

CHAPTER I

INTRODUCTION

1.1 Background

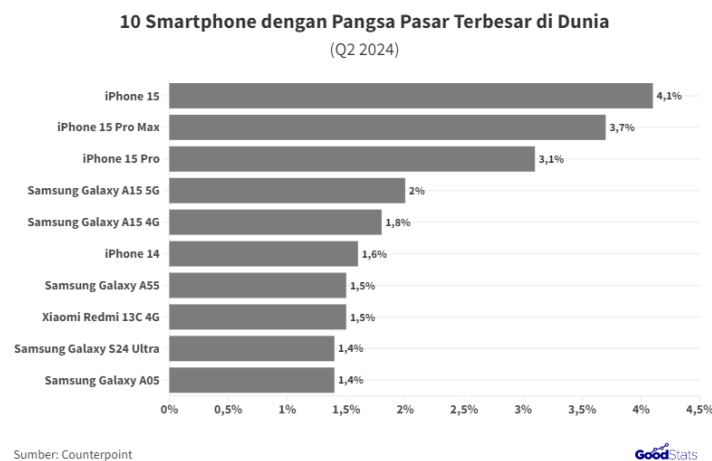
The development of the digitalization era in Indonesia today cannot be limited anymore, this can be shown from technological advances. The development of technology and telecommunications tools such as computers, laptops and mobile phones can also affect human behavior.¹ In this era, social interactions between humans with one another do not have to be done directly, this is due to the influence of technological advances themselves. To be able to interact with each other, humans utilize technology such as cell phones to communicate with each other.

Every year mobile phones continue to develop and come with innovations that make it easier for each user to communicate. Nowadays, mobile phones have more functions than just a communication medium but also as a tool that facilitates human work in everyday life. Digital shopping is one example of the use of mobile phones. Along with the times, cell phones have evolved into smart phones that adopt technology called *Artificial Intelligence*, which is technology that can carry out commands from its users in just a matter of moments. The innovation and evolution of smart phones also has a significant value on its sales in Indonesia which is increasing, according to the ministry of communication and informatics provides a statement related to the use of mobile phones in Indonesia until 2022 has reached

¹ Teddy Prima Anggriawan. *Food Consumer Protection in Muslim Majority Countries in Review of Government Regulation Number 69 of 1999 concerning Food Labeling and Advertising*. Vol. 2 No. 2 (2020). Journal of Widya Pranata Hukum. 2021. Page 48

167 million people or around 89% of the total population of Indonesian citizens.² This cannot be separated from the increasingly affordable to be able to have a smart phone with cheap specifications and according to current needs. Smart phone distributors with brands from all over the world also enliven the gadget market sales in Indonesia such as the Samsung, Vivo, Oppo brands to the gadget company from America, Apple.

One of the gadget products that are widely traded in Indonesia and even in the world today is the sale of Apple-branded gadgets with products in the form of iPhones, the following is the data on the best-selling *smartphones* in the second quarter of 2024:



Sales Data of Best-Selling *Smartphones* in the Second Quarter of 2024³

The distribution of sales of this gadget in Indonesia can be found through Apple's authorized distributors or *Authorized Sellers* for Indonesia, one of which is

²Naomi Adisty. <https://goodstats.id/article/mengulik-perkembangan-penggunaan-smartphone-di-indonesia-sT2LA> accessed on September 24, 2024.

³Agnez Z. Jonathan. <https://goodstats.id/article/10-smartphone-terlaris-di-dunia-2024-Azk5g> accessed on November 04, 2024.

the iBox *Store*. As an authorized distributor, iBox *Store* often provides offers that can be in the form of prices, accessories and after-sales service guarantees for every purchase of Apple products they sell. Of course, these offers are made to increase sales of Apple-branded products and increase sales profits from supporting products as added value in the sale of these gadgets.

