

Hulman Panjaitan (ENSURING FAIR BUSINESS PRACTICES AND CONSUMER RIGHTS: THE ROLE AND IMPACT OF INDONESIA'S CONSUMER DISPUTE SETTLEMENT AGENCY)

by Library Referensi

Submission date: 14-Jan-2025 10:45AM (UTC+0700)

Submission ID: 2563813318

File name: AND_IMPACT_OF_INDONESIA_S_CONSUMER_DISPUTE_SETTLEMENT_AGENCY.pdf (223.76K)

Word count: 6239

Character count: 37389



ENSURING FAIR BUSINESS PRACTICES AND CONSUMER RIGHTS: THE ROLE AND IMPACT OF INDONESIA'S CONSUMER DISPUTE SETTLEMENT AGENCY

Dhaniswara K. Harjono

Universitas Kristen Indonesia, Jakarta, Indonesia, Email: dhaniswara.harjono@uki.ac.id

Hulman Panjaitan

Universitas Kristen Indonesia, Jakarta, Indonesia

Moermahadi Soerjadjanegara

Institut Bisnis dan Informatika Kesatuan, Bogor, Indonesia

Abu Hena Mostofa Kamal

Barrister at Law, Lincoln's Inn, United Kingdom; Head of Research Wing, MHY Project, Switzerland

Suwarno Suwarno

Badan Pemeriksa Keuangan, Jakarta, Indonesia

ARTICLE INFO

Keywords:

Consumer Protection; Legal Framework; Consumer Disputes; Alternative Dispute Resolution; Indonesia.

DOI :

10.26532/jh.v40i1.37177

ABSTRACT

This research examines the role and impact of Indonesia's Consumer Dispute Settlement Agency (BPSK) in promoting fair business practices and protecting consumer rights in a changing economic environment. It focuses on Consumer Protection Law No. 8 of 1999 and uses a legal research method to analyze how effective BPSK is at resolving disputes between consumers and businesses. The findings show that, while BPSK offers alternative dispute resolution methods like mediation and conciliation, it struggles with issues such as interference from the courts, lack of independence, and limited authority. The Indonesian Supreme Court often overturns BPSK's decisions, which lowers public trust in the agency. Additionally, BPSK's reactive approach to complaints and procedural delays limit its ability to actively protect consumer rights. This study suggests that structural reforms are needed to give BPSK more independence and power, including clearer rules for resolving disputes and the ability to impose penalties for violations. By addressing these challenges, Indonesia can strengthen BPSK's role in protecting consumer rights and ensuring fair business practices, leading to a better legal framework for consumer protection.

1. Introduction

Purchasing and selling are widespread economic activities in Indonesian communities. These transactions entail two parties swapping products or services to fulfill their individual needs and objectives. A consumer is described as an individual or group that acquires or utilizes a particular quantity of products or

services from a different party.¹ From this explanation, it is evident that a consumer refers to someone or an entity that makes use of products or services provided by another party, which could be termed as a producer or business entity. As the national economy has progressed and dynamic changes have been propelled by advancements in science and technology, a variety of products and services have become readily available for consumers to purchase and utilize.² Advancements in the fields of science, technology, and information technology have further facilitated the broadening of the range of transactions for goods and services, extending beyond national boundaries. This development has, on the one hand, proven advantageous to consumers as it enables them to satisfy their desires for specific products and services, granting them greater flexibility in selecting from a diverse array of offerings.³

Indonesia's Consumer Protection Law No. 8 of 1999 serves as a comprehensive framework aimed at safeguarding consumer rights and promoting fair business practices. The law incorporates several key aspects to ensure effective consumer protection. Firstly, it implements preventive measures such as the Indonesia National Standard, which regulates product quality to prevent harm to consumers.⁴ Repressive measures are also enforced through legal actions against violations, including civil and criminal lawsuits. Regarding dispute resolution, the law offers avenues for both litigation and non-litigation methods. Non-litigation options include voluntary settlements and mediation facilitated by the Consumer Dispute Settlement Agency (BPSK), which helps uphold fairness in resolving consumer grievances.⁵ Specific provisions outline the burden of proof in consumer disputes, ensuring equitable legal proceedings. Furthermore, the law supports halal certification processes crucial for consumer protection in sectors like food, beverages, pharmaceuticals, and cosmetics. This involves rigorous stages of verification and auditing by bodies such as LPPOM MUI.⁶ Additionally, it addresses consumer protection in digital transactions, aligning with regulations under the Electronic

¹ Jia Zhao, Fei Xue, Shahnawaz Khan, and Saleh FA Khatib., Withdrawn: Consumer behaviour analysis for business development, *English Aggression and Violent Behavior*, Vol.6, no.12, 2021, page.101591.

² Rian Saputra, and Silaas Oghenemaro Emovwodo., Indonesia as Legal Welfare State: The Policy of Indonesian National Economic Law, *Journal of Human Rights, Culture and Legal System*, Vol.2, no.1, 2022, page.10.

³ Lillyana Daza Jaller, Simon Gaillard, and Martín Molinuevo, *The regulation of Digital Trade*. Washington DC, World Bank Group, 2020, page.156.

⁴ Valensia Valensia, and Tulus Sartono., Product standardization through SNI as a form of consumer protection in Indonesia, *Legality: Jurnal Ilmiah Hukum*, Vol.28, no.1, 2020, page.9.

