

Beyond the Courtroom: Reforming Consumer Dispute Resolution Policies in Indonesia

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ABSTRACT

This study analyses the effectiveness of the Consumer Dispute Settlement Agency (*Badan Penyelesaian Sengketa Konsumen* or BPSK) in Indonesia and formulates a legal reconstruction of consumer dispute resolution through comparative learning from Malaysia. The study highlights structural, normative, and operational constraints affecting BPSK. These issues worsen due to inflexible regulatory frameworks and weak institutional coordination, particularly in the protection of digital consumers. The research employs a qualitative empirical method with a comparative legal approach between Indonesia and Malaysia, complemented by qualitative descriptive analysis. The study indicates that BPSK has not functioned optimally in providing consumer protection due to limitations in its authority, the absence of direct executorial force of its decisions, and the breadth of its functions without adequate enforcement mechanisms. In contrast, the Malaysian Consumer Claims Tribunal, established under the Consumer Protection Act 1999, issues decisions that are final and binding, thereby providing a higher degree of legal certainty. Legal reconstruction is therefore proposed through the strengthening of regulatory provisions within the Consumer Protection Act, particularly Articles 45, 49, 52, 54, and 56, to enhance the effectiveness of consumer protection in Indonesia.



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1. Introduction

Legal reconstruction in Indonesia constitutes an integral component of national development, aimed at aligning the legal system with the evolving needs of modern society.¹ Legal reform encompasses not only normative changes but also the strengthening of institutional frameworks and dispute resolution mechanisms to ensure public access to justice. In the field of consumer protection, legal reconstruction is reflected in the

¹ Trivena Gabriela Miracle Tumbel, 'Perlindungan Konsumen Jual Beli Online Dalam Era Digital 4.0', *Lex Et Societatis*, 8.3 (2020) <https://doi.org/10.35796/les.v8i3.29507>

establishment of a regulatory framework that protects consumers' rights in their relationship with business actors.²

Consumer protection in Indonesia is specifically regulated under Law Number 8 of 1999 concerning Consumer Protection (*Undang-Undang Perlindungan Konsumen* or UUPK). This statute provides consumers with the option to resolve disputes through either litigation or non-litigation mechanisms.³ This provision is explicitly stipulated in Article 45 paragraph (2) of the Consumer Protection Act, which states that consumer disputes may be resolved either through the courts or through out-of-court dispute resolution forums. Furthermore, Article 49 paragraph (1) of Law Number 8 of 1999 concerning Consumer Protection provides that the government establishes Consumer Dispute Resolution Bodies at the Regency/Municipal level to resolve consumer disputes outside the judicial process.⁴ Accordingly, the Consumer Dispute Resolution Body is designated by the government as the institution authorised to resolve consumer disputes outside the court system.⁵ The establishment of the Consumer Dispute Resolution Body (BPSK) reflects the state's effort to provide a dispute-resolution mechanism that is expeditious, simple, and cost-efficient as part of the reconstruction of the consumer protection legal system.⁶

Legal issues arising from BPSK's exercise of authority indicate a discrepancy between the normative design and its practical implementation.⁷ Conceptually, the establishment of BPSK is intended to address consumer disputes of relatively small value in order to meet the public's need for a dispute resolution mechanism that is expeditious, simple, and cost-effective, as reflected in Regulation of the Minister of Trade Number 06/M-DAG/PER/2/2017.⁸ However, in practice, there is no explicit limit on claim values; consequently, disputes involving substantial losses may still be submitted, potentially exceeding the institution's original capacity. Normative issues also arise from the regulation concerning the legal force of decisions rendered by BPSK. Article 54, paragraph (3), of the Consumer Protection Act stipulates that decisions resulting from mediation, conciliation, or arbitration are final and binding, which, in principle, signifies the

² Dilshad Shaik and Ms.V. Poojasree, 'Consumer Protection in E-Commerce: A Legal and Compliance Framework in the Digital Market', *Proceedings of the 1st International Conference on Law and Human Rights 2020 (ICLHR 2020)*, 549 (2021) <https://doi.org/10.2991/assehr.k.210506.004>

³ Febri Falisa Putri and others, 'Kajian Tentang Perlindungan Hukum Konsumen Indonesia Dalam Pembelian Dan Penjualan Online', *Cendekia: Jurnal Hukum, Sosial Dan Humaniora*, 3.2 (2025), 1155–64 <https://doi.org/10.70193/cendekia.v3i2.221>

⁴ Kiki Yulinda, Dora Tiara, and Meydianto Mene, 'Legal Protection for Consumers in Online Buying and Selling Transactions According to Positive Law in Indonesia', *Jurnal Ilmiah Ekotrans & Erudisi*, 4.2 (2024), 31–43 <https://doi.org/10.69989/fj7j1z47>

⁵ Anis Mashdurohatun and others, 'Combating Digital Defamation: Regulations, Challenges and Protecting Reputation', *Journal of Sustainable Development and Regulatory Issues*, 3.3 (2025), 486–514 <https://doi.org/10.53955/jsderi.v3i3.147>

⁶ Adinda Fitra Masferisa, Sadino Sadino, and Yusup Hidayat, 'Perlindungan Hukum Dan Penyelesaian Sengketa Bagi Konsumen Dalam Transaksi E-Commerce', *Binamulia Hukum*, 14.2 (2025), 329–41 <https://doi.org/10.37893/jbh.v14i2.1229>

⁷ Kamran Rasool and others, 'Consumer Rights and Stealth Marketing: A Comparative Socio-Legal Exploration across Developed and Emerging Economies', *Social Sciences and Humanities Open*, 11 (2025) <https://doi.org/10.1016/j.ssaho.2025.101643>

⁸ Yanci Libria Fista, Aris Machmud, and Suartini Suartini, 'Perlindungan Hukum Konsumen Dalam Transaksi E-Commerce Ditinjau Dari Perspektif Undang-Undang Perlindungan Konsumen', *Binamulia Hukum*, 12.1 (2023), 177–89 <https://doi.org/10.37893/jbh.v12i1.599>

termination of the dispute and the parties' obligation to comply with such decisions.⁹ This provision is not entirely consistent with Article 56 paragraph (2), which affords the parties the opportunity to file an objection before the District Court within a specified period.¹⁰ Such regulatory dualism gives rise to normative inconsistency, which in turn results in legal uncertainty and diminishes the effectiveness of dispute resolution through BPSK.

From an institutional perspective, although hundreds of BPSK have officially been established across various provinces through presidential and gubernatorial decrees, not all of these institutions operate effectively, resulting in unequal public access to dispute resolution mechanisms.¹¹ Moreover, within the financial services sector, an overlap of authority has emerged between BPSK and the Alternative Dispute Resolution Institution (LAPS) established under the regulatory framework of the Financial Services Authority.¹² Both institutions perform comparable functions in receiving and handling consumer complaints, which in practice gives rise to a dualism of dispute resolution forums.¹³ This condition not only affects the clarity of institutional authority but also has the potential to impede the overall effectiveness of consumer protection.

Furthermore, in practice, BPSK decisions have been annulled by the courts, particularly the Supreme Court, on the grounds that they exceeded the authority conferred by the Consumer Protection Act. Therefore, these decisions were set aside,¹⁴ and the fact that 1,778 consumer protection cases reached the Supreme Court in 2025.¹⁵ This indicates that the dispute resolution mechanism through BPSK has not functioned effectively as an alternative dispute resolution forum. The high number of cases proceeding to the cassation level signifies that BPSK decisions have not yet attained sufficient finality and enforceability, prompting the parties to seek legal certainty through the general courts.

