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Legal Remedies for Breach of Contract in Digital Service Agreements

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Abstract: This study examines the legal mechanisms for addressing breaches in service contracts in an increasingly complex digital era. It aims to identify legal challenges in digital transactions and provide relevant policy recommendations to enhance legal protections for digital service users. The research uses a qualitative method with a literature review as the data collection technique. The findings indicate that legal challenges in digital transactions are highly complex, especially in addressing breaches caused by technical factors, information asymmetry, and jurisdictional differences between countries. Digital contracts involving various parties from multiple locations require an adaptive and responsive legal approach to ensure user protection. Effective legal efforts include drafting clearer regulations on rights and obligations in digital contracts, implementing online dispute resolution (ODR) methods, enhancing service provider transparency, and fostering international collaboration for harmonizing digital contract law. With these policy recommendations, it is hoped that digital service users will receive adequate legal protection, creating a safe, fair, and trustworthy digital transaction environment.

Keyword: Legal Efforts, Breach of Contract, Service Contract.

INTRODUCTION

In this rapidly advancing digital era, technology has permeated nearly every aspect of our lives, including the provision of contract-based services. The presence of technology has transformed the way society accesses and utilizes services, where service contracts are no longer confined to written agreements conducted directly or face-to-face. Instead, such agreements are now more frequently implemented digitally through online platforms and applications. This shift reflects a significant transformation in patterns of interaction and agreement, with greater emphasis placed on speed, efficiency, and accessibility.

The conveniences offered by digital contracts, such as flexibility and efficiency, enable business actors to access markets more easily and reach consumers on a broader scale. Through digital contracts, they can expand business opportunities without being constrained by geographical limitations, which are often obstacles in traditional practices. However, on the

other hand, the use of digital contracts also presents challenges that must be addressed seriously, particularly regarding breach of contract or failure by one party to fulfill their obligations as agreed in the contract. These challenges may arise in the form of non-compliance with contract terms or other violations that could potentially harm one party. Therefore, an effective dispute resolution mechanism is essential to address such situations.

When a breach of a digital contract occurs, it highlights new challenges in legal relationships that require heightened attention from a legal perspective. In the digital era, agreements are often made virtually and recorded in digital form, possessing characteristics and risks distinct from conventional contracts. Consequently, when one party fails to fulfill its obligations, legal issues arise that demand a more in-depth and adaptive approach. This is not merely a matter of contractual promise violations but also reflects the need to adjust regulations and dispute resolution mechanisms within the digital realm to ensure the optimal protection of the parties' rights.

Failure to perform obligations (breach of contract) in digital service agreements often arises due to ambiguities in the terms and conditions of the contract. In many cases, digital contracts lack sufficient clarity, making them difficult for users to comprehend, particularly when the provisions employ overly technical or non-transparent language. This often results in users not fully understanding their rights and obligations, ultimately increasing the likelihood of a breach by one of the parties.

Furthermore, the high reliance on technology increases the potential risk of contractual breaches. This may arise due to various technical issues, such as server disruptions that render services unavailable or data security vulnerabilities that hinder the operational continuity of services. For instance, on transportation service platforms or marketplaces, consumer complaints frequently emerge, often involving claims that the services provided fail to meet consumer expectations (Pusparani, 2023). Such situations encompass issues like delays in the delivery of goods or discrepancies between the received product and what was promised. These circumstances not only diminish customer satisfaction but also create legal liabilities for service providers, particularly if they are deemed negligent in maintaining the promised quality standards or service accuracy.

In addition to technical obstacles, legal challenges further complicate efforts to resolve breaches of digital contracts, particularly when cross-jurisdictional relationships are involved. Many digital platforms operate globally, resulting in contractual disputes that often involve parties from different countries with varying legal systems. This adds an additional layer of complexity, especially in determining the competent jurisdiction, applicable law, and appropriate dispute resolution mechanisms. Differences in regulations across countries concerning digital contracts and breaches may also delay legal proceedings and hinder the parties from achieving effective and consistent justice.