As a supporting product in sales, offers made by sales to consumers who want to buy their products are a natural thing, but from these offers there are also sometimes opportunities for Businessman to commit fraudulent or improper actions. Several times the phenomenon of misinformation related to bundling on Apple products that they sell was found, so it is not uncommon for iBox *Store* sales to force buyers to purchase iPhone bundling packages. The iPhone bundling package can be in the form of additional insurance, charger adapter, *tempered glass*, protective *case*, or internet data package. This coercion is carried out by means of information provided falsely and misleading consumers who want to buy these products, especially iPhones, then in the sales transaction process the buyer is required to buy the bundling.⁴ Of course, the result is that consumers, in this case iPhone buyers at the iBox *Store*, suffer material losses, namely having to pay more money for additional bundling to buy the iPhone they want, even though according to the official website page, Apple has made a statement that every purchase of an iPhone unit, the buyer will directly receive after-sales service, namely a hardware

⁴Gema Trisna Yudha. <https://tech.indozone.id/gadget/921041968/curhat-netizen-beli-iphone-malah-dipaksa-bundling-ada-indikasi-penipuan-juga?page=2> accessed on September 24, 2024.

warranty for 1 year, so that iPhone bundling both in the form of additional insurance and additional accessories is not an obligation to buy an iPhone product.

Based on the above phenomenon, Businessman can have the opportunity to carry out sales activities and offers to consumers as the object of the business actors' business. These activities can be in the form of sales offers, promotion of goods, product advertisements and standard agreements that can be made by Businessman to their consumers. For their own benefit, Businessman can cheat to the detriment of consumers,⁵ this can be utilized by Businessman due to the lack of information and understanding of consumers of their rights and obligations when buying and selling transactions with business actors. Of course, there is a need for regulations related to consumer protection against dishonest and discriminatory actions against consumers that can lead to losses for consumers so that legal certainty can be guaranteed in terms of the rights and obligations of the parties.

Consumers as one of the parties in the occurrence of a transaction have the right to the exchange rate that they have given to business actors. These rights can include security rights, comfort rights, and safety rights in the use and purchase of both goods and services. They are entitled to these rights because they have carried out their obligations, namely making payments in accordance with the price and condition of the goods or services offered. So that here Businessman should certainly provide these consumer rights as well as possible, in the form of providing

⁵ Wahyu Buana Putra *et al*, *Legal Consequences of Conch Cement Loss Selling Practices in the Cement Industry Business Competition in Indonesia*, Journal of Law, Politics and Social Sciences (Jhps) Vol. 2, No. 3, 2023, Page. 72.

information about goods or services as truthful, accurate, honest and also providing the best service without discrimination, coercion or threats to consumers.

The regulation of Businessman and consumers in Indonesia is regulated in Law Number 8 Year 1999 on Consumer Protection (hereinafter referred to as the Consumer Protection Law).⁶ This law not only regulates the relationship between the two parties but also aims to provide a guarantee of consumer protection against Businessman who may take actions that harm consumer rights.⁷ It is expected that consumers can increase their awareness, knowledge and protect themselves independently and are protected by the existence of legal certainty that regulates consumer protection.

Regulations in the Consumer Protection Law not only regulate the rights and obligations of Businessman and consumers, there are also prohibited actions for business actors, one of which is to anticipate arbitrary actions by actors in running their business.⁸ If there is a violation in practice, the Consumer Protection Law has guaranteed protection for consumers through the responsibility of Businessman and the sanctions that have been contained therein. This is very necessary in providing legal protection to consumers and also creating a healthy, clean and transparent business climate and encouraging Businessman to continue to be able to provide the best version of goods / services which can also have an impact on consumer satisfaction and economic improvement from business activities.

⁶ Az. Nasution, *Consumer Protection Law An Introduction*, Diadit Media, Jakarta, 2007, pp. 46.

⁷ Alvian Dwiangga Wijaya & Teddy Prima Anggriawan, *Legal Protection of Personal Data in the Use of Smartphone Applications*, Journal Inicio Legis Volume 3 Number 1, 2022, p. 66.

⁸ Happy Susanto, *Consumer Rights if Harmed*, Visimedia, Jakarta, 2008, pp. 12.

Based on the explanation of the background and the phenomenon above, the author describes the results of the research in order to explain the problems caused by the phenomenon that occurred and the author seeks to provide the best solution and problem solving through consumer dispute resolution based on laws and regulations and then presented in a thesis entitled **"Legal Liability for Businessman in Forced Sale of iPhone Bundling Products"**.

