

## **CONSUMER PROTECTION LAWS IN DISPUTE SOLUTION IN BPSK CIANJUR DISTRICT**

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### **ABSTRACT**

This research on "*Consumer Protection Laws in Dispute Solution in BPSK Cianjur District*" is to see the field conditions, how people can get protection and rights as end users of a product (*consumer*). End users of a product are entitled to proper legal services if they are harmed in various trading transaction activities. So in the implementation of this study using two kinds of research, namely library research (*library research*) and field research (*field research*). Data processing by searching for related literature in the form of regulations, legislation, books and field data which are processed and analyzed using the qualitative method. The implementation of consumer protection legislation is in accordance with the objective, namely to provide a sense of justice for consumers as recipients of products and producers as providers of services, both goods and services. Implementation rules seek justice if consumers feel disadvantaged, then it can be through an institution that has been regulated in the Undang-Undang Perlindungan Konsumen (UUPK), namely the Badan Penyelesaian Sengketa Konsumen (BPSK). Until now, many consumers have been served in this institution which was formed in 1999. In fact, the parties considered that this institution could provide justice for both parties, namely consumers and business actors.

**Keywords:** *Consumers, BPSK, UUPK, Products, Law*

### **INTRODUCTION**

The current consumer and producer dispute cannot be separated from the scope of economic transactions in Indonesia. Since the enactment of Law Number 8 of 1999 concerning Undang-Undang Perlindungan Konsumen (UUPK) Law Number 2 of 1981 concerning Consumer Protection, and Presidential Decree of the Republic of Indonesia Number 23 of 2006 have the effect of more care and understanding between producers or business actors and consumers or buyers according to the Law Number 8 of 1999 concerning Consumer Protection. Although in practice there are still many disputes between producers and consumers that fall within the domain of the courts. Many products sold in the market are unsuitable, and even contain a variety of hazardous chemicals, both for food and for other products.

So after the birth of the UUPK, Badan Penyelesaian Sengketa Konsumen (BPSK) was formed. So the main task and function of BPSK is to resolve disputes between business actors and consumers (Lalu Husni, 2005). BPSK function is to issue and resolve consumer disputes out of court. BPSK itself has 13 powers as seen in Article 52 of the UUPK. Among them are the handling and settlement of consumers by means of conciliation, mediation and arbitration. So BPSK has an important role in resolving consumer disputes. The role of consumers on average is weaker if they are careless with the role of producers, therefore with the issuance of Law No. 8 of 1999 on Consumer Protection, it is hoped that protection of consumers will be more secure.

However, the existence of BPSK is not yet known by the wider community. In fact, the existence of BPSK is an opening for the community which is also an institution for out-of-court disputes that are fast, simple and low cost.

So several questions arise in this research study, namely, who is meant by consumers or other

people? Product defects cause harm to consumers (consumer's damage) and also to others? Then what institutions can resolve consumer disputes? This will also be the focus of the study in this paper, especially in the duties and functions of BPSK.

The research also refers to the completion of the settlement at BPSK Cianjur Regency. The authority for disputes refers to Article 52 UUPK and Article 6 of Permendag 06/M-DAG/PER/2/2017. Like what is the consumer dispute dispute in BPSK Cianjur Regency and the number of cases and disputes between consumers and business actors.

## **METHOD**

This research method uses a qualitative approach (qualitative research), which is a research technique aimed at describing and analyzing phenomena, events, social activities, attitudes, beliefs, perceptions, thoughts and realities in the field that touch a lot with individuals and the general public. There are two objectives of qualitative research, namely, to describe and explore, and to describe and explain.

The method that I use in this research is in accordance with most studies that use a qualitative approach, namely the analytical descriptive method. Analytical descriptive method is a research method that emphasizes efforts to obtain information about status or symptoms at the time of research, provides an overview of phenomena as well as further explains relationships, and draws the meaning of a desired problem. Descriptive research is a form of research that is the most basic and aimed at describing or describing existing phenomena, both natural phenomena and human engineering. While the techniques used are data collection techniques that are literature study and documentation study from various media that the author has collected.

## **FINDINGS AND DISCUSSION**

Consumers are everyone who uses, uses, consumes, or enjoys the products of the producers (business actors). Another person is anyone who suffers losses due to defective products used, used, consumed, or enjoyed by consumers (Abdulkadir Muhammad, 2010). Consumers can also be defined as every person using goods and / or services available in society, whether for the benefit of themselves, their family, other people, or other living creatures, and not for sale.