Jurisdictional boundaries between various countries pose unique challenges in the enforcement of laws, as each country has distinct rules and policies. This necessitates adjustments to ensure that the regulations in one country align with the needs and characteristics of cross-border digital transactions. This situation also highlights that existing legal approaches may not yet be fully adequate to accommodate the rapid and increasingly complex developments in cross-border digital transactions.

This research underscores the urgency of exploring legal measures that can be implemented to address breaches of contract in service agreements within the digital era. In this context, the absence of appropriate and adequate legal approaches could lead to losses for consumers utilizing digital services, erode public trust in such services, and disrupt business continuity in the digital sector. Therefore, it is crucial for policymakers to consider updating or improving regulations to provide more effective protection for users while ensuring legal certainty for businesses. These efforts aim to foster a conducive business climate where consumer rights are

protected, and legal certainty for business actors is guaranteed, thereby ensuring the sustainable growth of digital enterprises.

Based on the background outlined, this research focuses on two main issues. First, it examines how the concept of breach of contract or non-performance is applied in digital transactions, considering the complexity and rapid technological advancements that alter the dynamics and risks in contractual relationships. Second, this study also highlights the legal measures that can be pursued to resolve breach of contract disputes in service agreements within the digital era. This research aims to understand the existing legal mechanisms and their relevance to the development of digital contracts, as well as to identify recommendations for solutions that can be implemented to address issues of breach of contract in digital service agreements. Through comprehensive analysis, it is expected that this research can serve as a foundation for strengthening digital contract regulations at both the national and international levels, thereby promoting a safer, more transparent, and trustworthy digital business environment.

METHOD

In this study, the author employs a library research method as an effort to provide a comprehensive understanding of legal measures related to breach of contract in digital service agreements. The data used in this research is collected from various relevant literatures. The primary sources in this research include primary legal materials such as regulations, and secondary legal materials such as previous scholarly journals, articles, and news media. After the data is collected, the next step is to analyze the existing literature. The analysis is carried out by thoroughly reading each relevant source to understand the concepts, theories, and findings that have been established regarding legal measures for breach of contract in digital service agreements.

Data from various literatures are categorized based on specific themes or topics, such as the physical conditions of the work environment, social interactions, workload, and management policies. Once categorized, the data is synthesized to identify patterns and relationships between the variables being studied. This synthesis aims to provide a comprehensive overview of the legal measures for addressing breach of contract in digital service agreements. Based on the analysis, synthesis, and comparison of the literature, the researcher then draws conclusions. The approach employed in this research involves two main methods: first, a regulatory approach, which focuses on an in-depth study of the relevant and applicable written legal provisions within the scope of the issues being examined; second, a case-based approach, which aims to analyze various related events or legal rulings that can provide empirical and concrete perspectives on the application of legal norms in practice. Through the combination of these two approaches, the research aims to present a more comprehensive analysis, not only from the theoretical aspects outlined in regulations but also based on the reality of their implementation in existing cases.

RESULTS AND DISCUSSION

Breach of Contract in Digital Transactions

In the digital era, the advancement of information and communication technology has driven the shift of various transaction forms, including contract-based transactions, into digital formats. The digitalization of contracts offers flexibility, ease of access, as well as time and cost efficiency for both businesses and consumers. However, this convenience also brings a number of new challenges, particularly regarding the risk of breach of contract or non-performance of contractual obligations. Breach of contract in digital transactions is not only different in terms of the mechanisms by which it occurs, but also in the legal resolution process, which often involves jurisdictional differences and the complexity of cross-border regulations.

The phenomenon of breach of contract in digital transactions is often caused by various technical factors, such as limited server capacity, network disruptions, and cybersecurity risks that make data or services temporarily inaccessible. On the other hand, the dependence of digital contracts on systems and software also has the potential to cause technical issues, such as data transmission errors or delays in the delivery of goods and services. For instance, in goods delivery services or marketplaces, consumers often experience issues with late arrivals or products that do not match the description. This phenomenon indicates that breaches of contract in digital transactions are not only caused by human negligence but also by the vulnerabilities of the digital systems that underpin the contracts themselves (Adityana & Sukma, 2023).