1.2 Problem Formulation

Based on this explanation, the following conclusions are drawn:

1. How is the legal protection of consumers who suffer losses due to the forced purchase of iPhone bundling packages at the iBox *Store* based on the Laws and Regulations?
2. How is legal liability for consumer losses in the forced purchase of iPhone bundling packages?

1.3 Research Objectives

This research aims to obtain an overview of the solution of the problem under study as a whole regarding the legal aspects of consumer protection and liability for coercion of iPhone bundling purchases by iBox sales based on the Consumer Protection Law. The author has divided the research objectives into two types, namely general objectives and specific objectives, which are described as follows:

1. General Purpose
 - a. To complete and fulfill one of the academic requirements to achieve a Bachelor of Law degree at the Faculty of Law, Universitas Pembangunan Nasional “Veteran” Jawa Timur.

- b. As literature and information material for scientific writing that can be used as a study for further research.
- c. Adding knowledge in the field of law, especially in consumer protection against forced purchase of iPhone bundling.
- d. As an implementation and application of theories related to knowledge that has been obtained by the author while attending lectures at the Faculty of Law, Universitas Pembangunan Nasional “Veteran” Jawa Timur.

2. Specific Objectives

- a. To analyze legal protection and consumer rights related to the act of coercion in purchasing iPhone bundling packages carried out by business actors.
- b. To analyze how dispute resolution by Businessman against consumers who suffer losses due to forced iPhone bundling packages.

1.4 Research Benefits

This research is expected to provide benefits in the objectives to be achieved as follows:

1. Academic Benefits

For academics, it is hoped that this research can be an addition to the insights and literature in the field of law as a contribution of the author in the form of contribution of thoughts that the author has obtained during the lectures, especially related to the field of civil law with issues related

to the liability of Businessman in consumer protection against forced purchase of iPhone warranty.

2. Practical Benefits

This research discusses the issue of liability of Businessman in order to achieve consumer protection against forced purchase of iPhone warranty reviewed under the Consumer Protection Law, with the hope that this research will provide benefits in the form of illustrations and suggestions for parties related to the form of legal issues of violations of consumer protection resulting in losses due to forced purchase of iPhone bundling packages by business actors.

1.5 Authenticity of Research

Based on the results of research by the author in searching for previous research and discussions related to the liability of Businessman to consumers in order to find differences and similarities with the focus of the author's research.

There are 3 previous studies that the author will present, among others, as follows:

No.	Previous Research	Research Similarities	Research Differences
1.	“Perlindungan Hukum Terhadap Konsumen Yang Mengalami Perbedaan Harga Antara Label Harga Dan Kasir Swalayan Di Kabupaten Banyuwangi Berdasar Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen” (Eka Wijaya Gunawan, Thesis, 2021)	1. Examining the case raised with the same legal basis, namely Article 15 of the Consumer Protection Law 2. In the formulation of the second problem, both discuss the liability of Businessman for the issue of problems	1. The object studied is different, namely related to price labeling 2. The research method used is empirical
2.	“Perlindungan Hukum Investor Dalam Analisis Pembiayaan Transaksi Marjin Oleh Perusahaan Efek Ketika Dilakukan Penjualan Saham Secara Paksa”, 2021)	1. The research method used is the same, namely normative juridical 2. The types of clauses in the research discussed are the same, namely related to	1. Objects that are tested against different research 2. Using different laws for previous research

		forced transactions by business actors	
3.	“Perlindungan Hukum Konsumen bagi Penarikan Paksa Kendaraan oleh <i>Debt Collector</i> ” (Novia Dwi Khariati, Journal, 2019)	1. The research method used is the same, namely normative juridical 2. The type of clause that the research is conducted on is the same, namely, testing related to forced actions.	1. The laws used in the research are different 2. The object of research in the legal issues used is different

1.6 Research Methods

1.6.1 Type and Nature of Legal Research

Legal research is a way of aiming to answer legal issues by discovering legal principles, legal rules and legal doctrines.⁹ The term in legal research does not recognize research with qualitative or quantitative methods, this is because no hypothesis is needed in legal research. Therefore, social research is no longer applicable in legal research.

