

SELLER LIABILITY AND DISPUTE RESOLUTION CONCERNING HIDDEN DEFECTS IN E-COMMERCE TRANSACTIONS

RESPONSABILIDADE DO VENDEDOR E RESOLUÇÃO DE CONFLITOS RELACIONADOS A VÍCIOS OCULTOS EM TRANSAÇÕES DE COMÉRCIO ELETRÔNICO

Article received on: 1/23/2026

Article accepted on: 4/24/2026

Muskibah*

*Fakultas Hukum, Universitas Jambi, Indonesia

muskibah@unja.ac.id

Yetniwati*

*Fakultas Hukum, Universitas Jambi, Indonesia

yetniwati@unja.ac.id

Umar Hasan*

*Fakultas Hukum, Universitas Jambi, Indonesia

umar@unja.ac.id

The authors declare that there is no conflict of interest

Abstract

The rapid growth of e-commerce has led to an increasing number of consumer disputes arising from hidden defects in goods. This article examines the forms of seller liability applicable to goods with hidden defects in e-commerce transactions, as well as the available dispute resolution mechanisms. Employing a normative juridical method with doctrinal and comparative approaches, this study analyzes the operation of seller liability within consumer protection law and digital commercial practices. The findings indicate that contractual liability remains the primary basis for claims arising from breaches of electronic contracts, while tort-based liability functions as a complementary mechanism where contractual remedies prove insufficient. Strict liability plays a crucial role in strengthening consumer protection by shifting the burden of fault to sellers, particularly in cases involving information asymmetry and digital marketplaces. Furthermore, the study reveals that both non-litigation dispute resolution mechanisms and court-based litigation possess distinct advantages and limitations in addressing disputes concerning hidden defects in e-commerce transactions. This article contributes by proposing an integrated liability framework and a coherent dispute resolution model aimed at enhancing legal certainty, consumer protection, and seller accountability in the digital marketplace.

Resumo

O rápido crescimento do comércio eletrônico tem levado a um número crescente de litígios de consumo decorrentes de defeitos ocultos em produtos. Este artigo examina as formas de responsabilidade do vendedor aplicáveis a produtos com defeitos ocultos em transações de comércio eletrônico, bem como os mecanismos de resolução de litígios disponíveis. Utilizando um método jurídico normativo com abordagens doutrinárias e comparativas, este estudo analisa o funcionamento da responsabilidade do vendedor no âmbito da legislação de defesa do consumidor e das práticas comerciais digitais. Os resultados indicam que a responsabilidade contratual continua sendo a base principal para reclamações decorrentes de violações de contratos eletrônicos, enquanto a responsabilidade extracontratual funciona como um mecanismo complementar quando as medidas contratuais se mostram insuficientes. A responsabilidade objetiva desempenha um papel crucial no fortalecimento da proteção ao consumidor, transferindo o ônus da culpa para os vendedores, particularmente em casos envolvendo assimetria de informação e mercados digitais. Além disso, o estudo revela que tanto os mecanismos extrajudiciais de resolução de litígios quanto os processos judiciais possuem vantagens e limitações distintas ao lidar com disputas relativas a defeitos ocultos em transações de comércio eletrônico. Este artigo contribui ao propor um



Keywords: Seller Liability. Hidden Defects. E-Commerce. Dispute Resolution.

quadro integrado de responsabilidade e um modelo coerente de resolução de litígios com o objetivo de aumentar a segurança jurídica, a proteção ao consumidor e a responsabilização do vendedor no mercado digital.

Palavras-chave: Responsabilidade do Vendedor. Defeitos Ocultos. Comércio Eletrônico. Resolução de Litígios.

1 INTRODUCTION

According to the We Are Social 2025 report, more than 220 million people in Indonesia are internet users. Of this number, approximately 180 million are active users of e-commerce platforms, with transaction values projected to reach USD 100 billion by 2025. The growth of Indonesia's digital economy is largely driven by the expansion of e-commerce (Wisnuadi, 2025). This phenomenon demonstrates that e-commerce has become an integral component of economic activity in contemporary society. Under Article 1 paragraph (24) of Law Number 7 of 2014 on Trade (Trade Law), e-commerce is defined as trade whose transactions are conducted through electronic systems. Similarly, Government Regulation Number 80 of 2019 on Trade Through Electronic Systems (PMSE Regulation) defines e-commerce as trade conducted using electronic devices and procedures. Accordingly, e-commerce refers to the trade of goods and services utilizing internet networks through electronic systems. The Trade Law further emphasizes that, in order to ensure security and control in electronic transactions, the parties involved must bear responsibility for such transactions, and consumers must receive adequate legal protection (Cortes, 2022).

One of the most significant issues in e-commerce transactions is the presence of hidden defects in goods, often referred to as defective products. These hidden defects may be known to business actors, unknown to sellers, or undiscoverable by buyers. Goods with hidden defects are generally defined as items traded under a sales agreement that contain flaws rendering them unusable for their intended purpose. Such defects or deficiencies are not apparent at the time of purchase and are only discovered after the goods have been received by the buyer. In such circumstances, consumers may suffer

losses because they are unable to physically inspect the goods prior to purchase and must rely solely on photographs or product descriptions to assess quality (Ali & Zaygh, 2025).

