

## Legal Protection for Shopee Paylater Users Experiencing Bad Credit under Law Number 8 of 1999 concerning Consumer Protection.

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Received: 02/03/2023	Revised: 30/04/2023	Accepted: 25/06/2023
<b>Abstract</b>	The purpose of this research is to find and deeply analyze the legal protection for Shopee Paylater users experiencing bad credit under Law Number 8 of 1999 concerning Consumer Protection and the resolution of Shopee Paylater bad credit disputes through Online Dispute Resolution (ODR). The approach method in this research is a normative juridical approach. The data sources consist of primary data supported by secondary data. The primary legal data collection technique used a research instrument in the form of document studies and recording. The results of this research show that Article 1 Number 1 of Law Number 8 of 1999 concerning Consumer Protection aims to provide security in the form of protection for consumers when there are unfair conditions that affect the consumer. Furthermore, the resolution of Shopee Paylater bad credit disputes through Online Dispute Resolution (ODR) is the most appropriate alternative dispute resolution method for Shopee Paylater problems because it is more efficient and not hindered by geographical conditions.	
<b>Keywords</b>	Legal Protection; Shopee Paylater; Bad Credit	
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### 1. INTRODUCTION

Internet is an electronic media used for various activities, including browsing, sending news to each other, and including trading (Situmeang, 2020). Online shopping, which is also known as electronic commerce (EC), is a new concept that can be described as the process of buying or selling goods or services on the World Wide Web Internet or the process of buying, selling, or exchanging products, services, and information through information networks including the internet or popularly known as online shopping. E-commerce can be done by anyone without spatial, temporal, and age limitations (Rahima & Cahyadi, 2022).

According to McLeod Pearson, e-commerce is the use of the internet for business transactions. The internet is also utilized as a trading access which is online shopping through marketplaces (Sudirman et al., 2020). According to Shelly Cashman, e-commerce means business transactions through the internet where anyone can access and have the ability to pay for the purchased products (Muhammad, 2020). In the current technological transition, a service that is highly favored by the public is the marketplace. There are generally two types of marketplaces in Indonesia, namely pure marketplaces and consignment marketplaces. Pure marketplaces include Tokopedia, Shopee, Bukalapak, Elevenia, Blanja, and BliBli.

In conducting transactions, electronic money (e-money) is often used. The growth of electronic/digital-based payment systems is expected to create new discoveries in conducting



transactions by providing simplicity, efficiency, and flexibility in transactions. There are several forms of e-money implementation, one of which is Paylater. Paylater is a P2PL-based financing company, which is an online borrowing service that connects buyers and sellers in an online shopping marketplace (Novendra & Aulianisa, 2020). Currently, fintech utilization is increasingly favored, especially when the attractive feature of installment payment without a credit card or credit is introduced, namely Paylater.

The feature that promotes the idea of buy now, pay later empowers individuals to participate in installment plans without owning a credit card. The presence of Paylater feature makes online transactions more efficient. From requirements, registration, to activation process which can be considered easy, Paylater becomes a more superior payment system compared to banks. With the growing popularity of e-commerce, people are encouraged to fulfill their desires and needs, which have their own priorities to be met. However, the ability to meet those desires and needs is limited because not everyone is capable of paying in cash. Therefore, there are e-commerce companies in Indonesia that provide Paylater installment services (Napitupulu et al., 2020).

One of the online shopping platforms that implements Paylater service is Shopee. Shopee is a mobile application, which focuses more on mobile platforms, making it easier for people to browse, shop, and sell. Shopee Paylater provides a credit limit that can be used for shopping on Shopee, with a loan limit ranging from IDR 500,000.00 (five hundred thousand) up to IDR 15,000,000.00 (fifteen million) with installment periods of 1 month, 3 months, 6 months, and 12 months. The interest rate for Shopee Paylater ranges from 0% to 2.95% per month.

If there is a late payment, a penalty of 5% of the total bill which has passed due date and a fee of 1% per transaction will be imposed. Shopee entered the Indonesian market in late May 2015 and started operating in June 2015. Shopee is a subsidiary of Garena located in Singapore. Currently, Shopee has spread to various countries in Southeast Asia such as Singapore, Malaysia, Vietnam, Thailand, the Philippines, and Indonesia. The public's enthusiasm for Shopee cannot be separated from the various product categories such as electronics, fashion, children's equipment, health needs, body care, sports equipment, and household equipment.