In addition to technical issues, the complexity of understanding the terms and conditions of digital contracts is also a major trigger for breaches of contract. Many digital contracts presented in electronic format contain lengthy terms and legal language that are difficult for ordinary users to understand. As a result, many consumers agree to the contract without fully comprehending their rights and obligations, increasing the risk of breach when there is a discrepancy between expectations and the reality of the service. For example, provisions regarding refund policies or product returns are sometimes difficult to understand or unclear, leading to consumer losses when the service fails to meet expectations (Dirkareshza et al., 2021).

In addition to technical aspects and contract comprehension, cross-jurisdictional issues further complicate the handling of breaches in digital transactions. Many global digital platforms operate in various countries with significant legal differences. When a breach occurs, the legal resolution process is often hindered by jurisdictional conflicts, as each country has its own rules for dealing with breaches and resolving digital contract disputes. This situation further complicates the resolution process, as businesses may be located in different countries than consumers, necessitating international cooperation or special arrangements for law enforcement (Juwitasari et al., 2021).

The urgency of the issue of breach of contract in digital transactions has also increased with the growing number of digital transactions across various sectors, including e-commerce, transportation services, financial services, and more. As the number of digital service users rises, the risk of breaches increases, impacting consumer trust in digital services. If these breaches are not properly addressed, a domino effect will occur, negatively affecting all parties consumers who lose their rights and businesses whose reputation suffers. This highlights the need for proactive measures, such as regulations and legal mechanisms, to provide protection for users of digital services.

Legal Efforts in Addressing Default in Service Contracts in the Digital Era

Legal efforts to address breaches of contract in digital service agreements represent a significant challenge in contemporary law, particularly with the increasing prevalence of cross-border digital transactions. Digital service contracts, whether executed through online platforms or applications, are susceptible to various forms of breach, which may result from system failures, technical disruptions, or negligence by service providers. Therefore, legal measures are necessary to protect the interests of the parties involved in digital contracts, ensure justice for the aggrieved party, and create legal certainty within the digital ecosystem. Existing legal mechanisms must adapt to the unique characteristics of digital contracts, which are more dynamic and cross-jurisdictional in nature.

To address the issue of breach of contract in digital service agreements, one crucial step is ensuring clarity in the regulations that govern the rights, obligations, and responsibilities of each party involved in digital transactions. This clarity will not only provide legal certainty but also serve as a guideline that regulates the legal relationship between the parties involved,

helping to avoid potential disputes arising from misunderstandings regarding the obligations to be fulfilled under the agreement.

In several countries, although there are regulations governing electronic contracts, these regulations often fail to provide comprehensive rules specifically addressing digital contracts. In the context of digital contracts, there is a need for more detailed provisions regarding crucial clauses, such as terms on contract termination, compensation for arising losses, and refund procedures. This is essential to provide legal certainty for the parties involved, ensuring that they clearly understand their rights and obligations, as well as the procedures to follow in the event of a dispute or breach in the execution of the digital contract.

The importance of such regulation is to provide a clear legal foundation regarding the legal measures that can be taken in the event of a breach of contract. With clear guidelines in place, both users and service providers will have a clear reference in fulfilling their respective obligations, as well as an understanding of the rights they can assert if one party fails to honor the promises or agreements made. This aims to create legal certainty, reduce the potential for disputes, and ensure fair resolution in accordance with the principles of justice within the applicable contract.

In the context of digital contracts, the application of technology requires the implementation of more adaptive and efficient dispute resolution methods, one of which is the use of Online Dispute Resolution (ODR) mechanisms. ODR offers the opportunity for parties in dispute to resolve their issues through a digital platform, enabling a faster and more affordable resolution process without the need for litigation, which tends to be time-consuming and costly (Matheus, 2021).

In the realm of digital contract law, the phenomenon of breach of contract can be addressed by utilizing the ODR mechanism, which offers a practical and efficient solution. Since digital transactions typically take place online, the use of ODR allows the parties to communicate and negotiate directly through a digital platform, without the need for physical presence. This approach not only speeds up the dispute resolution process but also reduces the costs typically incurred in conventional legal processes, such as travel expenses or lawyer fees.

