

# **REFORMULATION OF CONSUMER PROTECTION LEGAL POLICIES IN THE DIGITAL BUSINESS ERA IN INDONESIA**

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## ***Abstract***

*This study discusses the Reformulation of Consumer Protection Legal Policies in the Digital Business Era in Indonesia. The purpose of this study is to understand and analyze the reformulation of consumer protection legal policies in the digital business era in Indonesia. The research method used is descriptive analytical method, normative juridical problem approach, primary and secondary legal materials. Descriptive data analysis qualitative deductive thinking. The result of the study is the current condition of consumer protection in Indonesia is measured through Law Number 8 of 1999 which regulates the behavior of business actors with the ultimate goal of providing protection to consumers. However, there are things that are considered so that this UUPK can be reformulated with the aim of perfecting the law. Consumers need to get protection not only from producers but also from the market place. These rules must be clear and firm so that consumers are truly protected.*

**Keyword:** *Digital Consumer; Digital Business; Consumer Protection; Digital Consumer Law*

## **1. Introduction**

Globalization is a global process of something that seems there are no more boundaries between countries. The existence of the Internet is one of the evidences that this technological progress can at least be able to change various forms of culture and human behavior. The development of the internet in high intensity, increasing capacity, ease of access and the lower cost of using the internet have led to revolutionary changes in its use in various fields, such as communication, entertainment, tourism and other fields. However, the trade sector experienced the most significant development in the use of internet media in society.<sup>1</sup>

Digital Business Transformation is not only a technology platform or not as a new solution, but it is a new way for mankind to develop business, conduct buying and selling transactions and various activities that talk about profit. Talking about the development of globalization, technology and the advancement of digital business in Indonesia today, there are many positive impacts for business actors and consumers of digital business. However, apart from seeing the positive impact, it is clear that this can lead to new, more complex problems in this field. Among them, what often

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<sup>1</sup> Diky Pariadi, "Pengawasan E Commerce Dalam Undang-Undang Perdagangan Dan Undang-Undang Perlindungan Konsumen," *Jurnal Hukum & Pembangunan* 48, no. 3 (2018): 651–669.

happens in the field is that companies or people who do business do not have a business license as a form of government legal control which becomes the standardization of business entities, then business actors who are ignorant of taxes where business entities must submit monthly and annual tax reports as follows. regulated in Law Number 28 of 2007 the third amendment to Law Number 06 of 1983 concerning General Provisions and Tax Procedures, ignoring intellectual property rights on products sold as a form of respect and appreciate for the originality of a product, ignoring the rights and legality of employees, absence of shareholder agreements , ignoring the principles of buying and selling which is responsible for the fulfillment of consumer rights and the implementation of the obligations of the producer as well as many cases that occur related to the misuse and crime of personal data.<sup>2</sup> Ignorance of Consumer Protection has become a problem that has emerged quite a lot since the increasing development of digital business, especially during the Covid-19 Pandemic.

Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms that Indonesia is a state of law, which philosophically means that all aspects of life are regulated by law. The direction of legal development begins to focus on the economic paradigm, so the study of the relevance between law and economics is increasingly complex and comprehensive. Law and economics are understood as aspects that cannot stand alone, but have a reciprocal relationship. This correlation can be seen from the instinctive essence of humans who always want the maximum profit, but on the other hand, human activities in the economy need to be limited by law so as not to carry out illegal economic activities that can cause chaos and losses among economic stakeholders.<sup>3</sup>

In the first semester of 2022, data on consumer complaints are dominated by complaints for the e-commerce or e-commerce sector. The Directorate General of Consumer Protection and Orderly Commerce (Ditjen PKTN) of the Ministry of Trade noted that 3,692 consumer complaints were served in the first half of 2022. As many as 86.1 percent or 3,181 complaints came from the e-commerce sector.<sup>4</sup> The government guarantees legal certainty to provide protection to all Indonesian consumers.

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<sup>2</sup> Erlina Maria Christin Sinaga and Mery Christian Putri, "Formulasi Legislasi Perlindungan Data Pribadi," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 9, no. 2 (2020): 237–256, <https://rechtsvinding.bphn.go.id/ejournal/index.php/jrv/article/view/428>.

<sup>3</sup> Nurul Ula Ulya and Fazal Akmal Musyarri, "Reformulasi Pengaturan Mengenai Financial Technology Dalam Hukum Positif Di Indonesia," *Arena Hukum* 13, no. 3 (2020): 479–500, <https://arenahukum.ub.ac.id/index.php/arena/article/view/921>.

