

PRINCIPLES OF RESPONSIBILITY OF BUSINESSES FOR THE ADDITION OF EXONERATION CLAUSES IN ELECTRONIC TRANSACTIONS THROUGH INTERNET WEBSITES REVIEWED FROM THE LEGAL PERSPECTIVE OF CONSUMER PROTECTION

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Abstract

In this study the focus on exoneration clauses in online / online site electronic transactions can place an unbalanced position between businesses and consumers. Business actors freely include exoneration clauses in online / online sites for the purpose of legal protection for the business actors themselves. Thus, this dissertation research is research on "Principles of Business Responsibility for Inclusion of Exoneration Clauses in Electronic Transactions Through Internet Sites Judging from the Perspective of Consumer Protection Law. The results of his research are firstly, the position of the exoneration clause in business transactions through internet sites (online) in Indonesian law is located in the field of civil law as part of the contract law, so that Article 1320 of the Civil Code applies to the legal conditions of an agreement. Second, the form of responsibility of business actors to consumers in business transactions through internet sites (online) to gain access to responsibilities adapted by Law Number 8 of 1999 concerning Consumer Protection by giving compulsory business actors to pay compensation for defective products. Article 19 paragraph (1) UUPK. Thus, the UUPK allows consumers to submit a claim to business actors to take responsibility for the losses they suffer. Third, the ideal arrangement related to business transactions through internet sites that provide more sense of protection for consumers. based on research, in Indonesia there are many settings specifically for electronic transactions. Related regulations can be found by interpreting these regulations into an understanding of electronic transactions or linking one rule to another. the form of responsibility of business actors to consumers in business transactions through internet sites (online) to gain access to responsibilities adapted by Law Number 8 of 1999 concerning Consumer Protection by giving compulsory business actors to pay compensation for defective products. Article 19 paragraph (1) UUPK. Thus, the UUPK allows consumers to submit a claim to business actors to take responsibility for the losses they suffer. Third, the ideal arrangement related to business transactions through internet sites that provide more sense of protection for consumers. based on research, in Indonesia there are many settings specifically for electronic transactions. Related regulations can be found by interpreting these regulations into an understanding of electronic transactions or linking one rule to another.

Keywords: *Responsibilities Of Business Activities, Execeration Clausules, Electronic Transactions, Consumer Protection Law*

INTRODUCTION

In healthy business activities, there should be a balance of legal protection between consumers and producers.¹The failure of balanced protections leaves consumers at a disadvantage or at a disadvantage. Along with the development of science and experiencing a significant increase, where the development of science and technology today has brought new changes in society.

The most prominent development of science and technology today is the internet media.² Internet media has changed most people's habits in terms of communicating, starting from simply delivering messages, to daily activities such as reading newspapers, magazines, transportation, shopping and others. Seeing the great opportunities in these various sectors, it is estimated that Indonesia will become the largest digital economy in Southeast Asia.

Initially the internet was used for the purposes of the Department of Defense America (US Department of Defense) with the aim of simplifying and accelerating the exchange of intelligence information. By working with several IT companies and universities in America called the Advanced Research Project Agency Network (ARPANET).³Now it has turned into a tool for everyday and global community life that can be accessed from all over the world. In recent times, with the proliferation of the internet media, especially in Indonesia, it has turned out that many people give statements or offer information of various kinds using the internet media.

Technology and information are two very important things because they can facilitate all activities of human life. Such is the rapid development and advancement of information technology, which is one of the causes of changes in the activities of human life in various fields which have directly influenced the birth of new forms of legal action.⁴The use and utilization of information technology must continue to be developed to safeguard, maintain and strengthen legislation in the national interest. In addition, the use of information technology plays an important role in trade and the growth of the national economy to create public welfare.

Internet, which stands for Interconnection Networking or also has become International Networking.⁵The internet can connect computers around the world without being limited by the number of units into one network that can access each other. Through the internet, one computer can communicate directly with other computers in various parts of the world.

The internet was first developed by a research institute in the United States, namely the Defense Advanced Research Project Agency (DARPA) in 1973.⁶ At that time DARPA built Interconnection Networking as a means of connecting several types of packet data networks such as CS-net⁷, BIT-net⁸, NSF-net⁹ and others. At first the internet network could only be used by the educational environment (universities) and research institutions. Then in 1995, the new internet can

¹Ahmadi Miru, *Principles of Legal Protection for Consumers in Indonesia*, (Jakarta: PT. Raja Grafindo Persada, 2011), p. 1.

²Andina Librianti. "Tony Keusgen: Indonesia's Online Market Grows, eCommerce Succeeds", *Liputan 6*, 26 August 2016. <http://tekno.liputan6.com/read/2586238/pasar-online-Indonesia-kian-tumbuh-ecommerce-berjaya> accessed on 5 September 2016.

³Trias Setiawan Rizky, *Internet History and Online Media Development in Indonesia*. Kompasiana.com. 17 June 2015 http://www.kompasiana.com/1103/sejarah-internet-dan-perkembangan-media-online-di-Indonesia_54f88619a3331148098b45b8 accessed 5 September 2016

⁴Widjajanti Mulyono Santoso, *Social Sciences: Developments and Challenges in Indonesia*, (Jakarta: Yayasan Pustaka Obor Indonesia, 2016), p. 361.

⁵Teguh Wahyono, *Computer Ethics + Professional Responsibility in Information Technology*, (Yogyakarta: ANDI, 2009), p. 132.

⁶*Ibid.*

⁷(CSNET) is a computer network that began operating in 1981 in the United States. The aim is to extend the benefits of the network, to computer science departments in academic and research institutions. The Internet — From Modest Beginnings. NSF website. <https://www.nsf.gov/about/history/nsf0050/internet/modest.htm>, accessed December 13, 2016.

⁸(BIT-NET) is a computer network with a speed and low cost designed to serve network needs outside the ARPANET network boundaries. Uses store and forward protocols to provide interactive e-mail and file transfer services. "A collection of the meanings of words and terms in the fields of computers, internet, gadgets, and ICT" <http://komputer.yn.lt/is/?arti=BITNET> accessed December 13, 2016

⁹NSFNET is a network of the National Science Foundation formed by the United States Government in the late 1970s for research and education, Milang Sukma, NSFNET (National Science Foundation Network), 17 January 2012, <https://milangsukma.wordpress.com/2012/01/17/nsfnet-national-science-foundation-network/> accessed December 13, 2016

be used for the public. Several years later, Tim Berners Lee developed a world wide web application (www)¹⁰. With the www application it can make it easier for people to access information on the internet. After the opening of the internet for public use, more and more business applications emerged on the internet.