The implementation of ODR as an alternative dispute resolution method in the context of breach of digital contracts requires a clear and supportive regulatory framework. This regulation serves as an essential foundation to ensure that ODR can be carried out efficiently and provide legal certainty for the parties involved (Yudana et al., 2022). In addition, to ensure that the dispute resolution process runs smoothly and is legally acceptable, there needs to be a synergistic collaboration between ODR platform providers and the government. This collaboration will guarantee that the decisions or outcomes reached through ODR can be effectively enforced, without compromising the principles of justice and legal certainty.

In addition, the protection of consumer rights is a crucial aspect of resolving disputes over breaches of contract involving digital service agreements. In the context of digital transactions, consumers often find themselves in a weaker position, especially due to limited access to clear and adequate information about the terms and conditions in the digital contract. This adds to the challenge of ensuring that consumers can make well-informed decisions and are protected from potential losses that may arise from ignorance or the inconsistency of information provided by service providers.

As digital services continue to evolve, it is essential to establish regulations that require digital service providers to offer clear, easily understandable, and accessible information regarding the rights and obligations of each party in the agreement. This is intended to help consumers better understand the consequences arising from the agreement and the steps they can take if a breach of contract occurs. Additionally, consumer protection should include provisions that guarantee fair compensation if consumers suffer losses due to a breach by the service provider,

ensuring that consumer rights are upheld and justice is achieved for all parties involved (Adityana & Sukma, 2023).

Legal actions taken in response to breach of contract require continuous efforts, one of which is updating policies to be more responsive to the dynamics of technological change. In the context of today's digital era, cross-border transactions are increasingly common, which, while offering convenience, also add complexity, particularly concerning issues of jurisdiction. Different countries have varying regulations regarding contracts, and these differences can trigger legal disputes, especially when digital contracts are executed across borders. This highlights the need for the harmonization of regulations and a more adaptive legal approach to resolve legal issues arising from rapid technological developments, while maintaining legal certainty for the parties involved in international transactions.

International cooperation in the harmonization of laws regarding digital contracts is a crucial strategic step in this era of globalization. Through collaboration between countries, an international standard for digital contracts can be developed, which will then be accepted and implemented across various jurisdictions. This standard aims not only to reduce inconsistencies between different legal systems in each country but also to create legal certainty for all parties involved in digital contract transactions that cross national borders (Dirkareshza et al., 2021). With such an agreement in place, parties can be more confident in executing their agreements without the fear of legal misinterpretations, which will ultimately foster the creation of more efficient and secure international digital trade.

In order to strengthen more effective legal efforts in addressing issues of breach of contract in the digital era, it is essential to reform the judicial system. This reform is necessary to ensure that cases involving digital technology are handled accurately and efficiently. The judicial system must be able to adapt to the ongoing technological developments, thereby providing appropriate legal protection for the parties involved in disputes related to transactions or obligations carried out through digital platforms.

It is essential for law enforcement officials to have a deep understanding of the litigation process in the context of digital disputes. Therefore, more intensive efforts are needed to provide training and capacity building for judges and other law enforcement personnel. This includes not only a solid understanding of the legal aspects governing digital contracts but also the technical aspects that accompany digital transactions and interactions. With this enhanced competence, it is expected that the resolution of digital disputes will become more effective and just, providing the legal certainty needed by all parties involved. This is because the judicial system will be able to respond swiftly and accurately in handling breach of contract cases in digital service contracts and render fair decisions that align with the specific conditions of digital contracts (Juwitasari et al., 2021).

The application of the principles of accountability and transparency in drafting digital contracts is a crucial aspect in the resolution of breach of contract disputes. In this regard, digital service providers have an obligation to formulate and present the terms and conditions of the contract in a clear and open manner. This aims to ensure that consumers can easily understand their rights and obligations, as well as the potential consequences arising from each clause outlined in the contract. By fostering transparency and accountability, both parties are better equipped to navigate the contract, reducing the likelihood of misunderstandings and facilitating more efficient dispute resolution processes.