Meanwhile, consumer protection is a legal instrument created to protect and fulfill consumer rights. Consumers are end users (end users) of a product, namely every user of goods and / or services available in society, whether for the interests of themselves, their families, other people, or other living creatures, and not for trading (Munir Fuady, 2008).

According to Mochtar Kusumaatmaja, consumer protection law is the whole legal principles and principles that regulate and protect consumers in their relationships and problems with providers of consumer goods and / or services (A Nasution, 2006). Meanwhile, according to the Nonor Law 8/1999 on Consumer Protection, what is meant by consumer protection is any effort that ensures legal certainty to provide protection to consumers. And what is meant by consumers is every person using goods and / or services available in society, whether for the interests of themselves, their families, other people, or other living creatures, and not for trading in accordance with Article 1 of the UUPK.

Losses on product responsibility, losses suffered by consumers and also by others due to product defects produced by the manufacturer. Whereas in an act of breaking the law, the loss is only suffered by others as a result of the offender's actions, which damage property or injure others. As for the form of producer responsibility to consumers, namely when product defects result in losses to consumers and to others. Losses due to product defects give rise to multak responsibility (strict liability) on the producer without questioning the error. The form of product responsibility can be, replacing defective products with products without defects for manufactured products or reimbursing service fees for manufactured products that are defective because there is no replacement product, or reimbursement for medical and maintenance costs to consumers who

are harmed by consuming defective products according to UUPK.

Please note in terms of consumer protection such as defective products and product defects. Defective products, namely the malfunction of the product as it should be for its purpose. Defective products have no utility value. For example, a product produced by a manufacturer is a water pump, the purpose of which is to absorb and drain water. After being installed and turned on, it turns out that it is unable to suck up and drain water or cannot function. So, a defective product is a product that does not function properly according to its purpose of manufacture and has no use value. With defective products, the problem revolves around the malfunction of the product for the purpose for which it was made, not to the reason that the product is malfunctioning.

On the other hand, if the product functions properly in accordance with the purpose for which it was made, the product is called a perfect product which has a use value. An example of a water pump produced by a manufacturer, when installed and turned on, is able to suck up and drain abundant water. The water pump has a use value. So, a perfect product is a product that functions properly in accordance with the purpose for which it was made and has a use value. In general, the purpose of making a product produced by a producer is seen from an economic perspective, which is to have a use value that is able to provide reasonable enjoyment, satisfaction or welfare to consumers.

When viewed from the legal point of view of the product responsibility doctrine, the purpose of making products produced by manufacturers is to reduce the failure rate (disaster) as low as possible due to defective products. In addition, it is also to provide legal means of compensation for victims of inevitable defective products. So, this goal can be interpreted that the manufacturer tries to produce the best possible product in order to avoid defective products for which they are responsible. However, if there are still defective products, consumers who are harmed by the defective product have a legal basis for obtaining compensation in accordance with the product responsibility doctrine that is imposed on the producer.

As for product defects, such as the malfunction of the product according to the purpose for which it was made, not on the reason that the product is not functioning. Conversely, in product defects, the problem revolves around the reasons for the malfunction of the product (the product does not function in accordance with the purpose of its manufacture (Van Leeuwen, 1990). Product defect is a product condition that is generally below the consumer's expectation level, or a product condition in such a way that it can endanger the consumer's property, body health or life. For example, everyone expects bottled water to contain no grains of sand, wheat flour not to contain tiny bits of iron; tomato sauce is not made from chayote with added coloring; or biscuits made from wheat flour, salt, and sugar are not mixed with toxic substances.

Various product promotion strategies through producers in empowering consumers such as vouchers, discounts, customer service and direct prizes or by lottery. There is also a form of shopping coupons. There are various ways that supermarket managers take to terrorize consumer consumptive attitudes, one of which is by means of shopping coupons (vouchers) to earn more money from consumers without realizing it has harmed them (Sudaryatmo, 1999).

Coupons usually serve as a free shopping tool. As one of the strategies to boost marketing, the existence of coupons is generally characterized, only valid for certain times and places and certain places. One transaction can only use one coupon. The more coupons, the more transactions the coupon holder must make if he wants to use the coupon. Coupons cannot be exchanged for money and Coupons are only valid for certain items that have a use value, what are the reasons for the malfunction of the product, what are the circumstances or events that cause the Consumer Protection Agency to not.