Users of electronic systems who can be called consumers can quickly track the development of information in various parts of the world. Using only search engines such as Google and Yahoo, users of electronic systems around the world have easy internet access to a wide variety of information. Compared to books and libraries, the internet symbolizes the distribution (decentralization), knowledge (knowledge) of information and data to an extreme. The internet can also be used by the government in providing public services. The internet is the easiest means to meet the needs of finding the information that consumers want. On the internet, consumers can search for primary, secondary, and tertiary needs. News and a variety of necessary information consumers can find on the internet, including entertainment.

Online business applications based on internet technology are starting to show financial aspects.¹¹ Small, medium and large companies use internet technology to support their business activities. The internet is used as a place for promotion, business and facilities to get information about all things. Marketing that used to be done conventionally, is now mostly done with the help of internet technology. Currently, a company can survive if it has a competitive advantage compared to its competitors. For example, the internet is used as a means to book / reserve tickets for airplanes, trains, hotels, pay phone bills, electricity, and so on. This makes it easier for consumers to carry out their business activities / transactions.

This business opportunity was also glimpsed by business actors who then created a site for online buying and selling transactions. There are several store outlets that also market their products through online networks. Until now, there have been so many sites at home and abroad that have promoted itself as a service provider for buying and selling transactions via online services. In general, these can be classified as follows: a) business actors directly open buying and selling sites; b) business actors open buying and selling site facilities; and c) there is a site in which there is also a forum for buying and selling via online. Of the three main categories, it can be grouped that the site owner is also responsible and the site owner is releasing responsibility for the said online buying and selling transaction.

According to the Association of Indonesian Internet Service Providers (APJII), in 2014 there were 88.1 million internet users,¹² The growth of internet users in 2014 was strongly supported by the growth of mobile device users, especially smartphones. Meanwhile, viewed from the employment sector, internet in Indonesia is mostly used in the trade and services sector at 31.5%.¹³ This is due to the ease with which consumers and producers or business actors interact with businesses. Consumers also feel comfortable. Customers don't have to grapple with traffic, don't have to look for a parking space and walk from store to shop. Consumers can compare brands, check prices and order merchandise 24 hours a day from anywhere.

Whether internet site users know it or not, every internet site includes a legal disclaimer template in the terms of use & privacy policy or in other parts of the website layout. The disclaimer is also called a disclaimer statement on the internet site, the content of which more or less states that everything contained on the internet site is solely for information only and the site owner is not responsible for the accuracy and completeness of the information contained in the information.¹⁴ In online buying and selling sites (e-commerce) on the internet, many disclaimers contain the contents that the electronic system operator as a business actor is not responsible for any damage arising from any product that has been purchased by consumers.

A standard contract has a clause that is burdensome to one of the parties. Against the one-sided clause, there are several uses of the term, including the Exonation Clause or the Eczema

¹⁰Budi Rahardjo, Details of Cyberspace Regulations and Regulations in Indonesia (Serial Online) 2003, accessed from: URL: <http://www.budi.insan.co.id> , accessed on 29 April 2015.

¹¹ *Ibid.*

¹² Indonesian Internet Service Providers Association, 2014 Indonesian Internet User Profile, (Jakarta: Indonesian Internet Service Providers Association, 2015), p. 15.

¹³ *Ibid.*

¹⁴ Diana Kusumasari, Legal Status of Inclusion of a Disclaimer on the Internet Site, *hukumonline.com*, 28 February 2011, <http://www.hukumonline.com/klinik/detail/lt4d5e3dfc6af24/status-hukum-pencantuman-disclaimer-dalam-situs-internet> , accessed September 6, 2016.

Clause.¹⁵In the legal library of the United Kingdom the Exonation Clause is also called an exclusion clause. Meanwhile, legal literature in the United States mentions the exculpatory clause, warranty disclaimer clause and limitation of liability clause. Meanwhile, according to Nieuw Nederland Burgerlijk Wetboek (NNBW) the term *onredelijk bezwarend* is used.¹⁶

Many of the buyers realize that not all sites provide services to be able to deal directly with the customer service department if they find that they are having problems with the transaction they are experiencing. In the contact us section or contact us, buyers will usually be given access to both an email address and a telephone number that can be contacted. The author found that not all telephone services can be contacted for 1 x 24 hours, but most sites do not provide telephone connection service information or provide correspondence address information, even though their business domicile is in Indonesia. The weakness of buyers in Indonesia not reading and paying attention carefully is already a classic problem faced,

E-commerce can be understood as an activity of trade transactions, both goods and services through electronic media that provides convenience in consumer transaction activities on the internet. E-commerce can also be defined as a business process using electronic technology that connects companies, consumers and the public in the form of electronic transactions and the exchange / sale of goods, services and information electronically.¹⁷Online buying and selling transactions (e-commerce) is also a sale and purchase agreement similar to conventional buying and selling that is commonly carried out by the public. There are differences in the media used, namely, in electronic buying and selling transactions used is electronic media in the form of the internet.

According to Efraim Turban "e-commerce is the process of buying, selling transferring, or exchanging product services and / or information via computer networks, mostly the Internet and intranets".¹⁸ This definition explains that electronic transactions are the process of buying, transferring sales, or improving services for products and / or information through computer networks, especially the internet and intranets. Some of the reasons consumers shop online is because it is practical, because they just need to "click" fill in their personal data and pay via e-banking or ATM, save money because it is cheaper than retail in a physical store, efficient because you don't need to leave the house by vehicle, look for parking, and pay for parking / taxi. According to the Geospatial Information Agency the difference between the internet and an intranet is as follows.

The Internet is a global system of interconnected computer networks using the Internet Protocol Suite (TCP/IP) standard to serve billions of users worldwide.

Intranet is a computer network based on the TCP / IP protocol such as the internet, only used in internal companies or offices.¹⁹

Clause assignment of responsibility for exoneration or disclaimer on internet sites listed by the electronic system operator / business actor without prior negotiation with the consumer. Some of the sites accessed include a disclaimer which contains the transfer of responsibility for electronic system administrators for anything that might happen and result in consumer losses. One example of a disclaimer on the internet that was found is a disclaimer on an online buying and selling site that reads:

Not responsible to you for any loss or cause (in any form) arising directly or indirectly. Your own risk for misunderstanding, damage, cost or loss resulting from using the platform, is entirely at your own risk and lazada is not responsible for it.²⁰

The simple logic is how it is possible that the online buying and selling website is not responsible for what is displayed, or embed (embedded), even though some of the products come

¹⁵Sri Gambir Melati Hatta, *Purchase a Lease as an Unnamed Agreement: Public Views and Attitudes of the Supreme Court of Indonesia*, (Bandung: Alumni, 2000), p. 149.

