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## ONLINE DISPUTE RESOLUTION AS A MECHANISM FOR RESOLVING CONSUMER DISPUTES IN THE MARKETPLACE IN SEEKING JUSTICE

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**Nabiela Ramadhani\*, Anita Afriana, Deviana Yuanitasari**  
Universitas Padjadjaran, Indonesia  
Email: nabiela22001@mail.unpad.ac.id

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### ABSTRACT

The rapid growth of e-commerce in Indonesia has increased the volume of marketplace transactions, leading to a surge in consumer disputes. However, current dispute resolution mechanisms remain conventional and ineffective in addressing the unique challenges of digital transactions. This study aims to analyze the implementation of Online Dispute Resolution (ODR) as an alternative mechanism for resolving consumer disputes in marketplace transactions, and to examine the urgency of establishing a comprehensive legal framework for ODR in Indonesia. Employing a normative juridical approach, this research reviews primary and secondary legal materials, including laws, regulations, and relevant literature, with qualitative descriptive analysis. The findings reveal that Indonesia lacks specific ODR regulations, limiting its optimal application despite its recognition in existing laws. Implementing ODR can enhance consumer access to justice by providing faster, simpler, cost-effective dispute resolution methods. The study emphasizes the need for comprehensive legal reforms to regulate ODR procedures, institutional responsibilities, data security, and the enforceability of ODR decisions. Strengthening the legal basis for ODR will improve consumer protection, legal certainty, and public trust in digital transactions, supporting a fairer digital economy.

**KEYWORDS** *Online dispute resolution, Marketplace, Consumer dispute.*



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## INTRODUCTION

Technological advances have made all activities more practical, including shopping. In recent years, online commerce in Indonesia has experienced rapid growth, and to meet the needs of people who shop online, many sites have sprung up to answer this demand (Kawaf & Tagg, 2017; Liao et al., 2017; Lim & De Run, 2022; Smith & Brown, 2019; Yoga & Triami, 2021). Various companies that offer online shopping services using electronic systems and the internet also appear in

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different types. Marketplaces are services that provide services like online shopping malls, but they sell goods not from website providers, but from members who sign up to sell goods on the website (C. Kim & Na, 2021; Y. J. Kim et al., 2013; Lee et al., 2022; Rubio-Andrés et al., 2022; Yu & Han, 2021). People in Indonesia are among the groups that most often transact through e-commerce. Based on data released by the Data and Information Systems Center of the Ministry of Trade, the number of e-commerce users in Indonesia has increased since 2020. In 2023, there will be 58.63 million e-commerce users, which is projected to grow until it reaches 99.1 million users in 2029.

One of the problems that arises with the development of e-commerce is dispute resolution. As consumers increase and the number of transactions increases, the risk of disputes also increases. This drives the need for an efficient, fast, convenient, and affordable dispute resolution mechanism. When a dispute occurs, the parties involved can take legal steps through the litigation process or through non-litigation efforts, which include negotiation, mediation, conciliation, and expert judgment. Litigation refers to dispute resolution efforts carried out through the courts, meanwhile, non-litigation efforts are an out-of-court dispute resolution method also known as alternative dispute resolution (APS). The APS serves as a way to resolve disputes out of court with an execution based on mutual agreement between the parties concerned (Ananda & Afifah, 2023; Fauzi & Koto, 2022; Hidayat & Komarudin, 2020; Rosita, 2017; Tamba & Mukharom, 2023).

Given the different characteristics of e-commerce transactions from conventional transactions, the resolution of disputes needs to be specifically regulated, given that the use of means and objects in e-commerce transactions is closely related to technology. Disputes when shopping online, such as in the marketplace, are expected to be resolved online. Online Dispute Resolution provides a solution to resolve such disputes.

The term Online Dispute Resolution (ODR) refers to various forms of dispute resolution by online means using the Alternative Dispute Resolution (ADR) method. ODR reinforces the existing ADR approach with the belief that certain disputes, especially those related to electronics, can be resolved over the internet efficiently and quickly (Al-Tarawneh & Haloush, 2023; Liu & Wan, 2023; Rule, 2020; Sulistianingsih et al., 2023). ODR can be defined as the use of applications and computer networks to resolve disputes with the ADR method. It can be used to resolve both electronic and conventional disputes. ODR can be done using technology such as email, video conferencing, or chat. There are various forms of ODR settlement, including online settlement, online mediation, online negotiation, and online arbitration.