Transparency in this context involves the obligation to regularly provide consumers with updated information about the status of the services they are receiving, particularly when technical issues arise that could lead to a breach of contract. The application of the principle of accountability aims to strengthen consumer trust in the digital services provided while minimizing the likelihood of breaches caused by consumers' lack of understanding of the actual status of the services they are using. By keeping consumers well-informed, service providers

can ensure smoother transactions and enhance the overall customer experience, reducing the risk of disputes and improving the resolution process when issues arise (Nuroini, 2022). Overall, legal efforts to address breach of contract in digital service contracts require a comprehensive and collaborative approach. A combination of adaptive regulations, the implementation of Online Dispute Resolution (ODR), stronger consumer protection, international legal harmonization, enhancing the capacity of the judicial system, and the application of accountability and transparency principles are strategic steps that can be taken to create a safer, more transparent, and trustworthy digital contract ecosystem. Through these legal efforts, it is expected that cases of breach of contract in digital contracts can be minimized, fostering a healthy digital transaction ecosystem that maximizes benefits for all parties involved.

CONCLUSION

Based on the explanation, it can be concluded that the legal challenges in digital transactions are highly complex, particularly in addressing breaches of contract caused by technical factors, information imbalances, and jurisdictional differences between countries. Digital contracts involving parties from different locations require an adaptive and responsive legal approach to ensure legal protection for users. Effective legal efforts include the development of clearer regulations on rights and obligations in digital contracts, the implementation of Online Dispute Resolution (ODR) methods, increased transparency from service providers, and international collaboration for the harmonization of digital contract laws. With these policy recommendations, it is expected that digital service users will receive adequate legal protection, thereby creating a safe, fair, and trustworthy digital transaction environment.

REFERENCE

- Adityana, G. A., & Sukma, P. A. P. (2023). Perlindungan Hukum Terhadap Distributor Terkait Reseller yang Wanprestasi (Study Pada Distributor Pulsa PT Lian Media Persada di Kabupaten Badung). *Jurnal Hukum Mahasiswa*, 3(2), 1211–1224. <https://doi.org/https://doi.org/10.36733/jhm.v3i2>
- Dirkareshza, R., Taupiqurrahman, T., & Azaria, D. P. (2021). Optimalisasi Hukum Terhadap Lessee yang Melakukan Wanprestasi dalam Perjanjian Leasing. *Jurnal Ilmiah Penegakan Hukum*, 8(2), 160–173. <https://doi.org/10.31289/jiph.v8i2.5380>
- Juwitasari, N., RS, D. S., Junaidi, M., & Soegianto, S. (2021). Perlindungan Konsumen Terhadap Pengguna Jasa Ekspedisi. *Jurnal USM Law Review*, 4(2), 688–701.
- Matheus, J. (2021). E-Arbitration: Digitization Of Business Dispute Resolution Pada Sektor E-Commerce Dalam Menyongsong Era Industri 4.0 Di Tengah Pandemi Covid-19. *Lex Renaissance*, 6(4), 692–704.
- Nuroini, I. (2022). Konsekuensi Pemutusan Hubungan Kerja Berdasarkan Peraturan Pemerintah Nomor 35 Tahun 2021. *Jurnal Hukum, Politik Dan Ilmu Sosial*, 1(3), 178–183.
- Pusparani, M. A. (2023). Upaya Hukum Bagi Anggota yang Dirugikan Dalam Praktik Skema Piramida Bermotif Sistem Penjualan Langsung yang Dilakukan PT Kam and Kam Melalui Aplikasi MeMiles. *Jurist-Diction*, 6(3), 545–568. <https://doi.org/https://doi.org/10.20473/jd.v6i3.46385>
- Surbakti, R. J. F. (2022). Analisis Hukum Penggunaan Surat Kuasa yang Melebihi Tujuannya (Studi Putusan Mahkamah Agung Republik Indonesia Nomor 1189K/Pdt/2017 dan Putusan Pengadilan Negeri Cibinong Nomor 104/Pdt.G/2012/Pn. Cbn.). *Nommensen Journal of Legal Opinion*, 3(1), 16–30. <https://doi.org/10.51622/njlo.v3i1.414>
- Yudana, I. G. V., Budiarta, I. N. P., & Arini, D. G. D. (2022). Perlindungan Hukum Terhadap Pelaku Usaha Melalui Sistem Cash on Delivery Pada Marketplace. *Jurnal Interpretasi*

Hukum, 3(3), 379–385. <https://doi.org/https://doi.org/10.22225/juinhum.3.3.5770.379-385>