

Consumer Protection in the Pre-Order System for Digital Products That Do Not Meet Specifications in Relation to Law No. 8 of 1999 Concerning Consumer Protection

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ABSTRACT

The development of digital commerce has led to the increasing use of pre-order systems in digital product transactions, which, on the other hand, poses the risk of goods not conforming to promised specifications. This study aims to analyze the forms of legal protection for consumers in pre-order transactions and the effectiveness of their regulations in applicable law in Indonesia. The method used is a normative juridical approach by analyzing laws and regulations and related legal materials. The results of the study indicate that although the pre-order system has not been specifically regulated, the legal relationship between consumers and business actors remains binding as an agreement that gives rise to rights and obligations, including the consumer's right to obtain clear information and compensation for losses. The research findings confirm the gap between normative regulations and practice in the field, which still shows a high level of violations. The implications of this study emphasize the need to strengthen supervision, law enforcement, and increase transparency in digital transactions to create more effective consumer protection.

Keywords: Consumer Law, Product Non-Conformity, Consumer Protection, Pre-Order, Digital Products.

INTRODUCTION

In today's digital era, marked by rapid technological and communication advancements, many people are shifting to online shopping. Various parties are now relying more on e-commerce as a means of buying and selling products.¹Online buying and selling is any

¹Landrawati, N, W, B., Rosmaya, I. (2022). Consumer Protection in Online Purchase Transactions Due to Non-Conformity of Goods Received. p. 76

business activity or business/interest that utilizes the internet to achieve the goal of profit. Consumer protection is now inseparable from online trading activities. This trading activity is expected to create a balance of rights and obligations between businesses and consumers.²

A pre-order system, commonly abbreviated as PO, is a sales method in which sellers accept orders for products offered through marketplaces or social media. Once the order quantity reaches the minimum production threshold, the seller will request payment by bank transfer. Once the necessary funds have been collected, the production process begins. Once the production period is completed within the specified timeframe and the goods are ready, the seller then ships the products to the buyers based on the previously provided order details.³

In practice, especially when the ordered item is still in the design or production stage, there is a possibility that the product received by the buyer may not fully match the expectations or initial description provided by the seller. Discrepancies in pre-order transactions can be caused by various factors. One such factor is changes in the product design or specifications. During the development and production process, manufacturers or sellers sometimes make certain adjustments to the product, so the final product received by the buyer may differ from the initial description provided.

Furthermore, the pre-order system is also prone to production delays and changes in shipping schedules. This can lead to discrepancies between the promised delivery time and the actual time the product is received by the buyer. Differences in the condition of the goods can also be a contributing factor. In some circumstances, products offered through the pre-order system have characteristics or features that are not completely identical to those of products already on the market.

Therefore, to minimize the possibility of discrepancies, buyers should carefully review the information provided by sellers, including product descriptions, images, and specifications. Additionally, buyers can review reviews or other consumer experiences to gain a clearer

²Oktaviani, C., Ambariyani, & Dwilestari, I. (2025). Analysis of Consumer Protection Against Online Buying and Selling Practices with a Pre-Order System According to Law No. 08 of 1999. P. 274

³Syaripudin, E, I., Izzan, A., & Widaningsih, S. (2022). Buying and Selling Practices Using a Pre-Order System: A Sharia Economic Law Perspective. P. 3

understanding of the product. Good communication between buyers and sellers before placing an order is also crucial to avoid misunderstandings during the pre-order process.⁴

The definition of consumer protection is explained in Article 1, number 1 of Law Number 8 of 1999 concerning Consumer Protection. This provision states that consumer protection is any effort aimed at ensuring legal certainty in order to provide protection to consumers. This definition is considered clear and adequate. The phrase "all efforts to ensure legal certainty" is intended as a form of protection to prevent arbitrary actions that could harm business actors solely for the sake of consumer protection.⁵

An example of a pre-order fraud case involved the sale of iPhones, allegedly perpetrated by two twin sisters, Rihanna and Rihanna. The two offered iPhones to consumers and resellers via a pre-order system at a lower price. Buyers were asked to make an advance payment with the promise that the items would be shipped once they were available. However, after payment was made, many consumers did not receive the promised items. As a result, dozens of victims suffered losses totaling approximately IDR 35 billion from transactions between 2021 and 2022. The case was subsequently reported to the police and is being prosecuted for alleged fraudulent online transactions.⁶

For example, the fake cooking oil pre-order case is a fraud that exploits people's need for basic goods, particularly during shortages and price increases around 2022. In this method, the perpetrators offer cooking oil through a pre-order (PO) system at a lower price to entice victims to make an upfront payment. However, after payment is made, the goods are never delivered, and the perpetrators disappear. As a result, victims suffer significant losses, with total losses in one case reaching approximately IDR 90 million.