The normative juridical research method is used in this research. The method uses legal materials as the basis for the approach such as the principles of consumer protection law contained in the Consumer Protection Law, as well as laws and regulations to analyze the actions of Businessman who violate the provisions of the law. Theories and jurisprudence related to this legal issue are used to answer the problem by finding a solution to the forced selling action by Businessman against consumers. Descriptive Thesis is used as the nature of this research, the nature of this research is intended to be able to provide a Thesis of a phenomenon, both scientific phenomena and man-made phenomena objectively. Case studies are used in this research to solve

⁹Peter Mahmud Marzuki, *Legal Research*, Prenadamedia Group, Jakarta, 2005, p. 29. 29.

problems by describing and detailing the legal issues of consumer protection as well as the liability of Businessman in cases of forced sales committed by business actors, namely iBox sales to consumers.

1.6.2 Approach

The approach is a way to obtain information in several aspects to solve the problem to be solved. The *statutory* approach is used in the approach method in this research, the definition of the statutory approach is that statutory instruments and regulations on consumer protection are used as an approach.¹⁰ This approach examines the rules of law to solve the legal issues being studied, namely analyzing the actions of Businessman and their responsibilities in business activities and not committing illegal acts.

Another approach used is a *conceptual* approach, namely examining legal concepts in consumer protection related to the research case being raised by referring to legal principles and several doctrines in the field of science in order to find a bright spot in its resolution.¹¹ In this paper, through this approach, it examines regulations regarding consumer protection consumers according to the Consumer Protection Law and legal doctrine to answer legal issues related to the liability of Businessman to consumers.

1.6.3 Legal Materials

In this research, the author uses several types of legal materials as materials to explain the normative juridical research plan, here are some types of legal materials that the author uses in this writing:

¹⁰ *Ibid*, p. 93.

¹¹ *Ibid*, p. 117.

1. Primary Legal Materials

The main legal materials used in this writing are legal documents that are still valid today and in accordance with the legal issues of the research, namely related to consumer protection and the realm of civil law. The legal material can be in the form of laws and regulations, legal norms or rules as well as a jurisprudence.¹² These legal materials include:

- a) Constitution of the Republic of Indonesia Year 1945 after Amendment.
- b) Civil Code.
- c) Law Number 8 Year 1999 on Consumer Protection.
- d) Regulation of the Minister of Trade Number 72 of 2020 concerning the Consumer Dispute Settlement Body
- e) Other laws and regulations relating to consumer protection.

2. Secondary Legal Materials

Secondary legal material is a supporter of primary legal material in explaining and interpreting primary legal material as mentioned above, which in this study is to discuss literature reviews and terms related to the legal issues raised.¹³ The following secondary legal materials that the author uses in research are literacy such as books, legal journals, scientific articles and previous

¹² *Ibid*, p. 141.

¹³ *Ibid*, p. 155.

research, namely theses related to consumer protection and consumer dispute resolution.

3. Tertiary Materials

Tertiary materials are non-legal materials that support research in finding facts related to the legal issues the author examines.¹⁴ This material is used as a guiding fact that reinforces and supports the explanation of legal issues. Tertiary legal materials in this writing can be in the form of legal dictionaries, large Indonesian dictionaries, news articles, internet and social media.

1.6.4 Legal Material Collection Procedure

The author uses legal materials derived from legislation, namely the Consumer Protection Law which has a role as an analysis of the actions of business actors, the Civil Code (hereinafter referred to as the Civil Code) as the basic material for analysis in order to identify the research tort.

Books, scientific articles, journals that the author obtained from literature studies by searching for literature documents as a source needed in this writing to provide interpretations related to legal terms in consumer protection and as reference material in providing problem solving of legal issues of consumer protection disputes.

The collection of legal materials derived from documentation is by linking research with data that has been collected through a collection of documents that can be in the form of images, writings, videos and author's

¹⁴ *Ibid*, p. 163.

notes whose contents come from the internet and social media as the basis for data sources on consumer protection law issues.

1.6.5 Analysis of Legal Materials

The processing and analysis of this legal material focuses on the applicable laws and regulations. In the first problem formulation, the actions of Businessman against the Consumer Protection Law will be analyzed, which will then be linked to the tort contained in the Civil Code based on facts related to these legal issues through tertiary materials.

