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## **Legal Protection For Consumers Against The Exoneration Clause On The Goods Stated If The Goods Are Broken Or Damaged Is The Same As Buying In The Review Of Law Number 8 Of 1999 On Consumer Protection**

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**Abstract:** An exoneration clause is a part of a contract that contains a provision that transfers responsibility from a creditor or business actor to another party. the basis for the creation of this clause is the principle of freedom of contract, which gives the parties the right to determine the content of their agreement. legal protection for consumers is very important to create a fair and balanced relationship between consumers and businesses. in indonesia, Law No. 8 of 1999 on consumer protection has been widely recognized, both in practice and in theory. this study aims to examine the legal responsibility in protecting consumers from exoneration clauses that are considered harmful and override the responsibility of business actors and the role of consumer protection agencies in enforcing consumer rights against adverse exoneration clauses. this research uses normative juridical research methods, namely research that focuses on the analysis of legal norms that apply in a legal system. this method aims to explore and evaluate legislation, legal doctrine, and existing legal principles, without involving empirical data or field observations. this study concluded that the legal responsibility to consumers is derived from the consumer protection law1 no. 8 of 1999 provides a legal framework to protect consumer rights, including prohibiting the inclusion of adverse standard clauses and forms the role of consumer protection institutions is that they supervise, provide education, and help resolve disputes, as well as encourage changes to stricter regulations.

**Keyword:** Consumer Protection, Exoneration Clause, Broken/ Damaged Goods.

### **INTRODUCTION**

Legal protection for consumers is very important to create a fair and balanced relationship between consumers and businesses. In Indonesia, Law No. 8 of 1999 on Consumer Protection has been widely recognized, both in practice and in theory. This law is becoming increasingly relevant, especially with the rapid development of Science and technology. Innovation in this field helps producers to increase productivity and efficiency in producing goods and services.

With legal protection, consumers can feel more secure and protected when transacting. They have the right to clear information, safe products, and satisfactory services. On the other hand, businesses also benefit because they can build a good reputation and trust from consumers. Therefore, consumer protection is not just a right, it is also an important step towards creating a fairer and more sustainable market for all parties.

Sudikno Mertokusu-said, "legal protection is a guarantee of rights and obligations for humans in order to meet their own interests and in relationships with other humans. Human interests that are protected by law are commonly called rights and giving authority to someone to do an act can be equated to anyone and vice versa everyone must respect that right"

Thus, this law not only protects the rights of consumers, but also encourages businesses to operate within an ethical and responsible framework, in line with business sustainability goals. In order to pursue and achieve both of these things, either directly or indirectly, consumers are the ones who will generally feel the impact. Thus, efforts to provide adequate protection of the interests of consumers is an important and urgent matter to immediately find a solution, especially in Indonesia, given the complexity of the problems concerning consumer protection.

The rule "broken or damaged goods equal to buying" is a policy that is often found in various stores that sell glassware, such as glasses, plates, vases, and various other household appliances. This policy is designed to protect store owners from losses due to damage to goods that occur in the sales area. In other words, if a customer accidentally breaks or damages a glassware in the store, they are required to purchase the damaged item.

One important issue that often arises in consumer protection is the exoneration clause. An exoneration clause is a part of a contract that contains a provision that transfers responsibility from a creditor or business actor to another party. Although the law is supposed to prohibit this practice, this kind of clause is still often found in various agreements.

The basis for the creation of this clause is the principle of freedom of contract, which gives the parties the right to determine the content of their agreement. However, this freedom needs to be balanced by interference from the state through laws and courts. This is important so that there are no different interpretations between the parties involved. Agreements should be designed to provide benefits and protection for both parties, not just benefit one party. Thus, consumer protection can be maintained and the relationship between consumers and business actors becomes fairer.

An agreement is an interesting agreement, either in written or oral form, produced by two or more parties. This agreement usually consists of various clauses that complement each other. In it, there are important elements called standard clauses, which are terms or conditions that are predetermined and that are part of the agreement to be drawn up. This standard clause provides a clear and unequivocal framework, ensuring that all parties understand and agree with the existing provisions.

At first, the agreement is made orally. When the parties reach an agreement, the agreement is already considered to exist and gives rise to an engagement, that is, rights and obligations that must be fulfilled by each party. This oral agreement is based on the principle of consensuality, which means that the agreement is considered valid and valid from the moment the agreement is spoken. In other words, as soon as there is an agreement between the parties, the agreement is instantly born.

This clause is often encountered in various contexts, such as in business contracts, sales and purchase agreements, or terms and conditions of Service. While an oral agreement may work well, it's important to remember that recording the agreement in writing can help avoid confusion or disputes later on. With a written document, all parties can more clearly understand their rights and obligations, and reduce the risk of misunderstanding.