Prior to the emergence of several consumer settlement institutions, several consumer protection organizations were born, such as the Yayasan Lembaga Konsumen (YLK), which was established in May 1973. This organization acts on the basis of devotion to the interests of the community, especially consumers, with Mrs. Lasmidjah Hardi as the leader. The history of the birth of YLK was marked by a sense of introspection towards the roar of the promotion scene,

namely promotion to facilitate trade in domestic goods (Munir Fuady, 2008).

Furthermore, the Lembaga Perlindungan Konsumen Swadaya Masyarakat (LPKSM) is a non-governmental institution that is registered and recognized by the government which has activities to handle consumer protection. LPKSM duties in accordance with Government Regulation Number 59 Year 2001 Article 3 include activities: a). Disseminate information in order to increase awareness of rights and obligations as well as consumer prudence in consuming goods and / or services; b). Provide advice to consumers who need it; c). Cooperating with related agencies in an effort to achieve consumer protection; d). Help consumers fight for their rights, including receiving complaints or consumers; and e). Conduct joint supervision with the government and the community on the implementation of consumer protection.

### **Consumer Dispute Resolution Through General Courts**

The manufacturing business actor and / or distributor business actor refuses and / or does not respond and / or does not fulfill compensation for the consumer's demands, then the right is given to sue the business actor and resolve disputes that arise through BPSK or by filing a lawsuit with a judicial body at the consumer's domicile in accordance with Article 23 of the UUPK. Therefore, it is clear that to resolve disputes it can be done through a body outside the judicial system called BPSK or through a district court whose jurisdiction covers the domicile of the consumer.

In court, settlement of a case begins by filing a lawsuit with the competent court. The settlement of legal disputes through this court is carried out in 3 stages. The initial stage is by filing a lawsuit until the answer is answered. The determination stage starts from the proof to the verdict, and the implementation stage is the implementation of the decision. Each stage requires a relatively long time, is expensive and the procedure is quite complicated.

### **Consumer Dispute Resolution Through BPSK**

Based on UUPK Article 52 states that the duties and authorities of BPSK in accordance with Article 52 of UUPK include:

1. Carry out the handling and settlement of consumer disputes, by means of mediation or arbitration or conciliation.
2. Provide consumer protection consultations.
3. Supervise the inclusion of standard clauses.
4. Report to the general investigator if there is a violation of the provisions of this law.
5. Receiving complaints, both written and unwritten, from consumers regarding violations of consumer protection.
6. Conduct research and examination of consumer protection disputes.
7. Summons business actors who are suspected of having violated consumer protection.
8. Summons and presents witnesses, expert witnesses and / or any person deemed to have knowledge of violations of this law.
9. Requesting assistance from investigators to present business actors, witnesses, expert witnesses, or any person as referred to in numbers (7) and (8), who are not willing to comply with the summons of consumer dispute settlement agencies.
10. Obtain, examine and / or assess letters, documents, or other evidence for investigation and / or examination.
11. Decide and determine whether or not there is a loss on the part of the consumer.
12. Notifying the verdict to business actors who have violated consumer protection.
13. Imposing administrative sanctions on business actors who violate the provisions of this law.

The dispute resolution procedure at BPSK is that after the secretariat receives a report from an injured consumer, then the Head of BPSK forms an assembly with an odd number of members consisting of at least three people representing all elements, and assisted by a clerk. In this case

BPSK is obliged to resolve consumer disputes within 21 days from the time the lawsuit is received. Dispute resolution through BPSK is specifically for individual consumers who have disputes with business actors with a fast and cheap nature of resolution.

### **Consumer Dispute Case in Cianjur Regency**

Apart from the problem of defective products and product defects, there are several problems and problems in terms of consumer protection. This effort was also carried out by the Cianjur Regency Government, as was done by Dinas Perindustrian dan Perdagangan (Disperindag) Kabupaten Cianjur in collaboration with the Meteorological Center from Bogor.

These two agencies carry out recalibration as a measuring tool for traders in a number of markets in Cianjur Regency. Recalibration of this weighing instrument is carried out regularly in June, July and August each year. Re-evaluation of various types of scales is necessary because they are closely related to the appropriateness of the type of goods being weighed by the selling price. This is also to serve consumers well, so every trader is required to follow a recalculation. This examination of the scales aims to anticipate fraud on the trade scale. Re-calibration also restores the standardization of the scales. Once a year the scales have to return to normal because after a year the scales sometimes change. This is also to remind traders to always re-check not to cheat consumers.