<sup>4</sup> Viska Viska, "Semester Pertama 2022, Aduan Konsumen Didominasi Sektor Niaga-El," *Ministry of Communication and Information of the Republic of Indonesia*, last modified 2022,

This paper discusses how to reformulate consumer protection legal policies in the digital business era in Indonesia. And with the aim of writing articles to understand and explore the reformulation of consumer protection law policies in the digital business era in Indonesia. The topic of protection for Consumers and Business Actors is also an important issue and foreign countries are continuously trying to update it. Several articles were written to support the realization of an effective consumer protection law and to balance current problems. An example is an article written by Yustina Dhian Novita and Budi Santoso<sup>5</sup> which discusses the Urgency of Renewing Consumer Protection Regulations in the Digital Business Era.

On this occasion the author writes an article that has a different focus from the previous article, although it is still on the same topic, namely consumer protection in the digital business era. This article emphasizes more on how to reformulate consumer protection legal policies in the digital business era in Indonesia. Therefore, the author hopes that through this article, he can explain the reformulation of consumer protection law policies in the digital business era in Indonesia so that it can encourage the necessary regulatory reforms. The renewal of this regulation aims to ensure certainty, justice, and the usefulness of the law itself.

The author uses a descriptive analytical research method with a normative juridical problem approach. The approach is based on the main legal material by examining theories, concepts, legal principles and laws and regulations related to this research. Sources of data used in this study are primary legal materials and secondary legal materials. Where the primary legal materials are the 1945 Constitution, the Civil Code, the Criminal Code, Law Number 8 of 1999 concerning Consumer Protection, Law Number 19 of 2016 Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, Law Number 7 of 2014 concerning Trade, and Perma Number 4 of 2019 Procedures for Settlement of Simple Lawsuits. And secondary legal materials, where legal materials obtained through literature studies consist of journals related to the problems in this paper and articles. Data analysis was carried out descriptively qualitatively by thinking deductively.

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<https://www.kominfo.go.id/content/detail/43005/semester-pertama-2022-aduan-konsumen-didominasi-sektor-niaga-el/0/berita>.

<sup>5</sup> Yustina Dhian Novita and Budi Santoso, "Urgensi Pembaharuan Regulasi Perlindungan Konsumen Di Era Bisnis Digital," *Jurnal Pembangunan Hukum Indonesia* 3, no. 1 (2021): 46–58, <https://ejournal2.undip.ac.id/index.php/jphi/article/view/10233>.

## **2. Discussion**

### **2.1. Juridical Analysis of Consumer Protection Legal Policy Regulations in the Digital Business Era**

The "Digital Era" is an era in which access, sharing and use of information (knowledge) is widely available, ready and easy in forms that can be accessed electronically, namely in digital form, in economic activities.<sup>6</sup> Indonesia has entered the digital economy with a lot of digital use occurring in the economic life of people in Indonesia. The development of the digital economy is also driven by a shift in people's behavior that tends to use digital platforms in various sectors.

The development of the digital economy in Indonesia will be able to encourage the emergence of digital product platforms and creators on a regional e-commerce scale.<sup>7</sup> But on the other side, the digital economy has an impact on security, privacy and consumer protection issues.<sup>8</sup> Legal regulations in consumer protection in Indonesia have not been able to provide sufficient protection for consumers, especially in the digital economy era<sup>9</sup> and revisions are needed to accommodate the digital economy that is currently happening.

There are various forms of legal policy regulations that regulate Consumer Protection, but there are two policies that can be used as main regulations, namely Law Number 8 of 1999 concerning Consumer Protection (UUPK) and the Lawbook (KUHPperdata). UUPK based on Article 28 D Paragraph (1) of the 1945 Constitution of the Republic of Indonesia intends to explore the values of legal certainty for consumers which are the substantive of the law which regulates the rights and obligations of business actors and consumers as well as the form of settlement of a case that is accommodated therein. In line with the considerations of the UUPK, namely for the sake of developing the national economy in the era of globalization, it must be able to help the growth of the business world so that it is able to produce a variety of goods and services that contain technology that can improve the welfare of the community at large and at the same time obtain certainty on the goods and services obtained from a trade. Without causing loss to

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<sup>6</sup> Lawrence J. Lau, "Economic Growth in the Digital Era," in *Symposium on "Welcoming the Challenge of the Digital Era" 2003 Kwoh-Ting Li Forum*, 2003, <https://web.stanford.edu/~ljlau/Presentations/Presentations/031129.pdf>.

