

The Role of BPSK (Consumer Dispute Settlement Body) in the Monitoring of Standard Clause Inclusion within Indonesian Customer Protection Law

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Abstract : The rapid development of world commerce and trade nowadays has created fast-paced demand in every business activities and transactions. That also includes the need for ready to use and practical form of standard contract. For the company or business owner, the use of standard contract is an alternative way to achieve economic goals faster, effectively and efficiently. In the other hand, for the consumer the practice of using standard contract usually unfavorable, because the contract clauses usually have been defined by the company and cannot be individually negotiated. That means consumer cannot influence the substances of the contract clauses. The purpose of this study is to get deeper understanding and analyze the role of Consumer Dispute Settlement Body in the monitoring of standard clause inclusion by businesses and industries within the context of practicing consumer protection law. Furthermore, this study will focus on the procedure of sanction and the effectiveness of the sanction for the business practitioners which disregard the inclusion of the prohibited standard clause. Therefore, this study will depict the law issues and other phenomenon that related with the role of Consumer Dispute Settlement Body in monitoring the inclusion of standard clause and procedure of sanction for the business practitioners that still use exemption clause within Consumer Protection Law System. This study results that BPSK has been assigned to monitor the inclusion of standard clause and settle consumer dispute. At this stage, BPSK role is passive, which means BPSK only takes an action if there are consumer complaints. The procedure of sanction is not part of BPSK tasks, since should there be a violation of standard clause; BPSK can only ask the business practitioners to remove the prohibited clause and not give a sanction. As a result, the procedure of sanction rule for the Standard Clause violation in this context can be considered as ineffective.

Keywords : standard contract, standard clause, consumer protection law, consumer dispute settlement body

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