Within the Indonesian legal system, Article 1504 of the Civil Code stipulates that sellers bear a legal obligation to compensate buyers for losses arising from hidden defects in traded goods. Seller liability is further regulated under Law Number 8 of 1999 on Consumer Protection (Consumer Protection Law), which prohibits business actors from trading defective, damaged, or used goods. The Consumer Protection Law also obliges business actors to be responsible for losses suffered by consumers as a result of using goods with hidden defects. However, the implementation of this liability often encounters challenges, particularly in terms of evidentiary difficulties, weak supervision of business actors, and low levels of consumer awareness regarding their legal rights (Holijah, 2014).

According to Stefani, there remains a lack of clarity regarding legal norms governing dispute resolution mechanisms in online transactions in Indonesia. This situation highlights the need for a legal foundation with strong normative certainty to regulate dispute resolution between parties in online commercial agreements. Although existing laws provide a general legal basis, the often complex dispute-handling procedures necessitate the development of additional dispute resolution mechanisms tailored to online transactions that ensure legal certainty. Effective monitoring and enforcement against parties engaging in online commercial transactions are therefore essential to ensure compliance with statutory provisions (Stefani, 2021).

Articles 1320 and 1321 of the Civil Code provide that an agreement may be declared null and void if it is formed due to negligence or fraud. Where traded goods contain hidden defects that are not disclosed by the seller, such non-disclosure constitutes the concealment of material information by one party. This serves as a legal basis for consumers to seek annulment of the agreement or to claim compensation. In several jurisdictions, civil law provides more explicit protection against hidden defects through the principle of warranty against latent defects, which obliges sellers to assume responsibility for goods whose defects were not disclosed to buyers. This principle further emphasizes the buyer's right to rescind the transaction or seek damages if the purchased goods fail to meet reasonable quality standards (Safa'at, 2021).

International legal studies indicate that effective consumer protection in e-commerce transactions requires an expansion of seller liability, particularly with respect

to guarantees of product conformity. Sellers remain liable for hidden defects discovered by consumers after goods have been received and used, without the need to prove fault. This concept arises in response to the reality that no legal system absolves liability in electronic contracts due to misuse or error. From a theoretical perspective, this approach aligns with the principle of strict liability as recognized in Indonesian consumer protection law (Isaac, 2024).

The issue of hidden defects in e-commerce transactions encompasses both the determination of seller liability and the appropriateness of dispute resolution processes. At the international level, consumer dispute resolution has increasingly been oriented toward the application of non-litigation mechanisms that correspond to the characteristics of electronic commerce. The primary methods for ensuring access to justice for consumers harmed by defective goods are Alternative Dispute Resolution (ADR) and Online Dispute Resolution (ODR). From successful ODR providers, certain operational parameters can be identified, offering valuable guidance on how ODR mechanisms should be adapted to function effectively in digital commercial environments.

A comprehensive analysis of seller liability and dispute resolution mechanisms for goods with hidden defects is therefore required, both from the perspective of positive law and judicial practice. Accordingly, this research contributes to strengthening a fair and transparent transactional environment. Based on the foregoing discussion, the research questions addressed in this study are: (1) what forms of seller liability apply to consumers in cases involving hidden defects in e-commerce transactions; and (2) what dispute resolution models are appropriate for addressing hidden defects in goods within e-commerce transactions.

2 METHOD

This study employs a normative legal approach and therefore does not rely on empirical data such as platform-based dispute resolution statistics. The primary focus of the research is seller liability concerning goods with hidden defects in e-commerce transactions. A normative legal method is adopted in combination with a comparative approach. Primary legal materials include the Indonesian Civil Code, the Consumer

Protection Law, and the Arbitration Law, while secondary legal materials consist of national and international journal articles relevant to the research theme.

The analysis is conducted through comparative legal analysis; however, it does not undertake an exhaustive examination of specific international regulatory frameworks. This limitation reflects the evolving nature of legal regulations governing seller liability and dispute resolution for goods with hidden defects. The analysis is prescriptive-analytical in nature and aims to formulate policy recommendations to strengthen the legal framework governing seller liability and online arbitration in e-commerce transactions.

3 RESULTS AND DISCUSSION

3.1 Forms of seller liability for hidden defects in e-commerce transactions

The development of electronic commerce has provided significant convenience for consumers while simultaneously generating specific risks, one of which is the purchase of goods that later prove to have hidden defects. Hidden defects are generally understood as conditions of goods that are not apparent during normal inspection at the time of delivery and that fail to function properly or cause loss after purchase (Setiawan *et al.*, 2025). In many legal systems, hidden (latent) defects entitle buyers to claim remedies such as rescission of the sale, price reduction, or compensation for damages (Alamsyah *et al.*, 2025). However, determining whether a defect is genuinely hidden or reasonably discoverable can be challenging. If a buyer had prior knowledge that the goods contained hidden defects, the buyer might have refrained from purchasing them or negotiated a price below the actual value.

The Consumer Protection Law does not explicitly define hidden defects; however, they may be interpreted as defects unknown to the parties particularly the buyer and, in certain cases, also unknown to the seller, where the traded goods are defective and ultimately cause losses to consumers. Such defects may arise from negligence on the part of business actors, in addition to intentional misconduct (Howells, 2020).

Pursuant to Article 1504 in conjunction with Article 1506 of the Indonesian Civil Code, sellers are required to bear responsibility for hidden defects in goods, regardless of whether they were aware of such defects. Article 1491 of the Civil Code further stipulates

that the seller's obligations toward the buyer include ensuring peaceful and lawful ownership of the sold goods and guaranteeing the absence of hidden defects that could justify the annulment of the sale (Kristiyanti, 2022). Conversely, Article 1505 of the Civil Code provides that sellers are not liable for defects that are externally visible or reasonably discoverable by buyers. Where sellers are aware of hidden defects, they are obligated under Article 1508 of the Civil Code to refund the purchase price and compensate the buyer for all costs, losses, and interest incurred. If sellers were unaware of the hidden defects, Article 1509 of the Civil Code limits their obligation to refunding the purchase price and reimbursing the costs of purchase and delivery (Iqbal, 2018).