In the context of consumer protection, exoneration clauses are commonly used by businesses to avoid liability for damage, loss, or defects to the goods or services they sell. As stated In Law No. 8 of 1999 on consumer protection Article 18 paragraph 1 States “business actors in offering goods or services intended for trade are prohibited from making or including standard clauses in any document or agreement”

## METHOD

Normative juridical research is an interesting and in-depth research method, which focuses on analyzing the legal norms in force in a legal system. This method aims to explore and evaluate legislation, legal doctrine, and existing legal principles, without involving empirical data or field observations.

With this approach, the researcher can comprehensively understand how legal norms function and interact in society. Normative juridical research not only examines legal texts, but also seeks to interpret the meaning and implications of existing regulations. Through in-depth analysis, researchers can identify deficiencies, ambiguities, or potential improvements in the applicable legal system.

## RESULTS AND DISCUSSION

### **How Is The Legal Responsibility In Protecting Consumers From Exoneration Clauses That Are Considered Harmful And Override The Responsibility Of Business Actors.**

Agreements drawn up by businesses for their customers are often in the form of standard agreements or standard agreements. In the business world, standard agreements have a very important role and are widely known by the public. A standard agreement is a type of agreement that contains certain conditions set by one of the parties, usually by business actors, and is often referred to as an adhesion agreement.

Although the baku agreement offers many advantages, such as ease and speed in the transaction process, there are also criticisms that arise from legal experts. One of the major drawbacks of the baku agreement is its inability to accommodate a balanced position for all parties involved. This is due to the characteristics of the standard agreement itself, which is usually drawn up unilaterally by business actors. As a result, the consumer side often does not have the opportunity to negotiate the content of such agreements, so they may be trapped in unfavorable terms.

Thus, although the standard agreement provides convenience, it is important to consider the need for protection for consumers so that their rights are maintained and the relationship between businesses and consumers remains fair.

The inclusion of standard clauses is not fundamentally prohibited. The purpose of creating a standard clause is to provide convenience for the parties who will perform an agreement. Article 18 Item a of the UUPK states that the consumer protection law (UUPK) clearly prohibits the inclusion of standard clauses including:

1. Shift the responsibility of business actors to consumers.
2. Declare that the business is not responsible for damage, loss, or loss suffered by consumers.
3. Authorize business actors to interpret unilaterally against an agreement.
4. States that consumers are subject to new regulations made unilaterally by businesses.

Article 18 paragraph (1) letter a.s.d. h UUPK mentions in detail the forms of prohibited clauses.

Some examples of standard clause provisions that are prohibited in Article 18 paragraph (1) of the UUPK are clauses that exempt business actors from responsibility for consumer losses, clauses that set unreasonable prices for goods or services, and clauses that set an unreasonable transaction settlement period. The principle of liability is a very important point in consumer protection law.

This is because consumers are a vulnerable group to be exploited by business actors, so in cases of violation of Consumer Rights, caution is needed in determining who is responsible. Article 18 paragraphs (2), (3), and (4) of the Consumer Protection Law: Paragraph (2) businesses are prohibited from including standard clauses whose location or shape is difficult to see or cannot be read clearly, or whose disclosure is difficult to understand. Paragraph (3) any standard clause that has been set by business actors in a document or agreement that meets the provisions referred to in Paragraphs (1) and (2) of this article also means sentences such as “if the goods are broken or damaged, it is the same as buying” which is written without clarity, or enforced unilaterally without any understanding with the Consumer, this is declared invalid according to law and can be canceled legally.

Business actors should not carelessly include provisions that seem “absolute” and harm consumer rights without reasonable regulations. Based on these provisions, the validity of the standard agreement that includes a transfer of responsibility clause for business actors (known as the exoneration clause) is declared null and void. Null and void is a legal act that is considered to have never existed.

With the Consumer Protection Law, in Article (28 of the UUPK) determining the burden of proof on the part of business actors is known as the principle of reverse proof. Reversal of the burden of proof on the part of business actors is a step forward, but it is better if legal responsibility is imposed by a person or entity due to negligence (risk liability) or (strict liability). Strict Liability is the principle of responsibility in an illegal act that is not based on guilt, but this principle requires the perpetrator to be directly responsible for losses arising from the illegal act, therefore the principle of strict liability is also called liability without fault.