Based on this analysis, the author analyzes the steps to resolve the dispute issues contained in the formulation of the second problem by linking them to legal norms and rules, namely linking articles in the legislation related to the type of problem being studied, namely forced selling by business actors. From the analysis, the author will find an understanding and resolution related to the legal issue being studied, then the author will present the analysis through a descriptive and detailed explanation.

1.6.6 Systematization of Writing

The systematics contained in this writing will be written with a systematic system that is divided into 4 (four) chapters which are arranged sequentially and systematically so that each chapter will be related to one another. The following writing systematics will be presented in this writing:

1. The first chapter, will contain a background which is a general and comprehensive description of the legal issues of this research. This chapter will describe the background of a legal issue so that the author

feels the need to conduct research, the background will contain problems related to consumer protection that refer to case studies of forced sales by business actors, so that from these case studies, legal issues related to consumer protection arise. The formulation of the problem in this study is related to the rights and obligations of Businessman and consumers as well as consumer dispute resolution on the legal issues raised, then the Research Objectives consisting of general objectives and specific objectives. Furthermore, the benefits of research will be written about the benefits in the academic field as well as the benefits in the practical field, and the originality of the research will be tested until the conceptual limitations, research methods, and systematics of legal writing and literature review which contains aspects of consumer protection.

2. Chapter two, in this chapter the author explains in detail and describes it descriptively related to the issue of the problem. The discussion of the first problem formulation is divided into two sub-chapters, namely in the first sub-chapter the research will focus on describing acts of consumer protection violations and will be associated with several theories and principles. The second sub chapter will describe the form of protection for consumers based on legislation and become the basis for the discussion that will be presented in the next chapter.
3. The third chapter discusses and describes the resolution of problems in the second problem formulation variable, namely the procedure for

resolving consumer disputes. This chapter is divided into two sub-chapters in its discussion, namely in the first sub-chapter will be discussed regarding the type of settlement of consumer protection disputes both through the court realm and outside the court then in the second sub-chapter discusses how the settlement of consumer protection disputes against case studies raised in this study. Both subchapters will be analyzed using legal sources that have been obtained and related to the case study of consumer losses due to the forced sale of iPhone bundling by iBox sales as a business actor.

4. Chapter four, this chapter is a closing of the results of the discussion and the background of the research, so in this chapter will draw conclusions and summarize the research. This research will also include several suggestions aimed at both academic and practical matters that are deemed necessary for future usefulness and answer the main problems of the researcher.

1.7 Literature Review

1.7.1 Consumer Protection Law

1.7.1.1 Consumer Protection Law

Businessman can take arbitrary actions against consumers which can result in losses, therefore there is a need for law as consumer protection. The definition of consumer protection law is everything that regulates and intends to

protect the interests of consumers based on related principles or rules.¹⁵

The legal umbrella in Indonesia that oversees legal certainty for the protection of consumer rights has been established in the Consumer Protection Law. The basis for the formation of the Law cannot be separated from the implementation of the 1945 Constitution as the ideals of the nation in upholding the welfare of society in the economic field. ¹⁶ There are six main materials of the Consumer Protection Law, namely the actions of business actors, prohibitions, responsibilities of business actors, product liability, agreements or standard clauses and consumer protection provisions.

The Consumer Protection Law supports a healthy and perfect climate in the world of business competition through regulating the rights and obligations of Businessman and consumers so that justice is realized for each party when the parties have mutually carried out their obligations and rights. This is an effort by the government in the form of providing an equal position before the law without differentiating its status in order to uphold human rights.

¹⁵ Az. Nasution, *Consumer Protection Law An Introduction*, Diadit Media, Jakarta, 2007, pp. 20-21.

¹⁶ *Ibid*, p.25.

The provisions of Article 1 paragraph 1 of the Consumer Protection Law formulate that consumer protection is an effort to protect consumers and ensure legal certainty. The regulation can be regarding the actions of Businessman so that they are not arbitrary. On this basis, the relationship between the two can be mutually beneficial, consumers are not harmed and Businessman benefit from running their business. On the other hand, it is hoped that with this regulation, the attitude of Businessman will also grow in responsibility and provide consumer dignity.