¹⁶Mariam Darus Badruzaman, *Protection of Consumers in BPHN Symposium on Legal Aspects of Consumer Protection*, (Bandung: Binacipta, 1969), p. 63.

¹⁷Munir Fuady, *Introduction to Business Law: Managing Modern Business in the Era of Globalization*, (Bandung: PT Citra Aditya Bakti, 2015), p. 407.

¹⁸Efraim Turban, quoted by Ni Putu Ria Dewi Marheni, *Legal Protection for Consumers with the Inclusion of a Disclaimer by Businesses on the Internet Site (website)*, Udayana University Postgraduate Program, p. 27

¹⁹Geospatial Information Agency, "Standard Operating Procedures for Requesting Network Access for Intranet Services and Internet Services", (Cibinong, 2012), p. 6.

²⁰Terms and use, on the website, 2017 https://www.lazada.co.id/terms-of-use/?spm=a2o4j.home.footer_top.10.d78e801kHN8QZ, on April 12, 2017.

from merchant partners or other stores that do business on the Lazada website.²¹ Of course here it is very clear to see that the electronic system organizer on the site wants to shift responsibility.²²

Consumer behavior that accepts or resigns must immediately be abandoned because it is detrimental to consumers as individuals, as well as potentially harming other consumers (society), and even the environment. When using goods and or services (consuming), consumers must be more careful, smarter, and with a broad perspective. Attitudes and behaviors that take it for granted or give up are very irrelevant, in the midst of a very dynamic and progressive consumer problem.²³

Consumer complaints related to online buying and selling (e-commerce) were also found, one of which was about a consumer who bought a watch in an online shop on the internet where the problem arose when the item arrived in the consumer's hand, it was only a watch box without a watch even though previously the consumer had made a full payment to the online shop business actor, of course the consumer felt disappointed and aggrieved then immediately contacted the online shop and the online shop did not want to be responsible for the absence of a watch in the watch box, of course the reason for the online party The shop is corroborated by the disclaimer that was previously stated, the online shop is not responsible for the goods that have been sent to the buyer.²⁴

Limitation of liability (limitation of liability), this principle is more dominantly used by business actors by including it as an exoneration clause in the standard agreement they make. This principle is very detrimental to consumers if it is determined unilaterally by the business actor. The inclusion of standard clauses is basically not prohibited. The purpose of making standard clauses is to make it easier for the parties to enter into an agreement. Article 18 point a of Law Number 8 of 1999 (Law Number 8 of 1999) regulates that business actors in offering goods and / or services intended for trade are prohibited from including or including standard clauses in every document and / or agreement if it states the transfer of responsibility. businessmen.²⁵

Consumers, as the weak party in this case, will suffer losses if the business actor includes an exoneration clause in a sale and purchase agreement. This is because consumers only have the option to accept or reject the agreement (take it or leave it contract). However, what happens is that many consumers accept agreements that contain exoneration clauses due to the need for these goods and / or services. Business actors in offering goods and / or services are expected to be wiser in including standard clauses in a sale and purchase agreement.

Legal protection for consumers for the inclusion of an exoneration clause in the sale and purchase agreement can be carried out if the business actor fulfills the consumer's rights contained in Article 4 point 2 of Law Number 8 of 1999, which states that the consumer has the right to choose goods and / or services and obtain goods and / or the service is in accordance with the exchange rate and the conditions and guarantees promised. If the agreement is made through electronic media, sometimes the business actor does not fulfill this right by including an exoneration clause that will harm the consumer.

Guidelines for Consumer Protection of 1985, issued by the United Nations (UN) states "Consumers everywhere, from all nations, have basic and social rights". The purpose of these basic rights is the right to obtain clear, correct and honest information, the right to receive compensation, and the right to obtain basic human needs (sufficient food and shelter) the right to have a good and clean environment and the obligation to protect the environment. good and clean and the right to basic education The United Nations urges all its members to implement these consumer rights in their respective countries.

How important consumer rights are, thus giving birth to ideas that argue that consumer rights are "the fourth generation of human rights" which is the key word in the conception of human rights. Information activities and electronic transactions in Indonesia have been promulgated based on Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions. However, regulations regarding the protection of consumer rights in

²²Mustadafin, "Double Standard Copyright on website", 2012, accessed from URL:<http://archive.kaskus.co.id/thread/13045497/1>, on November 2, 2016.

²³YLKI, "A Consumer's Eye", on the Website, 2016, accessed from URL: yiki.or.id/2016/03/matas-eorang-konsumen/ on November 2, 2016.

²⁴Toto Adhitama, "About gadget", 2012, accessed from URL: [http://asia.groups.yahoo.com /](http://asia.groups.yahoo.com/), accessed on January 12, 2015.

²⁵Sukarmi, *Cyber Law Electronic Contracts in the Shadows of Business Actors*. (Bandung: Pustaka Sutera, 2008), p. 15.

Law Number 19 of 2016 have not been explicitly regulated. Law Number 19 Year 2016 as a special provision (*lex specialis derogate legis generali*) regulates electronic transactions because of their scope in cyberspace. Law Number 19 Year 2016 regulates that the main principle of electronic transactions is an agreement or by "agreed methods" by both parties (in this case business actors and consumers). Electronic transactions bind the parties in agreement, so that consumers who carry out electronic transactions are deemed to have agreed to all the terms and conditions that apply to the transaction (Article 18 paragraph (1) of Law Number 19 of 2016). This is related to the disclaimer listed by business actors utilizing internet media.

The biggest difficulty in this study is the limited data on the inclusion of an exoneration clause in electronic transactions on internet sites in Indonesia. The data referred to, both in the literature, and in the form of cases that have become practice in courts and the absence of business actors in the ecommerce sector to be met / interviewed.

In this dissertation research, the problem approach carried out is different from the four previous dissertation studies above. In this study, focused on exoneration clauses in electronic transactions online / online sites can place an unbalanced position between business actors and consumers. Business actors freely include exoneration clauses on online / online sites with the aim of legal protection for business actors themselves. Thus, this dissertation research is a research on "Principles of Responsibility of Business Actors for Inclusion of Exoneration Clauses in Electronic Transactions through Internet Sites Viewed from a Consumer Protection Law Perspective.

FORMULATION OF THE PROBLEM

Based on the background, as previously described, the problems formulated are related to the principle of the responsibility of business actors for the inclusion of an exoneration clause on the online shop in the perspective of consumer protection law. So that there is a loss by consumers of goods / services. In detail, the research is directed at the following three problems.

