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Urgency of Consumer Legal Protection and E-Commerce Dispute Resolution Through Arbitration in the Asian Market

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ABSTRACT

The growth of the e-commerce industry in Asia in general, and in Indonesia in particular is growing rapidly in the midst of trade flows that are increasingly rapidly advancing. The very rapid development of information technology has given rise to a new style in the trading system, and also the process of dispute resolution must also follow existing developments. The change in the way transactions in the business world from the real world to the virtual world, has given birth to a variety of new legal problems for consumers in e-commerce, where consumers often do not have a strong bargaining position and put consumers in a weak position. By using the normative juridical approach method and analytical descriptive nature, the results of the study show that the protection of consumers in trade transactions through electronic systems cannot be optimally carried out because the regulations still scattered in several laws that require implementing regulations. In addition, Law No. 8 of 1999 concerning Consumer Protection has not been able to reach consumer protection in electronic trade transactions as a whole, especially in the case of parties having different jurisdictions. Whereas in the case of consumer disputes, the parties can take the court or outside the court by using ADR (Alternative Dispute Resolution) according to the agreement of the parties, where the methods used in ADR have been agreed upon first.

Keywords: protection and law enforcement, Consumer, electronic trade transactions

1. INTRODUCTION

Progress in the field of science makes technology always new, with no exception in the field of telecommunications, especially the internet media. The existence of these developments makes the space for transactions of goods and / or services to cross the borders of a country

freely. Such conditions support the effects of broader economic growth in the world. The potential of the e-commerce industry in Indonesia cannot be underestimated. From Ernst & Young's analysis data, it can be seen that the growth of online business sales in the country has increased 40 percent every year. There are about 93.4

³¹ million internet users and 71 million smartphone users in Indonesia.²⁴ Not just to find information and chat, people in big cities are now making the internet for e-commerce¹⁷ activities as part of their lifestyle. Consumptive behavior of tens of millions of middle class people in Indonesia is the reason why e-commerce in Indonesia will continue to grow.

Research on legal protection for consumers in cross-border e-commerce transactions in Indonesia, is felt to be very important, at least based on three reasons, namely:

- a) First, changing the way transactions in the business world, which were originally based in the real world, then developed into the virtual world (virtual), which gave birth to a variety of new legal problems for consumers in cross-country trade transactions, where consumers often do not have a position strong bargaining and places consumers in a weak position; [3]
 - b) Second, the legal protection of consumer rights in cross-country e-commerce transactions cannot be provided by just one legal aspect, but rather by a legal system capable of providing simultaneous and comprehensive protection, by comparison in various countries;
 - c) Third, in e-commerce transactions do not have geographical boundaries, so consumers in e-commerce transactions across countries require a form of legal protection for consumers and

dispute resolution to fight for their rights

The definition of e-commerce provided by experts, among others: [4]

- a. Khotota and Whinston, define e-commerce is a modern business methodology that seeks to meet the needs of organizations, traders and consumers to reduce costs, improve the quality of goods and services and improve the quality of goods and services, and increase the speed of introductory services goods; [5]
- b. Onno W. Purbo and Aang Arif Wahyudi interpret e-commerce: "E-Commerce is a dynamic series of technologies, applications and business processes that connect companies, consumers, and society through electronic transactions and the exchange of electronic goods, services and information (E -Commerce is a dynamic set of technologies, applications, and business processes that link enterprises, consumers, and communities through electronic transactions and the electronic exchange of goods, services and information)". [6]

In the beginning, in trade transactions, business players and consumers met physically or in person, telemarketing concepts can be used,

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namely long-distance trading using internet media where a trade no longer requires a meeting between business people. In buying and selling on the internet, fraud often occurs and thus consumers are often harmed, seen a lot of cases in cyberspace such as fictitious websites, delays in delivery, various frauds, etc. all of which are very detrimental to consumers in e-transactions-commerce, especially Indonesian consumers which has a large population and is in a weak economic position. The types of e-commerce transactions include [7]:

- a. First, business to business (B2B), the e-commerce transaction model is a business communication system between business people or in other words electronic transactions between business actors (in this case business actors) are carried out routinely and in a large product capacity or volume .
- b. Second, Business to consumers (Business to consumer), in E-Commerce is an electronic business transaction conducted by businesses and consumers to meet certain needs and at certain times. For example internet Mall. These business transactions are products that are spent starting from goods and services, both tangible and electronic or digital, which are ready to be used or consumed.
- c. Third, consumers to consumers (consumer to consumer). Consumer to consumer is an electronic business transaction carried out between consumers to meet a particular need, and at certain times the segmentation of consumers to consumers is more

specific because the transaction is carried out by consumers to consumers who require transactions. The internet has been used as a means of exchanging information about products both about price, quality and service. Apart from that, customers can also form a community of fans who use these products. Customer dissatisfaction in consuming a product can be immediately spread through these communities. The internet has made customers have a high bargaining position against business actors thereby demanding better service for business actors.[8]

In the perspective of the future, the world will become a large village, so that national boundaries will become very blurred. Meanwhile, the global economy follows its own logic. In the process, the world is utilized as well as an intensification of awareness of the world as a whole. However, it is the process of globalization that allows for a free flow of information through the internet, the increase in the flow of goods and personnel internationally as well as membership in various world organizations, potentially bringing up the legal problems that impact on society, which inevitably have to be handled by legal experts. The various problems raised by information technology that must be faced by the law should have been quite clear and predictable.[9]

The rapid growth of internet users is a fact that makes the internet an effective medium for businesses to introduce and sell goods or services to potential customers from all over the world. E-

commerce is a modern business model that is non-face (does not physically present businesspersons) and non-sign (does not use original signatures). The presence of e-commerce allows the creation of healthy competition between small, medium and large businesses in seizing market share.

In e-commerce transactions a more practical paper business transaction is created and in e-commerce transactions it can not meet face-to-face with the parties making the transaction, so it can be said that e-commerce is a new economic driver in the field of technology. In addition to these advantages, the negative aspect of this development is related to security issues in making transactions using e-commerce media. The emergence of forms of fraud that tend to harm consumers and cause various legal problems in conducting E-commerce transactions. Legal issues that then arise due to transactions through E-Commerce are related to consumer legal protection where legal protection is increasingly urgent in the case of a consumer conducting e-commerce transactions with merchants in one country or different countries.

2. PROBLEMS

Based on the background of the problem, the authors are interested in examining issues regarding the Urgency of Consumer Legal Protection and E-Commerce Dispute Resolution through Arbitration in the Asian Market. This research was carried out to achieve specific objectives, namely to determine efforts to protect consumer law and the settlement of e-commerce disputes through Arbitration in the Asian Market.

The benefits of the results of this study are expected to provide information for the interests of the public and government, especially regarding the efforts of Consumer Legal Protection and E-Commerce Dispute Settlement through Arbitration in the Asian Market

3. DISCUSSION

Consumers have a greater risk than business actors, in other words the rights of consumers are very vulnerable. Due to the weak bargaining position of consumers, the rights of consumers are very risky to be violated. With respect to the consumer's position, he must be protected by law. Because one of the characteristics, as well as the purpose of law is to provide protection (protection) to the community. The protection to the community must be realized in the form of legal certainty which is the consumer's right. [10]

In the practice of state administration in the world, the concept of a welfare state is generally used, in which the state is required to expand its responsibilities to the socio-economic problems faced by many people. It was this development that gave the twenty-century "interventionist state" legalization. The state needs, even has to intervene in various social and economic problems to ensure the creation of shared prosperity in society. The tradition of state intervention that characterizes the concept of "welfare state" is changing. Economic issues have developed in such a way that hopes and worries arise as well as the emergence of a new age, where the role and involvement of state organizations will gradually

diminish in many aspects of socioeconomic life.