1.7.1.2 Legal Principles of Consumer Protection

Laws always have principles as a basis for understanding a regulation, these principles are regulated in article 2 of the Consumer Protection Law, including:

a) Benefit Principle

This principle means that there must be maximum benefits in efforts to organize consumer protection as a common interest between Businessman and consumers.¹⁷

An example in organizing this benefit is the provision of information by Businessman regarding goods and / or services honestly so that consumers are not harmed and Businessman can increase their merchandise.

¹⁷ Ahmadi Miru, *Principles of Legal Protection for Consumers in Indonesia*, Rajawali Pers, Jakarta, 2011, pp. 28.

b) Principle of Justice

Mandates the provision and enforcement of consumer protection violations through community participation as an effort to create justice in the form of providing opportunities for businesses and consumers to fulfill their rights and obligations. This is a form if if the rights of one party have been violated then there is a fair dispute resolution effort.

c) Principle of Balance

This principle requires the protection of the interests of business actors, consumers and the government, both in the form of material and spiritual in a balanced manner. The position of each party will be interrelated, influencing, balanced and not stronger than one another.

d) Principles of Consumer Safety and Security

This principle regulates clear rules regarding the prohibitions and obligations of Businessman in trading their goods or services. The purpose of this principle is so that there is legal guarantee for the use of goods and/or services by consumers and there is no threat to the safety and security of consumers' lives or property.¹⁸

e) Principle of Legal Certainty

¹⁸ *Ibid*, p. 184.

The state guarantees legal certainty between Businessman and consumers as an effort to obtain justice in the implementation of consumer protection is the main purpose in this principle.¹⁹ The form of this principle is the implementation of the rights and obligations of each party in the implementation of consumer protection and the state is tasked with overseeing the implementation.

1.7.2 Definition of Consumer Protection

1.7.2.1 Rights and Obligations of Business Actors

Juridically, the Consumer Protection Law in Article 1 paragraph 2 explains the purpose of consumers is every person who uses goods and/or services provided in the community, both for individual interests and the interests of other living beings and is not traded again.

The rights of Businessman are regulated in Article 6 of the Consumer Protection Law as follows²⁰ :

- a) Right to receive payment;
- b) Receive legal protection when consumers do not act in good faith;
- c) The right to self-defense;
- d) Right to restoration of good name;
- e) As well as other rights stipulated in other provisions.

¹⁹ *Ibid*, pp. 101.

²⁰ Celina Tri Siwi Kristiyanti. 2008. *Consumer Protection Law*, Sinar Grafik, Jakarta, pp.

The obligations of Businessman are regulated in Article 7 of the Consumer Protection Law as follows²¹ :

- a) good faith;
- b) correct information in its business activities;
- c) serve consumers correctly, honestly and non-discriminately;
- d) quality of goods or services according to quality standards;
- e) consumers are given the opportunity to test business products as well as a guarantee;
- f) compensation for adverse use to consumers;
- g) compensation in the event that the goods and/or services are not in accordance with the agreement.

1.7.2.2 Consumer Rights and Obligations

The view in the Consumer Protection Law, precisely in Article 1 paragraph 3 (three), explains juridically that an individual or business entity can be said to be a business actor, a legal entity or not a legal entity domiciled and established in the jurisdiction of Indonesia and engaged in economic activities in its business activities. These Businessman can be in the form of companies, State and Regional Owned Enterprises, cooperatives, traders, distributors, importers and so on.²²

Consumer rights are regulated in Article 4 of the Consumer Protection Law as follows, Consumer rights are:

²¹ *Ibid*, p. 44.

²² *Ibid*. pp. 22.

- a) Comfort rights;
- b) The right to vote and its guarantees;
- c) The right to correct information;
- d) Complaints are heard by businesses;
- e) Receive protection and advocacy in the event of a dispute;
- f) Coached and educated;
- g) Consumers have the right to be served correctly, honestly and without discrimination;
- h) If the goods are not in accordance with the agreement, you are entitled to receive compensation;
- i) And other rights in other provisions.

Consumer obligations are regulated in Article 5 of the Consumer Protection Law as follows²³ :

- a) Follow the information instructions that have been provided;
- b) Good faith;
- c) Making payments;
- d) Proceed in dispute resolution correctly.