Regulations related to ODR can be found in Article 72 paragraph (2) of Government Regulation Number 80 of 2019 concerning Trade Through Electronic Systems (PP PMSE), which states that disputes that arise in trade through electronic systems can be resolved electronically in accordance with the provisions of applicable laws and regulations. Then, the explanation of Article 72 paragraph (2) emphasizes that electronic dispute resolution depends on the parties' agreement. This can be done through electronic mediation by professionals such as advocates or mediators, an accredited online arbitration institution, or an authorized

government agency. In addition to the legal framework that is directly related to ODR, there is also a legal framework that supports the implementation of ODR, namely Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, which explains in Article 1 number 10 that the method of resolving disputes outside the court includes several forms, namely consultation, negotiation, mediation, expert review and arbitration. These various dispute resolution methods allow parties to choose how to resolve their problems and enable online dispute resolution as an alternative.

Law Number 11 of 2008 concerning Information and Electronic Transactions, as amended by Law Number 19 of 2016, also supports the implementation of ODR. Article 18 (1) states that electronic transactions contained in electronic contracts are binding on the parties. Then, in Article 18, paragraph (2) and paragraph (3), it is explained that the parties have the right to choose the law that applies to their international transactions. If the parties do not opt out of the law in international electronic transactions, the applicable law will be determined based on the principles of international civil law. Article 18, paragraph (4) then provides that the authorities are authorized to determine the court, arbitration, or other alternative dispute resolution forums authorized to handle disputes that may arise from their international electronic transactions. Furthermore, Article 18 paragraph (5) emphasizes that if the parties do not establish a forum, disputes that may arise from the transaction will be based on the principles of international law.

Another article in the ITE Law that supports the implementation of ODR is Article 41, paragraph (1), which explains that the community plays a role in increasing the use of information technology through the implementation of electronic systems and electronic transactions. Then, Article 41 paragraph (2) emphasizes that the role of the community can be carried out through institutions established by the community. Article 41, paragraph (3) states that the institution can provide consultation and mediation services.

This shows that the regulation supports the community in building ODR as an institution in information technology and electronic transactions, which has a consultation and mediation function, and is equipped with an online arbitration function. Furthermore, Law Number 7 of 2014 concerning Trade also has a concept that supports the implementation of ODR. Article 65 paragraph (5) explains that in the event of a dispute related to trade transactions through an electronic system, the individual or business entity involved in the dispute can resolve it through the court or use other dispute resolution mechanisms. The freedom given to the parties to the dispute in choosing a dispute resolution institution can be a factor that encourages the implementation of ODR in Indonesia.

Referring to these laws and regulations, it can be concluded that the implementation of ODR as a dispute resolution mechanism is possible. However, although ODR has been mentioned in Article 72 paragraph (2) of PP PMSE, until now, there has been no regulation in the form of a law regulating it. The regulation is only the basis for the implementation of ODR and does not include clear and detailed rules, such as the internet facilities and features to be used, the subject and object of ODR, the necessary electronic data, legal consequences for the parties, the implementation of ODR decisions, the legal force of ODR decisions, the

mechanism/procedure for resolving disputes, data security of the parties, and so on. Due to the lack of a specific and comprehensive regulation regarding ODR, ODR is not optimally implemented in Indonesia.

The Indonesian people as consumers urgently need a fast, efficient, simple, and affordable dispute resolution process. Today's procedural law and conventional procedures often hinder dispute resolution. To address this, offering ease of access to justice through technology can help communities get better services than conventional procedures that tend to be slow and bureaucratic. A special ODR arrangement will strengthen legal certainty for parties to the dispute, so the public will be more confident using the ODR mechanism. Therefore, a legal basis that specifically regulates ODR is needed so that disputes arising from electronic trading activities can be resolved quickly, efficiently, and affordably in accordance with the needs of Indonesia's community and business actors. It will also increase the opportunity for consumers in Indonesia to get justice, especially for small consumers who buy goods or services in small quantities, so they do not have to spend a lot of money, time, and effort to defend their rights.

In connection with the increasing disputes between consumers and business actors in trade with electronic systems, online dispute resolution is increasingly important to develop. Given that there is no specific and comprehensive regulation related to ODR, this study seeks to provide an overview of the implementation and urgency of online dispute resolution legal regulation as an alternative to dispute resolution arising from transactions in the marketplace. Based on the description above, the focus of the problem formulation in this study is how the application of online dispute resolution as an alternative to dispute resolution arising in marketplace transactions is related to justice for consumers in Indonesia and how is the urgency of the reform of the law that regulates online dispute resolution as an alternative to dispute resolution from marketplace transactions. The purpose of this study is to analyze the application of online dispute resolution as an alternative to dispute resolution arising from marketplace transactions linked to justice for consumers in Indonesia and to examine the urgency of reforms that regulate online dispute resolution as an alternative to dispute resolution arising from transactions on marketplaces in Indonesia.