**Table 1. Comparison of Features Offered in E-Commerce, with a 30-Day Return Time After the Return of Goods.**

COMPARISON	SHOPEE	LAZADA	TOKOPEDIA	ZALORA	BLIBLI
Initial limit balance	Rp.750.000,-	Rp.750.000,-	Rp. 500.000,-	Rp.1.000.000,-	Rp.300.000,-
Loan interest	2,95% / Month	2.95% / Month	3 month tenor 0%, tenors 6-12 month 2.6%	0% interest for tenors 0-30 days and 2.6% interest for the above tenor	Interest rate of 2% applies for a 30-day tenor after repayment, while an interest rate of 3% applies for tenors of 3, 6, or 12 months.

Source : Kompas.com

That can be seen from the table above that explains various E-commerce platforms among Indonesian society using electronic money (e-money) transactions and offering a buy-now-pay-later payment system, with limited initial balance limits and various installment payment systems starting from payment 30 (thirty) days after the buyer receives the goods, there is also an installment system starting from 3 (three) months, 6 (six) months, 9 (nine) months, and 12 (twelve) months. The refund

interest rate also varies according to the installment period chosen by consumers, the longer the installment period chosen by consumers, the greater the interest rate that consumers have to pay. Paylater can also be considered equivalent to Online loans (Pinjol) which are directly supervised by the OJK.

With the presence of the Shopee Paylater feature, it is certainly much sought after by consumers because they can easily shop from home by buying something they want, because indirectly, this feature allows everyone to shop even if they don't have money, where later the payment can be deferred or paid in installments (Wulandari & Sampouw, 2020). In practice, this Shopee Paylater feature has encountered various problems such as the absence of late payments which will result in fines and the spread of consumers' personal data such as phone numbers on their mobile phones. Then the Shopee Paylater team will call the numbers on the phone to inform the consumer if they have unpaid debts.

The SPaylater feature can be used by consumers or SPaylater users who can facilitate online shopping, so consumers need to understand their rights and obligations as consumers. In Article 4 of Law Number 8 of 1999 concerning Consumer Protection, consumer rights are listed for comfort, security and safety, the right to choose goods and obtain them, the right to true, clear and honest information, the right to advocacy, protection and dispute resolution efforts, the right to consumer guidance and education, the right to be treated or served correctly and honestly and non-discriminatory, and the right to compensation, indemnity if the goods received are not in accordance with the agreement. Consumers also have obligations listed in Article 5 of Law Number 8 of 1999 concerning Consumer Protection, namely reading and following instructions, information and usage procedures, acting in good faith in purchasing transactions, paying according to the agreed exchange rate, paying according to the agreed exchange rate, and following consumer protection dispute resolution efforts.

Shopee, as a business entity, has rights as stated in Article 6 of Law No. 8 of 1999 regarding Consumer Protection, including the right to receive payment in accordance with the agreement regarding the condition of the goods, the right to legal protection from consumer actions, the right to defend themselves properly in legal dispute resolution, and the right to legal rehabilitation of their good name. Meanwhile, the obligations of business entities are stipulated in Article 7 of Law No. 8 of 1999 regarding Consumer Protection, which include acting in good faith in conducting their business activities, providing truthful, clear, and honest information regarding the condition and guarantees of goods, treating consumers fairly and honestly, ensuring the quality of traded goods in accordance with quality standards, providing consumers with the opportunity and guarantee to test traded goods, providing compensation for losses incurred from the use, utilization, and exploitation of goods, and providing compensation for the replacement of goods received that do not comply with the agreement.

The SPaylater feature can also be considered as one form of current electronic transactions, as stipulated in Article 1 Paragraph (2) of Law No. 11 of 2008 regarding Electronic Information and Transactions, which defines electronic transactions as legal acts carried out using computers, computer networks, and/or other electronic media. Of course, with the convenience of the SPaylater feature provided by Shopee, it may not always run smoothly. One personal case experienced by the author was a delay in paying SPaylater bills and being charged a fine of 5% of the total bill.