This case was subsequently reported and handled by the Indonesian National Police (Polri), who conducted an investigation by gathering evidence and examining witness statements to identify the perpetrator. This act constitutes fraud and can also be categorized as embezzlement because the perpetrator failed to fulfill his obligations after receiving the money. This demonstrates the high risk pre-order transactions pose to consumers, necessitating greater caution and stronger legal protection.⁷

⁴Nurhasanah Alfa et al. (2023). The Use of Salam Contracts for Pre-Order Services in Online Buying and Selling on the Shopee Marketplace. Pp. 113-114

⁵Richard. (2025). Textbook of Economic Law. P. 129

⁶ <https://www.tempo.co/hukum/dua-saudara-kembar-diduga-lakukan-penipuan-pre-order-iphone-total-kerugian-rp-35-miliar-180035> (Accessed March 30, 2026)

⁷ <https://youtu.be/IFz7qISHTjU> (Accessed April 1, 2026)

RESEARCH METHODS

This study uses a qualitative method with a normative juridical approach, namely legal research conducted through an assessment of various legal materials obtained from literature studies, followed by an examination of their relationship to applicable laws. This study aims to examine consumer protection in pre-order transactions for digital products that do not meet the specifications promised by business actors. The subjects of this study involve consumers as parties who use or purchase digital products through the pre-order mechanism and business actors as parties who produce, market, or distribute these digital products. In addition, this study also aims to analyze the extent to which Law Number 8 of 1999 concerning Consumer Protection provides legal protection guarantees for consumers who are harmed due to digital products not meeting the specifications offered.⁸

DISCUSSION

Consumer Protection for Business Platforms That Sell Non-Conforming Goods Using a Pre-Order System in Connection with Law No. 8 of 1999 Concerning Consumer Protection

Consumer protection can be defined as all efforts made to ensure legal certainty in providing protection to consumers. Consumers are generally defined as the end users of a product provided by a business actor. In this context, a consumer is any individual who uses a product without the intention of reselling it. The definition of a consumer has been regulated in various laws and regulations. One of these is Law Number 8 of 1999 concerning Consumer Protection, specifically Article 1, which states that a consumer is any person who uses goods and/or services available in the community for the benefit of themselves, their families, other people, or other living beings, and not for resale.⁹ Etymologically, The term consumer comes from the English word consumer and Dutch word consumer or konsument. It refers to individuals who use, purchase, or require goods and/or services.¹⁰

Essentially, a right is a claim or interest that receives legal recognition and protection. This right authorizes its holder to demand that their interests be met by another party. In relation

⁸Maryam, Z. N., Rahmatiar, Y., & Abas, M. (2025). The Impact of Electronic Payments on Consumer Protection from the Perspective of Law No. 8 of 1999 concerning Consumer Protection. p. 124

⁹Suryadi, N., Rahmatiar, Y., & Abas, M. (2023). A Legal Review of the Existence of Non-Governmental Consumer Protection Institutions in Karawang Regency Based on Law No. 8 of 1999 Concerning Consumer Protection. P. 214

¹⁰Putri Mycelia Adani. (2025) Consumer Legal Protection in Electronic Transactions. P. 26

to consumers, consumer rights are all legally recognized and protected consumer interests in their relationships with businesses.¹¹ In practice, consumer protection includes two forms, namely protection against goods that do not comply with the agreement and protection against conditions that are unfair to consumers.¹²

In online transactions, consumers often face various risks, such as receiving goods that do not match the agreement, whether in terms of size, color, material, or other specifications. This situation can arise due to the seller's negligence in providing clear and accurate information to consumers, or due to a lack of accuracy in processing orders. Therefore, the existence of regulations that can guarantee the protection of consumer rights is crucial to create a fair and balanced transaction process. Legally, consumer protection is regulated in Law Number 8 of 1999 concerning Consumer Protection, which regulates the basic principles regarding consumer rights and obligations as well as the responsibilities of business actors.¹³

Pre-ordering is a trading system that allows consumers to place orders for a product or service before it is officially available on the market. This system allows consumers to order items in advance, even if the item is not yet physically available at the time of the transaction.

On the other hand, online buying and selling is a form of trade conducted over the internet, allowing sellers and buyers to interact without having to meet in person. By utilizing digital platforms or social media, sellers can offer their products or services to the wider public. Meanwhile, buyers can select the desired items and make transactions according to their needs.

