumer rights stipulated in the consumer protection law, which is a form of legal protection for consumers from the government and the State, do not run as they should. The applicable legal regulations in consumer protection remain in effect if there is a lawsuit filed by consumers against business actors, because this problem can be resolved civilly. In this case, consumers are not only protected by the Consumer Protection Law, but also protected by Law Number 11 of 2008 concerning Electronic Information Transactions which was changed to Law Number 19 of 2016 concerning Electronic Information and Transactions (UU ITE) and also Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions.

#### **4. Conclusion**

This study found that in electronic buying and selling transactions, the legal relationship between consumers and business actors is based on an electronic agreement that binds both parties. When a dispute occurs, consumers have the option of resolving it through litigation by filing a lawsuit with a general court as stipulated in Article 48 of the UUPK, or through a non-litigation route to the Consumer Dispute Resolution Agency (BPSK) in accordance with Article 45 paragraph (1). However, the implementation of legal protection for consumers in practice has not been fully effective, even though consumers are guaranteed by the Consumer Protection Law, the ITE Law, and Government Regulation Number 71 of 2019. To improve consumer protection, business actors need to be more responsible for losses experienced by consumers due to misleading actions, including fulfilling compensation obligations. Meanwhile, consumers are advised to be more careful in conducting online transactions, such as checking the seller's reputation, reading product descriptions carefully, and ensuring the return policy to avoid potential losses. These findings are expected to be recommendations for business actors, consumers, and supervisory institutions to create a safer and fairer e-commerce ecosystem.

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