Research related to online dispute resolution has been conducted by many researchers before. Several related literature were found. First, research conducted by Solikhin (2023) entitled "The Development and Urgency of the Implementation of Online Dispute Resolution (ODR) in Electronic Trade Dispute Resolution in Indonesia". In this study, Solikhin (2023) analyzes the development and urgency of implementing online dispute resolution (ODR) in resolving electronic trade disputes in Indonesia. The study's findings indicate that ODR will provide advantages and the ability to overcome the weaknesses that exist in conventional dispute resolution methods. However, the implementation of ODR in Indonesia faces challenges because there are no regulations that regulate it clearly and in detail. This encourages the need to improve existing laws and regulations to support the implementation of ODR.

Another research study that discusses online dispute resolution is by Muhammad Iqbal Suma entitled "E-Commerce Dispute Resolution Through Online

Dispute Resolution" in 2024. This study analyzes the form of consumer protection in e-commerce online transactions and the dispute resolution process that harms consumers in e-commerce transactions. The results of this study show that Law Number 8 of 1999 concerning Consumer Protection has not been able to fully handle disputes due to electronic transactions in e-commerce because the law does not yet cover digital transactions. The provisions for resolving electronic transaction disputes listed in Article 18 of the ITE Law are also considered inadequate to deal with existing problems, considering the complexity of resolving disputes. It is hoped that the implementation of Online Dispute Resolution (ODR) in Indonesia can solve various problems quickly and appropriately.

Related to the novelty of this research is that it not only discusses dispute resolution through ODR. This research will focus more on analyzing the application of the online dispute resolution mechanism as consumer access to justice and the urgency of legal arrangements related to online dispute resolution and then provide a conceptual overview of the legal arrangement of online dispute resolution as an alternative to dispute resolution that occurs due to buying and selling transactions in the marketplace, which has not been discussed in previous research.

This study aims to analyze the implementation of Online Dispute Resolution (ODR) as an alternative mechanism for resolving consumer disputes arising from marketplace transactions in Indonesia. This research also aims to examine the urgency of establishing a comprehensive legal framework governing ODR, ensuring that consumer rights are protected and access to justice is facilitated in the digital era. By addressing the gaps in current regulations, this study provides a conceptual overview of how ODR can enhance dispute resolution processes, making them more efficient, affordable, and accessible for all consumers, especially in the rapidly growing e-commerce sector.

This study's benefit is that it contributes academically by enriching the legal discourse on consumer protection and alternative dispute resolution mechanisms in Indonesia, particularly in relation to digital marketplace transactions. Practically, this research offers valuable insights for policymakers and legal practitioners, encouraging the formulation of specific ODR regulations that align with technological advancements and public needs. Furthermore, it guides marketplace platforms and business actors in adopting fair and transparent dispute resolution practices, strengthening consumer trust, improving legal certainty, and promoting a more equitable digital trading environment.

## **RESEARCH METHOD**

This study uses a normative juridical approach method. Normative juridical research focuses on secondary data, namely data obtained from literature materials that include primary, secondary, and tertiary legal materials that are relevant to this research by conducting a study of laws and regulations, legal theories and so on which can be the basis for discussing the urgency of legal reform that regulates online dispute resolution as an alternative to dispute resolution in transactions in the marketplace. The approach applied in this study is the statistical approach. In this study, the laws and regulations used to analyze the implementation of online dispute resolution are Law Number 11 of 2008 concerning Electronic Information



and Transactions as amended by Law Number 19 of 19 years, Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, Law Number 7 of 2014 concerning Trade, and Government Regulation Number 80 of 2019 concerning Trade Through Electronic Systems.

This research uses literature research which aims to study, research, and trace secondary data in the form of primary legal materials, namely laws and regulations, secondary legal materials, namely materials that are closely related to primary legal materials such as books, scientific papers, journal articles, previous research results, as well as survey results related to the problems discussed and tertiary legal materials such as dictionaries, articles, the internet and print media. The method of analysis applied in this study is qualitative analysis. Qualitative analysis is the process of analyzing data that presents word-based descriptions of findings, with more emphasis on quality than quantity. Qualitative analysis is carried out by interpreting the legal materials that have been collected.