⁵ Wiratama, Muhammad Gaidy, Bambang Sugeng Ariadi Subagyo, and Mochamad Kevin Romadhona., Implementation of Legal Efforts Consumer Protection and Dispute Settlement of Social-Health Insurance Participants for Indonesian Migrant Workers, *Malaysian Journal of Medicine & Health Sciences*, Vol.19, 2023; See to, Aam Suryamah, Deviana Yuanitasari, Irene Maria Angela, and Muhammadafeefee Assalihee., Regulation and Application of the Doctrine of Res Ipsa Loquitur in the Settlement of Consumer Disputes in Indonesia, *Journal of Law and Legal Reform*, Vol.5, no.1, 2024, page.239.

⁶ Diky Faqih Maulana, Makhrus Makhrus, and Hamidatul Hasanah., The Urgency of MUI Halal Fatwa about Food, Beverage, Medicine and Cosmetic Products for the Consumer Protection, *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2022, page.210.

Information and Transactions Law to mitigate risks in e-commerce activities.⁷ Given rapid technological advancements, there is a recognized necessity for amendments to the Consumer Protection Law to better address emerging challenges in digital commerce and enhance consumer protection mechanisms.⁸

To foster a connection between business entities and consumers, it becomes imperative to strengthen safeguards for consumers. Consequently, the Indonesian government has introduced legislation aimed at ensuring consumer protection, notably exemplified by the Consumer Protection Law No. 8 of 1999. This holds immense importance as legal frameworks possess the authority to enforce compliance from business actors and outline explicit penalties for violations.⁹ Recognizing the substantial consequences of arbitrary actions by business actors driven primarily by self-interest, the government assumes the responsibility of shielding consumers who inherently find themselves in a less advantageous position.

Consumer protection laws are not intended to stifle the efforts of business actors but rather to promote a healthy business climate and raise awareness among business actors about the importance of consumer protection. In essence, these laws aim to establish equality between consumers and business actors.¹⁰ However, the concept of consumer protection as a necessity must be continuously disseminated to achieve equitable equality and balance the activities of business actors who operate based on the principle of maximizing profits with minimal capital, potentially harming consumers.

Concerning the resolution of consumer disputes, the Consumer Protection Law categorizes the means of resolving such disputes into two main groups: extrajudicial settlements, which encompass two approaches—namely, mutual agreements reached directly between the involved parties and resolutions facilitated by authorized institutions, as stipulated in Article 49, specifically the Consumer Dispute Resolution Agency (*Badan Penyelesaian Sengketa Konsumen*/BPSK), utilizing methods like conciliation, mediation, or arbitration, and the alternative of settling disputes through the formal court system. The inquiries within this article can be framed as follows: How is the framework for resolving consumer disputes structured in the regulations, and what role does BPSK play in the resolution of such disputes?

2. Research Methods

This research employs a normative legal research method with a legislative and analytical approach. The data collection technique utilized in this study is a literature review. In this research, relevant literary materials related to the research topic, such as literature, previous research findings, legislation and regulations, and scholarly journals pertaining to legal protection for consumers, were analyzed. The

⁷ Hulman Panjaitan, Mompang L. Panggabean, and Bernard Nainggolan., Consumer protection in digital transactions in Medan, In *IOP Conference Series: Earth and Environmental Science*, vol.452, no. 1, page.012037, 2020.

⁸ Norma Sari., Accelerating Business Law Dynamization through Proposed Amendments to Indonesian Consumer Protection Law, *Jurnal Hukum Novelty (1412-6834)*, Vol.14, no.1, 2023.

⁹ Bono Budi Priambodo., Positioning adat law in the Indonesia's legal system: Historical discourse and current development on customary law, *Udayana Journal of Law and Culture*, Vol.2, no.2, 2018, page.146.

¹⁰ Ika Atikah., Consumer protection and fintech companies in Indonesia: innovations and challenges of the financial services authority, *Jurnal Hukum dan Peradilan*, Vol.9, no.1, 2020, page.135.

data results were then processed qualitatively to obtain answers to the posed questions. The data processing phase is the stage in which the data is analyzed and utilized to derive truths that can be used to address the existing issues.

3. Results and Discussion

3.1. Consumer Dispute Resolution Regulations

In business activities, there is a mutually dependent relationship between business actors and consumers, whether involving the sale of goods or services. Business actors aim to maximize their profits from transactions with consumers, while consumers seek satisfaction by fulfilling their specific product needs. In this context, there is often an imbalance between the two, where consumers generally have weaker bargaining positions. Consequently, they become targets of exploitation by business actors or producers who hold strong social and economic positions.¹¹

Government intervention and the implementation of regulatory measures are essential to safeguard and empower consumers. Establishing a legal framework for consumer protection becomes paramount.¹² When consumers face negative consequences resulting from business practices, they possess the entitlement to pursue reparation in instances where the acquired products or services do not meet anticipated standards. In situations where business entities decline accountability for any harm or detriment experienced by consumers due to their use of goods or services, the potential for consumer conflicts emerges. These conflicts revolve around consumers asserting their rights to compensation for damages, environmental contamination, or losses incurred as a consequence of product consumption or service utilization.¹³

As per Article 1, number 2 of Consumer Protection Law No. 8 of 1999, a consumer is described as an individual who utilizes goods and/or services available within society for personal, altruistic, or non-commercial purposes. To put it simply, the majority of consumers are the ultimate users of particular goods/services. Conversely, if an individual purchases goods with the intention of reselling them, they fall under the category of intermediary consumers, also referred to as distributors or retailers. The term "consumer" itself is of English origin and signifies an individual who employs or consumes a product (goods/services).