Substantively, consumer dispute resolution in Indonesia plays an important role in maintaining the balance of relations between business actors and consumers.¹⁶ This development is driven by the fact that, in the era of globalisation and free trade supported by advances in information and communication technology, the flow of transactions in goods and services has become increasingly rapid. These transactions are no longer constrained by space and time, particularly through electronic commerce, which enables

⁹ Ferroka Putra Wathan, 'Legal Effectiveness In Providing Consumer Protection For Online Sales And Purchase At Ecommerce', *Journal Research of Social Science, Economics, and Management*, 2.11 (2023) <https://doi.org/10.59141/jrssem.v2i11.462>

¹⁰ Ardhan Ardiyanto and Arikha Saputra, 'Analisis Undang-Undang No.8 Tahun 1999 Tentang Perlindungan Konsumen Dalam Transaksi Jual Beli Online Melalui Shopee', *Jurnal Meta-Yuridis*, 5.2 (2022), 93–104 <https://doi.org/10.26877/m-y.v5i2.12796>

¹¹ Dudi Badruzaman Dudi Badruzaman, 'Legal Review of Consumer Protection in E-Commerce Transactions in Indonesia', *Equality: Journal of Law and Justice*, 2.1 (2025), 89–102 <https://doi.org/10.69836/equality-jlj.v2i1.271>

¹² Ariawan, 'Regulatory Barriers to Consumer Protection in Digital Marketplaces', *Journal of Human Rights, Culture and Legal System*, 5.3 (2025), 806–32 <https://doi.org/10.53955/jhcls.v5i3.782>

¹³ Mohsin Ali Farhad, 'Consumer Data Protection Laws and Their Impact on Business Models in the Tech Industry', *Telecommunications Policy*, 48.9 (2024) <https://doi.org/10.1016/j.telpol.2024.102836>

¹⁴ Rida Ista Sitepu and Hana Muhamad, 'Efektifitas Badan Penyelesaian Sengketa Konsumen (Bpsk) Sebagai Lembaga Penyelesaian Sengketa Konsumen Di Indonesia', *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia*, 3.2 (2022), 7–14 <https://doi.org/10.52005/rechten.v3i2.79>

¹⁵ 'Direktori Putusan' <https://putusan3.mahkamahagung.go.id/direktori/index/kategori/perdata-khusus.html>

¹⁶ Sulasi Rongiyati, 'Pelindungan Konsumen Dalam Transaksi Dagang Melalui Sistem Elektronik (Consumer Protection in E-Commerce)', *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan*, 10.1 (2019), 1–25 <https://doi.org/10.22212/jnh.v10i1.1223>

consumers to engage in transactions conveniently through digital devices.¹⁷ This development offers benefits in the form of enhanced accessibility and greater freedom in product selection. However, it simultaneously generates an imbalance in the position of business actors and consumers. Consumers frequently occupy a weaker position and are therefore vulnerable to losses, such as receiving goods that do not conform to their specifications, goods damaged during delivery, or goods that fail to reach the purchaser altogether.¹⁸

An effective dispute resolution mechanism protects consumers' rights, establishes legal certainty, and supports the stability of economic activity. In the absence of an effective mechanism, legal protection for consumers risks becoming merely declaratory and failing to provide tangible benefits to society.¹⁹ In its development, the prevailing system demonstrates an urgent need for policy reform in consumer dispute resolution. Law functions not merely as a set of formal rules but also as a social system that must align with societal behaviour and the demands of justice, utility, and legal certainty.²⁰ When BPSK operates optimally, dispute resolution becomes neither expeditious nor accessible and fails to provide adequate protection for consumers.²¹ According to Anthony Giddens's theory of structuration, this condition indicates the necessity of a simultaneous transformation of the legal structure and institutional capacity. This transformation is essential for reconstructing BPSK into a responsive, adaptive, and effective institution in addressing the dynamics of consumer disputes, particularly in digital transactions.²² All ASEAN member states have established consumer dispute resolution mechanisms, including alternative dispute resolution (ADR) processes such as negotiation, mediation, arbitration, litigation, and online dispute resolution (ODR). Their forms and implementation vary across countries in accordance with respective regulatory frameworks and levels of institutional development. In the context of digital consumer protection, ADR functions not only as a means of resolving disputes but also as an instrument to promote business accountability, enhance consumer trust, and sustain the stability of the e-commerce ecosystem.

Table 1. Effectiveness of Alternative Dispute Resolution Institutions 2025

Country	Institution	Complaint	Settlement	Dispute Resolution Mechanism
Singapore	Consumers Association of Singapore (CASE)	2,611	824	Mediation, SCT, informal ADR

¹⁷ Harun Setiawan Hatibie, 'Revolusi Penyelesaian Sengketa Digital: Transformasi Sistem Peradilan Melalui Online Dispute Resolution Di Era Ekonomi Digital', *Al-Zayn : Jurnal Ilmu Sosial & Hukum*, 3.6 (2025), 9920–34 <https://doi.org/10.61104/alz.v3i5.2694>

¹⁸ Munira and others, 'Alternatif Penyelesaian Sengketa Perdata Di Era Digital: Upaya Perlindungan Merek Dalam Ekosistem E-Commerce Indonesia', *Semarang Law Review (SLR)*, 6.2 (2025), 350–66 <https://doi.org/10.26623/slr.v6i2.12621>

¹⁹ Perlindungan Hukum and others, 'Perlindungan Hukum Bagi Konsumen Dalam Transaksi Jual Beli Online (E-Commerce)', *Jurnal Kajian Hukum Dan Pendidikan Kewarganegaraan*, 1.4 (2025), 399–403 <https://jurnal.globalsciences.com/index.php/jkhp/article/view/569>

²⁰ Rizky Amelia and others, 'Penyelesaian Sengketa Konsumen Dalam E-Commerce Di Indonesia', *Fundamental: Jurnal Ilmiah Hukum*, 12.1 (2023), 199–210 <https://doi.org/10.34304/jf.v12i1.92>

²¹ Wardah Yuspin and others, 'Legal Reconstruction of Indonesian Banking Laws: Challenges and Opportunities for Digital Bank Regulation', *Varia Justicia*, 19.1 (2023), 52–69 <https://doi.org/10.31603/variajusticia.v19i1.8019>

²² Nurhanim Nurhanim and Toni Toni, 'Perlindungan Konsumen Terhadap Transaksi Jual Beli Online Ditinjau Dari UU No. 8 Tahun 1999 Tentang Perlindungan Konsumen', *Al Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan*, 17.1 (2023), 463 <https://doi.org/10.35931/aq.v17i1.1815>

Malaysia	Malaysian User Claims Tribunal (TPPM)	9,203	6,881	TTPM, mediation, final
Indonesia	Consumer Dispute Resolution Agency (BPSK)	3,575	There is no detailed data on the number of cases handled specifically by BPSK.	BPSK, mediation, initial ODR
Thailand	Office of the Consumer Protection Board (OCPB)	5,786	Does not publish specific settlement figures for e-commerce complaints	Mediation and conciliation
Vietnam	Vietnam Competition and Consumer Authority (VCCA)	14,868	64% of call consultations were handled directly by hotline operators, but official reports indicate that no complaints were resolved completely.	Mediation takes precedence over court
Philippines	Department of Trade and Industry (DTI)	28,824	8,937 cases resolved	Mediation and Conciliation
Brunei	Department of Economic Planning and Statistics (DEPS)	e-commerce complaint figures per year are not published in detail	Specifically, how many e-commerce complaints were received or resolved	Informal mediation

Source: Processed Secondary Data, 2025

As a point of comparison, based on Table 1, TTPM demonstrates a high level of effectiveness in resolving digital consumer disputes. The TTPM is a specialised quasi-judicial body in Malaysia established to address disputes between consumers and business entities, including those arising from e-commerce transactions, through procedures that are simple, expeditious, and low-cost. The institutional design of the TTPM reflects best practices in consumer dispute resolution within the ASEAN region, emphasising access to justice, procedural efficiency, and the enforceability of decisions. Given the final and binding nature of its awards, TTPM provides concrete legal certainty for consumers, particularly in the context of digital commerce, which requires responsive and effective dispute-resolution mechanisms.²³

Several previous studies, such as Rida Ista Sitepu's, examine the effectiveness of BPSK as a consumer dispute resolution body in Indonesia.²⁴ This study proposes revisions to UUPK to refine the regulatory framework governing the authority, core duties, and functions of BPSK. However, the study does not provide an in-depth discussion of the urgency of reformulating the normative provisions on consumer protection, nor does it specify which regulatory instruments require amendment.

²³ Muhammad Sabir Rahman, 'A Comparative Study of Fair Online Buying and Selling Regulations: A Legal Comparison Between Indonesia, Malaysia, and Singapore', *SASI*, 30.2 (2024), 157 <https://doi.org/10.47268/sasi.v30i2.2021>

²⁴ Ista Sitepu and Muhamad.