## **RESULT AND DISCUSSION**

### **Dispute Resolution Through Online Dispute Resolution**

Transactions through the internet are unique because they are cross-country, allowing for the establishment of relationships between consumers and business actors from various parts of the world. This has the potential to cause disputes. Although consumer disputes have a small nominal value, consumers need a quick resolution at a low cost. Problems in marketplace transactions include dispute resolution that is not in accordance with the limitless nature of electronic contracts, the wide range of cross-border electronic contract trading, and the lack of direct interaction between the parties involved in electronic transactions. ODR began to develop in the late 1990s as a continuation of Alternative Dispute Resolution (ADR). ODR emphasizes the use of information and communication technology as a tool to facilitate conflict resolution between parties to the dispute. ODR was originally conceptualized to deal with conflicts that occur online between two individuals who do not know each other and are unlikely to have the opportunity to meet face-to-face. Online dispute resolution is a method that uses technology and the internet, providing convenience and benefits for business actors in overcoming conflicts arising from various business activities, such as business-to-business, business-to-consumer, and consumer-to-consumer. In today's era, businesses are increasingly interested in online dispute resolution because of the faster, simpler, and more affordable process. This is due to the importance of time and cost in business. According to Petrauskas and Kybartiene, there are 4 types of dispute resolution through ODR, including:

#### ***Automated negotiation***

Dispute resolution through automated negotiation refers to how technology controls the negotiation process. This process is generally used for financial dispute resolution. This method is simple, easy, and straightforward without additional help. The parties submit their respective bids and requests and choose a percentage range. These bids, demands, and ranges are not shared with other parties, so this ODR service is called "blind bidding". After that, the ODR algorithm calculates the total settlements based on the supply and demand range, as long as the numbers are

within a predetermined limit. The parties will be notified of the outcome of the settlement. If the offer does not match, the parties can try again. Each case can be tried multiple times in a certain period, for example, 30 days. Offers and requests remain confidential, whether or not the case is successfully resolved. There are two parties involved in this settlement. The first party is called the Offering Party, which is the party that offers or will pay. The second party is called the Demanding Party, which is the party that makes the request or demands payment.

#### ***Assisted negotiation***

Dispute resolution through assisted negotiation is the process in which the parties negotiate and resolve issues, disputes, or grievances with the help of technology. Technology plays a similar role to mediators in mediation, providing specific processes and/or providing specific advice to the parties without being directly involved in the dispute. This process is designed so that the parties involved in the dispute can reach a peaceful agreement by facilitating increasingly effective communication through the assistance of third parties or software. The main advantage of this process, especially in its online use, is its relaxed, simple, and easy-to-use nature.

#### ***Online meditation***

This process utilizes technologies such as email, chat rooms, and instant messaging, but it can also integrate traditional communication methods in the negotiation process. One of the parties will contact the services of a mediation company and then fill out an online form to identify the problem and possible resolution options. After that, the mediator will study the form and notify the other party to ask if the party is willing to participate in the mediation. If the other party agrees to participate, they are welcome to fill out their form or respond to the initial form via email. The parties can better understand the dispute through the exchange of views and opinions, thus allowing an agreement to be reached. If the dispute is still unresolved, the mediator will work closely with the parties to help identify issues, clarify interests, and evaluate potential solutions.

#### ***Online arbitration***

In essence, there is no significant difference between the conventional arbitration dispute resolution process and online arbitration. The main difference lies in the use of electronic means that take advantage of the advancement of internet connections in most of its processes. Today, many arbitration providers allow parties to conduct arbitration proceedings online, for example by downloading a claim form, emailing documents with a standard or secure web interface, or holding a hearing over the phone.

### **The Implementation of Online Dispute Resolution as an Alternative to Dispute Resolution Marketplace Linked to Justice for Consumers in Indonesia**

The higher the volume of trade transactions through electronic systems, the greater the possibility of disputes between business actors and consumers is. The Ministry of Trade reported that from January to June 2024, a total of 1,738 consumer complaints had been handled. The most complaints came from transactions in the electronic commerce system, with a total of 1,725 cases, or about 89 percent of the total consumer services received during the first half of 2024.

Dispute resolution or handling consumer complaints still refers to Law Number 8 of 1999 concerning Consumer Protection. The Consumer Dispute Resolution Agency (BPSK) is authorized to handle dispute resolution issues. The presence of BPSK is a mandate of Article 49, paragraph (1) of the UUPK, where BPSK was established to resolve consumer disputes outside of court, and the decision taken by BPSK is final. However, the law has not yet set specific rules on online transactions such as buying and selling through marketplace platforms, so handling consumer complaints still follows conventional procedures.