Furthermore, the revocation of the standard clause that contradicts the provisions of the UUPK, especially Article 18 paragraph (1) and (2) can refer to the provisions of Article 62 paragraph (1) of the UUPK which says: “business actors who violate the provisions referred to in Article 8, Article 9, Article 10, Article 13 paragraph (2), Article 15, Article 17 paragraph (1) letter a, letter b, letter c, letter e, paragraph (2), and Article 18 shall be punished with a maximum imprisonment of 5 (five) years or a maximum fine of Rp 2,000,000,000.00 (two billion rupiah).” This means that if a violation of the provisions of Article 18 is found, the cancellation must go through a process in the General Court and follow the procedure according to the Criminal Procedure Code.

In Indonesia, provisions that limit the authority to make exoneration clauses have not been expressly regulated in the applicable legal framework. The only relevant provision can be found in the Consumer Protection Act (UUPK), although the term used is “default clause,” which has a different meaning from “exoneration clause.” In general, some articles in the Civil Code, such as Article 1337, provide an important legal basis. This article states that an agreement may not be made contrary to law, decency, or public order.

To assess the extent to which an agreement, including an exoneration clause, conflicts with the provision, legal proceedings through a lawsuit in court are necessary. This process can be challenging for consumers, given the complexity and cost associated with litigation, which often precludes access to justice for those who feel harmed.

This condition highlights the need to develop clearer and more specific regulations regarding exoneration clauses, in order to protect consumers from adverse provisions. In addition, increasing consumer awareness and understanding of their rights as well as the available protection mechanisms is also very important. Effective education can empower consumers to more critically assess the content of the agreements they sign.

The Consumer Protection Act is expected to provide legal certainty for consumers who feel disadvantaged by business actors due to non-fulfillment of their rights. This protection is important to be felt by all users of goods or services offered by businesses. Therefore, it is very

important for consumers to understand the rights that they are supposed to receive. But in reality there are still many consumers whose rights are not protected.

### **What Is The Role Of Consumer Protection Agencies In Enforcing Consumer Rights Against Adverse Exoneration Clauses**

Consumer protection institutions in Indonesia have a very important role in enforcing consumer rights, especially related to exoneration clauses that can be harmful. This clause is often used by businesses to relieve themselves of responsibility for losses experienced by consumers. In this context, consumer protection agencies function as supervisors and law enforcers who ensure that the clauses do not violate the principles of justice and consumer protection.

One of the measures taken by this institution is to supervise the inclusion of exoneration clauses in contracts, as well as provide education to consumers about their rights. Through advocacy and dispute resolution, the institute helps consumers to understand and fight unfair business practices. In addition, consumer protection agencies also play a role in pushing for tighter regulatory changes to the use of exoneration clauses, so as to protect consumers from potential losses caused.

This non-governmental consumer protection institution is established by order of the law and is recognized for its existence and has activities as formulated in Article 44 of the Consumer Protection Law, among others:

- a. disseminate information in order to raise awareness of the rights and obligations and consumer prudence in consuming goods or services;
- b. provide advice to consumers who need it;
- c. working closely with relevant agencies in an effort to realize Consumer Protection;
- d. assist consumers in fighting for their rights, including receiving complaints or consumer complaints;
- e. conduct joint supervision of the government and the community on the implementation of consumer protection.

Thus, consumer protection institutions not only serve as mediators, but also as agents of change that seek to create a more equitable and transparent business environment for all parties. The role of non-governmental consumer protection institutions, which are engaged in the field of Consumer Protection has become very much needed in the community, whose role is recognized by the government has the opportunity to play an active role in realizing consumer protection.

Furthermore, the role of consumer protection agencies in supervising and enforcing consumer rights related to exoneration clauses should be strengthened. With tighter regulation and effective law enforcement, it is hoped that fair business practices can be realized, and trust between business actors and consumers can be increased. Therefore, collaboration between the government, consumer protection agencies, and the community is very important in creating a fair business environment and protecting consumer rights as a whole.

### **CONCLUSION**

One of the important issues in consumer protection is the exoneration clause, which is a provision in a contract that transfers the responsibility of business actors to consumers, although this is prohibited by law. This clause is often used to avoid liability for damage or defects in goods/services. Although the principle of freedom of contract is underlying, it requires state intervention through legislation and the courts to prevent multi-interpretation and ensure agreements benefit both parties.

Consumer Protection Law (UUPK) No. 8 of 1999 provides a legal framework for protecting consumer rights, including prohibiting the inclusion of adverse default clauses.



Therefore, strengthening regulation and effective law enforcement is essential to protect consumers, who are vulnerable to exploitation. Education and awareness of consumers also need to be improved so that they can protect their rights.

Consumer protection agencies in Indonesia play an important role in enforcing consumer rights and overseeing exoneration clauses. They supervise, educate, and help resolve disputes, as well as pushing for stricter regulatory changes. With the support of non-governmental organizations, their role is increasingly important in creating a fair and transparent business environment, so that consumer rights can be effectively protected.

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