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Optimizing the Supervisory Role of the Consumer Dispute Settlement Agency in E-Commerce Transactions Concerning Consumer Losses Haezer Josuo Tio Marpaung¹,

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Jakarta Article Info ABSTRACT Article history: Received 2025-12-04 Revised

2025-12-18 Accepted 2025-12-20 The rapid development of digital technology has shifted

the conventional trading paradigm into e-commerce transactions, which, despite offering efficiency, are highly prone to causing complex disputes between consumers and business

actors. To address these potential losses, Law Number 8 of 1999 concerning Consumer

Protection mandates the establishment of the Consumer Disputes Settlement Body

(BPSK) as an institution tasked with supervising and resolving disputes outside the court to

ensure legal certainty. This research employs a juridical-empirical method, drawing on

statutory and conceptual approaches. The results indicate that optimizing BPSK's role as a

supervisor faces significant structural obstacles due to the centralization of authority at the

provincial level following the enactment of the Local Government Law, as well as the

absence of technical guidelines for standard clause supervision, which leads to

overlapping functions with trade agencies. In the specific context of e-commerce, BPSK's

supervision tends to be reactive on the downstream side, acting only after complaints are

lodged, while upstream electronic system supervision remains under the Ministry of

Trade's control. Regarding the restoration of rights, BPSK has proven effective in

adjudicating measurable material damages, such as refunds or product replacements,

through conciliation, mediation, or arbitration. However, BPSK has significant limitations in

addressing immaterial losses due to the difficulty of measuring psychological damage

parameters and the weak executory power of its decisions, which often fail when

challenged in district court, making the effectiveness of consumer protection currently

highly dependent on active consumer participation and voluntary business compliance.

Keywords: BPSK Compensation Consumer Protection E-Commerce Supervision This is an open-access article under the CC BY-SA license. Corresponding Author: Haezer Josuo Tio Marpaung Universitas Pembangunan Nasional Veteran Jakarta Email: 2210611385@mahasiswa.upnvj.ac.id 1. INTRODUCTION Since ancient kingdoms, Indonesia has been recognized as a locus for the development of trade systems for basic necessities. History dictates that a sale and purchase

<https://doi.org/10.58421/misro.v4i4.893> 1406 transaction is an agreement between two parties to acquire a good through the exchange of an identical or equivalent item [1]. In Indonesian history, sale and purchase agreements were initially conducted through a barter system—the exchange of one good for another of equivalent value. This barter system shifted the mindset of ancient society, evolving from the exchange of goods to exchange based on nominal value, or what is currently known as money [2]. In the Reformation Era, money represented a nominal value of significant importance within sale and purchase agreements between parties [3]. The progression of the Reformation Era has had an impact on human technological life, characterized by ease and speed. Rapid developments in digital technology have shifted the paradigm of trade exchanges. This evolution began with conventional, traditional trading and has now transitioned to online platforms that are easily accessible, swift, and convenient [4]. Ecommerce is the tangible manifestation of the digital revolution, facilitating ease for both business actors and consumers. However, behind the efficiency and effectiveness of available E-commerce platforms lies a vulnerability and potential for disputes between consumers and business actors. Consumers are defined as a group of individuals who utilize goods or services received or purchased pursuant to an agreement, explicitly referring to sale and purchase agreements on platforms within the context of this writing. Consumers are not merely buyers; they are individuals or business entities that utilize said goods and/or services. Frequently, the consumer's voice is neglected or goes unheard in economic decisions made by the government or by private-sector actors in these trade agreements [5].

According to Article 1 of the Law Number 8 of 1999 concerning Consumer Protection ("Consumer Protection Law"), Consumer Protection encompasses all efforts that guarantee legal certainty to provide security to every person utilizing goods and/or services provided by business actors [6]. Consumers frequently face issues such as goods not conforming to orders, fraud, delays in delivery or service, personal data breaches, and difficulties with the refund process on existing E-commerce platforms [7]. The losses sustained by consumers are not solely pecuniary (material) but also encompass non-pecuniary (psychological) losses, which erode consumer trust in E-commerce platforms, leading them to refrain from conducting transactions online [8]. The problems currently faced are no longer limited to how consumers select products; they have evolved into more complex issues involving the level of awareness among all parties, including business actors, the government, and consumers themselves, regarding the urgency of consumer protection [9]. Conversely, many business actors remain not fully cognizant of their obligations to respect consumer rights, such as producing goods and services that are of high quality, safe for use, compliant with applicable standards, and offered at fair prices. In the context of consumer protection, regulations exist to protect or limit conditions experienced between business actors, intermediary bodies, and consumers, as enshrined in Law Number 8 of 1999 concerning Consumer Protection (UUPK) [10]. The Consumer Protection Law mandates a mechanism for resolving disputes between business actors and consumers out of court through the Consumer Dispute Settlement Agency (Badan