Different entities have presented their interpretations of consumer disputes. The Indonesian government has specifically defined consumer disputes under Article 1 Number 8 of the Minister of Industry and Trade of the Republic of Indonesia's Decision No. 350/MPP/Kep/12/2001 concerning the Execution of Duties and Jurisdictions of the Consumer Dispute Resolution Agency. According to this definition, a consumer dispute arises when a business entity and a consumer engage in a conflict regarding compensation for damages, pollution, and/or losses stemming from the consumption of goods and/or the utilization of services. According to this delineation, business actors and consumers consistently play roles in consumer disputes. Moreover, Goodwin asserts that consumer disputes pertain to breaches of

¹¹ Laureen Snider., Enabling exploitation: law in the gig economy, *Critical Criminology*, Vol.26, no.12, 2018, page.567.

¹² Eleanor M. Fox., Consumer Beware Chicago, *Michigan Law Review*, Vol.84, no.8, 1986, page.1717.

¹³ Ronald Paul Hill, and Eesha Sharma., Consumer vulnerability, *Journal of Consumer Psychology*, Vol.30, no.3, 2020, page.557.

consumer rights and encompass all aspects of the law, including civil, criminal, and constitutional law.¹⁴ Consequently, the term "consumer transaction disputes" is not utilized, as it is deemed excessively narrow and only addresses civil law aspects.

Based on this understanding, the scope of consumer dispute resolution is very broad, covering all legal aspects, including civil, criminal, and constitutional law. Furthermore, previous research provides an explanation of the various phases in which consumer disputes can occur. In the legal relationship between consumers and business actors, there are three phases. Firstly, the pre-transaction phase, where consumers gather information about the products they will consume. This information can come from advertisements, brochures, leaflets, labels, etc. This phase is where consumers doubt the truthfulness or accuracy of the claims or information provided by business actors.¹⁵

Secondly, the transaction phase, where consumers, after obtaining sufficient information, decide to purchase or use the product or service. This phase is where consumers can experience disputes if the information provided by business actors is proven to be false or misleading. Thirdly, the post-transaction phase, where the likelihood of disputes is very high. This phase is an opportunity for consumers to test the after-sales service from business actors, such as claims made in advertisements or on the product itself, promises or statements about various uses, capabilities, advantages, or strengths of the product.¹⁶

The Consumer Protection Law does not confine the definition of consumer disputes.¹⁷ The phrase "consumer dispute" finds application in various sections of the Consumer Protection Law, including the mention of the government administrative body responsible for settling disputes between business actors and consumers, namely, the Consumer Dispute Resolution Agency (BPSK), as stipulated in Article 1 point 11 of the Consumer Protection Law. Additionally, the term "consumer dispute" is also employed in Chapter X, focusing on Dispute Resolution, with specific references to Article 45 paragraph (2) and Article 48 of the Consumer Protection Law.

Article 45 paragraph (1) of the Consumer Protection Law states that every consumer who feels aggrieved can sue a business actor through an institution responsible for settling disputes between consumers and business actors or through the courts within the general court jurisdiction. This means that there are two ways to resolve consumer disputes, through litigation (via the courts) and non-litigation channels (not through the courts). This showed that resolving consumer disputes through the general court system is one of the available options when parties do not choose to settle the dispute outside the court or if attempts to resolve it outside the court are deemed unsuccessful by one party or all parties involved in the dispute. In the process of resolution in the general court, procedural law is utilized, including civil,

¹⁴ Cathy Goodwin., Privacy: Recognition of a consumer right, *Journal of Public Policy & Marketing*, Vol.10, no.1, 1991, page.1452.

¹⁵ Hasnan Hasbi., Penyelesaian Sengketa Pertanahan Melalui Lembaga Arbitrase., *Al-Ishlah: Jurnal Ilmiah Hukum*, Vol.22, no.1, 2019, page.26.

¹⁶ Ibid, page.28.

¹⁷ H. Matnuh., Rectifying Consumer Protection Law and Establishing of a Consumer Court in Indonesia, *Journal of Consumer Policy*, Vol.44, no.3, 2021, page.491.

criminal, and administrative law.¹⁸

Article 46 of the Consumer Protection Law outlines the qualifications for initiating a lawsuit in cases of consumer disputes. It includes a range of parties, such as consumers who perceive themselves as harmed or their successors, consumer groups sharing similar interests, qualified non-governmental consumer protection organizations, whether structured as entities or foundations, as well as governmental and/or relevant agencies in situations where the consumption or utilization of goods and/or services leads to substantial material losses and/or affects a large number of victims.¹⁹

However, while a legitimate option, resolving consumer disputes through the general court is not without challenges. One of them is the inherently slow process, meaning that disputes can take a considerable amount of time before being ultimately resolved. High litigation costs are also a significant impediment, potentially imposing a substantial financial burden on the parties involved in the dispute.²⁰

Furthermore, the responsiveness of the courts in handling consumer disputes can also be problematic, with potential delays in taking necessary actions. Courts often carry a heavy workload, and consumer disputes may not always be the top priority on the court's docket. Lastly, judges involved in consumer dispute resolution often possess a general background, lacking specialization in consumer issues. This can impact the quality of decisions arising from the dispute resolution process.²¹ Therefore, it is crucial for parties to carefully consider whether resolution through the general court is the best option or if there are alternative methods that are faster, more cost-effective, and more efficient in settling consumer disputes.