With respect to defective goods that have already been purchased, Article 1507 of the Civil Code grants buyers the right either to return the goods and reclaim the purchase price or to retain ownership of the goods while demanding a partial refund, as determined by the court after considering expert testimony (Yudistira & Anggraini, 2020). In such cases, sellers bear the legal consequence of compensating consumers for losses arising from defective goods. However, sellers may be released from liability where defects are proven to arise in the future and after the lapse of a four-year limitation period from the date of purchase or the expiration of the agreed contractual period (Sidabolok., 2014; Sihombing & Resen, 2024).

The Consumer Protection Law strengthens these provisions in the context of e-commerce, particularly through Article 19, which regulates the liability of business actors for consumer losses arising from traded goods. This provision reflects a shift from fault-based liability toward strict liability. Article 19 paragraph (3) of the Consumer Protection Law limits compensation to claims made within seven days following the consumer transaction, which in practice may result in hidden defects being discovered after the warranty period has expired and thus being deemed outside the seller's responsibility (Wulandari & Tadjuddin, 2018).

Products with hidden defects constitute a serious violation in the practice of trading goods and services. Within the framework of the Consumer Protection Law, defective products especially those with defects that are hidden or not readily identifiable by consumers form the primary object of legal protection. The Consumer Protection Law not only grants rights to consumers but also imposes obligations and legal consequences on sellers or business actors who violate provisions relating to product safety and quality.

Legal protection afforded to consumers includes the right to comfort, security, and safety in the consumption of goods and services, as well as the right to accurate, clear, and honest information regarding the condition and warranty of goods (Susanto, 2021).

Product liability refers to a form of legal responsibility imposed on manufacturers, distributors, and sellers for losses suffered by consumers as a result of defective or dangerous products. This concept arises from the need to protect consumers against risks posed by products that fail to meet established standards or that cause harm to users. A product is considered defective or deemed unfit for its intended purpose when the defect arises from one of the following conditions:

1. Manufacturing defects (production defects), namely circumstances in which a product fails to meet quality standards, falls below consumer expectations, or poses risks to the safety and property of consumers.
2. Design defects, where the form or design of a product fails to comply with appropriate standards, thereby causing potential harm to consumers.
3. Warning defects (instructional defects), which occur when a product is not accompanied by adequate warnings or instructions regarding its proper use and storage, thus endangering consumers.

The criteria for hidden defects for which sellers bear responsibility include the following circumstances:

1. The seller is aware that the product is defective due to a manufacturing defect, deliberately conceals this information from the consumer, and nevertheless sells the product
2. The seller is unaware of the manufacturing defect and continues to sell the product to consumers.
3. The seller is aware that the product is defective due to a design defect, conceals this information from the consumer, and proceeds with the sale.
4. The seller is unaware of the design defect and continues to sell the product.
5. The seller is aware that the product is defective due to a warning defect, attempts to conceal this defect from the consumer, and nonetheless sells the product.
6. The seller is unaware of the warning defect and continues to sell the product to consumers.

In general, the principles of liability in law may be classified as follows:

1. Fault-based liability, which requires proof of wrongdoing or negligence
2. Presumed liability, under which a party is presumed liable unless proven otherwise;
3. Presumed non-liability, whereby liability is not automatically imposed in certain circumstances;
4. Strict liability, which does not require proof of fault; and
5. Limitation of liability, whereby liability is contractually or statutorily restricted.

The fault-based liability principle holds that a person may only be held legally accountable where fault can be established. Such fault constitutes conduct that is contrary to law. The legal foundation of this principle is found in Article 1365 of the Indonesian Civil Code, which governs unlawful acts. The principle of presumed liability provides that a person is deemed liable unless they can prove the absence of fault. Although the principle of presumed non-liability is generally recognized only in limited transactional contexts, liability may still be imposed where evidence of fault on the part of the seller or business actor can be demonstrated. In contrast, the principle of strict liability does not require proof of negligence; it is sufficient to establish the existence of a defective product and a causal link between the defect and the loss suffered. The principle of limited liability, meanwhile, refers to liability restrictions incorporated into agreements through exemption or limitation clauses (Payransa & Utami, 2025).

Product liability is defined as the obligation of producers to bear responsibility for losses suffered by consumers as a result of using products they have marketed. Claims based on product liability may be grounded in three principal bases:

- (a) breach of warranty, for example where the quality, performance, or characteristics of a product do not correspond to those stated on the product packaging;
- (b) negligence, where the producer fails to comply with proper manufacturing standards; and
- (c) the application of strict liability rules.

The most common form of seller liability in e-commerce transactions is contractual liability, which arises from breach of contract (*wanprestasi*). Where the parties to an e-commerce transaction have agreed upon specific goods, the seller may be deemed to have failed to perform the agreed obligation if the goods received by the consumer contain hidden defects. Such non-performance may take the form of goods that

do not correspond to the product description, are unfit for use, or fail to meet the promised quality standards (Eleanora & Ahmad, 2023). As a legal consequence of this breach, the seller is required to provide replacement goods, refunds, or other forms of compensation. In practice, refund and return policies facilitated by online marketplaces typically represent this form of contractual liability in e-commerce transactions (Prawiro, 2020).