BPSK in Indonesia still handles consumer complaints and dispute resolution with conventional procedures, so BPSK's role in protecting consumers in the digital realm, especially in transactions in the marketplace, is not optimal. Therefore, the role of BPSK as a Dispute Resolution Agency is very important to be re-evaluated to ensure that its role can meet the needs of consumers in the current era of digitalization. The UUPK is a regulation that existed before the rapid development of technology and digitalization. This rule has many weaknesses in dealing with new issues that have not been previously regulated. Therefore, regulations regarding consumer protection in the current digital era are still not able to accommodate consumer disputes that should be able to be resolved through alternative methods.

Limitations in the law regarding the resolution of consumer protection disputes in electronic transactions have made it difficult to achieve the expected legal goal, namely, ensuring justice, benefits, and legal certainty. Thus, although the Consumer Protection Law is expected to be a means for consumers to seek justice, its implementation still faces various challenges and obstacles.

The growth of e-commerce in Indonesia is reflected in the increasing use of the internet and the increasing number of online buying and selling sites that compete to provide the best service. This condition encourages the formation of more structured online transactions, so that the presence of ODR is needed to resolve disputes in the marketplace and ensure legal certainty. In general, if there is a dispute between consumers and business actors in transactions in the marketplace, the first step consumers can take is to submit a complaint through the complaint service that the marketplace company has provided. However, in practice, consumers still experience obstacles to justice due to marketplace customer complaints that are not resolved properly. The high number of unresolved marketplace customer complaints is caused by the complicated procedure for resolving disputes or handling customer complaints, slow response, lack of transparency, unsatisfactory solutions, and a long process of returning goods or funds. After the buyer makes a complaint, the marketplace often does not provide a definitive answer and only asks the buyer to continue waiting without any clarity or adequate solution to protect consumer rights. As a result, consumers are often forced to give up their money without getting their rights.

Consumers often have difficulty getting justice when they are harmed by business actors, leading to a tendency to be resigned and not take any action. Although consumers are trying to fight for their rights, the struggle must be carried out seriously due to the lack of awareness among business actors about being responsible and providing compensation. The weak bargaining position of



consumers in front of business actors and the lack of consumer understanding of the commodities they use further worsen the situation of consumers in obtaining their rights. Responding to this consumer behavior, consumers face at least two main problems. First, related to consumer knowledge, some consumers are unaware of their rights, so they receive unfair treatment from business actors without questioning it, and consider it normal. Consumers are not aware that their rights are guaranteed by law. Second, related to consumer behavior, some consumers are aware of their rights as consumers, but are reluctant to bother with the actions of business actors who ignore their responsibilities and the time-consuming dispute resolution process. As a result, these consumers choose not to question the violation of rights committed by business actors. The implication is that unresolved consumer complaints remain, but no legal steps have been taken to restore rights.

According to John Rawls in his theory of justice, justice is defined as equality that does not allow the exchange between the freedom or well-being of individuals and the well-being of others. The distribution of basic freedoms must be carried out equally and should not be sacrificed for economic gain, considering that injustice often befalls disadvantaged groups. Justice depends on human equality, freedom, and rationality in achieving social justice, with a primary focus on the protection of vulnerable or disadvantaged groups. This view aligns with the goal of consumer protection regulated in Article 3 of the UUPK, which aims to ensure that consumer rights are fulfilled. Protecting consumers also means protecting society because everyone is a consumer. Therefore, the achievement of justice is the main priority of all the goals to be achieved, with social justice as the highest form of justice for all humanity. The concept of justice carried out in the UUPK is to fulfill the purpose of consumer protection in Indonesia, which aims to respect the dignity of human beings as consumers.

Given this, institutional development aimed at achieving social justice needs to be carried out on an ongoing basis, and the issue of access to justice must be continuously improved. Access to justice includes all parties to the dispute having the right to easy access to a remedy mechanism that offers a speedy, effective resolution at an affordable cost. Access to justice for consumers includes the right to sue and obtain appropriate redress, defending their claims despite insufficient evidence, reasonable costs, efficient and easy procedures, a speedy process from the initial stage to completion, and effective application of the law to the decisions taken. Given unfair business practices and weak consumer bargaining positions, fair consumer access in trading activities is considered crucial. This access to justice is expected to strengthen the bargaining position of consumers while ensuring the protection of their rights amid the power of business actors who control the supply and distribution of goods and services.

Implementing online dispute resolution can improve and develop access to consumer justice in the context of consumer protection. ODR is designed to achieve several broader objectives in facilitating fair and accessible dispute resolution mechanisms. It is important to reemphasize the online approach to consumer dispute resolution, as disputes in the digital age, especially in e-commerce, require easy, fast, affordable, and easily accessible resolution methods for all walks of life.