<sup>7</sup> Kementerian Komunikasi dan Informasi, *Perkembangan Ekonomi Digital Di Indonesia: Strategi Dan Sektor Potensial* (Jakarta: Pusat Penelitian dan Pengembangan Aplikasi Informatika dan Informasi dan Komunikasi Publik, Badan Penelitian dan Pengembangan SDM, Kementerian Komunikasi dan Informatika, 2019).

<sup>8</sup> Achmad Wirabrata, "Prospek Ekonomi Digital Bagi Peningkatan Pertumbuhan Ekonomi," *Majalah Info Singkat Ekonomi dan Kebijakan Publik, Vol. VIII, No. 17/1/P3DI, Kajian Singkat terhadap Isu Aktual dan Strategis 8* (2016): 13–16.

<sup>9</sup> Sinta Dewi Rosadi and Zahra Tahira, "Consumer Protection In Digital Economy Era: Law In Indonesia," *Yustisia* 7, no. 1 (2018): 85–97, <https://jurnal.uns.ac.id/yustisia/article/view/20144>.

consumers or producers, which in essence wants to guarantee legal certainty. Legal Certainty itself has been written in the principles and objectives of the UUPK, proven to be described in Article 2: "Consumer protection is based on benefits, justice, balance, consumer security and safety as well as legal certainty"

With the approach of the Consumer Protection Act, we can conclude that one of the violations of consumer rights, article 4 of the Consumer Protection Law states that consumer rights. And as a consumer according to Article 4 letter h of the Consumer Protection Act, he is entitled to compensation, compensation and/or replacement if the goods and/or services received are not in accordance with the agreement or not properly. Meanwhile, the business actor himself pursuant to Article 7 letter g of the Consumer Protection Law is obliged to provide compensation, compensation and/or replacement if the goods and/or services received or utilized are not in accordance with the agreement. If a business actor violates the prohibition on trading goods/services that are not in accordance with the promises stated in the label, etiquette, description, advertisement or promotion of the sale of the said goods and/or services, the business actor may be penalized under Article 62 paragraph (1) of the Protection Act. Consumer.<sup>10</sup>

If based on legal certainty are restrictions regarding whether or not what is done according to the law and the restrictions are intended to protect the obligations of each party, then in substance the UUPK is sufficient to reach the definition of legal certainty. Why is it said like that because it then regulates the rights and obligations as affixed in Article 4 and Article 5, that is Consumer Rights: a) The right to comfort, security, and safety in consuming goods and/or services; b) The right to choose goods and/or services and to obtain such goods and/or services in accordance with the exchange rate and the promised conditions and guarantees; c) the right to correct, clear and honest information regarding the condition and guarantee of goods and/or services; d) The right to have their opinions and complaints heard on the goods and/or services used; e) the right to get advocacy, protection, and efforts to resolve consumer protection disputes properly; f) the right to receive consumer guidance and education; g) the right to be treated or served correctly and honestly and not discriminatory; h) the right to obtain compensation, compensation and/or replacement if the goods and/or services received are not in accordance with the agreement or not properly; and, i) The rights regulated in the provisions of other laws and

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<sup>10</sup> Herlina Basri, "Perlindungan Hukum Terhadap Konsumen Dalam Melakukan Transaksi E-Commerce Ditinjau Dari Undang-Undang Perlindungan Konsumen Undang-Undang Nomor 8 Tahun 1999 (Studi Kasus Kerudungbyramana Bandung)," *Pamulang Law Review* 2, no. 2 (2019): 131–140, <http://openjournal.unpam.ac.id/index.php/palrev/article/view/5433>.

regulations. Consumer Obligations: a) Read or follow information instructions and procedures for the use or utilization of goods and/or services, for security and safety; b) Have good faith in making transactions for the purchase of goods and/or services; c) Pay according to the agreed exchange rate; d) Follow the legal settlement of consumer protection disputes properly.

Meanwhile, if the consumer's obligations are not fulfilled, the consumer will automatically not receive his rights and if the consumer's rights are not fulfilled, the business actor is obliged to compensate for the non-fulfillment of the consumer's rights. The majority of sanctions given for violations of Consumer Protection are in the form of compensation so that in certain cases it can be brought to the criminal chamber on the condition that there is evidence of elements of error in criminal cases.

Based on data from the National Consumer Complaints Agency of the Republic of Indonesia (BPKN), from the beginning of 2023 to June 1, 2023 there have been several consumer complaints. Based on the data in table 1, it can be seen that consumer protection is an important thing to do, because consumer complaints mean that consumers are harmed.

