

# The Mapping of Electronic Commerce Issues and Consumer Protection Policy in Indonesia

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## ABSTRACT

In the post-economic crisis in 1998, Indonesia experienced significant economic growth. Public consumption activities have become vulnerable due to open economic activities. In this case, the government has issued Law Number 8 of 1999 concerning Consumer Protection to protect consumers in fulfilling their needs. In September 2020, the Central Statistics Agency recorded that the millennial generation and generation Z dominate the population structure in Indonesia. This population structure also changes consumption patterns due to their lifestyle, including trends in electronic commerce or e-commerce. This study explores how consumer incidents relate to electronic commerce or e-commerce activities. It also strives to see the government's role in formulating policies related to consumer protection in electronic commerce or e-commerce. This study used the descriptive qualitative method of policy analysis. The findings of this study indicate that responsive policies are needed to minimize consumer incidents and strengthen cross-ministerial/institutional coordination related to consumer protection with ministries/agencies coordinating consumer protection.

## ABSTRAK

Pasca krisis ekonomi pada 1998, Indonesia mengalami pertumbuhan ekonomi yang signifikan. Kegiatan konsumsi masyarakat menjadi rentan karena kegiatan ekonomi tersebut dilakukan secara terbuka. Dalam hal ini, pemerintah telah menerbitkan Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen agar konsumen terlindungi dalam memenuhi kebutuhannya. Pada September 2020, Badan Pusat Statistik mencatat bahwa generasi milenial dan generasi Z mendominasi struktur kependudukan di Indonesia. Struktur penduduk ini juga mengubah pola konsumsi karena gaya hidup mereka, termasuk tren perdagangan elektronik atau e-commerce. Penelitian ini mencoba untuk mengetahui bagaimana insiden konsumen terkait dengan perdagangan elektronik atau aktivitas e-commerce. Penelitian ini juga ingin mengetahui bagaimana peran pemerintah dalam merumuskan kebijakan terkait perlindungan konsumen dalam perdagangan elektronik atau e-commerce. Penelitian ini menggunakan metode deskriptif kualitatif dengan analisis kebijakan. Temuan penelitian ini menunjukkan bahwa diperlukan kebijakan yang responsif dalam upaya meminimalisir insiden konsumen, serta perlunya memperkuat koordinasi lintas kementerian/lembaga terkait perlindungan konsumen dengan kementerian/lembaga yang mengoordinasikan perlindungan konsumen.

## 1. INTRODUCTION

After the economic crisis in 1998, Indonesia experienced significant economic growth, which was indicated by the presence of household consumption as the driver of this growth. However, public consumption activities have become vulnerable due to open economic activities. This condition requires protection for consumers in fulfilling their needs. This protection regulation is

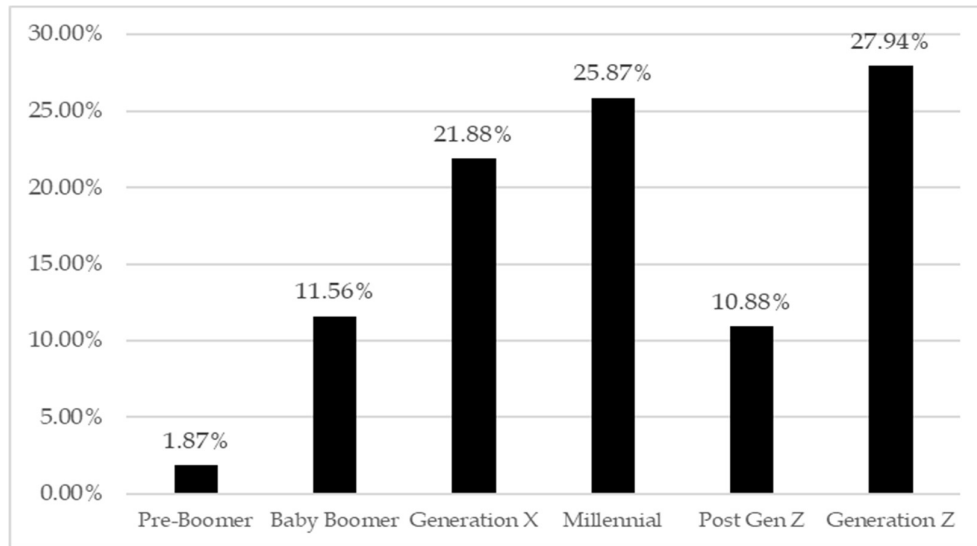
stipulated in Law Number 8 of 1999 concerning Consumer Protection. This law also concerns the rights and obligations of consumers, the rights and obligations of business actors, and ways to defend their respective rights and carry out their obligations.