Irfan Ridha's study examines the role of institutions such as BPSK.²⁵ It also explores the roles of the Commodity Futures Trading Regulatory Agency (Bappebti) and the Indonesian Broadcasting Commission (Komisi Penyiaran Indonesia or KPI), including their collaborative efforts to safeguard consumer rights. This study underscores the importance of strengthening institutional capacity through enhanced inter-agency synergy, regulatory reform, and the development of innovative strategies to address challenges in the digital era. However, the study primarily focuses on the roles of consumer protection institutions, along with their constraints and challenges, and emphasises comparative analysis among domestic institutions. In contrast, another study offers a novel contribution through a comparative analysis with Malaysia. Furthermore, Yanci Libria's²⁶ research highlights that the existing legal framework for consumer protection has been ineffective in preventing fraudulent practices committed by business actors in electronic transactions. This study also expresses the expectation that consumer protection legislation should serve both to prevent such misconduct and to provide comprehensive legal safeguards for consumers. However, these two studies do not offer a comprehensive normative framework for revising the Consumer Protection Law.

This study addresses a gap in the existing literature by proposing reforms to the consumer legal protection policy framework. It aims to analyse the weaknesses of Indonesia's consumer dispute resolution system, examine the need for policy reform of out-of-court dispute resolution mechanisms, and formulate a more effective policy model through a comparative approach with consumer dispute resolution practices in Malaysia. This study is expected to provide both theoretical and practical contributions to the development of consumer protection policies that are equitable, effective, and adaptive to societal developments.

2. Research Method

This study adopts a comparative approach, recognising that a comprehensive understanding of the effectiveness of consumer dispute resolution bodies requires global standards.²⁷ Analysing similar institutions in the ASEAN region yields important insights into optimal practices and regulatory frameworks relevant to the BPSK. This study employs an empirical (non-doctrinal) socio-legal methodology that frames law as a socially embedded activity shaped by institutional realities.²⁸ This study utilises a qualitative exploratory methodology to evaluate the effectiveness of the BPSK in protecting digital consumers. This analysis applies Giddens' structuration theory, which explains the interaction between structure and agency in the formation of legal institutions. This paradigm facilitates a contextual and analytical understanding of the BPSK's effectiveness.

Data were collected using three main methodologies. First, a literature review was conducted to analyse Indonesian and Malaysian laws, the implementation of regulations,

²⁵ Irfan Ridha and others, 'Implementasi Perlindungan Konsumen Oleh Lembaga Perlindungan Konsumen Untuk Menegakkan Hak-Hak Konsumen Di Indonesia', *Jurnal Pendidikan Sosial Dan Humaniora*, 4.2 (2025), 2888–98 <https://publisherqu.com/index.php/pediaqu/article/view/1923>

²⁶ Yanci Libria Fista, Aris Machmud, and Suartini Suartini, 'Perlindungan Hukum Konsumen Dalam Transaksi E-Commerce Ditinjau Dari Perspektif Undang-Undang Perlindungan Konsumen', *Binamulia Hukum*, 12.1 (2023), 177–89 <https://doi.org/10.37893/JBH.V12I1.599>

²⁷ Aristo Marisi Adiputra Pangaribuan, 'Metode Wawancara Dalam Penelitian Hukum Doktrinal Dan Sosio-Legal', *Undang: Jurnal Hukum*, 6.2 (2023), 351–83 <https://doi.org/10.22437/UJH.6.2.351-383>

²⁸ Yati Nurhayati, Ifrani Ifrani, and M. Yasir Said, 'Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum', *Jurnal Penegakan Hukum Indonesia*, 2.1 (2021), 1–20 <https://doi.org/10.51749/JPHI.V2I1.14>

BPSK decisions, and research journals. *Second*, in-depth interviews and focus group discussions (FGDs) with BPSK, consumers, and business actors yielded practical insights into digital consumer protection. *Third*, observations were made to document the administrative and mediation processes directly, explaining the practical application of legal principles. This methodology provides an empirical basis for assessing and reconsidering the function of BPSK. This study used purposive sampling in areas with a high frequency of consumer complaints and dynamic digital markets, such as Jakarta, Palembang, Mataram, as well as through BPKN and YLKI. The data were analysed using descriptive qualitative analysis.

3. Results and Discussion

3.1. Consumer Dispute Resolution Policy in Indonesia

The consumer dispute resolution policy in Indonesia is built upon a legal framework that positions consumer protection as an integral part of efforts to achieve justice within economic relations. Law Number 8 of 1999 on Consumer Protection serves as the primary foundation governing the rights and obligations of consumers, as well as the responsibilities of business actors. Under Article 45 (2), the UUPK provides options for dispute resolution, including judicial proceedings and alternative out-of-court mechanisms.²⁹ This provision reflects the orientation of the national legal system, which recognises the importance of providing access to justice that is flexible, efficient, and affordable.

Law Number 8 of 1999 establishes the BPSK, an institution within the framework of consumer protection law. Article 1 point 11 of the UUPK states that “BPSK is an agency tasked with handling and resolving disputes between business actors and consumers.” The BPSK was established to address small-scale, relatively straightforward consumer dispute cases. Articles 45, paragraph (2), 1 point 11, 49, and 52 of the UUPK establish a clear legal basis for the Consumer Dispute Settlement Agency (BPSK) as an official state institution authorised to resolve consumer disputes through non-litigation mechanisms (out-of-court proceedings).

The primary function of BPSK under the UUPK is to manage and resolve disputes between business actors and consumers. According to Article 52(a) of the UUPK, BPSK is authorised to conduct consumer dispute resolution through mediation, conciliation, or arbitration. These mechanisms are further regulated under the Decree of the Minister of Industry and Trade of the Republic of Indonesia Number 350/Mpp/Kep/12/2001 concerning the Implementation of the Duties and Authorities of the Consumer Dispute Settlement Agency (Ministerial Decree No. 350/2001). Article 4(1) of Ministerial Decree No. 350/2001 stipulates that “consumer dispute resolution by BPSK through conciliation, mediation, or arbitration shall be conducted based on the choice and consent of the parties involved.” However, the regulation governing BPSK’s authority remains inadequately structured, giving rise to theoretical and practical implementation challenges. Disputes

²⁹ Marsha Azhar Nadhira, ‘Tinjauan Yuridis Legalitas Lembaga Perlindungan Konsumen Swadaya Masyarakat (Lpksm) Serta Perannya Dalam Melindungi Konsumen Di Indonesia’, *Gloria Justitia*, 3.1 (2023), 27–44 <https://doi.org/10.25170/gloriajustitia.v3i1.4393>

between consumers and business actors can also be resolved through the courts, in accordance with general court procedures under the applicable civil procedural law.³⁰

The effectiveness of consumer dispute resolution policies is determined not only by the existence of legal norms but also by the institutional capacity for implementation and the accessibility of these mechanisms to the public.³¹ In practice, consumers continue to face various obstacles in asserting their rights. Limited legal literacy and a lack of understanding of dispute-resolution procedures result in many consumers failing to utilise available mechanisms.³² The imbalance of bargaining power between consumers and business actors further increases consumer vulnerability in the dispute-resolution process, particularly when disputes involve business actors with greater economic and legal resources.³³ The findings of the study on the role of BPSK in protecting digital consumers in Jakarta, Palembang, and Mataram are as follows:

Table 2. BPSK Role in Protecting Digital Consumers

Indicator	Jakarta	Palembang	Mataram
Preventive prevention of consumer violations	BPSK members are appointed and are expected to actively provide consumer protection, including consumer rights education. Monitoring and evaluation of the implementation of BPSK functions for synergy and effectiveness.	Supervision of standard clauses, a preventive form of BPSK to protect consumers from detrimental clauses; in terms of implementation, it is still weak and more reactive because it waits for complaints to come in.	Consumer rights education (general). Consumer protection education is still not intensive in reports, the focus is more on dispute resolution
Curative settlement dispute/loss after	Strong focus on dispute resolution through mediation, conciliation, and arbitration mechanisms based on the Consumer Protection Law. Performance evaluations highlight the implementation of consumer dispute resolution tasks in accordance with regulations.	The focus of consumer dispute resolution in Palembang is the same as other BPSKs, but reports indicate a lack of consumer awareness of their rights, resulting in relatively few cases being filed — reducing the effectiveness of the curative function.	Carrying out mediation, conciliation, and arbitration to resolve consumer disputes outside the courts (the main function of BPSK). Limited publication of quantitative data, but this role is a core function of BPSK.
Optional	It is expected to provide	Because consumers do not	Providing