Meanwhile, the dispute resolution that is accommodated in this UUPK is done in at least 2 ways: a) *Court*, Every consumer who is harmed or involved in a dispute can resolve the dispute through the general judiciary, this refers to the provisions of Article 45 UUPK; b) *Out of Court (Consumer Dispute Settlement Agency)*, In addition to the judiciary, it is also possible to resolve disputes outside the Court, namely through BPSK (Consumer Dispute Settlement Agency). If the settlement of consumer disputes outside the court has been determined, a lawsuit through the court can only be carried out if the dispute resolution efforts outside the court are declared unsuccessful by one of the parties or both parties to the dispute. This out-of-court settlement through BPSK does not eliminate criminal responsibility as formulated in Article 45 paragraph (3) and paragraph (4) of the UUPK.

The Consumer Protection Act applies equality of position to consumers and business actors, provides an alternative way by providing dispute resolution outside the court, through conciliation, mediation and arbitration, this is intended to overcome long and formal court processes.<sup>11</sup> The purpose of doing dispute resolution outside the court is to provide a win-win solution for the parties to the dispute. To achieve this goal, it is necessary to strengthen institutions outside the court which have the task of resolving consumer disputes. The law provides an alternative way by providing

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<sup>11</sup> Tami Rusli, "Keterbatasan Badan Penyelesaian Sengketa Konsumen Dalam Penyelesaian Sengketa Konsumen," *Masalah-Masalah Hukum* 43, no. 2 (2014): 233–239, <https://ejournal.undip.ac.id/index.php/mmh/article/view/9044>.

dispute resolution outside the court by means of conciliation, mediation and arbitration. As part of alternative dispute resolution, the procedure for resolving consumer disputes through the Consumer Dispute Settlement Agency (BPSK) is carried out very simply and as far as possible avoids a formal atmosphere.<sup>12</sup>

The obstacles faced by the Consumer Dispute Resolution Agency (BPSK) in resolving consumer disputes are institutional, funding, human resource constraints, and low legal awareness of consumer protection. These constraints need to be resolved, especially in terms of legal substance, namely the consumer protection law.<sup>13</sup> Therefore, there is an urgency to reformulate consumer protection laws so that the state is able to protect consumers optimally.

BPSK functions as a legal instrument for resolving consumer disputes by: (a) Conciliation; (b) Mediation; (c) Arbitration. The results of dispute resolution, both conciliation and mediation, are stated in a written agreement in the form of a BPSK decision, no later than 21 working days after the application is received at the BPSK secretariat. Likewise, in the event that the results of consumer dispute resolution are reached through arbitration, the results are stated in the form of a BPSK decision, which is signed by the Chairman and Members of the BPSK Assembly, in which administrative sanctions are allowed. Based on Article 39 of the Decree of the Minister of Industry and Trade Number 350/MPP/Kep/12/2001, the process for issuing BPSK decisions is carried out in the following stages: 1) Based on deliberation to reach consensus involving the parties and BPSK; and, 2) If it has been done seriously and maximally, it turns out that it does not succeed in reaching a consensus, then the decision is made by voting (most votes).

Legal remedies against BPSK's decision Article 54 paragraph (3) of the UUPK stipulates that the decision of the BPSK assembly is final and binding. The explanation of Article 54 paragraph (3) emphasizes that the word is final, which means that there is no appeal and cassation. However, it turns out that the UUPK recognizes filing an objection to the BPSK decision to the District Court (Article 56 of the UUPK) and a cassation to the District Court's decision to the Supreme Court (Article 58 of the UUPK). With the possibility of an appeal and subsequent efforts, the legislators are inconsistent. The explanation of Article 54 paragraph (3) is inconsistent with the formulation of Article 58 of the UUPK.

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<sup>12</sup> Faisal Riza and Rachmad Abduh, "Penyelesaian Sengketa Secara Arbitrase Untuk Melindungi Konsumen Melalui Badan Penyelesaian Sengketa Konsumen," *EduTech: Jurnal Ilmu Pendidikan dan Ilmu Sosial* 4, no. 1 (2018): 30–39, <https://jurnal.umsu.ac.id/index.php/edutech/article/view/1886>.

<sup>13</sup> Rahmi Rimanda, "Keberadaan Badan Penyelesaian Sengketa Konsumen (BPSK) Sebagai Lembaga Quasi Yudisial Di Indonesia," *Jurnal Bina Mulia Hukum* 4, no. 1 (2019): 17–34, <http://jurnal.fh.unpad.ac.id/index.php/jbmh/article/view/61>.