The importance of state intervention is based on the swift flow of legal developments due to technological developments in this century, voices that eventually spread to almost all parts of the world in the form of a "consumer protection movement" (consumer movement). Reasons for issuing laws and invitation regulations, which specifically regulate and protect the interests of consumers, as follows: [11]

1. Consumers need separate arrangements, because in a legal relationship between business people and consumers who are users of goods and services for their own interests and not to produce or trade;
2. Consumers need a separate legal facility or procedure, as an effort to protect or obtain their rights.

The relationship of business actors with consumers in e-commerce transactions in the Asian market, is a contractual relationship. E-commerce transactions are aimed more at the scope of transactions carried out electronically by combining networking (networking) from a computer-based information system (computer-based information system) with a communication system based on networks and telecommunication services (telecommunication-based), which are further facilitated by the existence of a global internet computer network.[12] The electronic transactions are usually realized in the form of electronic contracts / online contracts which are electronic documents that contain electronic trade transactions.

In cross-country e-commerce transactions must be carried out in good

faith. J.M. van Dunne divided the contract stages into three phases, namely the pre contract phase (precontractuele phase), the contract implementation phase (contractuele phase), and the post contract phase (postcontractuele phase). Good intentions must have existed since the pre-contract phase where the parties began to negotiate until reaching an agreement, and the contract implementation phase.

In contract law, good faith has three functions. Good faith in its first function teaches that all contracts must be interpreted in accordance with good faith. The second function is the add function (aanvullende werking vande goede trouw). The third function is the function of limiting and negating (beperkende en derogerende weking van de goede trouw). E-Commerce Transactions [13] is a legal act (transaction) carried out using computers, computer networks, or other electronic media between business actors and consumers, in this study limited to transactions conducted with internet media, with a contract model through the website of business actors selling various products to consumers (B2C).

For a long time, legal protection for consumers has only been based on the doctrine of caveat emptor, which is an understanding of the need for consumers to always be careful, because businesses are not required to show defects, unless requested and must state it. Every transaction that takes place results from an agreement between the business actor and the buyer (consumer). The businessman hands over the goods and the consumer pays the price. Consumers bear their own risks to an item after the principal

obligations of each party have been fulfilled reciprocally.

In fact, the assumptions underlying the balance of the relationship are apparently not proven, because consumers do not have adequate access to information on the goods or services they consume, and not merely consumers are not able to understand a product or service. Difficulties in the burden of proof that must be borne by consumers if there is a dispute creates new problems for consumers, because there are difficulties in accessing information about goods and / or services that have been consumed to be used as evidence. Consumers do not get reasonable protection, and often become the object of profit seeking for business actors. As a user of goods or services; good for self, family or other people, and not for trading. Consumers are generally in a far weaker position compared to business actors.

However, businesses have the power and funds that can form opinions on a product, which in turn is very much different from the expectations (expectations) of consumers. Even more complicated, diametrically opposed to what consumers expect of a product. The way transactions between business actors and consumers⁸ develop, has an impact on changes in legal construction in the relationship between business actors and consumers. Changes to legal construction begins with a paradigm shift the relationship between consumers and⁸ business actors, that is the relationship that was originally built on the principle of caveat emptor turned into the principle of caveat venditor. A principle of relationship that originally emphasized the awareness

of consumers themselves to protect themselves. With the development of technology now known as ecommerce transactions using the internet, ¹ commerce transactions have become an effective medium for businesses to introduce and sell goods or services to potenti⁶ customers from all over the world. E-commerce is a modern business model that is non-face (does not physically present business people), this development also has an impact on the relationship between the way businesses and consumers transact.

As a technology-based trading, ecommerce has revolutionized conventional trading. Interactions between consumers and business actors that were previously carried out directly become indirect interactions. E-commerce has changed the paradigm of "classic business" by growing models of interaction between busi¹³ness people and consumers in the virtual world. It is widely recognized, that compared to shopping in real space, shopping via the internet is an easy, convenient, inexpensive, and efficient thing for consumers. Business actors also benefit from the same characteristics of E-Commerce transactions because business transactions can be carried out without the need to meet directly with consumers. In fact, e-commerce transactions offer opportunities for consumers to obtain services and meet the needs of consumers from anywhere in the world. Consumers can divert the burden of long distance shipments, as well as freight costs and insurance requirements that apply in international trade.