<https://doi.org/10.58421/misro.v4i4.893> 1407 Penyelesaian Sengketa Konsumen or "BPSK"). Article 45 of the Consumer Protection Law states: "Every aggrieved consumer may sue a business actor through an institution tasked with settling disputes between consumers and business actors or through the courts within the general court environment" [11]. Outside the court system (non-litigation), Article 52 of the Consumer Protection Law Number 8 of 1999 and the Decree of the Minister of Industry and Trade Number 350/MPP/Kep/12/2001 concerning the Implementation of Duties and Authorities establish a

non-governmental institution known as the Consumer Dispute Settlement Agency (BPSK). This agency ¹ functions as a tribunal for conciliation, mediation, and arbitration, as well as a supervisor of the implementation of sale and purchase agreements between business actors and consumers. Despite its advantages, BPSK is often viewed merely as a non-litigation judicial body. In reality, BPSK possesses the capacity to intervene in the policies of business actors that are detrimental to complaining consumers. Data from the Financial Services Authority (Otoritas Jasa Keuangan, or OJK) indicates that consumer losses from illegal fraudulent acts by business actors reached IDR 2.5 trillion, based on 155,000 complaints between 2022 and the first quarter of 2024 [12]. Furthermore, data on losses received from consumer complaints regarding Trade Through Electronic Systems (Perdagangan Melalui Sistem Elektronik or PMSE) reached IDR 202.6 billion from January to July 2024, according to the National Consumer Protection Agency (Badan Perlindungan Konsumen Nasional or BPKN). This underscores the necessity of BPSK's authority, which should resolve consumer protection disputes by collaborating with business actors, investigators, consumers, and the litigation courts, commencing at the District Court. Every research endeavor requires a review of prior research to identify differences, similarities, and findings, thereby establishing differentiation and research gaps. The first is research conducted by Agustinus Samosir titled "Penyelesaian Sengketa Konsumen yang Dilakukan Badan Penyelesaian Perlindungan Konsumen". Generally discusses formal procedural ¹ law and the dispute resolution process at the Consumer Protection Settlement Agency. The results indicate that out-of-court consumer dispute resolution can be conducted through BPSK, as stipulated in Articles 49 to 58 of the Consumer Protection Law. BPSK is authorized to conduct mediation, arbitration, and conciliation to prevent the recurrence of consumer losses and to reach agreements regarding the form and amount of compensation [13]. The weakness noted is that, as a mediator, BPSK is limited to answering questions from parties involved ¹ in consumer protection matters. BPSK is not part of the judicial power (kekuasaan kehakiman) and thus lacks strong executory authority; BPSK decisions can only be implemented if one of the parties voluntarily

complies. The second study is research written by Rida Ista Sitepu and Hana Muhamad titled "Efektifitas **Badan Penyelesaian Sengketa Konsumen (BPSK)** sebagai Lembaga **Penyelesaian Sengketa Konsumen** di Indonesia". The results of this study indicate that BPSK, as an Auxiliary State Institution, **serves as a** quasi-judicial body authorized to **resolve disputes** through conciliation, mediation, and arbitration. From a legal perspective, **the regulation of** BPSK remains ineffective because **the provisions of the Regulation of the Minister of** Trade Number 06/MDAG/PER/2017 render BPSK incapable of resolving

<https://doi.org/10.58421/misro.v4i4.893> 1408 consumer disputes [14]. In its authority, BPSK lacks the effective and active capability to act because it must first request approval (fiat) for its decisions from the District Court. The third and final research reference for **1** **this study is** written by Riris Nisantika and Ni Luh Putu Egi Santika Maharani titled "Penyelesaian Sengketa Konsumen Oleh **Badan Penyelesaian Sengketa Konsumen (BPSK)**". This research concludes that **dispute resolution in consumer protection is** regulated by **Law No. 8 of 1999 concerning Consumer Protection, which** governs two pathways: within the court and **out of court** (negotiation, conciliation, mediation, arbitration). BPSK, **2** **as a dispute resolution body, is domiciled in the** provincial capital. Consumer settlement at BPSK is found in Article 15 **paragraph 1 of the Decree of the Minister of Industry and Trade of the Republic of Indonesia No. 1** **350/MPP/Kep/12/2001 concerning the implementation of duties and authorities of BPSK, which states that** consumers or **business actors who** feel their rights have been infringed may apply oral or written form regarding **consumer dispute resolution to the BPSK secretariat** [15]. **Based on the** referenced research above, this study differs from the three previous studies. This study explicitly examines and discusses **the role of the Consumer Disputes Settlement Commission as a supervisor in activities between business actors and consumers.** This research focuses not only on the weaknesses **of the Consumer Disputes Settlement Agency's duties and functions but also on the potential of BPSK's strengths as a consumer protection** supervisory body. The focus lies on the normative advantages of

BPSK, while simultaneously expanding the academic scope of its responsibility as a legitimate body for consumer protection supervision. The optimization of the supervisory role possessed by BPSK is a distinct advantage **1** of the consumer protection institution. This aligns with the functions and duties of BPSK itself, as listed in the Decree of the Minister of Industry and Trade Number 350/MPP/Kep/12/2001 concerning the Implementation of Duties and Authorities of the Consumer Dispute Settlement Agency. This becomes urgent when considering the characteristics of e-commerce transactions, which have a broad territorial reach, high volume, and the anonymity of business actors scattered across various regions. BPSK plays a crucial role as a supervisor of electronic consumer trade practices that are detrimental to consumers and/or other business entities utilizing goods or services [13]. Unfortunately, while BPSK possesses strong normative authority to act as a supervisor, request assistance from investigators, examine standard clauses, and adjudicate losses suffered by consumers due to violations by business actors, this potential is often underutilized. **1** Based on the explanation of the background presented above, the problem formulation in this research is as follows: 1) how are efforts to optimize the role of the consumer protection supervisory body applied by BPSK?; and 2) how are the roles and obligations of BPSK in protecting consumers regarding both material and non-material losses? **2. METHOD** The method used as the analytical tool in this research is empirical juridical, with a statutory and a conceptual approach. These approaches aim to understand, evaluate, and seek solutions to every consumer inquiry regarding their losses [16]. This is achieved by using