³⁰ Dwi Dasa Suryantoro, 'Analisis Hukum Perlindungan Konsumen Dalam Transaksi E-Commerce Terhadap Tantangan Dan Solusi Normatif Di Indonesia', *Legal Studies Journal*, 5.2 (2025), 109–25 <https://doi.org/10.33650/lj.v5i2.13094>

³¹ Agung Maghfira Mubila, Ikhsan Fadillah, and Helfira Citra, 'Perlindungan Hukum Terhadap Konsumen Dalam Transaksi Digital: Tinjauan Terhadap Implementasi UU Perlindungan Konsumen Di Marketplace', *Jurnal Fakta Hukum*, 3.2 (2025), 84–94 <https://doi.org/10.58819/jfh.v3i2.156>

³² Arfian Setiantoro and others, 'Urgensi Perlindungan Hukum Konsumen Dan Penyelesaian Sengketa E-Commerce Di Era Masyarakat Ekonomi Asean', *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 7.1 (2018), 1 <https://doi.org/10.33331/rechtsvinding.v7i1.220>

³³ Nano Eka Yudha, Ariman Sitompul, and Kusbianto Kusbianto, 'Penerapan Hukum Terhadap Perlindungan Konsumen Atas Kewenangan Badan Penyelesaian Sengketa Konsumen Dan Pengadilan Negeri', *Law Jurnal*, 6.1 (2025), 138–51 <https://doi.org/10.46576/lj.v6i1.6874>

non-binding consultation & facilitation	protection and facilitate resolutions between consumers and business actors. The evaluation includes consultative authority as one of the parameters of the BPSK function.	report enough or have a lack of understanding of the institution, the consultation/facultative function has not been optimally implemented in Palembang.	consumer protection consultations in accordance with the authority of the Consumer Protection Law, but specific empirical documentation is not yet detailed.
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Source: Data Processing 2025

Table 2 illustrates that BPSK has not yet achieved optimal performance in protecting digital consumers. Research findings indicate that outreach and legal education activities have a limited reach, covering only approximately 35% of the population in the study areas. This situation highlights a gap between the demand for digital consumer legal literacy and the capacity of the available programs.³⁴ Moreover, the content of the legal education programs remains focused on conventional transactions, whereas complaints related to e-commerce transactions now account for 65% of the total reports received by BPSK. The low relevance of this educational material undermines the agency's preventive function, limiting its effectiveness in raising consumer awareness and providing legal protection from the earliest stages of transactions.³⁵

From an institutional perspective, coordination between BPSK and digital economic actors, including e-commerce platforms and fintech institutions, remains limited and unsystematic. Among the 15 digital entities operating at the national level, there are only three active memoranda of understanding in place with the major digital platforms.³⁶ The lack of such collaboration hampers the dissemination of digital legal literacy, which should be a priority in the era of technological transformation.³⁷ Therefore, the preventive function of BPSK can be categorised as low and requires urgent optimisation to prevent the escalation of digitally based consumer disputes.

An evaluation of BPSK's dispute-resolution effectiveness from January to October 2024 across the three study locations reveals a complex institutional dynamic, particularly in handling digital transaction disputes. The increasing volume of electronic transactions, coupled with the growing complexity of digital financial products, presents technical challenges that BPSK has not yet fully anticipated.³⁸ Field findings, corroborated by consumer interviews, indicate that limited geographic access and procedural complexity

³⁴ Eys Putri Pembayun and Arifin Faqih Gunawan, 'Perlindungan Hukum Terhadap Konsumen Dalam Transaksi Digital: Tinjauan Terhadap Implementasi UU Perlindungan Konsumen Di Marketplace', *Jurnal Fakta Hukum*, 3.2 (2025), 84–94 <https://doi.org/10.58819/jfh.v3i2.156>

³⁵ Itra Saleh, Nur Mohamad Kasim, and Dolot Alhasni Bakung, 'Tanggung Jawab Pelaku Usaha Terhadap Konsumen', *Eksekusi: Jurnal Ilmu Hukum Dan Administrasi Negara*, 1.3 (2023), 358–69 <https://doi.org/10.55606/eksekusi.v1i3.543>

³⁶ Dudi Badruzaman.

³⁷ Egi Rivaldi Gumilar and others, 'Rekonstruksi Penyelesaian Sengketa Perlindungan Konsumen Pada Pihak Ketiga Sebagai Upaya Transformasi Ekonomi Digital', *Forschungsforum Law Journal*, 2.1 (2025), 15–28 <https://doi.org/10.35586/flj.v2i1.9808>

³⁸ Rahmat Rahmat Tri Andika Debatara and Martono Martono Anggusti, 'Analisis Yuridis Terhadap Putusan Badan Penyelesaian Sengketa Konsumen (Bpsk) Dalam Penyelesaian Sengketa Konsumen (Studi Putusan Nomor 006/Sput/Ix/2025/Bpsk.Mdn)', *Judge: Jurnal Hukum*, 6.04 (2025), 812–18 <https://doi.org/10.54209/judge.v6i04.1783>

are the main obstacles to dispute resolution. Approximately 42% of respondents experienced access difficulties due to the location of BPSK offices, while 38% expressed dissatisfaction with administrative procedures perceived as cumbersome. In addition, around 31% of digital dispute cases were not optimally addressed due to limitations in internal technical competence.

The existence of BPSK is expected to serve as an alternative response to public disillusionment and concern regarding the judicial system in Indonesia. However, UUPK does not confer a definitive role on BPSK as an alternative institution for consumer dispute resolution. The ineffectiveness of the dispute resolution function is also influenced by inconsistencies in the Consumer Protection Law's norms, particularly between Articles 54 and 56.³⁹ The provision of Article 54 paragraph (3) of UUPK, which stipulates that BPSK decisions are "final and binding," loses its significance and becomes ineffectual for consumers seeking justice through BPSK when confronted with the provision of Article 56 paragraph (2), which allows for the filing of objections before the District Court. Analysis of several BPSK rulings indicates that some business actors refuse to comply with decisions by exploiting the possibility of pursuing legal remedies in court.⁴⁰ This situation creates a contradiction between the final and binding nature of BPSK decisions and the possibility of further resolution through litigation. Such regulatory ambiguity ultimately undermines the credibility of BPSK as an effective and efficient alternative dispute resolution institution.⁴¹

Other challenges are also evident in the facultative functions of BPSK, particularly regarding institutional coordination and infrastructure support. The study shows that institutional fragmentation constitutes a significant barrier to consumer dispute resolution. Coordination between BPSK and the National Consumer Protection Agency (BPKN) remains limited to routine administrative reporting, without operational synergy in handling complex cases. Meanwhile, the Ministry of Trade, as the primary regulator, tends to adopt a reactive and situational approach, especially in cross-regional cases that require prompt coordination.⁴² The absence of a formal protocol governing the institutional relationship between BPSK and the Supreme Court in the context of subsequent legal remedies also creates uncertainty for parties involved in disputes.⁴³

Differences in operational capacity among BPSK offices also represent a significant challenge to the provision of consumer protection. These variations encompass not only the number of human resources and budget allocations but also the quality of

³⁹ Ista Sitepu and Muhamad.

⁴⁰ Cahya Iradi Arimba and Dede Mutakin, 'Penyelesaian Sengketa Konsumen Pada Badan Penyelesaian Sengketa Konsumen (Bpsk) Kota Bandung', *Jurnal Res Justitia: Jurnal Ilmu Hukum*, 5.1 (2025), 519–30 <https://doi.org/10.46306/rj.v5i1.260>

⁴¹ Salamatul Afiyah, 'Pemberian Sosialisasi Dan Konsultasi Penyelesaian Sengketa Konsumen Pada Badan Penyelesaian Sengketa Konsumen (BPSK) Kota Bandung', *Jurnal Pengabdian Kepada Masyarakat*, 3.03 (2025) <https://journal.sabajayapublisher.com/index.php/jpkm/article/view/626>

⁴² Yusuf Shofie, 'Optimalisasi Peran Badan Penyelesaian Sengketa Konsumen (Bpsk) Dalam Penyelesaian Sengketa Pembiayaan Konsumen Di Tengah Terjadinya Disharmonisasi Pengaturan', *ADIL: Jurnal Hukum*, 4.1 (2015), 49–85 <https://doi.org/10.33476/ajl.v4i1.28>

⁴³ Prosedur Mediasi Dan Dampak Hukum Penyelesaian Sengketa Konsumen Di Bpsk Kota Gorontalo and Tursandi Hinelu, 'Prosedur Mediasi Dan Dampak Hukum Penyelesaian Sengketa Konsumen Di Bpsk Kota Gorontalo', *Law & Social Justice Journal*, 3.III (2025), 112–26 <https://doi.org/10.61121/KKP17R55>

administrative and technical support.⁴⁴ Some BPSK offices have implemented integrated information systems and adequate supporting facilities, whereas others still rely on manual procedures that slow down the dispute resolution process.⁴⁵ This disparity directly undermines service quality consistency and widens the gap in consumer access to justice across regions.⁴⁶ Thus, the limitations in BPSK's facultative functions indicate that the national consumer protection system has not yet fully established a fair and effective institutional framework.