This proves that Shopee still faces many obstacles in fulfilling consumer rights, which have violated Article 27 Paragraph (3) and Article 17 Paragraph (2) of Law No. 11 of 2008 regarding Electronic Information and Transactions. The author wishes to conduct a more in-depth study of Shopee Paylater to prevent potential risks. Previous scientific articles on FinTech have focused on various aspects, such as the regulation of sanctions against fintech providers in Indonesia by "Ni Kadek Puspa Pranita" and the role of the Financial Services Authority in overseeing non-bank financial institutions based on peer-to-peer lending by I Wayan Bagus. However, this article emphasizes the legal protection for Shopee Paylater users experiencing credit difficulties and the regulation of Paylater agreements from a civil law perspective.

Therefore, research is needed on what regulations are used as a reference. Hence, the author conducted a study entitled "Legal Protection for Shopee Paylater Users who Experience Credit Defaults Reviewed from Law No. 8 of 1999 concerning Consumer Protection".

## **2. METHODS**

The approach method used in this research is normative juridical approach. The data sources consist of primary data supported by secondary data. The technique of collecting primary legal data used in this study is a research instrument in the form of document study, and recorded. The technique of analyzing legal materials used by the writer is by analyzing primary and secondary legal materials by elaborating on the legal materials obtained, collected in accordance with the obtained data, then linked with the obtained theories, analyzed and systematically arranged to obtain conclusions related to this research.

## **3. FINDINGS AND DISCUSSION**

### **a. Legal Protection for Shopee Paylater Users Experiencing Bad Credit from the Perspective of Law Number 8 of 1999 concerning Consumer Protection.**

Shopee Paylater is a product resulting from cooperation between PT. Shopee International Indonesia and PT. Commerce Finance, a multi-finance company under the regulation and supervision of OJK (Financial Services Authority), to provide loan products in carrying out the Shopee Paylater feature. The agreement arises based on an agreement between Paylater users who bind themselves with Shopee through activation and fulfillment of the terms and conditions previously determined by Shopee. Meanwhile, in the public sphere, the legal relationship will include the relationship between citizens and the government or fellow members of society that is not intended for commercial purposes (Santoso & Pratiwi, 2018).

E-commerce transactions or buying and selling through the internet usually begin with offers to sell and offers to buy without non-face and non-sign (without face-to-face and without signing). The terms and conditions provided by Shopee for users are a characteristic of standard agreements. Standard agreements are not directly regulated in the Civil Code but standard agreements are examples of innominate agreements or unnamed agreements that exist in society. In their use, they provide an opportunity for those who will involve themselves in this case, Paylater feature users to know and understand the terms and conditions provided as standard clauses to be agreed upon or not. The agreement made by Paylater feature users with Shopee will result in an agreement that creates rights and obligations to fulfill a performance. The agreement system in the use of the Paylater feature, although not in the form of a written agreement in the form of an authentic deed made before an authorized official, is included in an electronic agreement.

All efforts determined by the government or authorized parties as guarantors to the community are legal protection provided to Indonesian citizens. The principles of Consumer Protection Law can be classified into 3 categories, namely justice-based, benefit-based, and lastly, certainty-based in law (Panjaitan, 2021). In Article 1 Number 1 of Law Number 8 of 1999 on Consumer Protection, it is stated that "All efforts that guarantee legal certainty to provide protection to consumers".

Through the Shopee Paylater feature concept, the party that often violates electronic agreements here is the buyer or user of the application. This is because when a consumer purchases goods through the Shopee app using the Shopee Paylater feature, the consumer does not have to pay for the purchased item immediately, but the item is paid for by Shopee, with the Shopee Paylater limit that has been agreed upon and agreed upon beforehand. Therefore, with such a concept, often when a consumer's limit on Shopee Paylater has run out and has entered the overdue payment date, the consumer does not make the payment as they should. That is why it is necessary to look at the legal consequences that can be requested or given to the buyer/consumer who is late in paying the overdue payment on Shopee Paylater.

In Article 21 paragraph (2) letter a and paragraph (4), it is stated that if the violation is caused by the user of the service, then the legal consequences or accountability are imposed on the user of the service. In this case, the user of the service referred to is the buyer or consumer who uses the Shopee app to carry out online buying and selling transactions. If the delay in payment of Shopee Paylater is indeed due to the fault or negligence of the consumer, then certainly the buyer or consumer must be subject to legal consequences for breach of contract.