1. What is the position of the exoneration clause in business transactions via the internet site (online)?
2. What is the form of accountability of business actors to consumers in business transactions through internet sites (online)?
3. What is the ideal arrangement regarding business transactions via internet sites that provide more protection for consumers?

RESEARCH METHODS

The research method used is:

1. Research Form

In this study using a normative juridical research form. According to Saptomo²⁶The activities carried out are an inventory of legal materials, identification of legal materials, classification of legal materials, systematization of legal materials, and interpretation and construction of legal materials. Then Ronny Hanitijo Soemitro²⁷explained that the normative legal research approach is carried out by researching positive legal inventories, research on legal principles, legal systematics, level of synchronization, vertical and horizontal. So in this research the activities carried out are studying the materials of primary law, secondary law and tertiary law which will be used as guidelines in discussing and analyzing problems.

2. Research Specifications

Research or research is an effort to find information back carefully, carefully, diligently, painstakingly, and earnestly. The meaning of finding is an activity to find something that actually already exists but has not been systematically formulated.²⁸ Specifications This research is descriptive analytical research, which is research that in addition to providing an overview, writing and reporting an object or event will also draw general conclusions from the issues discussed.

3. Approach Method

This research uses several approaches, where with these approaches the compilers will get information. The research approach used is the statute approach. This approach is carried out by examining all laws and regulations related to the problems (legal issues) that are is being faced. This statutory approach, for example, is carried out by studying the consistency / suitability

²⁶Ade Saptomo, *Principles of Legal Research Methodology*, (Surabaya: Unesa University Press, 2007), p. 83.

²⁷Ronny Hanitijo Soemitro, *Legal and Jurimetric Research Methodology*, (Jakarta: Ghalia Indonesia, 1998), p.

11.

²⁸Ade Saptomo, *Op. Cit.*, hlm. 28.

between the Basic Law and the Law, or between one Law and another. case approach is this approach is carried out by analyzing cases related to the legal issues at hand. The cases that are reviewed are cases that have obtained a final court decision. The main thing that is studied in each of these decisions is the judge's consideration to arrive at a decision so that it can be used as an argument in solving the legal issue at hand and a comparative approach (comparative approach). This approach is carried out by comparing legal regulations or court decisions in a country with legal regulations in other countries (can be 1 country or more), but it must be about the same thing. Comparisons are made to obtain similarities and differences between the legal regulations / court decisions. .

4. Data source

In normative legal research, library materials are basic legal materials which in (science) research are classified as secondary data²⁹. Secondary data can be classified into 3 legal materials:

a. Primary law material

Namely legal materials that have binding power in general (legislation) or have binding power for interested parties (contracts, conventions, documents, laws and judges' decisions).

b. Secondary law material

Namely legal materials that provide an explanation of primary legal materials (legal science books, legal journals, legal reports, printed or electronic media).

c. Tertiary law material

Namely legal materials that provide explanations for primary legal materials and secondary legal materials (law drafts, legal dictionaries and encyclopedias).

Most of the legal materials as normative studies can be obtained through tracing various legal documents³⁰ The primary legal materials in this paper are:

a. 1945 Constitution of the Republic of Indonesia

b. Code of Civil law

c. Criminal Code

d. Law Number 8 of 1999 concerning Consumer Protection

e. Law Number 36 Year 1999 regarding Telecommunication

f. Law Number 7 of 2014 concerning Trade

g. Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions

h. Government Regulation Number 82 of 2012 concerning Implementation of Electronic Systems and Transactions

i. Government Regulation Number 58 of 2001 concerning Guidance and Supervision of the Implementation of Consumer Protection

j. Presidential Regulation Number 50 of 2017 concerning the National Strategy for Consumer Protection

k. Presidential Regulation Number 74 of 2017 concerning the Road Map of the Electronic-Based National Trade System (E-commerce Road Map) for 2017-2019

Meanwhile, secondary legal materials, which are used in this writing, are books or literatures that contain theories and views from experts that are relevant to the problem under study. As well as tertiary legal materials that provide guidance and explanation in this writing are legal dictionaries, language dictionaries, encyclopedias and the internet which are described on the final page of this writing.

5. Data collection technique

The data obtained from this study are Data collection is done by searching for secondary data in the form of collecting various statutory provisions, and conducting a literature study. Collecting data from various legal materials, interviews, documents that support the object of research. and accessing the internet related to the problem.

6. Analysis and Presentation of Data

The legal materials obtained were analyzed qualitatively. Qualitative analysis³¹ used to analyze the meaning of data that appears on the surface, meaning that qualitative analysis is not used to explain a fact but only to understand that fact. So the data obtained is interpreted by referring to the relevant theoretical frameworks, concepts, and views of scholars, then presented in the form of descriptive descriptions.

²⁹Abdulkadir Muhammad, Law and Legal Research, (Bandung: PT. Citra Aditya Bakti, 2004), p. 82.

³⁰Bahder Johan Nasution, Legal Science Research Methods, (Bandung: CV. Mandar Maju, 2008), p. 98.

³¹Burhan Bungin, (ed), Qualitative Research Methodology, (Jakarta: Raja Grafindo Persada, 2006), p. 54

ANALYSIS

1. Position of the Exonation Clause in Business Transactions through the Internet Site (Online)

Based on the doctrines of experts, there are those that define the exonation clause as a transfer / avoidance of responsibility (Mariam Darus Badruzaman, Henri P. Panggabean), there is an elimination of responsibility (Munir Fuady, Henry Campbell Black, Celina Tri), there is a limitation of responsibility (Mariam Darus Badruzaman, Celina Tri), exists as a reduction of responsibility (Mariam Darus Badruzaman), and there is also an act that creates obligations on the other side (Mariam Darus Badruzaman).

The scope of the exonation clause based on the expert's doctrine can be in the form of: transfer (avoidance) of the creditor (business actor's) legal responsibility, or elimination (negating, waiving) of the creditor's (business actor's) legal liability, or limiting the creditor's (business actor's) legal liability. , or reduction of the creditor's (business actor's) legal liability, or creating new responsibilities (obligations) of the creditor (business actor) which is borne by other parties.