3.2. Consumer Dispute Resolution Mechanism by BPSK

In the context of an evolving business landscape, disputes among involved parties often become inevitable. When disputes arise, one method to resolve them is through the judicial process, commonly referred to as litigation.²² However, it is important to remember that there are other alternatives for resolving disputes without involving the court. As per Article 1, Paragraph 10 of Law No. 30 of 1999, there are multiple alternative approaches available for resolving disputes, and the suitability of these methods depends on the specific nature of the dispute and the preferences of the parties involved. These alternative methods encompass consultation, negotiation, mediation, conciliation, and expert evaluation.

Consultation is a method that involves personal communication between a client

¹⁸ Muhamad Syamsudin., The Failure of the Court to Protect Consumers: A Review of Consumer Dispute Resolution in Indonesia, *Journal of Consumer Policy*, Vol.44, no.1, 2021, page.117.

¹⁹ Fithry Khairiyati, Evita Israhadi, and Herman Bakir., 2023, Alternative Dispute Settlement Through the Consumer Dispute Settlement Agency in Realizing Consumer Protection in Accordance with Law Nomor 8 Of 1999 Concerning Consumer Protection. In *Proceedings of the 3rd International Conference on Law, Social Science, Economics, and Education, ICLSSEE 2023*.

²⁰ Dhaniswara K. Harjono, and Hulman Panjaitan., Settlement of Consumer Disputes through the Consumer Dispute Resolution Agency and Their Problems, *Jurnal Hukum dan Peradilan*, Vol.10, no.3, 2021, page.467.

²¹ Ibid, page.276.

²² Steven C. Nelson, Alternatives to litigation of international disputes, *The International Lawyer*, Vol.17, no.6, 1989, page.189.

with a dispute and a consultant who provides opinions or advice to meet the client's needs.²³ It is essential to note that the opinions given in consultation are non-binding, meaning the parties still have the freedom to accept or reject the advice. Meanwhile, negotiation is a process used by parties involved in a dispute to reach an agreement. This process involves two-way communication where parties strive to reach an agreement, especially when they have various interests that may be similar or different.

Another option is mediation, which is a negotiation method involving a mediator who acts as an impartial party. The mediator assists conflicting parties in reaching an agreement. The advantage of mediation is that the mediator can help ease tensions and facilitate effective communication between the parties.²⁴ Conciliation, on the other hand, is an attempt to achieve peace outside of court. In conciliation, a neutral third party tries to organize a meeting between the conflicting parties in the hope of reaching a mutually satisfactory agreement. Expert evaluation is a method involving the provision of legal opinions by arbitration institutions or individuals with expertise in a specific field. These legal opinions can be used to help resolve disputes between parties.²⁵ This showed that the use of these alternative dispute resolution methods depends on various factors, including the nature and complexity of the dispute, as well as the preferences of the involved parties. The decision to choose one of these methods can have a significant impact on how the dispute is ultimately resolved, in terms of time, cost, and the final outcome achieved. Therefore, it is essential for the parties to carefully consider the dispute resolution method that best suits their needs and objectives.²⁶

In this context, the Consumer Dispute Resolution Agency (*Badan Penyelesaian Sengketa Konsumen* or BPSK) was established in every city or district in Indonesia. This is in accordance with Article 49 Paragraph 1 of the Consumer Protection Law and the Decree of²⁷ the Minister of Trade and Industry Number 350/MPP/Kep/12/2001, to resolve consumer disputes outside of the court system. Its members comprise representatives from the government, consumers, and business actors. Membership in BPSK is valid for five years and can be renewed if the requirements are met. BPSK holds various responsibilities and authorities, including handling and resolving consumer disputes, providing consumer protection consultations, monitoring standard clauses, reporting law violations, receiving consumer complaints, conducting research and examinations of disputes, and imposing administrative sanctions on business actors who violate legal provisions.²⁷

The Consumer Dispute Settlement Agency (*Badan Penyelesaian Sengketa Konsumen* or BPSK) in Indonesia plays a crucial role in handling and resolving disputes between businesses and consumers. Established by gubernatorial decree

²³ Ayup Suran Ningsih, *Alternative Dispute Resolution as Soft Approach for Business Dispute in Indonesia*, Blanda, Atlantis Press, 2019, page.30.

²⁴ Pablo Cortés, *The new regulatory framework for consumer dispute resolution*, Oxford, Oxford University Press, 2016, page.30.

²⁵ Ibid, page.65.

²⁶ Dijan Widijowati, and Sergiy Denysenko., *Securing Consumer Rights: Ethical and Legal Measures against Advertisements that Violate Advertising Procedures*, *Lex Publica*, Vol.10, no.1, 2023, page.29.