In practice, businesses typically simply publish or upload products for sale through social media or other digital platforms. Buyers then communicate and process transactions through e-mail services or online chat. Once an agreement is reached between the two parties, the ordered goods will be shipped to the consumer via a delivery service or can also be delivered directly to the buyer.

¹¹Ade Soraya et. al. (2025). Consumer Protection Law. P. 19

¹²Agustinus Sihombing et al. (2023). Consumer Protection Law. P. 26

¹³Nurfadila, A., Raehana, S., & Lawang, H. (2025). Legal Protection for Consumers in Online Pre-Order Buying and Selling on the Facebook Application from the Perspective of Sharia Economic Law. Pp. 6-7

The pre-order system allows consumers to place an order and make an advance payment for a product that is not yet physically available at the time of the transaction. The seller is then obligated to provide or ship the item to the consumer at a pre-agreed time.¹⁴ The pre-order system thatLack of certainty about delivery times creates uncertainty for consumers. For example, a consumer may have made full payment for a digital product or imported goods, but the seller doesn't provide definitive information regarding delivery times or clarity regarding refunds if the transaction doesn't go through.¹⁵

In general, consumers remain in a relatively weak position compared to businesses, both in terms of economic status, education level, and negotiating power. This situation makes the existence of laws and regulations that provide consumer protection a crucial need. Therefore, the government has established consumer protection in the form of legally binding laws and sanctions for businesses that violate these provisions.

Consumer protection encompasses various efforts to provide legal certainty to consumers. This legal certainty encompasses steps to empower consumers to make informed choices about the goods and/or services they need and to defend their rights if they experience losses due to the actions of business actors. Law No. 8 of 1999 concerning Consumer Protection essentially seeks to create a balance between consumers and business actors.

Furthermore, the law provides for out-of-court dispute resolution mechanisms through conciliation, mediation, and arbitration to avoid lengthy and formal court proceedings. Consumers who feel they have been wronged can choose to file a lawsuit in district court or resolve their dispute through the Consumer Dispute Resolution Agency, a government-established institution to handle disputes between consumers and businesses based on an agreement between the parties regarding the resolution method to be used.¹⁶

Consumer protection laws in Indonesiahas a basis that has been determined by the government, thus providing legal certainty in protecting consumer rights. With this legal basis, protection efforts can be carried out more effectively. On March 30, 1999, the DPR approved the Consumer Protection Bill after a long process lasting 20 years, which was then ratified by the government on April 20, 1999. The legal basis for consumer protection includes: the 1945 Constitution (Article 5 paragraph (1), Article 21 paragraph (1), Article 27, and Article 33); Law No. 8 of 1999 concerning Consumer Protection; Law No. 5 of

¹⁴Pulungan, H, T. (2024). Seller Responsibilities to Consumers in Online Pre-Order Services. Pp. 154-155

¹⁵Farida Aprianti et al. (2026) Islamic Economic Law. P. 55

¹⁶Rahman Arif. (2018). Consumer Dispute Resolution Through the Consumer Dispute Resolution Agency (BPSK) of Serang City. Journal of Legal Studies. Vol. 2. No. 1. Pp. 22-23

1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition; Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution; PP No. 58 of 2001; and various circulars related to handling and serving consumer complaints.¹⁷

The Consumer Dispute Resolution Agency (BPSK) is a quasi-judicial institution established under Law Number 8 of 1999 concerning Consumer Protection with the aim of providing a means for resolving disputes between consumers and businesses outside the courts. In carrying out its duties, the BPSK resolves consumer disputes through conciliation, mediation, and arbitration mechanisms, thereby providing legally binding decisions and providing a faster, simpler, and more efficient alternative for consumer dispute resolution.

However, resolving a dispute through the Consumer Protection and Consumer Protection Agency (BPSK) does not eliminate the possibility of criminal liability related to the case. Based on Article 45 paragraphs (3) and (4) of the Consumer Protection and Consumer Protection Act, consumers still have the right to file a lawsuit through a general court if they experience losses due to the actions of a business actor. However, if the parties have chosen to resolve the dispute outside the court, a lawsuit through the court can only be filed if this effort is declared unsuccessful.¹⁸

Government Efforts Against Platforms That Harm Consumers Are Linked to Consumer Protection Law No. 8 of 1999

The government has an important role in consumer protection law to ensure a fair business system and protect against practices detrimental to consumers. This will create a transparent and integrated business environment that enhances public trust in the market.¹⁹

The government, through the Ministry of Trade (Kemendag), recorded 3,682 consumer complaints throughout 2024. Of these, 97.8%, or 3,575 complaints, originated from trade transactions via marketplaces or e-commerce. The complaints covered a variety of issues, including product mismatches with promises, product damage, late delivery, balance top-up issues, issues with payment and credit card systems, and warranty claims at service centers. In addition to these complaints, 258 questions and 92 inquiries were received. The

¹⁷Abdul Atsar & Rani Apriani. (2019). Textbook of Consumer Protection Law. Pp. 5-6

¹⁸Rahmaniah Amelia et.al. (2025). The Role of BPSK in Resolving Consumer Disputes. Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory. Vol. 3. No. 4. Pp. 3568-3569

¹⁹Ferdinandus Ngau Lobo et al. (2024). Consumer Protection Law. P. 139

majority of complaints, 97.8%, have been resolved, while the remaining 2.2% are still being processed.