The scope of the exonation clause based on Article 18 paragraph (1) UUPK determines: Business actors in offering goods and / or services intended for trading are prohibited from making or including standard clauses on each document and / or agreement if:

- a. Declare the transfer of responsibility of the business actor;
- b. State that the business actor has the right to refuse the return of goods purchased by consumers;
- c. Declare that business actors have the right to refuse the return of money paid for goods and / or services purchased by consumers;
- d. Declare the granting of power from consumers to business actors, either directly or indirectly, to take all unilateral actions relating to goods purchased by consumers in installments;
- e. Regulate the matter of proof of the loss of use of goods or use of services purchased by consumers;
- f. Give business actors the right to reduce the benefits of services or reduce the assets of consumers who are the object of sale and purchase of services;
- g. Declare the consumer's submission to regulations in the form of new, additional, advanced and / or further amendments made unilaterally by the business actor during the period when the consumer utilizes the service he purchased;
- h. State that consumers authorize business actors to impose mortgage, lien, or security rights for goods purchased by consumers in installments.

Norms in the provisions of Article 18 paragraph (1) of the UUPK from the letter as / dh if it is related to the doctrines of the experts, then it can be said that the first point clearly falls into the category of standard agreements containing exoneration clauses, including letters b and c also including standard agreements which contains an exoneration clause. This means if the business actor states unilaterally in the standard agreement (standard agreement) that "Business actors have the right to refuse the return of goods purchased by consumers" or "Business actors have the right to refuse the return of money paid for goods and / or services purchased by consumers" is included as an exonation clause.

Letter d and h concerning "Granting Authorization" unilaterally. Are the letters d and h included in the category of standard clauses containing exonation? According to Shidarta, the provisions of Article 18 paragraph (1) of the UUPK have fundamental differences, a more specific definition is needed to examine the meaning of standard clauses prohibited in that article,³² but there are also those who consider the provisions of Article 18 paragraph (1) of the UUPK, all of them (from 1 to 1 dh) are categorized as standard clauses containing exonation.³³

According to the opinion, in this study, after seeing, reading, and relating it to facts in the field (observation) of the implementation of the provisions of Article 18 paragraph (1) letter d and letter h of the UUPK are also included as standard clauses containing exonation.

³²Shidarta, Indonesian Consumer Protection Law, (Jakarta: Grasindo, 2000), p. 123.

³³ Andreanto Mahardhika, Application of the Exonation Clause in the Standard Agreement on Housing Sale and Purchase in Denpasar City, Bali Province, Semarang: Notary Master Study Program, Diponegoro University Postgraduate Program, 2010, p. 60

Everything that is prohibited in Article 18 paragraph (1) of the UUPK is categorized as standard clauses containing exonerations, without exception.

There are two points that are often debated in court proceedings, namely letter d and point h. Some say these two points are not included in the standard agreement containing exonerations. To clarify these two points, the first to describe the facts on the ground. The public (especially consumers), consciously or not, have actually been tricked (circumvented) by business actors.

2. Forms of Accountability of Business Actors to Consumers in Business Transactions through Online Sites (Online)

In accordance with the principle of freedom of contract, the parties must be free to determine their will, free to determine the contents of the agreement. Even though the agreement is standardized, creditors and business actors must also be transparent in showing the draft standard agreement. This is solely intended to uphold the principle of freedom of contract, not just speculations by creditors (business actors), so that with these speculations the debtor (consumer) considers himself trapped in the tricks of the creditor (business actor).

If you pay attention to the business strategies carried out by creditors and business actors if the creditor (business actor) does not show the draft standard agreement to the debtor (consumer) to study before signing it, the inclusion of an exoneration clause in the standard agreement is clearly against the law, especially contrary to the law. with one of the conditions in Article 1320 of the Civil Code, namely number 4 concerning a cause that is not prohibited. Even though the terms "agree" in number 1 Article 1320 of the Civil Code have been carried out and signed by both parties, if the transaction between a creditor (business actor) and a debtor (consumer) is carried out with speculations that are not in accordance with the principle of propriety, reasonableness, and appropriateness (vide: Article 1339 of the Civil Code),

The principle of legal certainty (*asas pacta sunt servanda*) contained in Article 1338 point 1 of the Civil Code confirms that all agreements made legally apply to those who make it a law. If a standard agreement containing an exoneration clause and a standard agreement has been agreed upon and has been signed by the parties, then according to the principle of legal certainty in Article 1338 point 1 of the Civil Code, the standard agreement will have binding power and become law for both parties. Even though the standard agreement containing the exoneration clause contains formal juridical defects, if it is analyzed based on the principle of legal certainty (*pacta sunt servanda*) then the standard agreement is still considered valid and binding, therefore, the principle of "promises must be kept" or "debt must be kept" applies. paid ",

It should be emphasized in this case that not all standard agreements are prohibited even though they contain exoneration clauses such as the risk transfer principle in the insurance agreement.³⁴ the reason depends on the good faith of each party.³⁵ If the parties both accept the inclusion of the exoneration clause in the standard insurance agreement, then in this case there is no need to question it because the debtor (consumer) already knows at the beginning of the transaction and he accepts it with his spirituality voluntarily without any coercion (vide: Article 1338 KUH Civil).

If the debtor (consumer) is not aware of his spirituality since the beginning of the transaction, that after the creditor (business actor) signs the standard agreement, it turns out that later the creditor (business actor) knows that there is an exoneration clause in the standard agreement that has been agreed by the parties, then this is what is called. speculation of creditors (business actors) in order to attract and embrace their consumers with a sneaky strategy, for example not showing the original standard agreement draft but only showing sheets of paper containing only a few clauses while the exoneration clause was not shown to the debtor (consumer). If a creditor (a business actor) makes sneaky speculations in offering his products by not showing the original standard agreement draft and if the debtor (consumer) is not aware based on his spiritual elements from the beginning of the signing of the standard agreement, then based on Article 1338 point 3 of the Civil Code, the signed standard agreement must be canceled.

³⁴Ibid., P. 40. See also: Sri Rezeki Hartono, *Insurance Law and Insurance Companies*, (Jakarta: Sinar Grafika, 1995), p. 15

³⁵BPHN Academic Manuscripts Team, *Academic Paper Workshop on Engagement Law*, (Jakarta: National Law Development Agency, 1985), p. 9.

Article 1338 point 3 of the Civil Code stipulates: "The agreement must be carried out in good faith". Based on this article, the act of the creditor (business actor) making sneaky speculation in offering his products by not showing the original standard agreement draft to the debtor (consumer) to be studied first by the debtor (consumer) before it is agreed (signed) is an act that contains evil intentions. Such actions of creditors (business actors) are very contradictory to and are not in accordance with the principles of good faith, so the standard agreement containing the exonation clause must be canceled.