There are many benefits that can be obtained from the consultants, both

structural and effective benefits in e-commerce transactions, among others:[14]

- a. Effective, in the sense that consumers can obtain information and transact at any time accurately, quickly and cheaply;
- b. Controlled costs, in terms of transportation costs to the location to choose goods, price comparison with other business actors and transactions can be pressed as low as possible, because all processes can be carried out from behind the table and only pressing the mouse click;
- c. Physically safe, in the sense that consumers will feel safe in making transactions with a very large amount of money, compared to traditional markets. The risk of pickpocketing or robbery is very small, although there is a risk of software that has recently spread, namely credit card number theft and system burglary (hackers);
- d. Low Prices, because businesses can reduce marketing costs and benefit from the application of just in time, consumers are likely to get cheaper product prices; and
- e. Flexible, in the sense that consumers can make transactions from various places with various conditions, such as from home, office, library, internet cafe, or other places. Consumers also do not need to condition themselves to dress and look neat as shopping at conventional markets.

Examples of the advantages of e-commerce transactions in the online

auction market, such as e-Bay, give consumers the ability to buy goods cheaply, because e-Bay sellers set low prices to compete with other e-Bay sellers, as well as other online and offline retailers. Thus, local retailers must consider the price of products on e-Bay when determining costs to consumers. The ability of e-Bay to connect sellers with buyers resulted in transactions totaling more than \$ 10 trillion in 2001.[15]

Only then problems arise, namely the ease of doing shopping via the internet, with various facilities and e-commerce transaction mechanisms, does not make the bargaining position of e-commerce consumers getting better. This can be seen from the many indications that show that the protection and security rights for consumers previously obtained in the "real-space" in e-commerce transactions are decreasing, to the detriment of consumers on the internet (ie in cyberspace).[16]For example, if there is a lack of clarity in the destination address of the business actor, or if the goods or services are given inadequate. Consumers tend to be more disadvantaged by transactions via the internet than if done in transactions in real space.

Consumers in e-commerce transactions are not directly dealing with business people in purchasing goods or renting services online. This can cause the risk of goods being damaged, not delivered, lack of services and other frauds to consumers to increase. After goods are purchased online from the e-commerce market and then shipped, e-commerce consumers cannot research them as in the "real world".[17]Therefore, the availability of true and accurate

information about consumers and business people in e-commerce is an absolute prerequisite.

In e-commerce transactions, if consumers are dissatisfied with products purchased from business actors and with identities that are easily hidden in the online world, then it is difficult for consumers to get a refund (return) and find ways to resolve problems from the business actors. These problems result in consumers losing trust in the online world. Implementation of material civil law, especially in the event of a violation in conducting a legal relationship, it requires a series of other legal regulations in addition to the law governing the legal relationship (material civil law). This legal regulation is called formal law or Civil Procedure Law, where the settlement is done through a judicial institution. However, in its implementation, the judiciary has received criticism, even criticism from various parties due to various complex problems that surround the world of justice in Indonesia, including the process of dispute resolution is slow, the cost of court proceedings is expensive, the court is considered to be less responsive in case resolution, so decisions are often not being able to solve the problem, as well as the accumulation of cases at the level of the Supreme Court that was not resolved.