<https://doi.org/10.58421/misro.v4i4.893> 1409 qualitative research, with interview questions aligned with the title and issues. The primary focus **8** is on the empirical analysis of the policy, functions, authority, and responsibilities of BPSK, conducted through interviews with the relevant Consumer Disputes Settlement Agency. This research does not focus on general courts or on **1** consumer dispute resolution through them. Interviews are also conducted to support secondary data and strengthen the research arguments

presented in this study. 3. RESULTS AND DISCUSSION 3.1. Efforts to Optimize the Role of the Consumer Protection Supervisory Body Applied by BPSK The role of the National Consumer Protection Agency (Badan Perlindungan Konsumen Nasional, or BPKN) as a supervisory body is strategic within the consumer protection legal ecosystem, ensuring that state policies are implemented effectively and equitably. 1 In accordance with the mandate of Law Number 8 of 1999, this institution was established to assist in the development of consumer protection, with the primary function of providing direct advice and considerations to the President of the Republic of Indonesia [6]. The supervisory function exercised is not merely administrative but also encompasses in-depth research into applicable laws and regulations to ensure their continued relevance to market dynamics. BPKN actively conducts surveys and assessments of evolving consumer needs to prevent an inequality of bargaining power between business actors and the public [13]. Furthermore, this agency is tasked with supervising the implementation of consumer protection conducted by relevant government agencies and Non-Governmental Consumer Protection Institutions (Lembaga Perlindungan Konsumen Swadaya Masyarakat or LPKSM) throughout Indonesia [17]. Through the resulting policy recommendations, BPKN strives to create a healthy business climate while simultaneously guaranteeing legal certainty for consumers, preventing them from becoming objects of market exploitation. Its existence serves as a fundamental pillar bridging the gap between normative regulations and the empirical reality faced by consumers in the field. The legal protection theory posited by Philipus M. Hadjon divides mechanisms for protecting the people into two main forms: preventive legal protection, aimed at preventing disputes; and repressive legal protection, aimed at resolving disputes that have already occurred [11]. 1 In the context of consumer protection, the preventive aspect manifests in regulations mandating honest product information, whereas the repressive aspect is reflected in dispute-resolution bodies such as courts or the BPSK. This view aligns with natural law theory, which emphasizes that law must be sourced from principles of universal justice and morality inherent in human nature since birth [5]. 7 Natural law theory views consumer protection not merely

as state rules, but **as a manifestation of human rights** to be treated fairly and not defrauded **in the pursuit of** life [18]. The integration of these two lines of thought asserts that legal protection must be capable of preventing arbitrariness **1 by business actors who** possess greater economic power than individual consumers. Justice, from a natural law perspective, demands that **the dignity of consumers who have** suffered losses be restored through positive legal instruments that are repressive and restorative in nature [19]. Thus,

<https://doi.org/10.58421/misro.v4i4.893> 1410 the law becomes not merely a dead text, but an ethical instrument guaranteeing substantial balance and justice for all transacting parties. **1 The concept of consumer protection,** as regulated under **Law Number 8 of 1999,** is designed as an integrative legal umbrella **to empower consumers who have** historically been **in a weak** bargaining position vis-à-vis business actors [20]. This law lays a strong philosophical foundation by upholding **the principles of** benefit, justice, balance, **and consumer safety, as well as legal certainty in** every national economic transaction. In essence, this regulation outlines **the rights and obligations of consumers and business actors to** foster an orderly, honest, and responsible trading environment [21]. The core concept is to shift the old caveat emptor ("let the buyer beware") paradigm to the absolute liability **of business actors to guarantee the quality of goods and services** traded in the market. This law also emphasizes **the importance of** product information disclosure as a fundamental consumer right **so that the** public is not entrapped in practices of manipulation, fraud, or misleading information. Beyond the preventive aspect, this concept encompasses a mechanism for restoring rights through clear, measurable compensation if consumers experience losses **from the use of** such products. Ultimately, **the objective of this** law is to elevate **the dignity of consumers and** foster **business actors with** integrity for the overall welfare **of the national economy** [22]. **The presence of the Consumer Disputes Settlement Agency (BPSK) is** a tangible manifestation of the mandate **of Law Number 8 of 1999 to protect the interests of consumers** suffering concrete losses through a dispute-resolution mechanism that is fast, low-cost, and simple [23]. **2 BPSK functions as a small-**

claims court, providing access to justice for the public through three main resolution methods: conciliation, mediation, and arbitration. The institutional strengthening of BPSK is reinforced by the Regulation of the Minister of Trade Number 72 of 2020, which reorganizes the body's working procedures and membership to make it more professional and accountable in handling complaints [24]. Under this regulation, BPSK is granted special authority to adjudicate civil consumer disputes and determine forms of compensation for actual losses suffered by consumers due to the fault of business actors.