²⁷ Hesti Dwi Astuti., *Kendala Penyelesaian Sengketa Konsumen melalui Badan Penyelesaian Sengketa Konsumen (Bpsk)*, *Jurnal Hukum Mimbar Justitia*, Vol.1, no.2, 2017, page.579.

within provincial jurisdictions, BPSK operates with a panel consisting of an odd number of members, at least three, and is supported by a clerk.²⁸ Its formation includes representatives from government, consumers, and businesses. The responsibilities and authorities of BPSK encompass several key functions: facilitating the handling and resolution of consumer disputes through mediation, arbitration, or conciliation; providing consultation on consumer protection issues; monitoring the inclusion of standard clauses in contracts; reporting violations of consumer protection laws to public investigators; receiving and investigating complaints, both written and verbal, from consumers regarding breaches of consumer rights; conducting research and examination into consumer protection disputes; summoning businesses suspected of violating consumer protection laws; calling upon witnesses, expert witnesses, or anyone knowledgeable about violations; seeking investigative assistance to compel the attendance of non-compliant parties; obtaining, examining, and evaluating letters, documents, or other evidence for investigations; determining and adjudicating on consumer losses; notifying offending businesses of decisions; and imposing administrative penalties on businesses contravening consumer protection provisions. BPSK's role underscores its pivotal function in upholding consumer rights and ensuring fair business practices through a structured and legalistic approach to dispute resolution and regulatory oversight.

The process of resolving consumer disputes by BPSK begins with the submission of a dispute resolution request by a consumer or a business actor who feels aggrieved. Requests can be made in writing or orally. These requests must contain accurate and complete information, including the identities of the consumer or business actor, the disputed goods or services, evidence of acquisition, details of the place, time, and date of purchase or use, as well as any other relevant evidence. Once a request is received, BPSK will summon the business actor suspected of violating consumer protection regulations. These summonses are issued in writing within three working days of receiving the request. BPSK may also seek the assistance of investigators to bring in business actors who do not respond to BPSK's summons.

While BPSK is designed to protect consumers, its effectiveness is hampered by judicial interference, lack of independence, limited authority, and procedural inefficiencies. Indonesia's Consumer Dispute Settlement Agency was established to facilitate efficient resolution of conflicts between consumers and businesses. However, its effectiveness is hindered by several critical issues. Firstly, the agency's lack of independence and frequent judicial overturning of its arbitral awards by the Indonesian Supreme Court have undermined public trust in its ability to enforce consumer protection laws.²⁹ Secondly, BPSK has been criticized for its passive role, reacting primarily to consumer complaints without proactive oversight of standard contract clauses.³⁰ The legal framework provided by the Consumer Protection Act of 1999, while comprehensive, suffers from inconsistencies that impede the efficiency

²⁸ Ira Aprilianti, *Protecting People: Promoting Digital Consumer Rights*, Jakarta, Policy Paper, 2020.

²⁹ Syamsudin, Muhamad., The Failure of the Court to Protect Consumers: A Review of Consumer Dispute Resolution in Indonesia, *Journal of Consumer Policy*, Vol.44, no.1, 2021, page.123.

³⁰ Aditya Bagus Kuncoro, Gusti Ayu Ketut Rachmi Handayani, Yudho Taruno Muryanto, and Lego Karjoko., Urgency of Government Protection on Consumers in the Concept of the Rule of Law, *International Journal of Advanced Science and Technology*, Vol.28, no.20, 2019, page.333.

of dispute resolution mechanisms.³¹ To enhance BPSK's effectiveness, reforms should focus on ensuring its operational autonomy, clarifying its role in dispute resolution, and revising consumer protection laws to address current challenges.³² Moreover, to enhance the effectiveness of ADR, it is recommended to establish both online and offline systems for dispute resolution, ensuring accessibility and efficiency. Revisions to the Consumer Protection Act are necessary to address current inconsistencies and improve the overall legal framework for consumer protection.

Table 1. Key Issues of BPSK's role

Issue	Details
Judicial Interference	MARI's frequent annulment of BPSK awards diminishes consumer trust
Lack of Independence	BPSK's position within a government ministry affects its impartiality
Limited Authority	BPSK cannot impose sanctions for standard clause violations
Procedural Inefficiencies	BPSK acts only on complaints and lacks proactive enforcement

As remarks, this study showed that BPSK has the authority to examine evidence, summon witnesses, conduct investigations, and assess whether consumers have suffered losses. BPSK's decisions are binding and serve as the final resolution for the disputing parties. BPSK can also impose administrative sanctions on business actors who violate legal provisions. This outlines the consumer dispute resolution mechanism by BPSK, offering an alternative to court-based resolutions to protect consumers' rights. This showed that BPSK, Indonesia's Consumer Dispute Settlement Body, is pivotal in safeguarding consumer rights through a dual approach of preventive and repressive measures³³. Functioning primarily at district and city levels, BPSK facilitates both non-litigation dispute resolution via negotiation or mediation, and litigation processes allowing consumers to pursue damages.³⁴ However, BPSK faces significant challenges stemming from structural and societal factors, impacting its efficacy in providing robust consumer protection. The mandated transfer of authority to provincial levels has decentralized operations,

³¹ H. Matnuh., Rectifying Consumer Protection Law and Establishing of a Consumer Court in Indonesia, *Journal of Consumer Policy*, Vol.44, no.3, 2021, page.489.

³² Abdul Samad., Consumer Dispute Resolution by BPSK In Protecting Consumer Rights, *International Asia of Law and Money Laundering (IAML)*, Vol.1, no.2, 2022, page.139; See to, Agustinus Joko Purwoko, R. Benny Riyanto, and Bambang Eko Turisno., Future of Indonesian Archipelago Consumer Protection Law in the Era of ASEAN Economic Community, In *IOP Conference Series: Earth and Environmental Science*, vol.175, no. 1, p. 012156. IOP Publishing, 2018.