E-commerce transactions in cyberspace are possible for disputes to occur as disputes that occur in a conventional legal relationship. The more and more extensive trading activities, the higher the frequency of disputes, this means that there will be many disputes that must beresolved. This dispute can occur

due to a default or deed against the law.[18] These disputes can be resolved through litigation and non-litigation processes. However, as mentioned earlier, that e-commerce was born with the intention of removing obstacles in the conventional business transaction model in the form of direct meetings, so that it is limited by time and place, and the need for papers as a document. The e-commerce model in business transactions can be done non-face and non-sign. Therefore, the dispute resolution model which takes too much time, costs and too many formalities is essentially a model of dispute resolution that is not expected in e-commerce. Instead e-commerce actually expects dispute resolution that is faster, cheaper and does not have too many formalities.[19]

Dispute resolution itself basically can be qualified to be a peaceful settlement of disputes and dispute resolution on an adversarial basis. The peaceful settlement of disputes is better known as the consensus resolution. While adversarial dispute resolution is better known as dispute resolution by third parties not involved in the dispute. In peaceful settlement of disputes, no party makes decisions for dispute resolution. The involvement of third parties in the peaceful resolution of disputes is in an effort to ensure that the parties to the dispute can agree to settle their dispute. The forms of peaceful dispute resolution are negotiation, mediation and conciliation.

Negotiations are peaceful settlement of disputes where the parties face each other directly without any participation from a third party. While mediation and conciliation are the peaceful settlement of

disputes where there is interference from a third party. The difference between conciliation and mediation lies in whether or not the third party is active in getting the parties to resolve the dispute. The peaceful resolution of disputes, when seen from their nature, is the ideal solution given that justice arises from the parties.

Mediation is one form of settlement chosen by the parties in dispute in e-commerce disputes. Through mediation a neutral third party will sit together with the parties to the dispute and will actively help the parties in their efforts to find a fair and satisfying agreement for both. In the mediation process, a mediator only acts as a facilitator. The mediator does not have the authority to make a decision that is binding on the parties. A mediator will help the parties to the dispute to identify the problems that are the subject of the dispute, facilitate communication between the two parties.

Another alternative form of Dispute Resolution (APS) is negotiation which is basically carried out during the trial process. This is because, in the trial process the principle of judge applies passively, which implies that the parties can end the dispute at any time and the judge must not obstruct it. Negotiation itself is a process in which the parties attempt to resolve disputes that arise informally, with or without other parties representing them.[20]

E-commerce disputes that tend to occur are related to issues of price, quality of goods and delivery period. The product that is the object of the dispute, if the number (price or quantity) is relatively small, then the parties tend not to need the help of a third party for resolution. This is

reasonable, considering the costs incurred to pay for third party services will be greater than the object of the dispute. In the case of disputes which are relatively small in value (in terms of price or quantity), the negotiation process is carried out directly between the seller and the buyer, both through physical meeting (face to face), if the domiciles of both are close together or through correspondence (e-mail), if the two parties are far apart.

The dispute resolution mechanism through conciliation is also a dispute resolution process involving neutral and impartial third parties. As is the case with a mediator, the conciliator's job is only as a facilitator to communicate between the parties so that ultimately the solution will be produced by the parties themselves. In the conciliation process, a third party who will help, has brought a proposal settlement, so that it plays a more active role in directing the parties to arrive at conclusions dispute resolution that can be agreed by the parties. In conducting the conciliation process, a conciliator must be able to know the situation and condition of the case, know what is the desire of the parties to the dispute and know the needs of the parties so that the dispute can be resolved quickly.

It should be emphasized here, that the peaceful resolution of disputes requires volunteerism from the disputing parties. Without volunteerism between the parties, it is not possible to settle the dispute peacefully. Disputes arising in human life need to be resolved. The problem is, who can resolve the dispute? The easiest and simplest way is for the parties to the dispute to resolve the dispute themselves. Adversarial dispute resolution is resolved

through a dispute resolution agency. There are two forms of dispute resolution institutions.

1. First, the court is an institution formed by the state to settle disputes;
2. Secondly, arbitration which is basically formed by a non-state or private institution to resolve disputes quickly.