The current trial process still often does not have adequate flexibility and affordability compared to online trial methods. In online trials, consumers do not need to be present in person at the trial location, so they can choose a convenient venue or region to attend the trial. Thus, the costs incurred to resolve consumer disputes can be minimized, and the lawsuit filing process can be simplified because applicants no longer need to wait in line in person. The ODR system will allow consumers to file complaints electronically. Then, consumers can receive refunds, compensation, or other restitutions without further human intervention. These systems can save businesses significant cost and time, while consumers can be compensated quickly or instantly.

Therefore, the government needs to invite all businesspeople to resolve consumer disputes in a fair, responsive way and with informal methods. In addition, the government must regulate additional schemes, including the provision of information systems and procedures for submitting complaints, so that it can effectively assist consumers. Information regarding the possibility of obtaining compensation and other dispute resolution procedures should also be presented in a manner that is easily accessible to consumers.

ODR must ensure justice for all parties, especially those suffering losses. Aristotle categorized the concept of justice into distributive justice and commutative justice. Distributive justice refers to the principle that everyone should receive their right fairly. On the other hand, commutative justice is related to the determination of fair rights between equal individuals. Commutative justice applies to the relationship between one group and another group or with another individual, not the relationship between an institution and its members. Based on the thinking about justice put forward by Aristotle, it can be concluded that the relevant form of justice in the application of ODR is commutative justice. In commutative justice, the object of other people's rights belongs to a person from the beginning, so it must be returned to him in the context of that justice. This creates an obligation for the other party to respect those rights. If the right is reduced, damaged, or not functioning properly, they must impose sanctions in the form of compensation. So, if a transaction violation in the marketplace causes losses to consumers, the settlement using ODR needs to consider the decision to deliver compensation for consumers who suffer losses to restore these consumer rights. Based on Article 12 paragraph (2) of the Ministry of Industry No.350/MPP/12/2001, compensation can be given in various forms such as refunds, replacement of goods and/or services of similar or equivalent value, or health services and/or the provision of compensation. Highlighting the limitations of the legal framework related to online consumer dispute resolution, a "lex specialist" is needed to implement it so that it can be applied optimally in Indonesia. This is important to provide legal certainty for the public as consumers because protracted legal uncertainty can potentially produce injustice.

### **The Urgency of Online Dispute Resolution Legal Arrangements as an Alternative to Dispute Resolution in the Ideal Marketplace in Indonesia**

Shopping in the marketplace has become a prevalent activity among Indonesian people in this era of digitalization. The reasons why Indonesians now prefer to shop in the marketplace include the fact that it can be done at any time

according to their wishes, cheaper prices, a variety of product variations, and various attractive promotions. In addition, the marketplace also provides a transaction system that provides security for consumers and business actors. Payments made by buyers will be held by the marketplace first. The money will only be given to business actors after consumers receive the goods and there are no complaints. Although shopping through marketplaces offers many conveniences, it is undeniable that these transactions are carried out through the internet and involve many parties other than sellers and buyers, so some risks have the potential to cause disputes. However, if disputes in marketplace transactions must be resolved through conventional procedures, it is not in accordance with the progress of the times that have entered this digital era. Considering that ODR is currently not specifically and completely regulated in Indonesia, this is an obstacle to its implementation. Therefore, to meet consumers' needs for simple, fast, effective, and cost-effective conflict resolution mechanisms, ODR needs to be regulated specifically and comprehensively. Thus, there will be no problems with its application in the future. The law must be able to go hand in hand with the changing times, respond to all changes that occur on all the bases it has, and accommodate the community's needs based on the law enforcers' moral values. The progressive legal framework defines law as an institution that leads human beings to a life of proportionality, peace, and joy. In other words, progressive legal thought asserts that law exists for the benefit of man. Second, law is not absolute and final, but is always in the process of continuing to be (law as a process, law in making). In other words, understanding the law itself is not a final product, but something that must be continuously built and is a process that must be passed.

The need to regulate ODR in the Law is also based on the principle that Indonesia is a state of law in accordance with the provisions of Article 1 paragraph (3) of the Constitution of the Republic of Indonesia of 1945. This means that all government policies must be based on applicable laws. For this reason, the implementation of ODR as an alternative dispute resolution must be based on applicable provisions to prevent adverse impacts that may arise due to the lack of a legal basis in its implementation. Legal certainty is one of the factors that causes the need for regulation regarding ODR. Because of legal certainty, the public knows what is allowed and prohibited because the arrangements have been made logically and clearly. To create a sense of security for users using ODR facilities because they have been given certainty, protection, and law enforcement. After legal certainty is guaranteed, justice will be created for disputes that have been resolved properly, thus encouraging the general public's trust in using ODR as one of the dispute resolution options. In addition, the role of regulation as a legal basis is very crucial so that decisions made through ODR are seen as holding binding legal force for all parties involved in the dispute, as well as ensuring that ODR decisions can be applied and enforced effectively, so that the aggrieved parties can obtain justice. ODR is mentioned in the PP PMSE. The settlement refers to existing regulations, including the UUPK, the Civil Procedure Law, or the AAPS Law. To facilitate the implementation of ODR, several existing regulations must be reformulated. The first rule that needs to be reformulated for the implementation of ODR is the rule in Article 6 paragraph (2) of the AAPS Law, stipulating that dispute resolution related