In addition to contractual breach (*wanprestasi*), sellers may also be held liable under tort law (*perbuatan melawan hukum*) for violating the principles of good faith and due care in commercial activities. In the context of e-commerce, acts involving misleading or incomplete information regarding the condition of goods may be classified as unlawful conduct. Such practices frequently result in consumer harm and undermine trust in electronic commerce. Accordingly, sellers are obligated to provide complete, accurate, and honest information concerning the condition of goods. Failure to fulfill this obligation is regarded as a serious violation of consumer rights (Ramdhani, 2025).

In modern consumer protection law across many international jurisdictions, including European countries, sellers are required to guarantee the conformity of goods with the contract, meaning that goods must be fit for their intended purpose, correspond to the product description, and be free from hidden defects. Where goods fail to meet these standards, sellers are obligated to provide remedies such as replacement, repair, or refund in accordance with reasonable consumer expectations (Reich, 2019).

With respect to seller liability for hidden defects in e-commerce transactions, in the absence of specific regulations, the legal basis for consumer claims relies on Article 1504 of the Indonesian Civil Code concerning hidden defects and Article 19 of the Consumer Protection Law. The underlying legal principle remains unchanged: sellers including online sellers and marketplace vendors—may still be held liable for hidden defects under the Civil Code and the Consumer Protection Law. What differs in e-commerce transactions are the mechanisms of proof and dispute handling, as digital transaction records, product listings, and marketplace policies (such as warranties, refund mechanisms, and terms and conditions) play a significant role in determining liability (Larosa *et al.*, 2023).

E-commerce transactions between business actors and consumers have created new dynamics in legal relationships, particularly in relation to justice and the scope of seller liability toward consumers. In this context, theories of justice serve as an important

philosophical foundation for assessing how the law can protect the interests of parties in a balanced manner. The concept of fairness in contract law plays a crucial role in determining seller responsibility for hidden defects in goods (Rawls, 1971).

Aristotle defined justice not merely as a set of legal rules but as a moral virtue manifested through proportional conduct toward others. He distinguished justice into two principal forms: distributive justice and corrective justice. Distributive justice concerns the proportional rather than equal distribution of rights, honors, or wealth within society, requiring that individuals receive benefits in accordance with their merit and contribution. Corrective justice, by contrast, functions to restore balance that has been disrupted by violations of rights or obligations. In transactional relationships, corrective justice is realized through fair compensation or restitution (Aristotle, 2009).

Aristotle's conception of justice is reflected in the principles of propriety and balance between the rights and obligations of the parties, as embodied in Article 4 of the Consumer Protection Law, which affirms consumers' rights to comfort, security, and safety in consuming goods or services, as well as the right to compensation for losses suffered. This principle illustrates the application of proportional justice, whereby business actors who derive economic benefits are obliged to bear a corresponding level of responsibility for the losses they cause. According to Sudikno Mertokusumo, legal justice must be understood as a balance between individual and societal interests, and between rights and obligations, measured by standards of reasonableness and fairness. This view aligns with Aristotle's notion of distributive justice, which emphasizes moral equilibrium among parties in legal relationships (Aristotle, 2009).

Corrective justice, meanwhile, aims to restore balance when one party suffers harm. In e-commerce transactions, consumers often occupy a weaker position due to information asymmetry, thereby requiring corrective justice to impose an obligation on sellers to compensate for hidden defects. Furthermore, when examined through the lens of John Rawls's theory of justice as fairness, justice is understood as a principle that guarantees equal rights and opportunities for all individuals within a social structure. Rawls introduced two fundamental principles, the first being the principle of liberty, which affirms that each individual is entitled to the greatest possible set of basic freedoms, provided such freedoms do not infringe upon the freedoms of others (Rawls, 1971).

The second is the difference principle, which holds that social and economic inequalities are permissible only if they result in the greatest benefit to the least advantaged members of society. Rawls's principle is reflected in Article 19 paragraph (1) of the Consumer Protection Law, which obliges business actors to provide compensation for goods or services that do not conform to contractual agreements. In the context of e-commerce, this provision serves to protect consumers from fraudulent practices, hidden defects, and misleading information.

Contracts form the legal basis for relationships between sellers and buyers in e-commerce transactions. In this context, agreements are not limited to written or physical forms but may also be concluded electronically through digital media. In e-commerce, contractual consent is typically established through clickwrap agreements or purchase confirmations on digital platforms. Seller liability therefore arises once an agreement has been formed and payment has been made by the consumer. Where products fail to conform to the agreed description, the seller is deemed to have committed a contractual default.

Pursuant to Article 1338 of the Indonesian Civil Code, which embodies the principle of *pacta sunt servanda*, every legally valid agreement is binding upon the parties as law. In e-commerce transactions, this principle requires sellers to fulfill contractual obligations relating to product descriptions, warranties, and delivery terms. Where sellers fail to perform these obligations such as by delivering defective goods or providing misleading product information consumers are entitled to seek performance, contract termination, or compensation (Nugroho, 2022).