Settlement through Arbitration results in a decision. The law in Indonesia which regulates Arbitration is Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. There are a number of advantages but also a drawback from using Arbitration as a dispute resolution agency. The advantage of Arbitration is that dispute resolution is flexible and consensual. In this context arbitration is not formal and rigid. The dispute settlement process can also be kept secret where in addition to the parties to the dispute and the Arbitrators may not be followed by a third party. Dispute resolution through Arbitration is a settlement that is far from government intervention and results in a final decision that cannot be compared even though legal efforts can be made in the form of cancellation or implementation of the Arbitration award being rejected. Therefore, dispute resolution through Arbitration is often considered to be faster than dispute resolution through a tiered court.

Another advantage is that decisions made are neutral and made by people who know the problem. In Arbitration, Arbitrators are not necessarily those who hold a law degree. The arbitrators can come from those who are experts in a

particular field, such as construction, peruaransian, banking and marketscapital. While the shortcomings of these of dispute resolution through arbitration are expensive. This is due, the parties to the dispute must finance various needs, ranging from the Arbitrator honorarium that resolves the dispute to the cost of room rental, secretarial fees and fax and telephone costs. In addition, permanent arbitration cannot be found easily. Permanent arbitration only exists in big cities. This is different from the courts where in every District and City in Indonesia there will be a court that has the authority to settle disputes.

Arbitration process and procedures are not easy. Therefore only the community at certain social stratification can take advantage. Arbitration is not commonly used by business people who are less educated or lower class. In Indonesia, settlement through Arbitration can only be carried out on commercial dispute. This is confirmed in Article 5 paragraph (1) of Law no. 30 of 1999 which stipulates that disputes that can be resolved through Arbitration are only disputes in the field of trade. Dispute resolution by using the services of third parties basically must consider the principles of volunteerism, impartiality, trust and rationality.

Before discussing the Arbitration clause, it is better to pay attention to the terms of the UUNo. 30 of 1999 relevant to be used as a reference, namely:

- a. First is Article 1 paragraph (3) of Law No. 30 of 1999, which determines: Arbitration Agreement is an agreement in the form of an Arbitration clause contained in a written agreement made by the parties before the dispute arises, or

a separate Arbitration agreement made by the parties after the dispute arises.

- b. Second, Article 9 paragraph (1) of Law no. 30 of 1999 provides that: In the event that the parties choose to settle the dispute through the Arbitration after the dispute occurs, the agreement on the matter must be made in a written agreement signed by the parties

Based on the two articles above, there are two types of Arbitration agreements.

- a. The first Arbitration agreement is in the form of an arbitration clause in an agreement;
- b. and the second is the Arbitration agreement which is made separately and separately from the agreement made by the parties before the dispute.

In both types of Arbitration agreements, it is required for the validity of an Arbitration agreement to be fulfilled, that is, agreed upon by the parties making the agreement or the parties involved in disputes and agreements must be in writing by the parties to the dispute. Arbitration cannot examine and decide a dispute without based on an Arbitration agreement in writing. This is because the important element stipulated in the Arbitration Law is the Arbitration Agreement, both before and after the dispute, must be made in written form.

A good arbitration clause must meet at least six elements. The six elements are:

1. Where Arbitration is being held;
2. Procedural Law for the implementation of Arbitration;

3. The procedure for appointing Arbitrators and
4. Authorities to appoint Arbitration (if necessary),
5. number of Arbitrators,
6. Applicable law and language used in the Arbitration process.

Dispute resolution through Arbitration can be done on an ad hoc basis and institutionally / permanently. Arbitration is ad hoc, formed to settle disputes and when the process has been completed the arbitration is immediately dissolved. While the settlement through Arbitration is carried out institutionally, the settlement is carried out by an Arbitration body or institution. This arbitration body or institution is established by certain parties. In such an Arbitration the rules of the event, the list of Arbitrators and the name and credibility to settle the dispute are held. Alternative institutions for dispute resolution that have been formed in Indonesia include: the Indonesian National Arbitration Board (BANI), the Indonesian Muamalat Arbitration Board (BAMUI), the Indonesian Business Dispute Settlement Center (P3BI), Indra (Jakarta Initiative).