to differences of opinion through alternative dispute resolution must be carried out in a face-to-face meeting between the parties concerned, with a maximum time limit of 14 (fourteen) days, and the results must be recorded in the form of a written agreement.

This paragraph explains dispute resolution or differences of opinion by means of alternative dispute resolution methods carried out through direct meetings between all parties concerned. This is one of the fundamental differences between conventional dispute resolution alternatives and ODR. ODR utilizes online media, such as video calls, allowing each party's face to appear. So this is not a face-to-face meeting but a virtual one because it involves using media to communicate. Therefore, a reformulation is needed to replace the terminology. In the future, the relevant provisions may be amended to conform to the regulatory basis for the implementation of ODR. One of the aspects that needs to be reformulated is the conditions and procedures that apply. For example, the requirements for correspondence, which are usually physical documents, must also include the digital form in ODR.

Then, what is also important to regulate is related to the institution and the dispute resolution mechanism/procedure, considering that in Indonesia, currently, no authorized institution focuses on handling online dispute resolution, like in several other countries. Then, all stages of dispute resolution through ODR must be regulated. This includes how to file consumer complaints, the selection of mediators or arbitrators, the summoning of parties to the dispute and witnesses, and the procedures for online trials and decision-making. The implementation of ODR in Indonesia can be carried out by utilizing existing APS mechanisms and institutions. The applicable procedures can be integrated through online media to be advanced and developed further.

ODR systematics can be integrated into BPSK regulations to be implemented. This concept modification can be carried out by adapting online negotiations, online mediation, and online arbitration, while maintaining the principles of consumer protection and the main duties and functions of BPSK as the institution of choice for the parties to resolve disputes through channels outside of litigation. The optimization of BPSK in its function as an institution that acts as an extension of the UUPK to protect consumer rights should begin with the renewal of legal policies and the implementation of regulations that reflect the community's needs. In this case, ODR is important to be properly regulated by the Government of Indonesia so that government institutions that organize ADR, such as BPSK, can implement ODR optimally, and access to services can expand throughout Indonesia to strengthen consumer protection for the Indonesian people. In addition, Indonesia can learn from or adopt practices from other countries where ODR has developed rapidly and is effectively implemented. Currently, several countries in the world have implemented the ODR mechanism. The implementation of ODR varies from country to country, depending on each country's development level and economic growth.

The United States is one of the countries that has successfully implemented ODR, as shown by the existence of 22 ODR service providers in the country. One of the providers of dispute resolution services through ODR is the American

arbitration institution, the American Arbitration Association (AAA). AAA is a comprehensive alternative dispute resolution provider, resolving various disputes, including labor issues, consumer protection, healthcare, technology, financial services, intellectual property rights, construction, and international trade disputes. AAA offers services through its website [www.adr.org](http://www.adr.org) for those who want to resolve disputes online. The service provides a fast, practical, and optimized process, and allows for online submission of claims; clients can also settle payments, manage disputes, view rules and procedures, share documents through electronic media, and designate a mediator or arbitrator to resolve their disputes. The dispute resolution process is carried out in several stages. First, the disputing party needs to register on the AAA Web File, and then the party concerned must fill out a filing letter regarding the personal information of the related parties. After registering and completing the fill-in, the parties may submit a claim application to AAA via mail, facsimile, email, or other online methods. Once the form is completed, AAA will inform the plaintiff and the defendant of the arbitrator chosen to handle the dispute. Next, AAA provides an explanation of the steps to follow to open a dispute online.

The European Union is also among the countries that have implemented ODR. The EU even requires using ODR as the first step in dispute resolution before moving on to conventional dispute resolution methods to avoid many cases going through the litigation route without any first peaceful settlement efforts. The ODR platform in the European Union will connect businesses and consumers with ADR institutions, which will be tasked with facilitating dispute resolution procedures. Thus, this platform does not function as an intermediary between business actors and consumers. Regulators in the European Union require every business that operates online to specify a preferred ADR institution and include a link to the ODR platform on its website. These provisions are legal rules that are intensively encouraged and closely monitored. In general, the dispute resolution process through the EU ODR platform consists of several stages. The first step is for consumers to submit complaints to the ODR platform, which is then forwarded to business actors. Then, the parties agree on an ADR institution to handle the dispute. Subsequently, the ADR institution resolves the dispute, announces the decision results, and closes the case.