Furthermore, pursuant to the principle of good faith as enshrined in Article 1338 paragraph (3) of the Indonesian Civil Code, good faith in e-commerce requires honesty in product descriptions, the provision of accurate information, and responsibility for defective goods. The application of good faith is particularly crucial because legal relationships between consumers and sellers in the digital marketplace are often characterized by inequality, as consumers are unable to directly assess the quality of goods. Good faith functions as both a moral and legal mechanism to prevent the abuse of contractual principles, especially the principle of *pacta sunt servanda*, which affirms that every legally valid agreement is binding upon the parties. Accordingly, sellers are obliged to deliver goods that are free from hidden defects. Where sellers fail to do so, they are

deemed to have breached the contract and are therefore required to assume legal responsibility. Moreover, under the principle of good faith, every transaction demands transparency and honesty on the part of sellers in providing information about goods. This principle is of particular importance in e-commerce transactions, where consumers rely solely on product descriptions without the opportunity to physically inspect the goods (Setiowati, 2021).

Within the Indonesian legal system, sellers bear full responsibility for defective goods, including those with hidden defects. This is evident from Article 19 paragraph (1) of the Consumer Protection Law, which emphasizes that business actors are obligated to provide compensation for damage, contamination, and/or losses suffered by consumers as a result of consuming goods and/or services that are produced or traded (Putra, 2023). Article 1504 of the Indonesian Civil Code further establishes that sellers are liable for hidden defects in the goods sold, even where such defects were unknown to the seller. These provisions form the legal basis for the application of strict liability in e-commerce transactions. Under the strict liability principle, sellers are held responsible without the need to prove fault, provided that the product sold is shown to have caused harm to the consumer.

This principle was affirmed in Decision of the Central Jakarta District Court No. 157/Pdt.G/2021/PN.Jkt.Pst, in which a consumer filed a lawsuit against an online seller due to severe defects in an electronic product purchased. Although there was no direct evidence of fault on the part of the seller, the court held the business actor liable for the losses incurred because the product failed to meet the specified standards (Jerry & Gulton, 2023). This decision underscores the application of the strict liability principle in e-commerce transactions. From the perspective of Aristotle's theory of justice, the application of strict liability represents a form of corrective justice, aimed at restoring the balance of rights between sellers and buyers. Meanwhile, within the framework of John Rawls's theory of justice, this principle aligns with the difference principle, which requires the law to protect the most vulnerable parties namely, consumers (Aristotle, 2009).

Furthermore, contract theory recognizes that the principles of freedom of contract, *pacta sunt servanda*, and good faith must be balanced with the principle of legal protection for consumers in e-commerce transactions. Accordingly, the application of strict liability

for hidden defects in e-commerce transactions constitutes a legal adaptation to evolving patterns of digital trade. This principle safeguards consumers from losses arising from defective products without imposing upon them the burden of proving seller fault. Jurisprudentially, this application is firmly grounded in the Consumer Protection Law and the Indonesian Civil Code and is consistent with theories of justice and fundamental principles of contract law.

Based on the foregoing analysis, it can be argued that seller liability for hidden defects in e-commerce transactions must encompass all forms of legal responsibility, including contractual liability, tort-based liability, and strict liability. Pre-contractual information obligations, guarantees of product quality, and efficient digital dispute resolution mechanisms constitute essential components of an ideal liability framework. Strengthening these forms of liability is expected to foster an e-commerce environment that is fair, transparent, and oriented toward effective consumer protection.

3.2 Dispute resolution mechanisms for hidden defects in e-commerce transactions

The rapid development of e-commerce in Indonesia has significantly increased the volume of online transactions while simultaneously giving rise to various disputes, particularly those involving goods with hidden defects. In online transactions, consumers are unable to physically inspect goods prior to purchase and often become aware of defects only after the goods have been received, which frequently leads to disputes between the parties. Consumer dispute resolution is regulated under Articles 45 to 57 of the Consumer Protection Law. Such disputes may be resolved through two primary channels: litigation and non-litigation mechanisms. However, in the context of e-commerce transactions, non-litigation mechanisms such as mediation, arbitration, and platform-based dispute resolution are generally considered more effective (Alamsyah *et al.*, 2025).

Disputes in e-commerce transactions may arise when business actors fail to fulfill their legal obligations as stipulated by statutory provisions. In such cases, business actors disregard legal requirements governing their duties and the prohibitions imposed upon them in the conduct of commercial activities. Disputes may also arise when either business actors or consumers fail to comply with the terms of the agreement or contract

concluded between them. Accordingly, consumer disputes may be resolved through both non-litigation and litigation mechanisms.

3.2.1 Non-litigation dispute resolution

3.2.1.1 Resolution through the Consumer Dispute Settlement Body (BPSK)

Pursuant to Article 52 of the Consumer Protection Law, the Consumer Dispute Settlement Body (Badan Penyelesaian Sengketa Konsumen—BPSK) is authorized to resolve disputes between business actors and consumers through mediation, conciliation, and arbitration. In cases involving hidden defects in goods, consumers may submit claims to the BPSK located in their domicile without resorting to court proceedings. Dispute resolution through BPSK offers advantages in terms of accessibility and affordability, as it provides simple and expedited procedures through mediation, conciliation, and arbitration mechanisms that can be concluded within a relatively short time frame. Decisions rendered by BPSK are final and binding upon the parties, although objections may be filed with the District Court within fourteen days (Badan Arbitrase Nasional Indonesia, 2023).