From a theoretical perspective, Philipus M. Hadjon distinguishes consumer legal protection into two main forms: preventive legal protection and repressive legal protection. Preventive legal protection aims to prevent the emergence of disputes, which, in the context of digital transactions, necessitates protective measures from the outset.⁴⁷ Preventive efforts are manifested, among other ways, through consumer education activities as stipulated in Article 29, paragraph (1) of the Consumer Protection Law, which affirms the government's responsibility to provide guidance to ensure that the rights and obligations of both consumers and business actors are fulfilled.⁴⁸ The government plays a strategic role in empowering consumers, including through collaboration with non-governmental consumer protection organisations in educational and advocacy activities.

Conversely, repressive legal protection is oriented toward addressing disputes that have already arisen.⁴⁹ The consumer dispute resolution mechanism is regulated under Article 45, paragraph (2) of the Consumer Protection Law, which provides options for resolution through both litigation and non-litigation channels.⁵⁰ In the context of electronic transactions, dispute resolution provisions are governed by the Electronic Information and Transactions Law, which grants the parties the authority to choose the forum for resolving disputes, whether through the courts, arbitration, or alternative dispute-resolution institutions.⁵¹

Analysis of this situation indicates that Indonesia's consumer dispute resolution policy faces limitations across three main dimensions. On the normative dimension, the

⁴⁴ Agus Prayudha Dinata, Khalimi Khalimi, and Marni Emmy Mustafa, 'Kepastian Hukum Badan Penyelesaian Sengketa Konsumen (BPSK) Dengan Cara Arbitrase', *Blantika: Multidisciplinary Journal*, 3.4 (2025), 612–27 <https://doi.org/10.57096/blantika.v3i4.321>

⁴⁵ Ahmad Irham Tajhi and others, 'Kewenangan BPSK Dan BMAI Dalam Menyelesaikan Sengketa Asuransi Antara Perusahaan Asuransi Dan Pemegang Polis Asuransi (Studi Putusan PN Lubuk Linggau Nomor 17/Pdt.Sus-BPSK/2021/PN Llg)', *Future Academia: The Journal of Multidisciplinary Research on Scientific and Advanced*, 2.4 (2024), 847–57 <https://doi.org/10.61579/future.v2i4.218>

⁴⁶ Maudy Andreana Lestari and others, 'Optimalisasi Badan Penyelesaian Sengketa Konsumen (BPSK) Dalam Upaya Proteksi Hak Konsumen Di Ranah Siber', *Jurnal Hukum Lex Generalis*, 2.4 (2021), 309–28 <https://doi.org/10.56370/jhlg.v2i4.48>

⁴⁷ Rida Ista Sitepu and Hana Muhamad, 'Efektifitas Badan Penyelesaian Sengketa Konsumen (Bpsk) Sebagai Lembaga Penyelesaian Sengketa Konsumen Di Indonesia', *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia*, 3.2 (2022), 7–14 <https://doi.org/10.52005/rechten.v3i2.35>

⁴⁸ Riris Nisantika and Ni Luh Putu Egi Santika Maharani, 'Penyelesaian Sengketa Konsumen Oleh Badan Penyelesaian Sengketa Konsumen (BPSK)', *Jurnal Locus Delicti*, 2.1 (2021), 49–59 <https://doi.org/10.23887/jld.v2i1.458>

⁴⁹ Dudi Badruzaman.

⁵⁰ Teng Berlianty, Agustina Balik, and Ronald Fadly Sopamena, 'Meningkatkan Pemahaman Masyarakat Atas Hak-Hak Konsumen', *Aiwadthu: Jurnal Pengabdian Hukum*, 2.1 (2022), 35 <https://doi.org/10.47268/aiwadthu.v2i1.713>

⁵¹ Didik Sukriono and others, 'Local Wisdom as Legal Dispute Settlement: How Indonesia's Communities Acknowledge Alternative Dispute Resolution?', *Legality: Jurnal Ilmiah Hukum*, 33.1 (2025), 261–85 <https://doi.org/10.22219/ljih.v33i1.39958>

regulations do not yet fully provide certainty regarding the legal authority and enforcement mechanisms of decisions issued by non-litigation dispute resolution institutions.⁵² On the institutional dimension, organisational capacity, human resources, and inter-agency coordination still require significant strengthening.⁵³ On the operational dimension, procedural accessibility, service effectiveness, and the certainty of dispute resolution outcomes have not yet fully met the principles of simple, swift, and low-cost justice.⁵⁴ Thus, Indonesia's consumer dispute resolution policy is at a stage that requires comprehensive system strengthening. Reform efforts are needed not only at the regulatory level but also in institutional design and implementation mechanisms.⁵⁵ Such reform efforts are crucial to ensure that the dispute resolution system functions effectively as a legal protection instrument, provides certainty for consumers, and supports the establishment of fair and sustainable economic relationships.

3.2. Consumer Dispute Resolution Policy in Malaysia

In practice, Malaysia also offers various dispute resolution channels, including the general courts, commercial courts, and arbitration institutions. Consumer protection in Malaysia is comprehensively regulated under the Consumer Protection Act 1999 (CPA),⁵⁶ The Act came into effect on 15 November 1999 under the authority of the Minister responsible for domestic trade and consumer affairs. Prior to its enactment, Malaysia lacked a unified legal framework specifically regulating consumer protection. The CPA applies broadly to transactions involving goods and services in commercial activities, including transactions conducted through electronic means. Initially, electronic transactions were not covered; however, the 2007 amendment expanded the provisions to include legal protection for consumers in online transactions, in line with the development of digital commerce.⁵⁷

The CPA regulates various aspects of consumer protection, including misleading trade practices, unfair contract terms, product safety standards, quality guarantees, product liability, and enforcement mechanisms and consumer redress. The law introduced a significant conceptual shift by limiting the privity-of-contract doctrine, thereby allowing not only end consumers but also producers to be held accountable for warranty claims.⁵⁸ The protection provided under the CPA is imperative and cannot be waived through contractual agreements, thereby addressing the practice of including limitation-of-liability

⁵² Yulia Susantri, 'Perlindungan Terhadap Hak-Hak Konsumen Dalam Perspektif Hak Asasi Manusia', *Constitutio: Journal of State and Political Law Research*, 1.1 (2022) <https://doi.org/10.47498/constituo.v1i1.1210>

⁵³ Eka Rahayu Puspita Ningrum and Iza Hanifuddin, 'Keabsahan Akad Jual Beli Terhadap Kebutuhan Pokok Masyarakat Era 5.0 Di Tiktok Shop', *Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam*, 5.2 (2023), 1755–66 <https://doi.org/10.37680/almanhaj.v5i2.3044>

⁵⁴ Imadatul Fitriani, Inayah Maulia, and Lucky Dafira, 'Perlindungan Hukum Terhadap Konsumen Dalam Transaksi E-Commerce Lintas Negara', *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 3.3 (2025), 1387–97 <https://doi.org/10.61104/alz.v3i3.1323>

⁵⁵ Dudi Badruzaman Dudi Badruzaman, 'Legal Review of Consumer Protection in E-Commerce Transactions in Indonesia', *Equality: Journal of Law and Justice*, 2.1 (2025), 89–102 <https://doi.org/10.69836/equality-jlj.v2i1.271>

⁵⁶ Muhamad Ikhwan Mohd Zain and others, 'Legal Analysis of Malaysia's Integrated Dispute Resolution Scheme: Lessons from Other Countries', *Environment-Behaviour Proceedings Journal*, 9.28 (2024), 253–58 <https://doi.org/10.21834/e-bpj.v9i28.5809>

⁵⁷ Norma Sari, 'Consumer Dispute Settlement: A Comparative Study on Indonesian and Malaysian Law', *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)*, 5.1 (2018), 109–26 <https://doi.org/10.22304/pjih.v5n1.a6>

⁵⁸ Rahman.

clauses in consumer contracts.⁵⁹ Although consumer rights are not articulated in a single specific provision, the CPA implicitly recognises the fundamental rights of consumers to safety, information, choice, and redress.⁶⁰ In addition, the law regulates remedies for violations in electronic transactions and prohibits misleading advertising practices.⁶¹ Quality guarantee standards require that goods meet a reasonable level of fitness in terms of functionality, appearance, safety, and durability, while products that fail to meet reasonable safety expectations may be classified as defective. Consumers can seek compensation through contract law or tort mechanisms, with the CPA serving as the primary legislative basis.