In September 2020, the Central Statistics Agency recorded Indonesia's population as 270 million people (BPS, 2021). From this population—and

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based on the age structure—the Indonesian population is dominated by generation Y or millennials and Z-generation, as presented in Figure 1. The millennial generation is 25.87 percent, while Generation Z is 27.94 percent. Generation Y (millennials) use many instant communication technologies such as email, SMS, and instant

messaging. It is because Generation Y is a generation that grew up in the booming internet era (Pelet & Lecat, 2014). Generation Z is the newest working generation, born between 1995 and 2012, and they are also called the net generation or the internet generation (Çelik et al., 2021; Srivastava & Banerjee, 2016).



Source: BPS, 2021

**Figure 1.** Demographic structure 2020

Generation Z is different from Generation Y or Millennials. One of the differences between Gen Y and Gen Z is that Generation Z is more technologically-advanced, more open-minded, and does not pay much attention to norms (Lichy & Kachour, 2017; Pandey et al., 2020; Windasari et al., 2022). Since millennials and Z-generation dominate Indonesia's population structure, they significantly change the consumption patterns. It is due to the lifestyle of the generations. Both generations are technology literate and supported by the development of information technology, such as smartphones, the internet, and social media, which have become a lifestyle in their routine (Sima, 2016; Windasari et al., 2022). Therefore, this condition impacts electronic consumption transactions and encourages people to consume more (Lissitsa & Kol, 2016; Xiang et al., 2015).

Currently, the world has entered the era of industrial revolution 4.0. The progress of this digital era has also changed the lifestyle and consumption patterns of the community as consumers (Guven, 2020; Yakut, 2022). The industrial revolution 4.0 and digital progress signify changes that broadly impact the market and consumer access (Roblek et al., 2016). With such conditions, business actors, consumers,

and the government have influenced the country's economy regarding technology usage.

Various technologies have begun to be applied in various lines, including the presence of electronic commerce or e-commerce. The most common types of e-commerce provisions refer to promoting e-commerce and cooperation activities (Liu et al., 2015; Zhong et al., 2019). Other e-commerce provisions concern the domestic legal framework and more specific issues, such as electronic authentication, consumer protection, personal information protection, and paperless trading (Barkatullah, 2018; Goyens, 2020; Ogbanufe & Kim, 2018).

Although consumer protection laws have until recently been a feature at the national level, often due to an increased standard of living, the number of cross-border challenges has grown, and there is a shift from the national and regional levels to the global stage (Izaguerra Vila, 2020). The mechanism of consumer protection in electronic transactions is not robust in many countries. Because of the lack of comprehensive and robust legislation, consumers remain vulnerable in the process of online contractual purchases. Many countries are mulling an all-comprehensive e-commerce law out of the fragmented legislation.

The implications of this paper will help policymakers identify the focus areas. This study aims to determine how consumer incidents relate to electronic commerce or e-commerce activities. In addition, this study also wants to know the government's role in formulating policies related to consumer protection in electronic commerce or e-commerce. Various studies in Indonesia focus more on studying consumer protection in online loans or fintech lending (Disemadi et al., 2020; Hidayat et al., 2020; Juwenie et al., 2016). Therefore, the novelty of this study is to comprehensively examine the Indonesian government's role in formulating consumer protection policies in e-commerce transactions since consumer protection for e-commerce transactions is very urgent (Kharisma, 2021)