³³ Lasatu, Asri, Jubair Jubair, Insarullah Insarullah, Nurhayati Mardin, and Ratu Ratna Korompot., Outline of the Consumer Dispute Resolution Agency as a Means of Legal Protection: Is it Optimal?, *Jambura Law Review*, Vol.4, no.2, 2022, pager.289.

³⁴ Wiryani, F., M. Najih, and A. Haris., Law Enforcement of Consumer Protection for Safe Food Packaging in The Decisions of Criminal Justice, In *IOP Conference Series: Materials Science and Engineering*, vol.193, no. 1, p. 012055. IOP Publishing, 2017; See to, Yuyut Prayuti., Muslim Food Consumer Protection Through the Regulation of Halal Labels in Indonesia, *Jurnal IUS Kajian Hukum Dan Keadilan*, Vol.8, no.1, 2020, page.17.

limiting consumer access and necessitating structural reforms to restore local effectiveness. Moreover, BPSK's procedural framework lacks a clear arbitration mechanism, complicating its role relative to international counterparts. To enhance effectiveness, it is recommended to separate litigation and non-litigation processes clearly, establish comprehensive dispute resolution systems, and reintegrate BPSK operations at district/city levels to streamline consumer access and procedural clarity.³⁵

Moreover, the Consumer Dispute Settlement Agency in Indonesia serves a critical role in protecting consumer rights and mediating disputes between consumers and businesses. Despite its mandate to enforce consumer protection laws through both preventive measures and dispute resolution mechanisms, BPSK faces significant challenges that hinder its effectiveness. One major issue is judicial interference, where arbitral awards issued by BPSK are frequently overturned by the Indonesian Supreme Court, undermining public trust in the agency's ability to uphold consumer rights.³⁶ Additionally, BPSK's lack of independence as it operates within the Ministry of Trade and Industry limits its autonomy in making unbiased decisions, essential for fair dispute resolution.³⁷ Moreover, BPSK's authority is constrained, primarily reacting to consumer complaints without the power to impose significant penalties for violations of consumer protection laws.³⁸ These challenges collectively diminish BPSK's impact on consumer protection and highlight the need for structural reforms to enhance its operational independence and regulatory authority. Efforts to strengthen BPSK should prioritize enhancing its autonomy and authority while addressing procedural inefficiencies in alternative dispute resolution processes. Reforms should aim to separate BPSK from direct governmental oversight, ensuring it can operate impartially and effectively. Establishing clear guidelines for arbitral decisions and empowering BPSK with the ability to enforce penalties on violators would bolster its role in safeguarding consumer interests.³⁹ Additionally, streamlining administrative procedures and promoting transparency in its operations would enhance public trust and accessibility to justice for consumers. By addressing these challenges comprehensively, Indonesia can strengthen BPSK's capacity to protect consumer rights and foster fair business practices across the nation.

³⁵ Nur Jannani, Noer Yasin, and Musataklima Musataklima., The Impact of The Liquidation Of The Quasi-Judicial Institution Of The Consumer Dispute Resolution Body On Consumers'access To Justice And Its Reorganisation Efforts From The Perspective Of Siyasaah Syar'iyah, *Jurisdictie: Jurnal Hukum dan Syariah*, Vol.15, no.1, 2024, page.117; See to, H. Matnuh., Rectifying Consumer Protection Law and Establishing of a Consumer Court in Indonesia, *Journal of Consumer Policy*, Vol.44, no.3, 2021, page.483.

³⁶ Muhamad Syamsudin., The Failure of the Court to Protect Consumers: A Review of Consumer Dispute Resolution in Indonesia, *Journal of Consumer Policy*, Vol.44, no.1, 2021, page.119.

³⁷ Aditya Bagus, Gusti Ayu Ketut Rachmi Handayani, Yudho Taruno Muryanto, and Lego Karjoko., Urgency of Government Protection on Consumers in the Concept of the Rule of Law, *International Journal of Advanced Science and Technology*, Vol.28, no.20, 2019, page.334.

³⁸ Pardamean Harahap, and Abdullah Sulaiman., Consumer Protection Against Final Decisions of the Consumer Dispute Settlement Body is a Quasi-Court, *Journal of Social Research*, Vol.2, no.12, 2023, Page.5078; See to, Muhammad Gaidy Wiratama, Bambang Sugeng Ariadi Subagyo, and Mochamad Kevin Romadhona., Implementation of Legal Efforts Consumer Protection and Dispute Settlement of Social-Health Insurance Participants for Indonesian Migrant Workers, *Malaysian Journal of Medicine & Health Sciences*, 2023, Vol.19.

³⁹ Ibid, page.132

4. Conclusion

Indonesia's consumer dispute resolution framework, as defined by Law No. 8 of 1999, is comprehensive and provides various avenues for addressing consumer grievances. These avenues include the court system and alternative dispute resolution methods, with the Consumer Dispute Resolution Agency (*Badan Penyelesaian Sengketa Konsumen* or BPSK) playing a central role in facilitating non-court-based resolutions. While the court system offers a formal approach, it comes with challenges such as delays and high costs. In contrast, alternative methods like mediation and negotiation offer more flexibility and cost-effectiveness, catering to the specific nature of disputes and parties' preferences.