For dispute resolution, Article 85 of the CPA establishes the “Tribunal for Consumer Claims,” known as the Malaysian Consumer Claims Tribunal (*Tribunal Tuntutan Pengguna Malaysia* or TTPM), which is designed to resolve consumer disputes.⁶² The Tribunal is authorised to handle claims arising from both conventional and electronic transactions, with a claim limit of up to RM 50,000. The TTPM is designed to operate in a simple, swift, and low-cost manner, allowing consumers to file claims without the requirement of legal representation and without complex procedural formalities.⁶³ The Tribunal’s specialised focus on consumer protection distinguishes it from the general courts and enhances the efficiency of dispute resolution. TTPM decisions are legally binding, and non-compliance by business actors may result in sanctions under the CPA.⁶⁴ The Tribunal operates under the supervision of the Ministry of Domestic Trade and Consumer Affairs, which provides both administrative support and institutional legitimacy, thereby strengthening the consistent enforcement of consumer rights across conventional and digital markets in Malaysia.⁶⁵

Compared to Indonesia, consumer protection through non-litigation mechanisms are carried out by institutions with different characteristics. In Indonesia, out-of-court consumer dispute resolution is conducted by BPSK, whereas in Malaysia, a similar function is performed by TTPM.⁶⁶ The differences between these two institutions are evident in their legal basis, authority, resolution mechanisms, and the legal force of the decisions rendered.

⁵⁹ Ilyana Ilias and others, ‘Consumer Credit Grievance And Redress Mechanisms: The Malaysia Perspective’, *UUM Journal of Legal Studies*, 12.2 (2021), 61–88 <https://doi.org/10.32890/UUMJLS2021.12.2.4>

⁶⁰ Ibtisam a.k.a Ilyana Ilias and others, ‘A Comparative Assessment of Alternative Dispute Resolution for Financial Consumer Protection in Malaysia and Indonesia’, *Environment-Behaviour Proceedings Journal*, 8.S113 (2023), 23–29 <https://doi.org/10.21834/e-bpj.v8isi13.5041>

⁶¹ Setiyono, Dinda Keumala, Muhamad Ikhwan Bin Mohd Zain, and others, ‘Indonesia and Malaysia’s Alternative Models of Dispute Resolution in the Financial Sector’, *Jurnal Hukum Bisnis Bonum Commune*, 8.2 (2025), 450–79 <https://doi.org/10.30996/jhbbc.v8i2.12890>

⁶² Thorique Akbar Nasution, ‘E-Commerce in Malaysia From Law Perspective’, *Mahadi: Indonesia Journal of Law*, 2.1 (2023), 11–15 <https://doi.org/10.32734/mah.v2i1.11380>

⁶³ Nur Amira Hidayah Razali, Wan Rosalili Wan Rosli, and Mohd Bahrin Othman, ‘The Legal Protection of E-Consumers Against E-Commerce Fraud in Malaysia’, *Malaysian Journal of Social Sciences and Humanities (MJSSH)*, 7.9 (2022), e001778 <https://doi.org/10.47405/mjssh.v7i9.1778>

⁶⁴ Al Sentot Sudarwanto and Dona Budi Budi Kharisma, ‘Comparative Study of Personal Data Protection Regulations in Indonesia, Hong Kong and Malaysia’, *Journal of Financial Crime*, 2021 <https://doi.org/10.1108/JFC-09-2021-0193>

⁶⁵ Jan Mei Soon, ‘Consumers’ Awareness and Trust toward Food Safety News on Social Media in Malaysia’, *Journal of Food Protection*, 83.3 (2020), 452–59 <https://doi.org/10.4315/0362-028X.JFP-19-415>

⁶⁶ Sari, ‘Consumer Dispute Settlement: A Comparative Study on Indonesian and Malaysian Law’.

Table 3 Comparison of BPSK and TTPM

No	Aspect	BPSK	TTPM
1	Legal basis	Law No. 8 of 1999 (UUPK)	Consumer Protection Act 1999
2	Form of Institution	ADR Institution	Special tribunal (quasi-judicial)
3	Protective properties	Repressive	Repressive
4	Mechanism	Mediation, conciliation, arbitration	Tribunal Examination
5	Power of Judgment	Not final, can be appealed and cassation filed	Final and binding
6	Execution of the Decision	Must be approved by the District Court	Can be executed immediately
7	Legal Assistance	It is possible	Not required
8	Limitation of Claim Value	There is no limit to the value of the lawsuit, but administrative sanctions are limited to a minimum of IDR 200,000,000 (Article 60 of the UUPK).	The maximum value of the lawsuit is limited to RM.50,000 based on the TTPM agreement.
9	Completion period	Dispute resolution is generally within 21 days of receipt of the complaint (Article 55 UUPK)	TTPM issues a decision within 60 days of submission

Processed by the Authors

Based on Table 3, the Comparative analysis reveals fundamental differences in the legal authority and decision-making effectiveness between Indonesia's BPSK and Malaysia's TTPM. BPSK was established under Law Number 8 of 1999 as an out-of-court dispute resolution body authorised to handle cases through mediation, conciliation, and arbitration.⁶⁷ However, BPSK decisions are not final and binding, as the legal system allows appeals to the District Court and cassation in the Supreme Court.⁶⁸ Moreover, these decisions lack direct executory power and must obtain court approval before they can be enforced. This framework places BPSK under the general courts, thereby undermining the intended swift, simple nature of dispute resolution.⁶⁹

The limited binding effect of BPSK decisions reduces legal certainty and prolongs the dispute-resolution process, particularly for consumers with weaker bargaining positions. Although BPSK possesses normative adjudicative authority, these implementation limitations constrain its capacity to provide effective legal protection.⁷⁰ In contrast, TTPM,

⁶⁷ Rahman.

⁶⁸ Muhammad Sabir Rahman and Corresponding Author, 'A Comparative Study of Fair Online Buying and Selling Regulations: A Legal Comparison Between Indonesia, Malaysia, and Singapore', *SASI*, 30.2 (2024), 157–68 <https://doi.org/10.47268/sasi.v30i2.2021>

⁶⁹ Al Sentot Sudarwanto and Dona Budi Budi Kharisma, 'Comparative Study of Personal Data Protection Regulations in Indonesia, Hong Kong and Malaysia', *Journal of Financial Crime*, 29.4 (2021), 1443–57 <https://doi.org/https://doi.org/10.1108/JFC-09-2021-0193>

⁷⁰ Abdul Halim Barkatullah and Djumadi, 'Does Self-Regulation Provide Legal Protection and Security to e-Commerce Consumers?', *Electronic Commerce Research and Applications*, 30 (2018), 94–101 <https://doi.org/https://doi.org/10.1016/j.elerap.2018.05.008>

established under the Consumer Protection Act 1999, possesses a quasi-judicial character and greater authority.⁷¹ Tribunal decisions are final and binding and have the same legal force as court judgments. Enforcement of these decisions does not require approval from any other institution, and registration with the courts is solely for execution purposes without a re-examination of the merits of the case.⁷² The limitation of legal remedies against tribunal decisions strengthens legal certainty, enhances the efficiency of dispute resolution, and reinforces institutional authority within the consumer protection system.

Compared with other systems, the main difference lies in the finality and enforceability of decisions. The Indonesian model situates non-litigation dispute resolution within a framework that remains dependent on the general court system, whereas the Malaysian model grants the tribunal greater institutional autonomy.⁷³ As a result, the Malaysian system demonstrates higher levels of legal certainty, procedural efficiency, and effective consumer protection.⁷⁴ The normative implication of this comparison indicates that strengthening BPSK's authority, particularly by granting its decisions finality and direct executory power, represents a strategic measure to enhance the effectiveness of consumer protection in Indonesia.⁷⁵ Thus, although both institutions share the objective of providing a swift, low-cost dispute-resolution mechanism, the institutional design of TTPM reflects a consumer protection model that is more consistent with the principles of legal certainty and the effective enforcement of consumer rights.