E-commerce is always related to producers and consumers. BPSK is one model of dispute resolution that tends to be used in the case of consumer disputes. In resolving consumer disputes, a minimum of 3 (three) assemblies is formed with the assistance of a registrar and BPSK's decision is final and binding. BPSK must render a decision for a maximum of 21 (twenty one) days after a lawsuit is received and BPSK's decision must be carried out by business actors within 7 (seven) days after the decision is received,

or if an objection can be submitted to the district court within 14 (fourteen) days), the District Court accepting the objection of the business actor decides the case within 21 days of receipt of the objection. Furthermore, the cassation in this district court decision was given a period of 14 days to submit appeal to the Supreme Court. The Supreme Court's decision must be issued within 30 (thirty) days of the appeal.

Out of court settlement institutions conducted by BPSK are indeed specific to consumers and business actors which generally include a small amount of value, but in practice there is no limit on the value of filing a lawsuit, so that it is possible for consumers to sue from small amounts to large values. BPSK, although it is not a court and is more appropriately referred to as pseudo justice, but its existence is not merely appearing as recognition of the consumer's right to obtain protection in an effort to resolve consumer disputes appropriately, but its existence is more important is to supervise the inclusion of one-sided standard clauses contract form) by business actors to encourage business actor compliance with UUPK.

BPSK decisions as a result of the settlement of consumer disputes in conciliation, mediation or arbitration, are final and binding. The final meaning means that the dispute resolution has been completed and ended. The word binding means to force and as something that must be carried out by those who are required to do so. The principle of *res judicata pro veritate habetur*, states that a decision that is no longer possible to do legal remedies, is declared as a decision that has definite legal force. Based on these principles,

BPSK decisions must be viewed as decisions that have definite legal force (in *kracht van gewijsde*). However, if the article is connected with the provisions of Article 56 paragraph (2) of the UUPK, it turns out that the parties can³⁶ submit an objection to the district court **no later than 14 working days after the notification of the BPSK decision**. This is contrary to the understanding of the BPSK decision which is final and binding, so as such the provisions of these articles are contradictory and inefficient.

BPSK Decision, in order to have the power of execution, the decision must be requested to determine the fiat execution at the district court in the residence of the injured consumer. In practice, difficulties arise to request fiat execution through a district court due to various reasons put forward by the district court, including: the decision of BPSK does not contain the decree "For the Sake of Justice Based on God Almighty", so it is impossible to be executed and not yet there are regulations / instructions on how to submit requests for execution of BPSK decisions.

Another problem related to the fiat execution is the regulation²⁹ by Article 42 paragraph (2) of the **Decree of the Minister of Industry and Trade No. 350 / MPP / Kep / t2 / 2000** which states that the BPSK can determine the execution decision by BPSK to the district court at the consumer's place of loss. Such arrangements in civil procedural law are not uncommon, because the request for execution is in the interest of the party won in the decision. Therefore, those who should submit a request for execution are those who are not interested, not the BPSK institution.

2 The UUPK has not been able to protect consumers in e-commerce transactions, because the UUPK has limited understanding of business actors that only reach business actors whose business areas are in the territory of Indonesia. Though e-commerce is a trading model that can cross the jurisdiction of a country. In the international world there are also institutional Arbitrations located abroad, among them, the International Chamber of Commerce (ICC) located in Paris, the London Court of International Arbitration (LCIA), the America Arbitration Association (AAA) and the Singapore International Center for Arbitration (SIAC).

The Arbitration award is a condition where the award has been made by the Arbitrator but not carried out voluntarily by the defeated party. In such case, the party won has a legal remedy in the form of an Arbitration award or better known as the 'execution' of an Arbitration award. Arbitration award is a forced effort petitioned by the party won in an Arbitration. The party that was won was pleading for the country, in this case the competent state institution, was a court to make a forced effort.

Implementation of Arbitration awards can be made on Arbitration decisions made in the country (national / domestic Arbitration decisions) and Arbitration decisions made abroad (international / foreign Arbitration decisions). In the domestic Arbitration award, the provisions of Article 59 through Article 64 of Law No. 30 of 1999. While for the international Arbitration award the

provisions of Article 65 to Article 69 of Law No. 30 of 1999.