In cases of breach of contract committed by consumers using the Shopee Paylater feature, this can also be done because the agreement made using the Shopee app contains electronic documents that must be agreed upon by both parties, including clauses regarding legal consequences for parties who violate the promise in the electronic agreement that was made. This cannot be separated if the debtor in this case, the consumer using the Shopee app, commits a violation in the form of breach of contract in the form of overdue payment of Shopee Paylater that has passed the installment payment date.

In Article 1243 of the Civil Code, which in principle requires a statement of default with a warning letter (SOMASI), but in reality, Shopee Paylater that has not sent a warning letter for late payment, a fine of 5% (five percent) plus interest of 2.95% of the total Shopee Paylater loan agreed upon each month will be imposed. These sanctions are obtained from the total bill, restrictions on access to functions and the use of Shopee vouchers, Shopee will collect the payment at the user's place of residence, and the user will not get financing or loans from banks or other companies because the user's credit rating has entered the Financial Information Service System of the Financial Services Authority (OJK) which is directly supervised by the OJK.

Based on the preventive legal protection means proposed by Philipus M. Hadjon, in preventing disputes between Shopee Paylater and consumers, there are provisions in Law Number 8 of 1999 concerning Consumer Protection, which regulates the rights and obligations of consumers and businesses, as well as limits on consumer and business actions to prevent losses for either party. Meanwhile, the repressive legal protection means proposed by Philipus M. Hadjon in the theory of legal protection, aims to resolve existing disputes, especially in consumer protection and business, in the form of sanctions such as fines, imprisonment, and additional legal measures given if disputes or violations have already occurred by either party. Regarding repressive legal protection for consumers and businesses, it is regulated in Article 45 of Law Number 8 of 1999 concerning Consumer Protection, which states, "Consumer dispute resolution can be carried out through the courts or outside the courts based on the voluntary choice of the disputing parties."

#### **b. Resolution of Shopee Paylater Bad Debt Disputes through Online Dispute Resolution (ODR)**

The many dispute resolution patterns certainly provide opportunities for parties to choose the dispute resolution method that will be used (Suadi & SH, 2017). Basically, electronic disputes (e-commerce) fall into the realm of contract law, so if viewed based on the Civil Code (BW) book three on obligations, the principles of contract law also apply. The first principle is the principle of consensus, meaning that an agreement occurs from the moment an agreement is reached between the parties.

Next is the principle of freedom of contract. This principle can be analyzed from the provisions of Article 1338 of the Civil Code, which states that "All agreements made in accordance with the law apply as law to those who make them. The agreement cannot be revoked except by the agreement of both parties, or for reasons specified by law. The agreement must be carried out in good faith."

That with the principle of freedom of contract, it means that the parties are free to choose the law and the dispute resolution forum that will be used in the event of a civil dispute between them. One dispute resolution forum that can be chosen is Online Dispute Resolution (ODR), where there are options for dispute resolution, such as negotiation, mediation, and arbitration, similar to the existing dispute resolution options in Indonesia (Sitompul et al., 2016).

It is highly possible that electronic transactions may lead to legal disputes between parties, therefore Article 18 paragraph (4) grants the parties the freedom to choose a forum to handle any potential disputes, in accordance with the explanation in Article 18 paragraph (4) which states that "The

authorized forum to adjudicate international contracts, including those conducted electronically, is the forum chosen by the parties. The forum can be in the form of a court, arbitration, or other alternative dispute resolution institution," and if the parties do not make a choice of forum, then the International Civil Law shall apply as stated in Article 18 paragraph (5). In its explanation, paragraph (5) states that "In the event that the parties do not make a choice of forum, the jurisdiction of the forum applies based on the principle or principle of international civil law. This principle is known as the basis of presence and effectiveness that emphasizes the location of the defendant's assets (the principle of effectiveness)."

Furthermore, Article 18 paragraph (4) indicates that ODR can be a choice of dispute resolution forum for the parties. This is also reinforced in Article 18 paragraph (5) where ODR can function as an alternative dispute resolution based on international civil law. This is because ODR has now been internationally recognized as part of alternative dispute resolution through the United Nations (UN) which holds an ODR conference every year and has formed an Expert Group on ODR.