From the perspective of Aristotle's distributive justice and John Rawls's theory of justice, BPSK represents a fair mechanism because it affords protection to the weaker party—namely, consumers—against business actors who often occupy a dominant position. Moreover, BPSK is expected to function as an efficient alternative mechanism for resolving consumer disputes in Indonesia. Nevertheless, the effectiveness of BPSK continues to face challenges related to jurisdiction and the recognition of authority in cross-border transactions. In situations where sellers or e-commerce platforms are located abroad, the jurisdiction of Indonesian law is limited, making dispute resolution difficult to implement. To address these challenges, systemic reforms in e-commerce regulation and supervision in Indonesia are urgently required. The government should introduce more specific regulations obligating e-commerce platforms to ensure the accuracy of product information and to assume responsibility for consumer complaints.

3.2.1.2 *Dispute resolution through marketplaces*

To address consumer disputes, major e-commerce marketplaces—such as Tokopedia, Shopee, and Lazada have developed internal dispute resolution systems designed to resolve complaints without recourse to litigation. These mechanisms typically include allowing consumers to submit complaints regarding hidden defects through features such as a Resolution Center or Return Center. Subsequently, marketplaces conduct digital mediation, in which the platform acts as an intermediary between sellers and buyers to identify solutions such as refunds, product replacements, or other forms of compensation. In addition, marketplaces commonly employ an escrow system, whereby transaction funds are held by the platform until the buyer confirms receipt of goods in satisfactory condition. This system provides preventive protection by ensuring that sellers do not neglect their obligations. Where internal resolution efforts fail, consumers may escalate disputes to BPSK or the District Court (Ali & Zaygh, 2025).

Marketplaces also generally provide internal facilities such as dispute centers or Online Dispute Resolution (ODR) mechanisms to manage consumer disputes. ODR refers to a dispute resolution approach conducted online using information technology for negotiation, mediation, or arbitration without requiring physical presence. In this context, ODR is often the primary option for resolving disputes arising from online sales transactions conducted through marketplaces. However, the implementation of ODR in Indonesia faces challenges due to the absence of clear and comprehensive regulatory frameworks governing its operation. This situation underscores the need for legal reform and regulatory enhancement to support the effective implementation of ODR mechanisms (Ramdhani *et al.*, 2025).

According to Aristotle's theory of corrective justice, seller liability for hidden defects serves to restore equality between the injured party (the consumer) and the party responsible for the harm (the seller). Meanwhile, under John Rawls's theory of justice as fairness, marketplace-based dispute resolution systems reflect the principle that institutional structures—such as digital platforms—must ensure fairness for all parties within the digital trading system. From the perspective of contract theory, sellers are obligated to deliver goods that conform to the terms of online sales agreements, including the absence of hidden defects. Breach of this obligation constitutes contractual default

(wanprestasi), thereby requiring sellers to compensate losses as stipulated in Article 1243 of the Indonesian Civil Code (Aristotle, 2009).

Nevertheless, marketplace-based dispute resolution mechanisms exhibit several weaknesses, including: dependence on internal platform policies; lack of transparency in dispute handling procedures; absence of administrative sanctions against sellers who repeatedly trade defective goods; and difficulties in verifying digital evidence when disputes escalate to BPSK or judicial proceedings.

3.2.1.3 Dispute resolution through online arbitration

Online arbitration is a form of out-of-court dispute resolution conducted electronically through digital platforms. This process encompasses all stages of arbitration, from the submission of claims and examination of evidence to the issuance of decisions, all carried out through online systems. The concept was developed to accommodate the characteristics of e-commerce transactions, which are typically fast-paced and cross-border in nature (Larosa, 2023).

Normatively, the legal basis for arbitration in Indonesia is provided by Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution. Although this law does not explicitly regulate online arbitration mechanisms, the use of information technology in dispute resolution is facilitated by Law Number 11 of 2008 on Electronic Information and Transactions (ITE Law) and Financial Services Authority Regulation No. 31/POJK.07/2020 on Consumer Services in the Financial Services Sector. National arbitration institutions, such as the Indonesian National Arbitration Board (BANI), have introduced e-arbitration services, enabling parties to submit claims and monitor dispute proceedings digitally (Badan Arbitrase Nasional Indonesia, 2023).

The moral legitimacy of arbitration lies in the issuance of decisions that are consistent with contract law. In most jurisdictions, courts are generally precluded from annulling or revising arbitral awards on the basis of errors of fact or law contained in the decision. In this sense, arbitral awards are binding even upon judicial institutions. Furthermore, the New York Convention guarantees that arbitral awards rendered in accordance with the arbitration laws of contracting states—currently more than one hundred countries—are enforceable in other contracting states (Fairgrieve *et al.*, 2024).

Online arbitration constitutes one model of Online Dispute Resolution (ODR) that focuses on resolving disputes through digital technology. Unlike online mediation or negotiation, which aim to facilitate consensual settlements without final determinations, online arbitration produces legally binding decisions for the parties. According to Ephraim Isaac, users generally perceive ODR platforms as user-friendly and effective tools for facilitating fair dispute resolution. This positive perception highlights the potential of ODR platforms to function as robust mechanisms for resolving e-commerce disputes. Online arbitration offers several advantages in e-commerce disputes, including efficiency, legal certainty, cross-border enforceability, and technological adaptability. These features render online arbitration particularly effective for low- to medium-value disputes that predominate in e-commerce transactions.

Jurisdictions with flexible regulatory frameworks, such as the European Union and China, have successfully integrated online arbitration into their ODR systems without compromising legal stability. Indonesia may adopt a similar approach by issuing implementing regulations or amending arbitration legislation to explicitly accommodate online arbitration procedures.