In the event that the businessman accepts the BPSK decision, he is obliged to implement the decision within seven working days from the time he declares that he has accepted the BPSK decision. If the businessmen does not use an objection, the BPSK decision becomes a permanent legal force. The BPSK decision to be enforced by force will be requested for execution from the District Court at the consumer's residence if the BPSK decision is not submitted voluntarily and does not apply for legal remedies.

## **2.2. Consideration of Consumer Protection Legal Policy Reform in the Digital Business Era**

The rapid development of this technology has made people lulled by the ease of doing everything through cybercrime or better known as the internet.<sup>14</sup> The current condition of Consumer Protection in Indonesia is measured through existing regulatory policies. The substance of Law Number 8 of 1999 concerning Consumer Protection (UUPK) itself is to regulate the behavior of business actors with the ultimate goal of protecting consumers. Several things are considered so that this UUPK can be reformulated to perfect the law. These considerations are:

### **2.2.1. The Power of Forcing BPSK Decisions**

BPSK is given the authority to settle disputes outside the court through 3 forms of settlement, namely conciliation, mediation and arbitration. These three forms have their mechanism for reaching an agreement until finally, BPSK has the right to give a final decision in the dispute, whether the consumer or vice versa wins it. Moreover, although the UUPK has little regulation for the decision's execution, the decision is often ignored by the parties who agree. UUPK positions BPSK as an agency with the authority to examine and make decisions but is not accompanied by tools to implement its decisions. BPSK is categorized as a small claim court. If it reflects on several consumer protection dispute settlement institutions regulations in several countries such as Malaysia and Singapore, small claim court institutions have their own position and have decisions as binding and coercive as judicial institutions. However, the facts in the field of BPSK are often ignored in their decisions. Besides, there is also a need for special regulations that regulate separately about these institutions because, so far, this institution is only based on UUPK with a relatively limited portion of the discussion. Actions intended to strengthen BPSK can be carried

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<sup>14</sup> Musa Hengky P. Tampubolon, Muliaty Pawennei, and Zainuddin Zainuddin, "Efektivitas Penyidikan Tindak Pidana Penipuan Secara Online," *Journal of Lex Generalis (JLS)* 2, no. 4 (2021): 1585–1600, <http://pasca-umi.ac.id/index.php/jlg/article/view/479>.



out by reformulating consumer protection laws, particularly regarding the non-litigation model of consumer dispute resolution.

### **2.2.2. Separation between the Goods Provider Business Entity and the Service Provider Business Entity**

In line with the opinion of consumer protection observer Prof Dr Bernadette Mulyati Waluyo, who stated that the weakness of UUPK is to unify the regulation of goods and services. Legally the character of goods and services is different, so it is impossible to regulate the same. He gave an example of an agreement whose object services, exceptionally professional services. For example, if someone goes to a doctor, the doctor's achievements are not measured because it is clear that their achievements are based on results. The object used as a reference is the service that is very different from the object because the object is very easy to assess and becomes a benchmark for achievement. In addition, service providers are also referred to as businessmen, so professional service providers are resistant to the use of the term businessmen. The reason is, in practice, there are some difficulties in its application. Therefore, it is necessary to reformulate the Consumer Protection Law Policy to make it more perfect.

**Table 1.**  
**Consumer Complaints at the Republic of Indonesia BPKN in 2023**

<b>No</b>	<b>Jenis Pengaduan</b>	<b>Jumlah</b>
1	Financial Services	70
2	E-commerce	74
3	Housing area	192
4	Telecommunications Services	20
5	Transportation Services	12
6	Electronics, Telematics, and Motorized Vehicles	19
7	Household Electricity And Gas	9
8	Medicine And Food	4
9	Health services	1
10	Etc	44
	Jumlah	445

Source: [https://bpkn.go.id/statistik\\_pengaduan](https://bpkn.go.id/statistik_pengaduan)

### **3. Conclusion**

Various forms of legal policy regulations regulate Consumer Protection, but two policies can be used as principal regulations, namely Law Number 8 of 1999 concerning Consumer Protection (UUPK) and the Civil Code (KUHPperdata). The current condition of Consumer Protection in Indonesia is measured through existing regulatory policies. The substance of Law Number 8 of 1999 concerning Consumer Protection (UUPK) itself is to regulate the behaviour of business actors with the ultimate goal of protecting consumers. However, some things are considered so that this UUPK can be reformulated to perfect the law. The Consumer Protection Law needs to be reformulated with an emphasis on clear provisions regarding consumer dispute resolution, the existence and institutional strengthening of the Consumer Dispute Settlement Agency (BPSK). In addition, the formulation of consumer protection laws needs to be aligned with the conditions of the digital business era, which has its own characteristics and complexities.

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