In addition, what needs to be regulated is the security and confidentiality of the parties' data. The dispute resolution process through ODR will be documented in electronic data, which raises concerns regarding the security of dispute information, the parties involved, and the resolution process. Other irresponsible parties may be able to print and distribute documents related to the dispute easily, without the permission or knowledge of the parties involved. Data related to the dispute may include the personal information of the parties involved, applications or complaints, evidence, statements, testimonies from the parties involved, and the results of the decision. Therefore, data management security is important to be regulated as a compliance standard; if a violation occurs, there must be legal sanctions for the responsible party. In this case, it can be guided by existing laws and regulations, such as the ITE Law, PP PMSE, PP PTSE, and Permenkominfo on Personal Data Protection in Electronic Systems.



Not only that, but the next thing that is important to regulate is related to the legal force of the decision and the implementation of the ODR decision. The implementation of civil judgments often experiences various obstacles that affect the sustainability of execution. Because it is not equipped with directions, the decisions of quasi-judicial institutions such as BPSK, which are authorized to resolve disputes, are considered to have no executory power. This is certainly a challenge in the implementation of ODR, so it needs to be further regulated to ensure that ODR decisions can be implemented and enforced effectively.

In addition, because ODR is a dispute resolution that utilizes internet technology, the technological facilities and features that will be used to help resolve disputes need to be regulated. The standard for the ODR mechanism should provide facilities for dispute resolution with tools equipped with various features, so that the parties involved have the flexibility to determine the method to be used. Each feature must be connected at every stage of the process. 2 (two) types of features are commonly used to resolve disputes, namely synchronous and asynchronous features. The synchronous feature allows for live, real-time interaction between parties to the dispute. Examples of synchronous features are video conferencing (Zoom or Google Meet), live chat, or phone calls. With this feature, discussions and negotiations can take place in person, similar to face-to-face meetings, so that responses from both parties can be obtained quickly. Meanwhile, in the asynchronous feature, the parties communicate without having to be connected at the same time. Sending and receiving messages can occur at different times. Examples of asynchronous features are email, text messages, and discussion forums. This feature provides time flexibility for the parties to consider arguments or evidence more carefully before responding. The government plays a crucial role in the development of ODR because it can help provide telecommunication facilities, such as software or websites to support dispute resolution with strict security standards, as these aspects have not existed in Indonesia until now.

In addition to what has been mentioned, several other things that need to be regulated in the legal framework related to ODR at least include what electronic data are needed by the parties when making a complaint, evidence in the form of electronic documents needed, who are the parties who have the right to file a lawsuit, the scope of dispute resolution through ODR, how to provide compensation through the electronic system, and other aspects to ensure that the implementation of ODR in Indonesia can run well.

## CONCLUSION

The implementation of ODR is urgently needed in the current era of digitalization to ensure consumer access to justice. In the field of trade, the importance of access to justice for consumers cannot be ignored, especially considering the existence of unfair business practices and the weak bargaining position of consumers compared to business actors. This access aims to strengthen the position of consumers and protect their interests against the actions of business actors who neglect their obligations. The achievement of justice must continue to be fought for by all consumers. For this reason, the development of institutions that support justice needs to be carried out on a sustainable basis and access to justice

must continue to be improved considering that the regulations governing consumer dispute resolution that are currently in force are still unable to accommodate consumer dispute resolution in this digital era, so this becomes an obstacle for consumers in obtaining justice.

In Indonesia, consumer dispute resolution in transactions in the marketplace through online dispute resolution can be applied. This is supported by laws and regulations that can be the basis, but these regulations have not explained online dispute resolution clearly and in detail, so they have become an obstacle to its implementation. For the ideal implementation of ODR, comprehensive regulation on ODR needs to be implemented. The legal framework must at least include the institution authorized to handle disputes through ODR, its dispute resolution mechanism or procedure, the security of the personal data of the parties to the dispute, the legal force of the decision and the implementation of the ODR decision, the scope of disputes that can be handled with ODR, the technological facilities and features to be used, and the electronic data needed by the parties. Therefore, the Indonesian government should regulate laws and regulations regarding ODR to ensure consumer protection, legal certainty and justice, comprehensive access to services in Indonesia, and build public trust among consumers in the digital era.

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