The high number of complaints indicates that consumer trust in e-commerce transactions remains suboptimal. Therefore, more intensive oversight and guidance are needed. In this regard, the government plays a strategic role through the establishment of regulations aimed at protecting and ensuring the security of electronic transactions. Therefore, strict oversight is essential to creating a safe and reliable e-commerce system in the evolving digital era.²⁰

The government plays a strategic role as law enforcer in overseeing the implementation of consumer protection regulations in Indonesia, particularly in the e-commerce sector. Effective oversight and enforcement systems are crucial to prevent violations by businesses and ensure strict sanctions for any violations. In practice, the government conducts regular oversight of e-commerce activities to ensure compliance with established standards and norms. Furthermore, the government takes consumer complaints seriously through thorough investigations and the imposition of fair sanctions. These efforts send a strong signal that violations of consumer rights will not be tolerated, thus encouraging businesses to operate in accordance with applicable regulations.

On the other hand, consumer protection also requires synergy between the government and the private sector. This collaboration can encourage improved service quality, information transparency, and improved product standards. Through this partnership, businesses can receive coaching and guidance to ensure their business activities align with consumer protection principles. Furthermore, joint education and training programs can also raise business awareness and ethics in treating consumers responsibly.

The government can also provide incentives and rewards to e-commerce companies that demonstrate a strong commitment to consumer protection. These incentives can take the form of public recognition, industry awards, or special benefits. This policy not only encourages compliance but also fosters healthy competition, boosting consumer trust.

To fulfill its role, the government established the National Consumer Protection Agency (BPKN), tasked with providing policy recommendations, disseminating information on consumer rights, and receiving and following up on public complaints. Furthermore, the use of digital technologies such as mobile applications and online platforms is also a crucial

²⁰Juniwati, V., Anugrah, D., & Fathanudien, A. (2025). The Role of Government in Protecting Consumers from Harmful E-Commerce Practices in Indonesia. pp. 40-41

tool in expanding access to information, facilitating reporting, and expediting responses to consumer complaints.

Furthermore, the government needs to strengthen regional and international cooperation to address the challenges of cross-border trade. Through such collaboration, Effective exchange of information, experience, and consumer protection standards can be achieved. Involvement in international forums also allows Indonesia to align its policies with global standards.

As e-commerce activity increases, the government is required to continuously update regulations and strengthen its oversight system. This includes personal data protection, transaction security, and handling digital crimes such as phishing and fraud. By leveraging technology for oversight, the government can detect potential violations more quickly and accurately. Therefore, an active government role through policies, supervision, education, and collaboration with various parties is key to creating a safe, fair, and trustworthy e-commerce ecosystem for consumers.²¹

CONCLUSION

Based on the results of the problem identification above, it can be concluded that:

1. Consumer protection for business platforms that sell through a pre-order system and produce goods that do not meet specifications is essentially guaranteed in Law Number 8 of 1999 concerning Consumer Protection. This provision emphasizes that business actors, including those operating through digital platforms, are required to provide correct, clear, and honest information regarding the condition and guarantees of the goods. If a discrepancy occurs, the business actor is responsible for providing compensation to the consumer. Although the pre-order system is not specifically regulated, the legal relationship that arises remains binding as an agreement, so consumer rights must still be legally protected.
2. The government's efforts to address platforms that harm consumers have been implemented through the establishment of regulations, oversight, and the provision of dispute resolution mechanisms. Through Law Number 8 of 1999 concerning Consumer Protection, the government provides dispute resolution facilities, both through the courts and out-of-court, such as through the Consumer Dispute Resolution Agency (BPSK). Furthermore, the government plays a role in fostering and supervising digital platform activities to prevent practices that harm consumers.

²¹Al Ghozali, F., Hardyanthi, T. (2024). Consumer Protection on E-Commerce Platforms: Regulation and the Role of Government. pp. 138-140

However, increased oversight and law enforcement are still needed to ensure more effective consumer protection in the digital commerce era.

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