Efforts to oversee various consumer protection issues, Cianjur Regency Disperindag has also confirmed, various types of products such as 5 types of beef jerky sold in the market and supermarkets that are positive for pork, such as beef jerky Cap Kepala Sapi no SP 0094113.06192 P, IRT No 201357301367, beef jerky Cap 999 P.IRT No 201357301367 and beef jerky with gold stamp number SP 030/1130/94, beef jerky with Bregtolo brand and ACC (carlie-carlie) (Radar Bogor, April 5, 2006 edition).

Another thing, the government is also reviewing negative BAH specimens related to the prevalence of imported meat in Cianjur Regency and ensuring that fortified beef is still healthy for consumption. Not only that, chicken and salted fish, both local and import, are also formalin free. This was obtained from the results of the BAH specimen test on 20 meats and fish. The Industry and Trade Agency also collaborated with the Cianjur Police Criminal Investigation Unit by regularly holding raids at shopping centers.

As a result, a number of food and beverage products in the form of bottles, plastics and jars from various brands were confiscated as evidence. The evidence confiscated included the brand Country Dairy Milk, Abbys Sausage, Apollo Candy, Snow Mede Butter Cookies, Fruit Jelly Candy and Vuding Creme Dessert. In these types of goods, it was found a number of oddities of information such as the date, month, year of the validity period were not available, and the content or composition was also not listed. There are also those who use foreign languages but Indonesian is not written. This is in accordance with the rules contained in Article 62 in conjunction with Article 8 letter (i) of Law Number 8 of 1999 concerning Consumer Protection. The law states that business actors can be punished with a sentence of 5 years in prison.

There are also various imported food products from China (China) that are suspected of containing dangerous ingredients or formaldehyde. Of the 39 Chinese imported products in the form of candy, sweets and dried fruits, 7 positive products contained formaldehyde as informed by the POM. If food containing formaldehyde is consumed by humans, it will cause disease in the human organs. However, the disease will not be detected early, but over a relatively long distance. There is also a special fake whitening product, if used on the facial skin, it will feel hot and the face will become damaged like the fake brand of Natural 99 E Plus. So the public should not be tempted by the cheap price of a product on the market. This is because low prices do not guarantee the quality of an item. Moreover, these items are directly related to human physicality.

There is also a case that has appeared in Cianjur Regency, namely the issue of milk containing bacteria, which is very worrying especially among mothers, related to the suspicion that packaged milk sold in the market contains a number of deadly bacteria. They usually buy

packaged milk either canned or cardboard at the store or supermarket. Because the packaging is neatly closed, at first glance it is definitely considered safe.

Indeed, the results of studies and research on dairy products were carried out by the Bogor Agricultural Institute (IPB). This refers to a decision by the government and the Food and Drug Supervisory Agency (BP POM) which states that the bacteria in milk are not dangerous as studied by IPB. Even four researchers from the Faculty of Veterinary Medicine (FKH) IPB, namely Sri Estuningsih, Hernomoadi Huminto MVS, I Wayan T Wibawan and Rochman Naim had found that infant formula was tainted with enterobacter sakazakii bacteria. The results of this study found that as much as 22.73 percent of formula milk (from 22 samples) and 40 percent of marketed baby food (from 15 samples) was contaminated with Enterobacter sakazakii bacteria. A careful sample of food and formula milk comes from local products (Radar Sukabumi, Edition 10 of 2007).

Other products such as Parcel before Eid al-Fitr every year. Because it is often known that they do not include an expiration code, the manufacturing company does not include the names of food and beverage products, the officer also advised the parcel to be withdrawn. Especially for parcels, they are often unique, because so far, items that are packaged and wrapped attractively are often filled with expired food products.

There must be information and warnings for shops selling food products not to harm consumers by selling food products that have expired. In an appeal letter issued by the West Java Province Indagro Service number 003.2 / 500 / Perdag, there are five important points for parcel makers and sellers. Among them, do not include products that are prohibited according to Islamic principles such as liquor / alcoholic products, canned pork.

Do not include products with unclear labels, unclear producers 'importers', unclear ingredients, and no expiration limit. Do not include products whose packaging has been dented 'damaged' or bloated. Indeed, the arrangement of the parcel should be arranged in such a way that the expiry date information can be clearly seen from the outside by the consumer. In order for each parcel to include the name and address of the maker and seller of the parcel, this is meant that if something happens it can be easily searched for (Radar Cianjur, Edition 15 of 2014).