3.2.2 Court-based dispute resolution

Where disputes cannot be resolved through internal mediation or non-litigation mechanisms, court-based dispute resolution constitutes the final avenue to ensure legal certainty and justice for the aggrieved party. The resolution of e-commerce disputes through the courts is governed by several national legal instruments, including the Consumer Protection Law particularly Article 45 paragraph (1), which grants consumers the right to bring claims against business actors before consumer dispute resolution bodies or courts—the ITE Law, which recognizes the admissibility of electronic evidence in judicial proceedings, and the Indonesian Civil Code, especially Articles 1504–1511, which regulate seller liability for hidden defects in goods (Mertokusumo, 2009).

Judicial resolution of e-commerce disputes involving hidden defects generally commences with the filing of a claim by the injured consumer against the seller or e-commerce platform. This is followed by the examination of evidence, including electronic transaction records, digital communications, and product documentation.

Mandatory court-annexed mediation, as stipulated under Supreme Court Regulation (Perma) No. 1 of 2016 on Court Mediation Procedures, must be conducted prior to substantive examination. If mediation fails, the court proceeds to adjudicate the merits of the case and issue a binding and enforceable judgment. In practice, claims are typically filed with the District Court having jurisdiction over the defendant's domicile, unless an alternative forum has been agreed upon in the electronic contract (Prawiro, 2020).

From a theoretical standpoint, court-based dispute resolution reflects Aristotle's theory of justice, particularly *justitia commutativa*, which emphasizes fairness in reciprocal relationships between parties in transactional contexts. According to Rawls, judges play a critical role in restoring the balance of rights and obligations between parties where consumers suffer losses due to hidden defects. From the perspective of contract theory, sellers bear contractual responsibility to deliver goods that are free from defects, whether visible or hidden. When this obligation is breached, judicial proceedings serve as a means to enforce the principle of *pacta sunt servanda* and the requirement that contracts be performed in good faith (Rawls, 1971).

Court-based dispute resolution offers several advantages, including legal certainty and enforceability of judgments, protection of evidentiary and appellate rights, the creation of legal precedents (jurisprudence) for similar cases, and transparent and accountable procedures. However, it also presents notable drawbacks, such as lengthy and costly proceedings, limited judicial expertise in digital disputes and electronic evidence, restricted access for consumers particularly in cross-border transactions and potential difficulties in enforcing judgments across jurisdictions (Prawiro, 2020).

In this context, litigation functions as a measure of last resort, as it is often inefficient for small- and medium-scale disputes and insufficiently responsive to the digital nature of e-commerce transactions. Enhancing judicial capacity in handling digital disputes, along with greater harmonization between e-commerce regulations, the Consumer Protection Law, and civil procedural law, is therefore essential to ensure that court-based dispute resolution becomes more effective and responsive to technological developments.

4 CONCLUSION

Based on the foregoing analysis, it can be concluded that seller liability for hidden defects in e-commerce transactions must encompass contractual liability, tort-based liability, and strict liability. Strengthening these forms of liability is expected to foster an e-commerce system that is fair, transparent, and oriented toward effective consumer protection. Accordingly, the ideal model of seller liability for hidden defects in e-commerce transactions in Indonesia should integrate the existing principle of strict liability with robust pre-contractual information obligations and the enhancement of consumer-oriented Online Dispute Resolution (ODR) mechanisms.

With respect to e-commerce dispute resolution, online arbitration represents an evolution of traditional arbitration. Online arbitration has the potential to serve as a primary mechanism for resolving digital transaction disputes due to its speed, flexibility, and cross-jurisdictional applicability. To ensure adequate legal protection for all parties involved in e-commerce transactions, the legal framework must be strengthened, and international harmonization is required to address regulatory, technical, and enforcement challenges associated with cross-border digital commerce.

REFERENCES

- Alamsyah, Sakti, & Hasibuan, F. Y. (2025). Legal protection for consumers in e-commerce transactions in Indonesia: Contract validity and dispute resolution effectiveness. *PENA LAW International Journal of Law*, 3(1). <https://penajournal.com/index.php/PENALAW/article/view/220>
- Ali, A., & Zaygh, E. (2025). Transaksi jual beli online dan keadilan bagi konsumen Indonesia. *Majelis: Jurnal Hukum Indonesia*.
- Aristotle. (2009). *Nicomachean ethics* (W. D. Ross, Trans.; Book V, 1131a25–30). Oxford University Press.
- Ariyanto, B., Purwadi, H., & Latifah, E. (2021). Tanggung jawab mutlak penjual akibat produk cacat tersembunyi dalam transaksi jual beli daring. *Jurnal Ilmu Hukum*, 6(1). <https://doi.org/10.24246/jrh.2021.v6.i1.BANI>
- Badan Arbitrase Nasional Indonesia. (2023). *Sistem e-arbitrase di Indonesia*. BANI.