3. IDEAL ARRANGEMENTS RELATED TO BUSINESS TRANSACTIONS THROUGH AN INTERNET SITE (NETWORK) THAT PROVIDES A MORE FEEL OF PROTECTION TO CONSUMERS

Based on the explanation above, every agreement in terms of the relationship between business actors and consumers, which includes standard clauses in it, must pay attention to the provisions of Article 18 of Law Number 8 of 1999. The consequence of violation of Article 18 is that the agreement is null and void, unless the clause of severability of provisions is included, only clauses that are invalid for the sake of law are only clauses that are contrary to Article 18 of Law Number 8 of 1999 only.

Against the one-sided clause, there are several uses of the term, including the Exonation Clause or the Eczema Clause.³⁶In the legal library of the United Kingdom the Exonation Clause is also called an exclusion clause. Meanwhile, legal literature in the United States mentions the exculpatory clause, warranty disclaimer clause and limitation of liability clause. Meanwhile, according to Nieuw Nederland Burgerlijk Wetboek (NNBW) the term *onredelijk bezwarend* is used.³⁷

Article 3 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions states that the Use of Information Technology and Electronic Transactions is carried out based on the principles of legal certainty, benefits, prudence, good faith, and freedom to choose technology. or technology neutral.

The use of Information Technology and Electronic Transactions is carried out with the aim of:³⁸(1) educating the nation's life as part of the world information society, (2) developing national trade and economy in the framework of improving the welfare of the people; (3) increasing the effectiveness and efficiency of public services, (4) opening the widest possible opportunity for everyone to advance their thinking and abilities in the field of optimal and responsible use and utilization of Information Technology and (5) providing a sense of security, justice and certainty. law for Information Technology users and operators.

The Information and Electronic Transaction Law implements consumer protection principles in its articles which aim to provide legal certainty and protection for consumers in conducting electronic transactions. regulates that:³⁹ Business actors offering products through Electronic Systems must provide complete and correct information related to contract terms, manufacturers, and products offered.

In Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, the principles and objectives of creating good use of information technology and electronic transactions are stipulated.⁴⁰

- 1) "The principle of legal certainty" means the legal basis for the use of Information Technology and Electronic Transactions as well as anything that supports their implementation that has legal recognition inside and outside the court.
- 2) "The principle of benefit" means the principle for the use of Information Technology and Electronic Transactions to support the information process so as to improve the welfare of the community.

³⁶Sri Gambir Melati Hatta, *Purchase a Lease as an Unnamed Agreement: Public Views and Attitudes of the Supreme Court of Indonesia*, (Bandung: Alumni, 2000), p. 149.

³⁷Mariam Darus Badruzaman, *Protection of Consumers in BPHN Symposium on Legal Aspects of Consumer Protection*, (Bandung: Binacipta, 1969), p. 63.

³⁸Article 4 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions

³⁹Article 9 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions

⁴⁰Elucidation of Article 3 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions

- 3) "Prudential principle" means the basis for the party concerned must pay attention to all aspects that have the potential to cause harm, both for himself and for other parties in the use of Information Technology and Electronic Transactions.
- 4) "Good faith principle" means the principle used by the parties in conducting Electronic Transactions not intentionally and without rights or against the law to cause harm to other parties without the knowledge of the other party.
- 5) "The principle of freedom to choose technology or technology neutrality" means the principle of the use of Information Technology and Electronic Transactions not focused on the use of certain technologies so that they can keep up with developments in the future.

Transactions via the internet between business actors and consumers are carried out by communicating in advance, communication is made via email and agreeing on prices and goods. As long as the agreement is valid, the email in question can be categorized as an electronic contract. When there has been an agreement regarding goods and prices, there has been an agreement between the business actor and the consumer, therefore the consumer can file a lawsuit if the consumer is harmed on the basis of default. The e-mail can be used as evidence in accordance with what is meant in Article 5 which states that:

- 1) Electronic Information and / or Electronic Documents and / or printouts thereof are valid legal evidence.
- 2) (2) Electronic Information and / or Electronic Documents and / or printouts thereof as referred to in paragraph (1) constitute an extension of valid evidence in accordance with the applicable Law of Procedure in Indonesia.
- 3) Electronic Information and/or Electronic Documents are declared valid if they use the Electronic System in accordance with the provisions stipulated in this Law.
- 4) Provisions regarding Electronic Information and / or Electronic Documents as intended in paragraph 1 do not apply to: (a) letters which according to the Law must be made in writing; and (b) a letter and its documents which according to the Law must be made in the form of a notary deed or a deed prepared by the deed-making official.

In line with the conditions and problems of consumer protection in Indonesia, the Government of Indonesia gives full attention and support to efforts to develop policies and implement consumer protection measures in Indonesia. The implementation of a more integrated consumer protection is expected to create a business climate and a healthy relationship between business actors and consumers, which in turn can promote an efficient and just national economy.

Presidential Regulation Number 50 of 2017 concerning the National Strategy for Consumer Protection Article 4 states that the national strategy for consumer protection consists of three pillars, namely: (1) Increasing the Effectiveness of the Government's Role, (2) Increasing Consumer Empowerment, (3) Increasing Business Actor's Compliance.⁴¹

The formulation of an effective regulatory framework is part of the effort to create a business climate and healthy relationships between business actors and consumers. The preparation of the regulatory framework includes: (1) Amendments to Law Number 8 of 1999 concerning consumer protection, (2) Mapping of the conformity of laws and regulations in priority sectors with Law Number 8 of 1999 concerning consumer protection and, (3) Formulation of related standard operating procedures consumer complaint mechanisms in nine priority sectors.⁴²

Provisions regarding consumer protection are regulated in various laws and regulations. For this reason, it is necessary to harmonize all laws and regulations related to consumer protection with the aim of reducing the potential for overlapping implementation and implementation by all priority sectors, as well as providing more legal certainty for consumers and business actors.

Consumers should have a better understanding of their rights and obligations as consumers, and be able to use and fight for them (critical and empowered). Consumers do not

⁴¹Attachment to Presidential Regulation of the Republic of Indonesia Number 50 of 2017 concerning the National Strategy for Consumer Protection. Ibid.

⁴²Attachment to Presidential Regulation of the Republic of Indonesia Number 50 of 2017 concerning the National Strategy for Consumer Protection. Ibid.

have to feel worried or even afraid to fight for their rights and interests as consumers. Consumers must also play an active role as the main subject in efforts to enhance consumer protection. For this reason, the readiness of consumer information and advocacy will play a major role in increasing consumer empowerment. Increasing consumer empowerment is carried out through two strategies, namely:⁴³ (1) implementing effective consumer education and advocacy, and (2) providing an integrated, reliable and trustworthy consumer information system.