¹ In addition to its judicial functions, BPSK also plays an active role in supervising standard clauses to prevent unilateral agreements that frequently prejudice consumer rights from the inception of the transaction [25]. The existence of this institution serves as a final bastion for consumers on the non-litigation path to restore their rights without having to undergo complicated and expensive district court procedures. The synergy between the Consumer Protection Law and this Ministerial Regulation ensures that state protection is available in a tangible, solution-oriented, and executable manner to every aggrieved individual. Furthermore, the researcher conducted interviews with sources from ¹ the Consumer Dispute Settlement Agency. Initially, the interview opened with an in-depth discussion of the Consumer Disputes Settlement Agency (BPSK) 's position within the government structure and the evolution of its legal basis. Historically, ² the formation and appointment of BPSK members were of high urgency, as they were carried out directly by the President, with administrative mechanisms subsequently revised by the Regulation of the Minister of Trade (Permendag) Number 72. However, the source highlighted that ¹ the most significant

<https://doi.org/10.58421/misro.v4i4.893> 1411 and fundamental structural change occurred after the enactment of Law Number 23 of 2014 concerning Regional Government. This law drastically altered the map ² of consumer protection authority by withdrawing the mandate previously held at the Regency/City level and transferring it to the Provincial level. The juridical and administrative implications of this regulation led ¹ to the management of

BPSK, previously scattered across every Regency/City, being centralized under the Provincial government. A specific exception occurs in the DKI Jakarta region, which has only one BPSK body at the provincial level, without branches in the administrative cities. This shift in authority reflects an effort toward centralized supervision but simultaneously presents new challenges regarding the accessibility of services for consumers in the regions. The source asserted that understanding this legal history is vital to comprehending why the current BPSK structure operates under a provincially centralized model. Regarding the institution's substantial functions, the source outlined three main duties and authorities of BPSK as explicitly mandated in the Consumer Protection Law (UUPK). The primary task serving as the core business of this institution is to implement consumer dispute resolution through out-of-court or non-litigation channels that prioritize the principles of speed, low cost, and simplicity. Beyond this quasi-judicial function, BPSK also holds a crucial preventive authority: supervising the inclusion of standard clauses in business actor agreement documents. This supervision aims to prevent the use of exoneration clauses or the transfer of responsibility that disadvantages the consumer's bargaining position in transactions. Furthermore, BPSK has limited investigative authority to refer matters to general investigators if strong indications of criminal acts involving consumer protection are found during the process. These three pillars of authority are designed to create a holistic consumer protection ecosystem, ranging from prevention through contract supervision to dispute enforcement. The source emphasized that this role requires BPSK not merely to serve as a passive arbitrator, but also to act as an observant supervisor regarding potential legal violations. Overall, the mandate of the UUPK places BPSK at the forefront of maintaining the balance between the rights and obligations of business actors and consumers. Despite possessing a supervisory mandate, the discussion revealed significant operational obstacles to BPSK's implementation of standard clause supervision duties in the field. The source identified that the main constraint on this function's effectiveness is a regulatory vacuum regarding technical details, specifically the absence of standardized Technical Guidelines (Petunjuk Teknis or

Juknis). To date, no comprehensive written rules regarding methods, procedures, and standard operating procedures are available **2** for BPSK members for conducting audits or supervising standard clauses. **1** The absence of these guidelines renders supervision implementation suboptimal because officers lack a clear, measurable framework for assessing a violation. This condition is exacerbated by overlapping authority with the supervisory functions also **2** carried out by the local Trade Agency. Without clear task demarcation, jurisdictional confusion, or even negligence in supervision, frequently occurs because each agency feels **1** it is not its primary domain. From the perspective of state administrative law, the absence of these implementing regulations constitutes a serious legal loophole that weakens the enforcement of Article 18 of the UUPK,

<https://doi.org/10.58421/misro.v4i4.893> 1412 which prohibits standard clauses.

The source concluded that the urgency of issuing Juknis is absolute to ensure the authority granted by the law can be executed in reality. The interview then shifted to the complexity of the challenges BPSK faces in handling disputes and supervising the digital economy [22], particularly in marketplaces and e-commerce. The source explained **6** that in this digital ecosystem, BPSK plays a more downstream role, acting reactively to handle cases only after a consumer lodges an official complaint. Meanwhile, the upstream supervision function regarding electronic systems is entirely under the control **1** of the Ministry of Trade, specifically the Directorate of Commerce Order and the Directorate of Supervision of Circulating Goods and Services. The mechanism for handling digital disputes relies heavily on cross-sectoral coordination tailored to the type of commodity at issue. If the dispute involves drug and food products, BPSK must coordinate with BPOM **1** (Food and Drug Supervisory Agency), whereas for general trade commodities, coordination is directed to the Trade Agency or the Ministry of Trade. However, the source highlighted structural challenges, including **2** the lack of integrated data on complaints in a single window (single data) between BPSK, YLKI (Indonesian Consumers Foundation), and the government. This data fragmentation complicates the national mapping of consumer