The author acknowledges that e-commerce is a trade transaction using an electronic system, therefore, referring to Article 65 paragraph (5) of Law Number 7 of 2014 concerning Trade which states: "In the event of a dispute related to trade transactions through an electronic system, individuals or business entities involved in the dispute can settle the dispute through the courts or through other dispute resolution mechanisms."

The author assumes that based on this provision, in handling disputes related to electronic transactions, the parties are given the freedom to choose a dispute resolution institution that will be used. This allows for the use of ODR as an alternative dispute resolution related to online activities. The fact that Article 66 of Law Number 7 of 2014 concerning Trade states that "Further provisions regarding Trade transactions through electronic systems are regulated by or based on Government Regulations" provides an opportunity for ODR to be used as a means of resolving electronic disputes. However, unfortunately, to this day, the Draft Government Regulation of the Republic of Indonesia concerning Trade Through Electronic Systems has not yet been ratified.

Online Dispute Resolution (ODR) itself has 3 forms of dispute resolution, namely online negotiation, online mediation, and online arbitration (Azwar, 2019). These three forms of dispute resolution need to be studied based on Indonesian law, in order to provide an overview of ODR implementation in Indonesia. According to the author, in resolving ShopeePaylater issues, online negotiation is sufficient, as there has never been a dispute between creditors and debtors that has reached the court level.

Along with the development of technology, face-to-face meetings can also be conducted through electronic devices and written agreements can be recorded in digital form. In essence, online negotiation models are divided into two forms, namely assisted negotiation and automated negotiation (Gora & S Sos, 2019). Assisted Negotiation, also known as enhanced negotiation or technologically facilitated negotiation, involves the parties being assisted in reaching an agreement through direct communication using the aid of threaded message board systems, data storage methods, online meeting arrangements, and other information technology tools in addition to email, in accordance with the media and regulations specified by the provider.

Based on the repressive legal protection means proposed by Philipus M. Hadjon in the theory of legal protection, which aims to resolve existing disputes through Online Dispute Resolution (ODR) as the most appropriate alternative dispute resolution method for ShopeePaylater issues because it is more efficient and not hindered by geographical conditions, especially through Automated Negotiation, which is a development of Online Dispute Resolution, where the entire dispute resolution process is controlled automatically through software. Automated Negotiation, also known as blind-bidding negotiation, involves the parties describing the scope of the dispute and conveying offers and demands in the form of bidding through a computer that is secured with a password and a web-based platform. This method is widely available and used in insurance dispute resolution.

Although there is no institution in Indonesia that explicitly identifies itself as an ODR provider, several organizations operating in the country, both state-owned and private, currently offer various

types of ODR facilities. Shopee also operates its own Dispute Resolution Center through its application, which allows buyers and vendors to engage in direct discussions and negotiations on the best way to settle their disputes. If the parties in dispute fail to reach an agreement on their own, they can request assistance from Shopee's mediation team, which will then become involved in the discussions. Buyers and vendors are also encouraged to submit relevant evidence through the application.

#### 4. CONCLUSION

Legal protection for Shopee Paylater users who experience default credit under the Law Number 8 of 1999 concerning Consumer Protection, where the lender referred to as business actors is PT. Commerce Finance and the borrower as the consumer is the verified registered Shopee Paylater user, which is regulated in Article 1 Number 1 of Law Number 8 of 1999 concerning Consumer Protection, aimed at providing security in the form of protection to consumers when unfair conditions occur that harm the consumer. As found in the Shopee Paylater feature, the use of standard clauses in the Shopee Paylater contract contains one element of the prohibition of using standard clauses, namely in Article 18 letter (g) of Law Number 8 of 1999 concerning Consumer Protection.

Online Dispute Resolution (ODR) as an alternative dispute resolution is the most appropriate solution for Shopee Paylater's default credit problem because it is more efficient and not hindered by geographical conditions. Although there is no institution in Indonesia that explicitly identifies itself as an ODR provider, several organizations operating in the country, both state-owned and private, currently offer various types of ODR facilities. Shopee also operates its own Dispute Resolution Center through its application, which allows buyers and vendors to engage in direct discussions and negotiations on the best way to resolve their disputes. If the disputing parties fail to reach an agreement on their own, they can request assistance from Shopee's mediation team, which will then directly involve themselves in the discussions. Buyers and vendors are also encouraged to submit relevant evidence through the application.

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