Effective supervision and law enforcement is aimed at ensuring that business actors comply with the provisions related to consumer protection contained in laws and regulations. Law Number 8 Year 1999 contains provisions concerning prohibited actions for business actors, such as prohibition against producing and / or trading goods and / or services that do not comply with the required standards, as well as trading damaged / defective goods, other rules for business actors are stated in Article 9 through Article 18 of Law Number 8 Year 1999. Business actors in advertising, promoting, and making standard clauses that are not detrimental to consumers.

E-commerce entrepreneurs are required to register and / or have a license according to statutory provisions. So that consumers who carry out tracing of business actors. Protection of personal data so that identity fraud that is detrimental to consumers can be minimized. Application system security is regulated through Government Regulation Number 82 of 2012 concerning Electronic System and Transaction Operation, in which the electronic system operation system is required to register and guarantee the reliability of its equipment, such as having a feasibility certification for hardware.⁴⁴

Trade through e-commerce is also a special concern by the government in Law No.7 of 2014 concerning Trade. With Chapter VIII concerning Trade through Electronic Systems Article 65 of the Trade Law, everything will be clearly regulated starting from the identity and legality of business actors, technical requirements for goods and qualifications of services offered, prices and methods of payment, to the method of delivery of goods.

Regarding data and information on business actors that are required to be registered in Article 65 of the Trade Law, it has actually been regulated in Law No. 11 of 2008 concerning Electronic Information and Transactions (UU ITE). In Article 10 paragraph (1) of the ITE Law, it is stated that every business actor conducting Electronic Transactions can be certified by a Reliability Certification Agency.⁴⁵

The certification provider consists of:

- a) Indonesian electronic certification organizers, and
- b) Foreign electronic certification operator.

Indonesian electronic certification providers are legally incorporated in Indonesia and domiciled in Indonesia, while foreign certification operators operating in Indonesia must be registered in Indonesia. Meanwhile, the object of a reliability certificate is not the electronic document or electronic transaction, but rather the business actor conducting electronic transactions. In simple terms, it is giving trust to business actors conducting electronic transactions.

In December 2014 the Ministry of Communication and Information Technology (Kemenkoinfo) launched Indonesia's digital certificate (ROOT AC) to anticipate security problems in electronic transactions. However, it is specifically for public service websites for governments that are required to use digital certificates. Because at that time

According to Bambang Heru Tjahyono⁴⁶ said that public services that use digital certificates show that they are trusted because the key to a transaction is trust. This digital or electronic certificate approval must also be done by a certified certificate operator, so that his party will also create an institution that will issue a certificate for the organizer.⁴⁷

⁴³ Attachment to Presidential Regulation of the Republic of Indonesia Number 50 of 2017 concerning the National Strategy for Consumer Protection. Ibid.

⁴⁴ Government Regulation Number 82 of 2012 concerning Implementation of Electronic Systems and Transactions.

⁴⁵ Information and Electronic Transactions Law, Law No. 11 Year 2008, LN No. 58, Article 10 paragraph (1).

⁴⁶ Bambang Heru Tjahyono, Director General of the Information Applications Kemenkoinfo, https://kominfo.go.id/index.php/content/detail/4311/Kemenkoinfo+Launch+Sertifikat+Digital+Indonesia/0/sorotan_media accessed on February 16, 2019

⁴⁷ Ibid

However, the creation of a digital certificate institution has yet to be realized and seems to have been forgotten, digital certificates are files used to obtain a person or entity on a network such as the internet. Digital certificates are also secure, because communication between two devices uses encrypted data.

An analogy of a digital certificate that compiles wanting to leave the country. A passport is required to enter a country. A passport is a tool for determining identity so that a country can move it. Digital certificates give the same respect to the world of electronics. Certificates are issued by a Certificate Authority (CA). The CA has the same role as the passport service office. The role of the CA is to validate the certificate's identity holder and to enter accordingly the certificate cannot be tampered with. After the CA provides a certificate, the certificate holder can ask people, pages, and network resources to prove its identity and it has been encrypted, resulting in confidential safety communications.

Then in Article 15 paragraph (1) states that:

"Every Electronic System operator must operate an Electronic System reliably and safely and be responsible for the proper operation of the electronic system."⁴⁸

Regarding certification, this is reaffirmed in article 41 of Government Regulation No. 82/2012 concerning Implementation of Electronic Systems and Transactions which reads:

"The implementation of Electronic Transactions in the public or private scope using Electronic Systems for the benefit of public services is required to use Reliability Certificates and / or Electronic Certificates".⁴⁹

The legality and identity of the perpetrator are very important in e-commerce trade which is regulated in this Trade Law. This is because there are many phenomena that consumers still do not trust in e-commerce services in Indonesia.

Consumers need a safe e-commerce transaction, consumers in Indonesia still do not fully believe in the use of credit cards in e-commerce transactions. the reasons consumers feel insecure in conducting e-commerce transactions, namely, the existence of regulatory gaps, no cross-border jurisdiction and the existence of cyber crime which is difficult to avoid. Seeing this, the first concern that the government must do is to provide clear and firm legal and regulatory rules related to e-commerce transactions by involving stakeholders and e-commerce business actors.

The existence of this Trade Law makes e-commerce transactions have a clear legal umbrella in its implementation. However, the Trade Law still requires Government Regulations related to e-commerce that technically regulate existing e-commerce transactions. For information, currently the Draft E-commerce Government Regulation is being formulated by the Government, in this case the Ministry of Trade by involving other relevant ministries as well as stakeholders and business actors, in order to produce good formulas for the development of e-commerce in Indonesia.

It is necessary to establish a standard clause supervisory agency which is given the authority to examine standard clauses before they are applied to consumers. "Standard clauses must be monitored, selected, reviewed, and registered before they are applied to consumers," a solution to the formation of institutions such as in the Netherlands. In the Netherlands there is a supervisory agency that oversees standard clauses before they apply to consumers. In Indonesia this can be done. This institution is an institution that can coordinate various stakeholders in this matter in the government, the ministries. The institution must also represent various interests, both from consumers, business actors, and academics and so on, the supervision of standard clauses should be carried out by the relevant sectoral institutions. for example, such as in the banking sector, standard calluses in the banking sector are supervised by the Financial Services Authority (OJK) and also regarding the inclusion of standard clauses on trade, both conventional and online, supervised by the Ministry of Trade or BPKN. By means of business actors to report or report to their sectoral institutions before carrying out or running their business.

⁴⁸ Ibid., Article 15 paragraph (1).

⁴⁹ Government Regulation on the Implementation of Electronic Systems and Transactions, PP No 82 Year, LN No 189 Year 2012, TLN 5348, Article 41 paragraph (1).