He admitted that the decision of international arbitration in Indonesia was based on Indonesia's participation in an international agreement called as the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (convention on the Recognition and Execution of Foreign Arbitration Award) or better known as the New York Convention 1958. This Convention outlines that the participating countries must recognize and implement the Arbitration award, made abroad as long as the country where the Arbitration takes place has also been a participant of the Convention.

After the verdict is made and pronounced, the defeated party can make two alternative legal remedies. First is the legal remedy in the form of refusal of the implementation or execution of the International Arbitration Award to the court where the assets or goods are different. This happens because the Arbitration award is made in one country but the implementation is carried out in another country. International Arbitration Awards generally have such character; the execution of the decision will depend very much on where the assets or goods that are to be executed are. Court involvement cannot be avoided since the coercion of decisions can only be carried out by the court in the form of an execution determination.

The second legal remedy is that the defeated party can "challenge" the International Arbitration Award that has been made. This legal remedy is basically a legal remedy to cancel the Arbitration

award. In this remedy, court involvement is required in the same manner as the first legal remedy.

The court is not authorized to examine the subject matter disputed by the parties in the process of cancellation. The authority of the court is limited to the authority to examine the validity in terms of the procedure for making Arbitration decisions, including³⁸ the process of selecting Arbitrators to the enforcement of law chosen by the parties in dispute resolution. This and other reasons as the basis for canceling an Arbitration award are normally regulated in the Arbitration law of a country. The refusal of the Arbitration award by the court does not mean to deny the decision. Refusal has the consequence that the arbitration award cannot be carried out in the jurisdiction of the court which has rejected it. If it turns out that in another country there is an asset of the party defeated, the party that is won can still request execution in that country's court.

To facilitate dispute resolution in e-commerce, an alternative dispute resolution (ODR)⁷ has emerged in its development. In this case ODR is an alternative business dispute resolution outside the court that uses the internet as a medium to resolve disputes that occur between the parties. Basically, the mechanism adopted in resolving disputes through ODR is in principle the same as conventional arbitration, the only difference being where the dispute resolution media are used. In certain circumstances, for the sake of the smooth running of dispute resolution, ODR can bring together the parties to the dispute. An example of ODR is The Virtual Magistre,

which was born by cyber law academics working for the National Center for Automated Information Research (NCAIR) and the Cyberspace Institute, which was founded by the American Arbitration Association.[21]

Online arbitration works like a trial, where the Arbitrator acts like a judge who is preceded by listening to the statements of both parties and then handed down the verdict. However, decisions resulting from existing ODR emphasize that decisions handed down can be binding or not binding depending on the agreement of both parties.[22] Online arbitration works like a trial, where the Arbitrator acts like a judge who is preceded by listening to the statements of both parties and then handed down the verdict. However, decisions resulting from existing ODR emphasize that decisions handed down can be binding or not binding depending on the agreement of both parties.

4. CONCLUSION

Implementation of Arbitration awards can be carried out on Arbitration decisions made in the country (national / domestic Arbitration decisions) including treaty disputes through e-commerce and Arbitration decisions made abroad (international / foreign Arbitration decisions). At the decision of the domestic Arbitration applies provisions of Article 59 to Article 64 of Law No. 30 of 1999. While for the international Arbitration award the provisions of Article 65 to Article 69 of Law No. 30 of 1999.

The recognition of the international Arbitration award in Indonesia is based²⁵ on Indonesia's participation in an

international treaty called the Convention on the Recognition and Enforcement of Foreign Arbitral Awards. this outlines that the participating country must recognize and implement the Arbitration award made abroad as long as the country where the Arbitration takes place has also been a participant of the Convention.

Settlement Legal protection in E-Commerce agreements can be done

through Arbitration where Arbitration will later produce a decision. The law in Indonesia which regulates Arbitration is Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.

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