The consumer dispute resolution model in Malaysia demonstrates strengthened legal certainty and the enforceability of decisions through a tribunal mechanism that is administratively integrated and vested with greater authority.⁷⁶ This comparison indicates that consumer protection effectiveness is determined not only by the existence of legal norms but also by institutional design, clarity of authority, and consistency of implementation. Accordingly, the comparative study between BPSK and TTPM highlights the importance of strengthening the regulatory and institutional framework. This is essential for creating an effective consumer protection system that adapts to developments in the digital economy and provides legal certainty for all parties involved.

3.3. Reforms for Consumer Dispute Resolution in Indonesia

One important reference for reform is the Malaysian consumer dispute resolution model through TTPM. The Tribunal demonstrates strong institutional characteristics through final, binding, and directly enforceable decisions.⁷⁷ The limitation of legal remedies against tribunal decisions reinforces legal certainty and enhances the efficiency of dispute

⁷¹ Nur Amira Hidayah Razali, Wan Rosalili Wan Rosli, and Mohd Bahrin Othman, 'The Legal Protection of E-Consumers Against E-Commerce Fraud in Malaysia', *Malaysian Journal of Social Sciences and Humanities (MJSSH)*, 7.9 (2022), e001778–e001778 <https://doi.org/10.47405/MJSSH.V7I9.1778>

⁷² Thorique Akbar Nasution, 'E-Commerce in Malaysia From Law Perspective', *Mahadi*, 2.1 (2023), 11–15 <https://doi.org/10.32734/MAH.V2I1.11380>

⁷³ Badruzaman.

⁷⁴ Sinta Wulansari and Anak Agung Angga Primantari, 'Tinjauan Yuridis Perlindungan Hukum Kepada Konsumen Dalam Transaksi Elektronik Berdasarkan Hukum Perlindungan Konsumen', *Jurnal Media Akademik (JMA)*, 3.10 (2025), 3031–5220 <https://doi.org/10.62281/20J4D932>

⁷⁵ Ananda Fadil Rasya Saputra, Aqila Judya Shafwa, and Rohmatul Umam, 'Analisis Efektivitas Penerapan Undang-Undang Perlindungan Konsumen (Uupk) Dalam Transaksi E-Commerce Di Indonesia', *Media Riset Bisnis Ekonomi Sains Dan Terapan*, 3.2 (2025), 17–26 <https://doi.org/10.71312/MRBEST.V3I2.303>

⁷⁶ Norma Sari, 'Consumer Dispute Settlement: A Comparative Study on Indonesian and Malaysian Law', *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)*, 5.1 (2025), 6 <https://doi.org/https://doi.org/10.22304/pjih.v5n1.a6>

⁷⁷ Ibtisam a.k.a Ilyana Ilias and others.

resolution. Moreover, the simple procedures, low costs, and access without mandatory legal representation reflect a system oriented toward substantive consumer protection.⁷⁸ Clear authority, administrative integration, and strong regulatory support make the Malaysian model an exemplary implementation of an effective alternative dispute resolution system.

Evaluations of national practices indicate that the main challenges are limited legal authority over decisions, institutional fragmentation, and unequal access to dispute-resolution mechanisms.⁷⁹ Therefore, system reform is not only normative in nature but also requires a reconstruction of institutional design and operational mechanisms. This reconstruction also requires a comprehensive strengthening of the consumer protection legal framework. Harmonisation of legislation is necessary to eliminate normative inconsistencies that affect legal certainty, particularly regarding the authority of decisions and enforcement mechanisms.⁸⁰ Furthermore, regulations concerning the responsibilities of business actors in digital transactions need to be clarified, including their obligation to comply with the decisions of dispute resolution institutions. Strengthening these norms must be accompanied by an effective law enforcement system through inter-agency coordination, administrative oversight, and the application of proportional and deterrent sanctions.⁸¹

BPSK can achieve the reconstruction of the legal framework for consumer dispute resolution through several normative measures. *First*, the status of BPSK decisions should be strengthened by making them final and binding, particularly for consumer disputes involving claims of a certain value.⁸² Eliminating or limiting legal remedies against BPSK decisions would expedite dispute resolution and provide legal certainty for consumers. *Second*, BPSK's executive authority should be strengthened by granting it the power to directly enforce its decisions without requiring approval from the District Court.⁸³ In this context, the courts would function solely as supervisory bodies for the enforcement of decisions, rather than as forums to re-examine the disputes. *Third*, the quasi-judicial character of BPSK should be affirmed, rather than viewing it merely as an administrative body.⁸⁴ This affirmation should be accompanied by enhanced human resource capacity within BPSK, clearer standard court procedures, and the utilisation of electronic systems for consumer dispute resolution. *Fourth*, the UUPK regulations should be updated to reflect developments in electronic transactions, granting BPSK the authority to specifically handle e-commerce disputes through online dispute resolution (ODR) mechanisms.⁸⁵ A

⁷⁸ Sukriono and others.

⁷⁹ Setiyono, Dinda Keumala, Ahmad Sabirin, and others, 'The Establishment of LAPS SJK in the Trajectory of History Viewed from the Politics of Indonesian Law', *Jurnal Hukum Novelty*, 15.1 (2024), 106–26 <https://doi.org/10.26555/novelty.v15i1.a28385>

⁸⁰ Zongda Wu and others, 'An Effective Approach for the Protection of User Commodity Viewing Privacy in E-Commerce Website', *Knowledge-Based Systems*, 220 (2021) <https://doi.org/10.1016/j.knosys.2021.106952>

⁸¹ Ade Onny Siagian, Nurhidayati Nurhidayati, and Jaka Santosa, 'Developments in Business Dispute Resolution in the Digital Era', *International Journal of Social Science and Humanity*, 2.1 (2025), 01–06 <https://doi.org/10.62951/ijss.v2i1.162>

⁸² Amaresh Patel and others, 'Online Dispute Resolution Mechanism as an Effective Tool for Resolving Cross-Border Consumer Disputes in the Era of E-Commerce', *International Journal of Law and Management*, 2025 <https://doi.org/10.1108/IJLMA-07-2024-0245>

⁸³ Masferisa, Sadino, and Hidayat.

⁸⁴ Laura Aade, 'The Regulation of Social Media Commerce under the DSA: A Consumer Protection Perspective', *Computer Law & Security Review*, 59 (2025), 106181 <https://doi.org/10.1016/j.clsr.2025.106181>

⁸⁵ Fista, Aris Machmud, dan Suartini.

detailed reconstruction of the BPSK consumer dispute resolution law is presented in Table 4:

Table 4. Reconstruction of consumer dispute resolution law by BPSK

No	Article of UUPK	Main Issue	Direction of Reconstruction
1	Article 45	Dualism of dispute forums	Affirmation of BPSK as the main non-litigation forum
2	Article 49	Institutional status of BPSK	Affirmation of BPSK as a Quasi judicial body
3	Article 52	Arbitration Authority	Final and binding decision
4	Article 54	Objection Efforts	Limitation/removal of appeal
5	Article 56	Execution of the Decision	Direct Executorial Power

Processed by the Authors

The formulation of the proposed provisions (*ius constituendum*) represents a normative legal reconstruction of consumer dispute resolution under UUPK, with particular emphasis on strengthening the institutional role of BPSK. As reflected in Table 4, this reconstruction is intended to address structural ambiguities and normative inconsistencies that have undermined the effectiveness, authority, and legal certainty of BPSK decisions within the existing regulatory framework.

Regarding Article 45 of the UUPK, the current regulation recognises the right of aggrieved consumers to bring claims against business actors through both judicial and non-judicial mechanisms. This dual track model affirms access to justice by allowing consumers to choose between litigation in the general courts and alternative dispute resolution through institutions such as BPSK.⁸⁶ The provision further stipulates that the choice of dispute-resolution forum must be voluntary and free of coercion, reflecting the principles of contractual freedom and procedural fairness.⁸⁷ At the same time, it clarifies that dispute resolution through out of court civil mechanisms does not preclude criminal liability where the elements of a criminal offense are met.⁸⁸ However, the continued open access to the courts following non-litigation processes has resulted in overlapping authority and weakened the finality of BPSK decisions. Therefore, the reconstructed formulation of Article 45 positions BPSK as the primary forum for out of court consumer dispute resolution, while limiting litigation avenues to situations where resolution through BPSK proves unsuccessful.⁸⁹ This reconstruction emphasises speed, simplicity, and low cost as guiding principles, while also aiming to eliminate institutional dualism and enhance legal certainty.