While BPSK's establishment aims to provide accessible mechanisms for resolving consumer disputes outside of court, its effectiveness is significantly hindered by challenges such as judicial interference, limited independence, and procedural inefficiencies. The frequent overturning of BPSK's decisions by the Supreme Court diminishes public trust and undermines the agency's authority. To address these issues, it is crucial to implement structural reforms that enhance BPSK's autonomy and regulatory power, allowing it to proactively enforce consumer rights. Establishing clear guidelines for dispute resolution processes and empowering BPSK to impose sanctions on violators will strengthen its capacity to protect consumers effectively. Furthermore, improving transparency and accessibility in its operations can foster greater public confidence in the agency. By addressing these challenges, Indonesia can improve the effectiveness of BPSK. This will help promote fair business practices across the country. Ultimately, these efforts will strengthen the protection of consumer rights.

References

Books:

- Aprilianti, Ira., 2020, *Protecting People: Promoting Digital Consumer Rights*, Jakarta: Policy Paper;
- Cortés, Pablo., 2016, *The new regulatory framework for consumer dispute resolution*, Oxford: Oxford University Press;
- Jaller, Lillyana Daza, Simon Gaillard, and Martín Molinuevo., 2020, *The regulation of Digital Trade*. Washington DC: World Bank Group;

Journals:

- Astuti, Hesti Dwi., Kendala Penyelesaian Sengketa Konsumen melalui Badan Penyelesaian Sengketa Konsumen (BPSK), *Jurnal Hukum Mimbar Justitia*, Vol.1, no.2, 2017;
- Atikah, Ika., Consumer protection and fintech companies in Indonesia: innovations and challenges of the financial services authority, *Jurnal Hukum dan Peradilan*, Vol.9, no.1, 2020;
- Fox, Eleanor M., Consumer Beware Chicago, *Michigan Law Review*, Vol.84, no.8, 1986;
- Goodwin, Cathy., Privacy: Recognition of a consumer right, *Journal of Public Policy*

- & *Marketing*, Vol.10, no.1, 1991;
- Harahap, Pardamean, and Abdullah Sulaiman., Consumer Protection Against Final Decisions of the Consumer Dispute Settlement Body is a Quasi-Court, *Journal of Social Research*, Vol.2, no.12, 2023;
- Harjono, Dhaniswara K., and Hulman Panjaitan., Settlement of Consumer Disputes through the Consumer Dispute Resolution Agency and Their Problems, *Jurnal Hukum dan Peradilan*, Vol.10, no.3, 2021;
- Hasbi, Hasnan., Penyelesaian Sengketa Pertanahan Melalui Lembaga Arbitrase., *Al-Ishlah: Jurnal Ilmiah Hukum*, Vol.22, no.1, 2019;
- Hill, Ronald Paul, and Eesha Sharma., Consumer vulnerability, *Journal of Consumer Psychology*, Vol.30, no.3, 2020;
- Jannani, Nur, Noer Yasin, and Musataklima Musataklima., The Impact of the Liquidation of the Quasi-Judicial Institution of the Consumer Dispute Resolution Body on Consumers'access to Justice and its Reorganisation Efforts from the Perspective of Siyasaḥ Syar'iyah, *Jurisdictie: Jurnal Hukum dan Syariah* 15, no. 1, 2024: 117-148;
- Kuncoro, Aditya Bagus, Gusti Ayu Ketut Rachmi Handayani, Yudho Taruno Muryanto, and Lego Karjoko., Urgency of Government Protection on Consumers in the Concept of the Rule of Law, *International Journal of Advanced Science and Technology*, Vol.28, no.20, 2019;
- Lasatu, Asri, Jubair Jubair, Insarullah Insarullah, Nurhayati Mardin, and Ratu Ratna Korompot., Outline of the Consumer Dispute Resolution Agency as a Means of Legal Protection: Is it Optimal?, *Jambura Law Review*, Vol.4, no.2, 2022;
- Matnuh, H., Rectifying Consumer Protection Law and Establishing of a Consumer Court in Indonesia, *Journal of Consumer Policy*, Vol.44, no. 3, 2021: 483-495.
- Maulana, Diky Faqih, Makhruh Makhruh, and Hamidatul Hasanah., The Urgency of MUI Halal Fatwa about Food, Beverage, Medicine and Cosmetic Products for the Consumer Protection, *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2022;
- Nelson, Steven C., Alternatives to litigation of international disputes, *The International Lawyer*, Vol.17, no.6, 1989;
- Ningsih, Ayup Suran., 2019, *Alternative Dispute Resolution as Soft Approach for Business Dispute in Indonesia*, Blanda: Atlantis Press;
- Prayuti, Yuyut., Muslim Food Consumer Protection Through the Regulation of Halal Labels in Indonesia, *Jurnal IUS Kajian Hukum Dan Keadilan*, Vol.8, no.1, 2020;
- Priambodo, Bono Budi., Positioning adat law in the Indonesia's legal system: Historical discourse and current development on customary law, *Udayana Journal of Law and Culture*, Vol.2, no.2, 2018;
- Samad, Abdul., Consumer Dispute Resolution by BPSK in Protecting Consumer Rights, *International Asia of Law and Money Laundering (IAML)*, Vol.1, no.2, 2022;
- Saputra, Rian, and Silaas Oghenemaro Emovwodo., Indonesia as Legal Welfare State: The Policy of Indonesian National Economic Law, *Journal of Human Rights, Culture and Legal System*, Vol.2, no.1, 2022;
- Sari, Norma., Accelerating Business Law Dynamization through Proposed Amendments to Indonesian Consumer Protection Law, *Jurnal Hukum Novelty*