Several cases of consumer dispute resolution were recorded after the formation of the Cianjur Regency BPSK for the 2014-2019 period. The establishment is in accordance with the Decree of the Minister of Trade of the Republic of Indonesia Number 1166 / M-DAG / KEP / 10/2014 concerning the Appointment of BPSK Members to the Cianjur Regency Government. The number of members of the Cianjur Regency BPSK in this period amounted to nine people. So dispute resolution can also be done at BPSK Cianjur Regency by referring to UUPK Number 8 of 1999 and Decree of the Minister of Trade Number 350 / MPP / Kep / 12/2001 which has been replaced by Regulation of the Minister of Trade Number 06 / M-DAG / PER / 2017.

The number of dispute resolution cases in the 2015-2019 period according to data from the BPSK Secretariat of Cianjur Regency totaled 43 cases with an average of through mediation settlement. As shown in the diagram below:

**Number of Consumer Dispute Complaints  
BPSK Cianjur Regency 2015-2019 Period**

Year	Goods Complaints	Service Complaints	Total	Solution Method		
				Conciliation	Mediation	Arbitration
2015	7 case	1 case	8 case	-	7 case	1 case
2016	5 case	2 case	7 case	5 case	2 case	-

2017	10 case	10 case	20 case	4 case	16 case	-
2018	10 case	9 case	19 case	7 case	12 case	-
2019	9 case	6 case	15 case	10 case	5 case	-

If you look at the diagram above, the number of consumer dispute resolution cases in Cianjur Regency for four years between 2015-2019 shows that between complaints of goods disputes and complaints of service disputes is more dominated by complaints in the goods sector with a total of 41 complaints compared to service sector complaints which reached 28 complaints. with a total of 69 complaints (Minutes of BPSK Consumer Dispute Resolution Session of Cianjur Regency for the Period of 2015-2019).

Meanwhile, of the total 68 dispute resolution cases, the parties chose a dispute resolution method using Mediation with 42 cases of settlement, 26 cases of dispute resolution through conciliation and 1 case of settlement through Arbitration. When viewed cumulatively during the 2015-2019 period, the number of cases is still insufficient, although the target of receiving cases at BPSK Cianjur Regency in one year only accepts cases of approximately 25 cases, then if seen from this number in one year it has met the target as reported to The West Java Provincial Government through the West Java Provincial Industry and Trade Office for Consumer Protection.

If analyzed, consumer dispute resolution can be pursued through the court or outside the court based on the voluntary choice of the disputing parties. Settlement of disputes outside the court does not eliminate criminal responsibility as regulated in law. Settlement of consumer disputes as referred to in this paragraph does not cover the possibility of peaceful settlement by the disputing parties. At each stage, efforts are made to use a peaceful settlement by both parties to the dispute.

What is meant by amicable settlement is a settlement made by both parties in dispute (business actors and consumers) without going through court or BPSK and not contradicting the law. In Article 45 Paragraph it can be seen that in order to resolve consumer disputes, there are two options, namely, through an institution in charge of resolving disputes between consumers and business actors, or through a court that is within the general court (Ahamadi Miru & Sutarwan Yodo, 2004)

Apart from that, in general various criticisms can be raised against the settlement of disputes through courts, namely because, dispute resolution through courts is very slow. Settlement of disputes through courts, which is generally called a waste of time, is caused by a very formalistic and highly technical examination process. Besides the many cases that have to be handled by the court, the court is burdened with too many burdens. The cost of cases in the dispute resolution process is very expensive, especially when it is related to the length of time for dispute resolution. Courts are generally unresponsive. Courts are also often considered unfair, because they only side with "big institutions" or "rich people" (Celina Tri Siwi Kristiyanti, 2009).

The court ruling did not solve the problem. So in this case the position of BPSK is very much needed and very strategic in carrying out reconciliation, mediation and arbitration efforts (consultation, negotiation, mediation, conciliation and expert judgment), in accordance with its objectives that are cheap and can solve problems easily and cheaply.

## **CONCLUSION**

So from a number of case studies above, this consumer protection dispute settlement study is regulated in various settlement efforts in accordance with the UUPK regulations. Apart from the BPSK, also through the General Perdilan. Although it can also be done through the State Administrative Courts and Commercial Courts, this is still very rare, because it can be seen from

the value in dispute, especially regarding consumer disputes. This is in accordance with what is stipulated in Article 45 and Article 48 which reads, 'Every consumer who is injured can sue a business actor through an institution that is tasked with resolving disputes between consumers and business actors or through a court located within the general court. The selection of consumer dispute resolution at BPSK Cianjur Regency is still considered necessary and very helpful for the parties between consumers and business actors in obtaining legal justice.

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