problems and slows policy responses to digital fraud trends. Therefore, synergy and data integration remain key issues ¹ that have not been fully resolved in current digital consumer protection. To strengthen upstream supervision, a reorientation of licensing policy is required, requiring every digital platform, whether domestic or foreign, to have a clear physical presence through the establishment of a Permanent Establishment (Bentuk Usaha Tetap or BUT) prior to operation. Learning from the phenomenon of global digital service providers (over-the-top) that often lack physical offices in the jurisdictions where they operate, ¹ the absence of a clear legal domicile complicates legal enforcement in the event of a dispute. Without a physical presence or BUT, foreign e-commerce platforms become 'untouchable' by national law, leaving the state without the coercive power to issue summonses or seize assets if consumer rights violations occur. Therefore, upstream supervision ¹ must not be limited to mere electronic system registration but must encompass physical legality requirements allowing BPSK or relevant authorities to conduct tangible enforcement (presence requirement for liability). When probing into execution capabilities in the digital realm, the source acknowledged that BPSK has limited jurisdiction to crack down on violations on digital platforms directly. ¹ This is due to BPSK's institutional characteristic of passivity, in which the institution moves solely on incoming reports and is not designed for cyber patrols. BPSK is not a pure executor institution with the authority to freeze assets like the Financial Services Authority (OJK), which can do so instantly. If a violation by a digital merchant is found during the dispute resolution process, the maximum step BPSK can take is to report or coordinate with a more authorized authority. ¹ The Ministry of Trade has the authority to block access or take firm action against rogue merchants. This bureaucratic structure indicates that a single institution cannot resolve consumer protection issues in cyberspace and that a long chain of command is required. Dependence on other agencies often makes enforcement responses feel slow to consumers who desire instant solutions. The source emphasized that

not an "internet police" capable of direct coercive action. Although BPSK ⁶ is not a cyber executor institution, ^{the effectiveness of} law enforcement relies heavily on the accessibility of digital data controlled by platforms (intermediary liability). Within the investigation framework, both the Police and BPSK, through investigator assistance, absolutely require lawful interception ¹ access to the 'kitchen' of data ^{of the disputing} e-commerce platform. This becomes a challenge because platforms often hide behind privacy policies or user data confidentiality to obstruct authority access. Future regulations must require ¹ that, in ^{the context of consumer disputes} and alleged criminal acts involving consumer protection, platforms must grant law enforcement officials access to transaction logs, chat histories, and merchant identities. Without transparency of data compelled by law (compelled disclosure), proving the element of fault ^{of business actors in the digital} ecosystem will always hit a dead end. Regarding the restoration ^{of consumer rights, the} source detailed ^{the forms of} compensation that are valid ^{and can be} decided through the hearing mechanism at BPSK. Referring to ^{the legal basis} of Article 19 ^{of the Consumer Protection Law}, compensation that BPSK can process is limited to losses that are pecuniary (material) and economically measurable. The first and ¹⁷ ^{most common form of} ^{compensation is} a refund corresponding to the nominal amount paid by the consumer. The second option is to replace the goods with similar products or products of equivalent value if the purchased ² ^{goods are defective} or nonconforming. Furthermore, the law also allows for ^{the provision of} compensation (santunan) ^{as a form of} redress for losses experienced, provided it remains within a reasonable value corridor. If product use causes health disturbances, BPSK is also authorized to determine compensation for health care and treatment costs until recovery. This limitation on pecuniary damages aims ¹ ^{to} ^{maintain the} objectivity of the decision and ensure that the compensated loss is a real, provable loss. The source emphasized that this corridor is important so that BPSK remains focused on resolving concrete trade transaction disputes. The distinction in jurisdiction was further clarified when the source answered questions regarding ¹ ^{the possibility of} consumers claiming non-pecuniary (immaterial) damages, such as heartache or loss of

trust. It was explicitly stated that BPSK lacks the authority to process or grant such non-pecuniary compensation claims. This is because, in non-litigation dispute resolution paths like BPSK, it **1 is difficult to** establish objective benchmarks or valuation parameters for the consumer's subjective feelings. Non-pecuniary damages require complex proof and profound legal considerations, usually available only in the court realm. Therefore, the source strongly suggested that consumers seeking to claim psychological or reputational damages pursue litigation **2 in the District Court**. The court path possesses broader discretion to assess the immaterial impact of a tort (Perbuatan Melawan Hukum) committed by **1 a business actor**. This separation asserts **2 that BPSK is** designed for rapid dispute resolution focused on economic recovery, not psychological recovery. Consumers are **1 expected to be** wise in choosing the appropriate dispute resolution forum **based on the** type of loss they wish to claim. Analysis regarding **2 the effectiveness of** BPSK decisions reveals a distinct gap between the letter of the **law and the reality of law enforcement in the field**. Theoretically,

<https://doi.org/10.58421/misro.v4i4.893> 1414 **1 the UUPK states that** BPSK decisions are **final and binding**, implying that they should resolve the dispute. However, the source noted that such decisions are not final, **2 as business actors can file an objection with the District Court** within 14 days. This objection mechanism often nullifies BPSK decisions and forces consumers to re-enter a long and expensive judicial process. Another fundamental weakness highlighted is that BPSK possesses absolutely no executory power or coercive force to enforce its decisions. Unlike courts that have bailiffs, BPSK lacks state instruments to force recalcitrant business actors to pay compensation. Consequently, many BPSK decisions become mere "paper tigers" if there is no voluntary, good-faith compliance from the business actor. In closing, the interview discussed the phenomenon of thrifting, or the trade in imported used clothing, and its correlation with consumer protection rights. The source provided a firm legal view that imported thrift activities are categorized as the trade in illegal goods under the applicable Trade Law. The logical consequence of

the illegality of this transaction object is the nullification of **1 the consumer's right to** claim legal protection under **the Consumer Protection Law**. An absolute condition for the operation **of consumer protection law** is **the existence of** a lawful transaction (kausa yang halal) over an object that is legal according to state law. Therefore, if a consumer knowingly purchases smuggled or prohibited goods, such as imported used clothes, all **risk of loss** is borne **by the consumer**. BPSK cannot facilitate dispute resolution for such transactions because doing so would be tantamount to legitimizing acts prohibited by law. This statement serves as a stern warning that state protection does not apply to those transacting in the black or illegal market.