- (1412-6834), Vol.14, no.1, 2023;
- Snider, Lauren., Enabling exploitation: law in the gig economy, *Critical Criminology*, Vol.26, no.12, 2018;
- Suryamah, Aam, Deviana Yuanitasari, Irene Maria Angela, and Muhammadafeefee Assalihee., Regulation and Application of the Doctrine of Res Ipsa Loquitur in the Settlement of Consumer Disputes in Indonesia, *Journal of Law and Legal Reform*, Vol.5, no.1, 2024;
- Syamsudin, Muhamad., The Failure of the Court to Protect Consumers: A Review of Consumer Dispute Resolution in Indonesia, *Journal of Consumer Policy*, Vol.44, no.1, 2021;
- Valensia, Valensia, and Tulus Sartono., Product standardization through SNI as a form of consumer protection in Indonesia, *Legality: Jurnal Ilmiah Hukum*, Vol.28, no.1, 2020;
- Widijowati, Dijan, and Sergiy Denysenko., Securing Consumer Rights: Ethical and Legal Measures against Advertisements that Violate Advertising Procedures, *Lex Publica*, Vol.10, no.1, 2023;
- Wiratama, Muhammad Gaidy, Bambang Sugeng Ariadi Subagyono, and Mochamad Kevin Romadhona., Implementation of Legal Efforts Consumer Protection and Dispute Settlement of Social-Health Insurance Participants for Indonesian Migrant Workers, *Malaysian Journal of Medicine & Health Sciences*, Vol.19, 2023;
- Zhao, Jia, Fei Xue, Shahnawaz Khan, and Saleh FA Khatib., Withdrawn: Consumer behaviour analysis for business development, English *Aggression and Violent Behavior*, Vol.6, no.12, 2021;

Proceedings:

- Khairiyati, Fithry, Evita Israhadi, and Herman Bakir., Alternative Dispute Settlement Through the Consumer Dispute Settlement Agency in Realizing Consumer Protection in Accordance with Law Nomor 8 Of 1999 Concerning Consumer Protection, In *Proceedings of the 3rd International Conference on Law, Social Science, Economics, and Education, ICLSSEE 2023, 6 May 2023, Salatiga, Central Java, Indonesia*, 2023;
- Panjaitan, Hulman, Mompang L. Panggabean, and Bernard Nainggolan., Consumer protection in digital transactions in Medan, In *IOP Conference Series: Earth and Environmental Science*, vol.452, no. 1, p. 012037, 2020;
- Purwoko, Agustinus Joko, R. Benny Riyanto, and Bambang Eko Turisno., Future of Indonesian Archipelago Consumer Protection Law in the Era of ASEAN Economic Community, In *IOP Conference Series: Earth and Environmental Science*, vol.175, no.1, p. 012156. IOP Publishing, 2018;
- Wiryani, F., M. Najih, and A. Haris., Law Enforcement of Consumer Protection for Safe Food Packaging in The Decisions of Criminal Justice, In *IOP Conference Series: Materials Science and Engineering*, vol.193, no. 1, p. 012055. IOP Publishing, 2017.

Hulman Panjaitan (ENSURING FAIR BUSINESS PRACTICES AND CONSUMER RIGHTS: THE ROLE AND IMPACT OF INDONESIA'S CONSUMER DISPUTE SETTLEMENT AGENCY)

ORIGINALITY REPORT

15%

SIMILARITY INDEX

14%

INTERNET SOURCES

13%

PUBLICATIONS

8%

STUDENT PAPERS

PRIMARY SOURCES

1	M. Syamsudin. "The Failure of the Court to Protect Consumers: A Review of Consumer Dispute Resolution in Indonesia", Journal of Consumer Policy, 2020 Publication	2%
2	www.iasj.net Internet Source	1%
3	repository.uin-malang.ac.id Internet Source	1%
4	eudl.eu Internet Source	1%
5	www.journal2.uad.ac.id Internet Source	1%
6	Submitted to Sultan Agung Islamic University Student Paper	1%
7	ijoms.internationaljournalallabs.com Internet Source	1%

8	journal.unnes.ac.id Internet Source	1 %
9	ejournal.uin-malang.ac.id Internet Source	1 %
10	Yanto Sufriadi, Alauddin. "The Efficiency and Effectiveness of E-commerce Consumer Protection Law Enforcement in Indonesia's Digital Economy", International Journal of Economics, Business and Management Research, 2024 Publication	1 %
11	e-journal.unair.ac.id Internet Source	1 %
12	scholar.unair.ac.id Internet Source	1 %
13	repository.unusa.ac.id Internet Source	1 %
14	Submitted to Argosy University Student Paper	1 %
15	Submitted to Universitas Prima Indonesia Student Paper	1 %
16	globalregulatoryinsights.com Internet Source	1 %
17	journal.jfpublisher.com Internet Source	1 %

18

repository.unitomo.ac.id

Internet Source

1 %

19

Nevey Varida Ariani. "Enforcement of Law of Copyright Infringement and Forgery with the Rise of the Digital Music Industry", Jurnal Penelitian Hukum De Jure, 2021

Publication

1 %

20

Wiwin Wintarsih Windiantina, Eman Suparman, Isis Ikhwansyah, Nyulistiowati Suryanti. "Implementation of Ex-Gratia Claim Payment in Insurance Agreement", Mediterranean Journal of Social Sciences, 2022

Publication

1 %

Exclude quotes On

Exclude matches < 1%

Exclude bibliography On