1.7.3 Liability of Business Actors

Liability is always attached to Businessman as parties that provide goods and/or services that are traded. The Consumer Protection Law contains two principles of responsibility of business actors, namely *product liability* and *professional liability*.²⁴

²³ *Ibid*, p. 27

²⁴ *Ibid*, p. 92.

a) Product liability

It is the legal responsibility of Businessman who harm consumers due to defects in products in circulation and as a result of consumption or.²⁵

b) Professional Responsibility

Is the responsibility of Businessman related to the implementation of trade business operations towards consumers.²⁶ The form of this responsibility is that Businessman must provide achievements in the form of conveying information that is in accordance with reality and providing services in offering goods / services that do not pose a danger, either threat or loss to consumers.

The Consumer Protection Law regulates the responsibilities that must be fulfilled by Businessman in Article 19 of the Consumer Protection Law as follows:

1. The responsibility of Businessman can be in the form of providing a compensation due to losses from consumers after consuming goods and / or services with the resulting effects in the form of pollution, damage, and / or harm to consumers.
2. The form of compensation can be in the form of replacement of goods and/or services or refund of money with an equivalent nominal value. Compensation is also provided in the form of

²⁵

Ibid, p. 98.

²⁶

Ibid, pp. 114.

compensation in the form of health care based on the provisions of laws and regulations.

3. The period of compensation can be given at least 7 (seven) days after the occurrence of transaction activities.
4. Even though they have provided compensation, the liability of Businessman cannot be separated from the responsibility in criminal prosecution and providing proof of the element of fault.
5. All of the above provisions no longer apply if the business actor can provide evidence that the fault is not his, but rather the fault of the consumer.

1.7.4 Consumer Dispute Resolution

Article 45 of the Consumer Law states that there are several ways to resolve consumer disputes, including through the court or what can be called the litigation route or non-litigation or out of court.²⁷ Disputes resolved outside the court can be agreed by the parties as long as both agree to choose the settlement route.

a) Direct (Peaceful) Dispute Resolution

The provisions of Article 19 explain that consumer disputes can be directly resolved amicably through negotiation if the

²⁷ Gunawan Widjaja and Ahmad Yani, Law on Consumer Protection, Gramedia Pustaka Utama, Jakarta, 2001, p.72.

consumer demands compensation from the business actor. This approach is a dispute resolution route by negotiation.²⁸

This direct settlement of consumer disputes can be passed if the two parties, namely the business actor and the consumer, both agree to directly resolve the dispute without taking legal remedies as long as the error is purely from the business actor and this mediation is outside of the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2016 concerning Mediation Procedures in Court.

b) Settlement of Consumer Disputes Through the Courts

Based on Article 45, it does not remove criminal charges even though the business actor has resolved the dispute based on an agreement between the consumer and the business actor.

The path that will be taken in this settlement is through the judiciary, namely the general court. So that the settlement will be filed through a lawsuit either through the civil realm or state administration.

c) Settlement of Consumer Disputes through BPSK

Based on Article 52, there are three ways consumer disputes can be resolved, namely through mediation, conciliation and arbitration.²⁹ The initial stage in the settlement through BPSK is the

²⁸ Teddy Prima Anggriawan *et al*, Introduction to Civil Law, Scopindo Media Pustaka, Surabaya, 2023, p.338.

²⁹ *Ibid*, p.89.

pre-hearing agenda, BPSK will first collect information from each party. The BPSK panel will provide advice and direction to the parties to be able to choose the option of settlement through which route they want to take, this is because dispute resolution through BPSK is not carried out in stages but only uses a single method in its settlement.

d) Dispute Resolution through the Non-Governmental Consumer Protection Agency (LPKSM)

Article 46 of the Consumer Protection Law stipulates that settlement can be pursued through the realm of civil law, this is a legal umbrella because consumer disputes are related to losses so that consumers sue for compensation. The lawsuit can be filed by the consumer directly, or represented by the heirs of the consumer, and can also be filed by a group of consumers with the same interest and can also be assisted by the Non-Governmental Consumer Protection Agency (LPKSM) and the government.³⁰ LPKSM can serve as a forum for complaints of consumer protection violations.

The role of LPKSM in contributing to the implementation of consumer protection is as a guardian to educate consumers, a party that holds negotiations if there is a need and an Lecturer Consultant for consumers.

³⁰

Ibid, p. 93.