3.2. **1 The Role and Obligations of** BPSK in Protecting Consumers Regarding Material and Non-Material Losses

The Consumer Disputes **Settlement Agency (BPSK)** possesses crucial attributive authority, as mandated by Article 52 **of Law Number 8 of 1999 concerning** **2 Consumer Protection (UUPK)**, which grants it special **authority to handle and resolve consumer disputes** out of court **through conciliation, mediation, or arbitration** [26]. This authority is reaffirmed **3 in the Regulation of the Minister of Trade Number 72 of 2020 concerning the Consumer Dispute Settlement Agency**, which technically regulates the operationalization of such authority **so that the function of dispute resolution** that is fast, low-cost, and simple can be realized effectively **2 at the regency/city level** [27]. In performing its functions, BPSK acts not **only as a** passive adjudicator but also possesses active authority to summon **business actors suspected of** committing violations, summon witnesses and expert witnesses, and request assistance from police investigators if any party obstructs the trial process, **in accordance with** Article 52, **letters g and l, of the UUPK**. Additionally, BPSK's authority includes supervising **1 the inclusion of standard clauses in** transaction agreement documents, which is often the starting point of consumer **losses due to the** imbalance of bargaining power **between business actors and consumers**. An analysis of this authority indicates **2 that BPSK is** a quasi-judicial body with administrative-executive power to impose sanctions and determine compensation for aggrieved consumers. Therefore, **1 the existence of** this authority serves as the primary foundation for upholding distributive justice **for consumers**

who have historically been in a subordinate position relative to corporate actors.

<https://doi.org/10.58421/misro.v4i4.893> 1415 Furthermore, BPSK's authority to examine the truth of reports and statements from disputing parties, as regulated in Article 52, letter e, of the UUPK, demands the acuity of the panel in dissecting the legal facts and evidence submitted at the hearing [28]. 2 In the context of the Regulation of the Minister of Trade Number 72 of 2020, this authority is expanded to include more orderly administrative governance, with BPSK authorized to receive complaints both in writing and electronically, reflecting legal adaptation 10 to the development of information technology in consumer transactions. 2 The authority to obtain, research, and/or assess letters, documents, or other evidence for investigation and/or examination also provides space for BPSK to seek material truth, not merely formal truth, as in conventional civil procedural law [29]. On the other hand, BPSK also has 1 the authority to decide whether there is a loss on the consumer's part, which serves as the basis for determining the amount of compensation the business actor must bear, according to the principles of fault-based liability or strict liability in certain cases. The synergy between adjudication and supervisory authorities creates a checks-and-balances 3 mechanism in the market, allowing the behavior of business actors to be controlled both preventively and repressively. Thus, BPSK's authority is not limited to case-by-case dispute resolution but also contributes to 1 the creation of a healthy and legally orderly business climate. Normatively, BPSK bears an imperative obligation to provide tangible legal protection for consumers, which extends beyond dispute resolution to encompass efforts to restore injured consumer rights. This obligation is manifested in BPSK's duty to provide consumer protection consultations, as regulated in Article 52, letter b, of the UUPK, aiming to educate the public about their rights and obligations before a dispute escalates into a complex legal conflict [30]. BPSK is also obliged to try to decide consumer disputes within a very short time, namely, no later than 21 working days from the date the lawsuit is received, as strictly regulated in Article 55 of the UUPK, to guarantee legal certainty and avoid protracted processes. Under 2 the

Regulation of the Minister of Trade Number 72 of 2020, the administrative obligations of the BPSK secretariat are clarified to support the panel's performance, ensuring that every complaint is recorded, processed, and followed up in accordance with transparent, accountable service standards [30]. 1 The obligation to remain neutral and independent is also inherent in every BPSK panel member, given that the membership composition, consisting of government, consumer, and business actor elements, must be able to detach from sectoral interests for 6 the sake of objective justice. Furthermore, BPSK is obliged to report to the Indonesian National Police investigators if, during the dispute resolution process, indications 1 of criminal acts committed by business actors are found, thereby recognizing that consumer protection is not only civil but also criminal in nature. The subsequent obligation of BPSK is to ensure that every decision issued has legal force and is obeyed by the parties, as well as to supervise its execution for the restoration of consumer rights. If 2 the business actor does not execute the BPSK decision within the specified time limit, BPSK is obliged to hand over the decision file to the investigator for investigation as a criminal violation, in accordance with the provisions of Article 56 paragraph (2) jo. Article 57 of the UUPK [30]. This indicates that BPSK is responsible for escorting the case through execution, not merely deciding the case and passing responsibility