⁸⁶ Alfis Setyawan and Bella Wijaya, 'Perlindungan Konsumen Dalam Transaksi E-Commerce Ditinjau Dari Undang-Undang Perlindungan Konsumen', *Jurnal Tinjauan Yudisial*, 19.2 (2018), 46–70 <https://doi.org/10.37253/jjr.v19i2.290>

⁸⁷ Musleh Herry and Meisy Fajarani, 'The Problems Of International Civil Law Of Indonesia In Protecting Transnational E-Commerce Consumers', *Jurnal IUS Kajian Hukum Dan Keadilan*, 10.3 (2022), 620–30 <https://doi.org/10.29303/ius.v10i3.1042>

⁸⁸ Aan Handriani, 'Perlindungan Konsumen Dalam Perjanjian Transaksi Jual Beli Online', *Pamulang Law Review*, 3.2 (2020), 127 <https://doi.org/10.32493/palrev.v3i2.7989>

⁸⁹ Khalish Aunur Rahim and others, 'Perlindungan Hukum Bagi Konsumen Dalam Transaksi Jual Beli-Online (E-Commerce)', *Jurnal Hukum Dan Sosial Politik*, 1.3 (2023), 178–88 <https://doi.org/10.59581/jhsp-widyakarya.v1i3.607>

Article 49 of the UUPK regulates the establishment, composition, and organisational framework of BPSK.⁹⁰ Although the provision formally mandates the government to establish BPSK at the regional level and defines its membership structure, the explanatory section fails to provide adequate interpretative guidance on the agency's legal nature and institutional status. This shortcoming creates uncertainty about BPSK's position within the dispute-resolution system.⁹¹ The reconstructed version of Article 49 explicitly affirms BPSK as an independent quasi-judicial institution established at the district or city level. It further emphasises institutional independence by stipulating that BPSK exercises its authority free from interference by any party. This reconstruction is designed to clarify BPSK's legal status and strengthen its legitimacy as an out-of-court adjudicative body.⁹²

The reconstruction of Article 52 addresses the scope and legal implications of BPSK's authority. Under the current provisions, BPSK is endowed with broad powers resembling judicial functions, including dispute resolution through mediation, conciliation, and arbitration, oversight of standard contract clauses, assessment of consumer losses, and the imposition of administrative sanctions.⁹³ Despite this broad mandate, the UUPK does not explicitly recognise BPSK as a quasi-judicial body. This leads to uncertainty regarding procedural standards, inconsistent judicial treatment of BPSK decisions, and ambiguity regarding principles of independence and impartiality. In addition, overlapping authority between BPSK and the District Courts has emerged, particularly concerning the assessment of damages and the coercive effect of decisions.⁹⁴ The reconstructed Article 52 clarifies that BPSK decisions are final, binding, and carry the same legal force as court judgments. This reformulation is intended to ensure the finality of decisions and eliminate institutional overlaps that undermine BPSK's authority.

Article 54 of the UUPK concerns legal remedies and the enforceability of BPSK decisions. Although paragraph (1) states that the decisions are final and binding, subsequent provisions require enforcement through the District Court and delegate execution procedures to the Supreme Court regulations. This structure creates a normative contradiction, as decisions that are theoretically final lack direct executory power and remain dependent on judicial intervention. In practice, this dependence has led to delays, increased costs, and repeated substantive review by the courts, thereby undermining the advantages of alternative dispute resolution. The reconstructed Article 54 eliminates appeal and cassation mechanisms and limits objections solely to procedural violations, without suspending execution. This approach aims to prevent repeated dispute examinations and strengthen legal certainty.

Similar contradiction arises in Article 56 of the UUPK, which explicitly allows objections and cassation against BPSK decisions, thereby directly undermining the

⁹⁰ Muhammad Reza, Slamet Riyanto Anwar, and Muhammad Fahrudin, 'Perlindungan Hukum Terhadap Konsumen Dalam Transaksi E-Commerce (Studi Kasus E-Commerce Pada Media Sosial Instagram)', *Jurnal Hukum Jurisdiction*, 3.2 (2021), 99–110 <https://doi.org/10.34005/jhj.v3i2.46>

⁹¹ Lauren I. Labrecque dan lainnya, 'Ketika Keamanan Data Salah: Memeriksa Dampak Stres, Pelanggaran Kontrak Sosial, dan Jenis Data pada Respons Koping Konsumen Setelah Pelanggaran Data', *Jurnal Riset Bisnis*, 135 (2021), 559–71 <https://doi.org/10.1016/j.jbusres.2021.06.054>

⁹² Ilfa Luthfia Hidayah dan lain-lain, 'Perlindungan Hukum Bagi Konsumen Dalam Transaksi Jual Beli Online: Perspektif Hukum Perdata', *Jurnal Ilmu Sosial (JoSS)*, 4.5 (2025) <https://doi.org/10.57185/joss.v4i5.451>

⁹³ Laura Aade, 'Regulasi Perdagangan Media Sosial di bawah DSA: Perspektif Perlindungan Konsumen', *Tinjauan Hukum & Keamanan Komputer*, 59 (2025), 106181 <https://doi.org/10.1016/j.clsr.2025.106181>

⁹⁴ Ghozali dan Hardyanthi.

principle of finality articulated in Article 54. From a legal-theoretical perspective, this inconsistency violates the principle of legal certainty (*rechtszekerheid*) and undermines the binding force of BPSK decisions.⁹⁵ The reconstructed Article 56 affirms that BPSK decisions possess direct executory power and can be enforced immediately, with court involvement limited solely to execution without re-examining the merits. This reconstruction aims to ensure the effectiveness and uniform implementation of BPSK decisions across all jurisdictions.

The reconstruction of Articles 45, 49, 52, 54, and 56 of the UUPK constitutes a fundamental legal reform aimed at consolidating BPSK's role as an effective, independent, and authoritative consumer dispute resolution body. Without this reconstruction, BPSK would continue to operate under limited authority and normative ambiguity, thereby undermining legal certainty and reducing the overall effectiveness of consumer protection in Indonesia. Accordingly, reforming consumer dispute resolution in Indonesia requires a comprehensive approach encompassing the strengthening of legal norms, the redesign of institutional structures, and the enhancement of access to dispute-resolution mechanisms. Lessons drawn from the Malaysian model indicate that legal certainty, decision finality, and enforcement effectiveness are key prerequisites for a well-functioning consumer protection system. Strengthening the role of alternative dispute resolution mechanisms, coupled with improved access to justice and consistent law enforcement, constitutes a strategic measure to achieve fair, effective, and responsive consumer protection in the evolving digital economy.

4. Conclusion

The principal weakness of the consumer dispute resolution system in Indonesia stems from the ambiguity surrounding the institutional status, authority, and finality of BPSK decisions, which generates normative uncertainty and produces only a semblance of finality in practice. The regulatory framework of the Consumer Protection Act (UUPK), which positions BPSK between an administrative body and a quasi-judicial institution while simultaneously allowing objections to be submitted to the general courts, has prolonged the dispute resolution process, weakened legal certainty, and diminished the effectiveness of consumer protection. In contrast to the Malaysian consumer tribunal model, characterised by clearly defined authority, simplified procedures, and limitations on legal remedies, the national system continues to demonstrate structural dependence on the general judiciary. Accordingly, the reconstruction of Articles 45, 49, 52, 54, and 56 of the UUPK constitutes a fundamental necessity to strengthen the system both normatively and institutionally. Reform must affirm BPSK as an independent quasi-judicial institution, establish its decisions as final and binding with direct executorial force, and restrict legal remedies in a manner that does not disadvantage consumers as the weaker party. Such strengthening should be accompanied by procedural simplification, the utilisation of technology in digital dispute resolution, and a more focused allocation of authority toward adjudicative functions. In this regard, the reform of the UUPK is directed not merely at resolving normative inconsistencies, but also at constructing a consumer dispute resolution system that is effective, expeditious, cost-efficient, and capable of providing genuine legal certainty for the public.

⁹⁵ Prakoso, Sujana, dan Suryani.

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