- Cortes, P. (2022). Developing online dispute resolution for consumers in the EU: A proposal for the regulation of accredited providers. *International Journal of Law and Information Technology*, 28(2), 152–158. <https://doi.org/10.1093/ijlit/eaq011>
- Eleanora, F. N., & Ahmad. (2023). Pembuktian tanggung jawab produk bagi konsumen terkait cacat tersembunyi. *Moralitas: Jurnal Ilmu Hukum*, 9(2). <http://dx.doi.org/10.52947/morality.v9i2.338>
- Fairgrieve, D., et al. (2024). Product liability and online marketplaces: Comparison and reform. *International & Comparative Law Quarterly*, 73(2). <https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/product-liability-and-online-marketplaces-comparison-and-reform/1CB76B1CD3951B6AF767A71E9BE5D032>
- Holijah. (2014). Pengintegrasian urgensi dan eksistensi tanggung jawab mutlak produk barang cacat tersembunyi pelaku usaha dalam undang-undang perlindungan konsumen di era globalisasi. *Jurnal Dinamika Hukum*, 14(1). <https://dinamikahukum.fh.unsoed.ac.id/index.php/JDH/article/view/286>
- Howells, G. (2020). Protecting consumer protection values in the fourth industrial revolution. *Journal of Consumer Policy*, 43, 145–175. <https://link.springer.com/article/10.1007/s10603-019-09430-3>
- Isaac, E. (2024). Effectiveness of online dispute resolution platforms in managing e-commerce disputes. *European Journal of Conflict Management*, 4(1), 1–11. <https://ideas.repec.org/a/bfy/ojejcm/v4y2024i1p1-11id2080.html>
- Iqbal, J. I. (2018). Perlindungan konsumen online marketplace melalui ODR. *Jurist-Diction*, 1(2), 557–577. <https://e-journal.unair.ac.id/JD/article/view/11008>
- Jerry, & Gultom, E. R. (2023). Kepastian hukum terhadap putusan No. 1025/Pdt.G/2020/PN JKT.SEL mengenai kualitas kendaraan bermotor. *Unes Law Review*, 5(4). <https://doi.org/10.31933/unesrev.v5i4.474>
- Kristiyanti, C. T. S. (2011). *Hukum perlindungan konsumen*. Sinar Grafika.
- Larosa, et al. (2023). Application of online arbitration to e-commerce dispute resolution in Indonesia. *Asian Journal of Engineering, Social and Health*, 2(3), 112–125.
- Lodder, A. R., & Zeleznikow, J. (2012). *Enhanced dispute resolution through the use of information technology*. Cambridge University Press. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2059976
- Mertokusumo, S. (2009). *Mengenal hukum: Suatu pengantar*. Liberty.
- Nugroho, D. (2022). *Hukum acara perdata dalam penyelesaian sengketa elektronik di Indonesia*. Prenadamedia Group.

- Pavransa, A. I. D., & Utami, P. D. Y. (2025). Tanggung jawab konsumen atas transaksi e-commerce dengan sistem bayar di tempat. *Jurnal Kertha Desa*, 12(9). <https://ojs.unud.ac.id/index.php/kerthadesa/article/view/108117>
- Prawiro, H. (2020). *Hukum perjanjian dan prinsip pacta sunt servanda dalam transaksi elektronik*. Raja Grafindo Persada.
- Putra, D. S. Y. A. (2023). The role of regulation in regulating online commerce in Indonesia: Compliance, dispute resolution, and impact on online businesses. *HUKMY: Jurnal Hukum*, 3(2). <https://journal.ibrahimy.ac.id/index.php/hukmy/article/view/4014>
- Ramadhani, N., et al. (2025). Online dispute resolution as a mechanism for resolving consumer disputes in the marketplace. *Eduvest*, 5(5), 4984–4999. <https://eduvest.greenvest.co.id/index.php/edv/article/view/51166/4088>
- Rawls, J. (1971). *A theory of justice*. Harvard University Press.
- Reich, N. (2019). Information duties and hidden defects in distance contracts. *European Review of Contract Law*, 15(2), 125–130.
- Safa'at, R. (2021). Perbuatan melawan hukum dalam transaksi elektronik. *Jurnal Arena Hukum*, 14(2), 173–176.
- Setiawan, J., Yetti, & Afrita, I. (2025). Tanggung jawab hukum pelaku usaha atas produk cacat tersembunyi. *Jurnal Ilmu Hukum THE JURIS*, 9(1). <https://doi.org/10.56301/juris.v9i1.1676>
- Setiowati, D. (2021). Tanggung jawab penjual atas cacat barang dalam transaksi e-commerce. *Jurnal Hukum Ekonomi*, 12(1), 44–58.
- Sidabolok, J. (2014). *Hukum perlindungan konsumen di Indonesia*. PT Citra Aditya Bakti.
- Sihombing, R. E., & Resen, M. G. S. K. (2024). Perlindungan konsumen dalam e-commerce di Indonesia. *Aliansi: Jurnal Hukum, Pendidikan dan Sosial Humaniora*, 1(6). <https://doi.org/10.62383/aliansi.v1i6.539>
- Stefani, S. (2021). Kepastian hukum penyelesaian sengketa e-commerce di Indonesia secara online. *Jurnal Indonesia Sosial Teknologi*, 2(7).
- Susanto, B. (2021). Efektivitas penyelesaian sengketa konsumen melalui pengadilan di era digital. *Jurnal Ilmu Hukum Indonesia*, 8(3).
- Wisnuadi, K. (2025, May 17). Statistik menarik industri digital di Indonesia. *DiPStrategy Blog*. <https://dipstrategy.co.id/blog/statistik-menarik-industri-digital-di-indonesia-tahun-2025/>

- Wulandari, A. S. R., & Tadjuddin, N. (2018). *Hukum perlindungan konsumen*. Mitra Wacana Media.
- Yudistira, G. R., & Anggraini, A. M. T. (2020). Perlindungan hukum konsumen terhadap peredaran produk pangan kemasan tanpa tanggal kadaluarsa dan kemasan cacat. *Jurnal Hukum Adigama*, 3(1). <https://doi.org/10.24912/adigama.v3i1.8926>
- Zhang, L. (2020). *Online dispute resolution: Technology, management, and legal practice*. Routledge.