<https://doi.org/10.58421/misro.v4i4.893> 1416 after the decision is read. Within the framework of the Regulation of the Minister of Trade Number 72 of 2020, BPSK is also required to submit periodic performance reports to the Minister and relevant Agencies as a form of public accountability for the consumer protection mandate it carries out. 1 The obligation to facilitate consumers with limited legal access is also highlighted, requiring BPSK to ensure procedural proceedings remain easily understandable even to laypersons. An analysis of this obligation asserts that BPSK is the state's vanguard in embodying the constitutional mandate to protect the entire nation, particularly in economic and trade aspects. However, a fundamental weakness 1 in the implementation of said article is the

absence of an automatic post-decision monitoring mechanism. Ideally, BPSK should implement a proactive, or 'pick-up the ball' mechanism for active supervision of decision execution. Referring to the 7 (seven) day time limit mandated by law ¹ for business actors to implement the decision, BPSK should not wait for a re-report from the consumer if the deadline is violated. The BPSK administration system must include an alert system that automatically changes the case status to 'criminal investigation' if, within 7 days, ⁶ there is no evidence of the decision being implemented. Thus, the handover of files to police investigators becomes an automatic and binding institutional procedure, no longer a step dependent on the activity ¹ of consumers who are often psychologically exhausted. The shift from a passive to a proactive approach is crucial ³ to ensure the authority of BPSK decisions is not underestimated by business actors. ¹ Law Number 8 of 1999 concerning Consumer Protection conceptually tends toward repressive regulation, meaning legal protection focuses more on mitigating the impact after a loss has occurred to the consumer. This repressive concept is clearly evident in the dominance of articles regulating sanctions, whether administrative sanctions (Article 60), criminal sanctions (Articles 61-63), or compensation obligations (Article 19), all of which operate ex post facto, after the violation has occurred. Although the preventive aspect is regulated through labeling obligations, SNI standards, and ¹ the prohibition of standard clauses, law enforcement often only becomes effective when a complaint or dispute reaches BPSK or the courts. This repressive approach aims to deter business actors from repeating their actions and to serve as a warning to others. BPSK becomes the main instrument in this repressive scheme because it serves as an institution that resolves disputes that have occurred, not one that actively prevents disputes before transactions take place [31]. The weakness of an overly repressive approach is that consumers often have already suffered losses that are difficult to recover before the law acts fully; however, on the other hand, this provides certainty that every violation has tangible legal consequences. In the construction ¹ of consumer protection law, consumers are no longer expected to be passive (caveat emptor), but must play an active role as legal subjects, daring to fight for their rights

(caveat venditor balanced with rights awareness). The active **role of the consumer as the** aggrieved party is key to moving the dispute resolution mechanism, because BPSK cannot examine a case without the consumer's initiative to file a report or complaint. Consumers bear the moral and legal burden to preserve transaction evidence, understand their basic rights as **set out in Article 4 of the UUPK, and** pursue legal remedies when aggrieved, thereby constituting **a form of** public participation in market supervision. The

<https://doi.org/10.58421/misro.v4i4.893> 1417 courage of consumers to report also helps the government map out which business sectors are prone to violations, **so that consumer protection policies** can be evaluated and improved [32]. Furthermore, the active role of **consumers in** BPSK hearings, ranging from compiling chronologies to presenting witnesses, determines the success of proving their claims. Without the active role of consumers, even comprehensive regulations will become paper tigers, lacking law-enforcement teeth. **3 The Regulation of the Minister of Trade Number 72 of 2020** reinforces the concept of **dispute resolution**, making it more structured and integrated with the regional government administration system, given **that BPSK is** domiciled in Regencies/Cities. The resolution concept promoted is the decentralization of consumer protection, bringing **16 access to justice** closer to communities at the local level, thereby minimizing geographical barriers and transportation costs. This regulation also emphasizes the professionalism of BPSK members by imposing stricter selection and training requirements to ensure that the dispute resolution concept is grounded in adequate legal and technical competence. **8** The concept of panel hearings regulated in this Permendag ensures that decisions are made collectively and collegially, avoiding the arbitrariness of a single party and reflecting the balance of tripartite interests. Furthermore, this Permendag also regulates the secretariat's working procedures, which serve **18 as the administrative backbone of dispute resolution**, ensuring that **the flow of** case files from registration to execution is recorded neatly. Thus, the existing resolution concept is a blend of the flexibility of **1 Alternative Dispute Resolution (ADR)** with the administrative **order of the**

state bureaucracy. In consumer disputes, ⁸ the concept of pecuniary loss (kerugian materiil) refers to real losses suffered by consumers that can be objectively valued in money, arising from a nonconformity between the promised performance and the performance received. This pecuniary loss encompasses ² the cost of purchasing goods or services (principal price), medical costs if the product causes health issues, repair costs, and transportation costs incurred by the consumer while attending to the matter. ¹ The legal basis for pecuniary compensation is very strong, rooted in Article 19 paragraphs (1) and (2) of the UUPK, which obliges business actors to provide compensation for damage, pollution, and/or consumer loss due to consuming goods and/or services produced or traded. The calculation of pecuniary loss in BPSK tends to be restitutive, aiming to restore the consumer's economic position to its original state prior to the detrimental transaction (restitutio in integrum). Proof of pecuniary loss is relatively easier ¹⁰ as it is supported by physical evidence such as receipts, invoices, medical records, or valid transfer proofs. Therefore, ¹ the demand for pecuniary compensation almost always becomes the primary prayer (petitum) in every dispute resolution application at BPSK. In contrast to pecuniary loss, ⁸ the concept of non-pecuniary, or immaterial, loss in consumer disputes encompasses losses that are abstract, such as disappointment, heartache, discomfort, or a tarnished consumer reputation. Although Article 19 ² of the UUPK does not explicitly define "immaterial loss," the phrase "consumer loss" in that article is often interpreted by legal experts as broadly encompassing psychological and moral aspects. However, in judicial practice and in BPSK disputes, granting demands for immaterial loss poses significant challenges ¹ because it is difficult to measure nominal monetary parameters