CONCLUSION

- a. The position of the exoneration clause in business transactions via internet sites (online) in Indonesian law lies in the field of civil law as part of contract law, so Article 1320 of the Civil Code also applies regarding the validity of an agreement. "In order for a valid agreement to occur, four conditions need to be met: 1. their agreement which binds itself; (KUHPerd. 28, 1312 etc.) 2. the ability to make an engagement; (KUHPerd. 1329 etc.), 3. a certain subject; (KUHPerd. 1332 etc.) and 4. a cause that is not prohibited. (KUHPerd. 1335 etc.) "Attitudes of business actors who act fraudulently when the sale and purchase contract is carried out, such as unclear content of standard contracts, defective products and dissatisfaction with services offered (unsatisfactory services), misleading advertisements, as well as after sales service problems. Cases related to e-commerce transactions, especially regarding product defects, dishonest information in webvertising, or late delivery of goods, are often experienced by consumers. Shifting responsibility by stating that the consumer takes all responsibility and risk for his choice of using the product / obtaining the information concerned. Almost all terms and conditions on online sites contain clauses like this. Every electronic system operator should operate an electronic system reliably and safely and be responsible for the proper operation of the electronic system and the electronic system operator is responsible for the electronic system operator as referred to in Article 15 paragraph (1) and (2) of the ITE Law. The standard agreement that contains an exoneration clause that occurs because of the abuse of the situation by the party determining the terms of the agreement is still valid, as long as there has been no judge's decision regarding the cancellation of the agreement. In the provisions of Article 18 of the UUPK, various prohibitions on the validity of the standard agreement have been determined which include a clause on the transfer of responsibility of a business actor (known as an exonation clause) as a result of which the clause is declared null and void by law. An act is declared null and void by law, because its cancellation is based on law. Cancel by law results in the legal action concerned by law being deemed to have never existed.
- b. The form of accountability of business actors to consumers in business transactions through internet sites (online) to gain access to responsibility is adapted to Law Number 8 of 1999 concerning Consumer Protection by providing an obligation for business actors to pay compensation for defective products. Article 19 paragraph (1) UUPK. Thus, the UUPK allows consumers to submit a claim to business actors to account for the losses they have suffered. The existence of this demand is in principle an implementation of the principle of product responsibility. For business actors, the settlement of product liability claims must be made seven days after the transaction date. The realization of a claim for compensation basically does not abolish criminal charges. Therefore, The existence of demands for product responsibility from consumers is often considered a serious obstacle, namely because business actors, especially those with a wide name and market share, will suffer losses from their business image. The protection provided in the form of product responsibility is given to consumers because if the business actor is allowed to just throw the defective product, it will gradually cause a bigger loss. Business actors encountered by consumers are those who do not have good intentions and are against the law in marketing their products, consumers can take the solution through criminal cases. this means that if the business actor is no longer expected to be able to settle product responsibility demands by paying compensation, an alternative for consumers can be in the form of a complaint against the law to court. This choice exists because consumers have the right to settle losses they have suffered as a result of the products or services they use. However, this legal action can be taken if the consumer objectively provides evidence of losses for the illegal act committed by the business actor. in other words, consumers still have to have a reason and legal proof that shows the business actor has committed an illegal act against the product it markets. In relation to service products, claims for compensation can be made through professional liability by showing that there are aspects of the agreement clause that are violated in the provision of services. This is done if consumers judge that the behavior of business actors in establishing cooperation that is bound by a service contractual relationship is not in accordance with the standards set appropriately. This condition occurs because the standard of service delivery in practice is less than the quality that should be provided. This reality is considered new in the development of consumer protection law today, so it requires a more concrete legal settlement. In such conditions, consumers have the opportunity to ask for professional responsibility (professional liability).

However, the consumer's actions pose quite a serious risk because consumers must provide proving support that the quality of services provided is not as promised.

- c. An ideal arrangement regarding business transactions via internet sites that provide a more protective sense of the consumer. Based on research, in Indonesia there are many special arrangements for electronic transactions. Regulations related to it can be found by interpreting these regulations into an understanding of electronic transactions or linking one regulation to another. The development of e-commerce globally provides opportunities for small and medium companies to compete better with large companies because of equal market access. This opportunity can only be exploited by business actors who are competent in the use of e-commerce. The Ministry of Trade (Kemendag) as the supervisor of the trade sector, requires that all products or goods traded through e-commerce must meet the Indonesian National Standard (SNI). Supervision is carried out for products subject to mandatory Indonesian National Standard (SNI) provisions. In addition, supervision is also carried out on products that are required to include labels, instructions for use and warranty cards in Indonesian. From the provisions of the regulations mentioned above, it can be seen that the Government is very concerned about consumer protection in Indonesia. However, as we know, the rise of online commerce today has made market share more open in Indonesia, the ease of offering and acceptance of a product sold through e-commerce has made irresponsible individuals use this e-commerce tool to trade products that should not meet the requirements. requirements to be traded in Indonesia. The legality and identity of the actors are very important in e-commerce trade which is regulated in this Trade Law. This is because there are many phenomena that consumers still do not trust in e-commerce services in Indonesia. The existence of this Trade Law makes e-commerce transactions have a clear legal umbrella in its implementation. However, the Trade Law still requires Government Regulations related to e-commerce that technically regulate existing e-commerce transactions. For information, currently the Draft E-commerce Government Regulation is being formulated by the Government, in this case the Ministry of Trade by involving other relevant ministries as well as stakeholders and business actors, in order to produce good formulas for the development of e-commerce in Indonesia. In Law No. 8/1999 the authorities to supervise standard clauses are BPSK and the Directorate of Control of Circulating Goods and Services (DPBBJ) of the Ministry of Trade. The results of interviews with BPSK officials in Indonesia turned out to be very surprising because it was concluded that BPSK had never supervised standard clauses until they took action against business actors that included standard prohibited clauses. DPBBJ with several agencies in the framework of monitoring circulating goods and services shows that the DPBBJ is also unable to carry out comprehensive supervision of every type of goods and services circulating in the market. The realization of the role of the State can be in the form of (first) standardization of the substance, form and format of standard clauses that will be set forth in documents or agreements. (second) making rules regarding the size and type of letters used and the format for placing standard clauses in agreements or documents and (third) establishing a standard clause supervisory institution. by giving the authority to check standard clauses before they are enforced, and imposing administrative sanctions and compensation sanctions. The authority to supervise the standard clause given to BPSK must be revoked, this is also necessary so that BPSK can focus on carrying out its dispute resolution function.

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