<https://doi.org/10.58421/misro.v4i4.893> 1418 equivalent to such pain or disappointment. Legal debates frequently arise over whether ³ BPSK is authorized to decide on immaterial losses, which are generally closer to the realm of Tort or Unlawful Acts (Perbuatan Melawan Hukum or PMH) in district courts. Nevertheless, in several BPSK arbitration decisions, the panel has sometimes awarded immaterial damages as an

additional punishment for business actors acting in bad faith, although the award is often corrected on appeal or at the cassation stage. **1 This concept is important because violations of consumer rights** impact not only the wallet but also mental well-being and human dignity. **The role of** BPSK in tackling pecuniary losses is vital through its authority to issue decisions obliging **business actors to** pay a sum of money as compensation or replace goods with similar ones. In the mediation or conciliation process, BPSK actively facilitates bargaining over the amount of pecuniary compensation acceptable to both parties, seeking a realistic, win-win solution. If proceeding to the arbitration stage, BPSK uses its authority to calculate in detail the total pecuniary loss **2 based on the** evidence presented at the hearing and to establish it in **the decision, which is** executory. BPSK also ensures that such pecuniary compensation is paid within 7 days **of the decision** having permanent legal force, pursuant to the mandate of Article 19, **paragraph (3), of the UUPK,** to prevent the devaluation of the compensation value due to time inflation. By requiring **1 business actors to** compensate for pecuniary losses, BPSK directly restores consumers' economic rights and maintains market balance, preventing unjust enrichment. This role makes BPSK a corrective economic instrument that directly touches **2 the substance of** the community's financial loss. In addressing non-pecuniary losses, BPSK's role is more complex and discretionary, and it strives to provide substantive justice beyond mere monetary refunds. By ruling **1 that the business actor is** at fault, BPSK has provided moral restoration **for consumers who feel** slighted or cheated, **which is the** core of mitigating immaterial loss. BPSK can order **business actors to** publicly apologize in mass media as **a form of** restoring the consumer's good name, a sanction that impacts reputation and touches upon non-material aspects. Although **the authority to** impose monetary compensation for immaterial matters is often debated, **BPSK remains a** forum where consumer complaints and inner suffering are heard and validated by the state. In several arbitration cases, BPSK has dared to award immaterial compensation if there is evidence of extreme bad faith or gross negligence **by the business actor,** causing deep trauma **to the consumer.** Thus, BPSK attempts to bridge the legal void with a humane justice approach,

recognizing that consumer loss is multidimensional. 4. CONCLUSION The research establishes ¹ that the Consumer Dispute Settlement Agency (BPSK) functions as a vital quasi-judicial instrument that bridges the gap between normative statutory mandates and the empirical necessity for restorative justice. While Law Number 8 of 1999 theoretically shifts the paradigm from caveat emptor to product liability, the institutional transition of authority from regency to provincial levels has introduced significant bureaucratic impediments. A profound implication of these findings is that the absence of standardized Technical Guidelines (Juknis) paralyzes the agency's preventive function in supervising standard clauses in commercial contracts. Furthermore, the study

<https://doi.org/10.58421/misro.v4i4.893> 1419 reveals that in the digital economy, the lack of a "Permanent Establishment" requirement for foreign platforms renders national legal execution virtually impotent against cross-border violations. This jurisdictional void implies that, without mandatory physical presence, the state has limited coercive power to enforce intermediary liability or to seize assets for consumer compensation. Consequently, ⁶ the existing legal protection mechanism is characterized as overly reactive, relying heavily on consumer complaints rather than proactive upstream supervision by the authorities. Therefore, the synthesis of these elements indicates ¹ that while the philosophical foundation of consumer protection is robust, its operational enforcement remains fragile due to regulatory vacuums and structural fragmentation. This study strictly delimits BPSK's adjudicative power to pecuniary losses, acknowledging that the agency lacks the evidentiary capacity to assess non-pecuniary damages, such as psychological distress. A critical boundary identified is the non-final nature of BPSK arbitral awards, which remain vulnerable to nullification through objection mechanisms ² in the District Court, thereby undermining legal certainty. Future research must urgently investigate ⁷ the integration of "compelled disclosure" doctrines to overcome privacy barriers that currently obstruct access to transaction data in digital disputes. Subsequent academic inquiry should also assess the legislative feasibility of granting BPSK autonomous executory powers to

prevent its verdicts from becoming unenforceable "paper tigers" in the face of non-compliant business actors. For the general public, this research significantly contributes to legal literacy by clarifying that state protection is contingent upon lawful transactions, thereby excluding illegal activities, such as imported thrifting, from **7 the scope of** indemnity. It further emphasizes that **1 the effectiveness of** the restorative justice system depends heavily on the consumer's **active role in** preserving evidence and initiating the dispute-resolution process. Ultimately, the realization of comprehensive market justice demands a legislative evolution that transforms BPSK from a passive mediator into a proactive enforcer with binding authority.

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