## 2. THEORETICAL FRAMEWORK

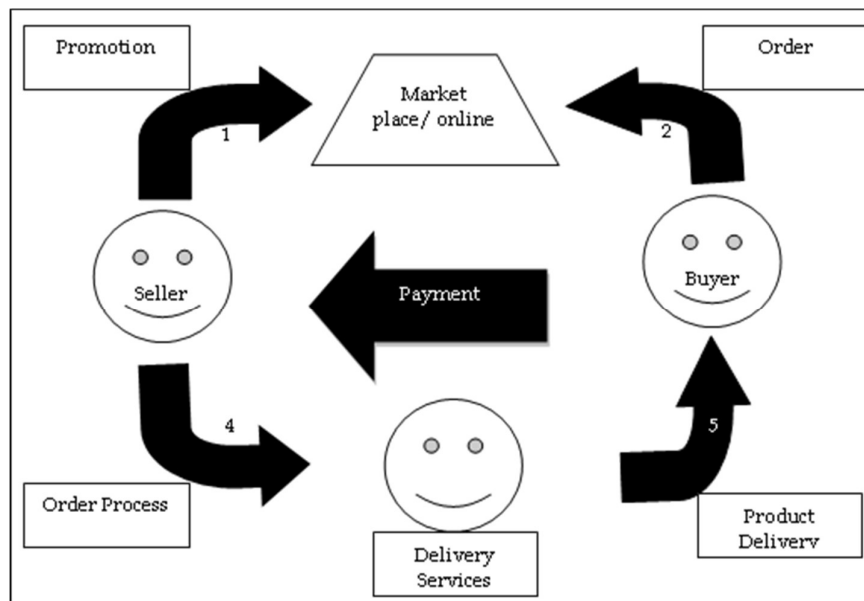
### E-Commerce Transaction

According to Laudon & Laudon (2020), electronic commerce (e-commerce) uses the internet and the web to transact business. It can be explained that e-commerce conducts trade or business transactions online using the internet and other online tools. Meanwhile, Wong (2013) defines electronic commerce as the buying, selling, and marketing of goods and services through electronic systems. This activity can be done using, for example, radio, television, computer networks, or the internet. Another proponent, Kotler & Armstrong (2018),

stated that e-commerce is an online channel that someone can reach through a computer. Business people use this activity in carrying out their business activities and use it by consumers to obtain information using computer assistance, which begins with providing information services to consumers in making choices.

E-commerce describes how transactions occur through networks, primarily through the internet, and e-business refers to using Internet technologies to conduct business. E-business covers all areas of business, individual communication to customers via email, internet marketing, online sales, or employment of people using the internet. At the same time, e-commerce sells and purchases products, services, and information (Belwal et al., 2020).

E-commerce is all forms of trade in goods or services using internet intermediary media. In e-commerce, at least four components are required for online transactions, as depicted in Figure 3 (Tham et al., 2020). First, the store or marketplace is a place to sell goods needed by consumers. Second, it deals with the seller and the buyer. The seller is the one who sells the goods or services to the consumer, while the buyer is the person who buys the goods being sold. Third, the payment gateway is a system that authorizes the payment process from the buyer to the seller. Fourth is the delivery service as a company or provider of courier or expedition services.



**Figure 3.** E-Commerce business process

Several business actors are involved in e-commerce transactions, including buyers, sellers, delivery service providers, and marketplace providers. The business process model with transactions like this is prone to mutual claims that it is not the responsibility of business actors when there is a default problem in transaction settlement. Therefore, the e-commerce business process must have a specific integrated complaint unit provided by the store/marketplace (Al Fikry & Fibrianti, 2022; Belwal et al., 2020; Chawla & Kumar, 2021; Wahyuni, 2018). Thus, consumers can easily complain when there is a problem settling consumer transactions, and the initiatives of business practitioners can restore their rights.

### E-Commerce Regulation

According to the guidelines-1999 of the Organization for Economic Cooperation and Development (OECD), e-commerce is online business activities-both communications, including advertising and marketing, and transactions comprising ordering, invoicing, and payments (OECD, 2020). OECD-1999 guidelines recognized, among others, three essential dimensions of consumer protection in e-commerce. First, all consumers need to have access to e-commerce. Second, to build consumer trust/confidence in e-commerce, the continued development of transparent and effective consumer protection mechanisms is required to check fraudulent, misleading, and unfair practices online. Third, all stakeholders-government, businesses, consumers, and their representatives must pay close attention to creating effective redress systems (Chawla & Kumar, 2021).

Chawla & Kumar (2021) further explained that the Act 2019 establishes the Central Consumer Protection Authority (CCPA), in addition to the existing three-tier grievance redress structure. It provides regulatory, investigative, or adjudicatory services to protect consumers' rights. The CCPA has the powers to regulate/inquire/investigate consumer rights violations and/or unfair trade practices or on a complaint received from an aggrieved consumer or a government directive. The specific actions include executing inquiries into infringements of customer rights and initiating lawsuits, ordering the recall of dangerous/hazardous/unsafe products and services, ordering the suspension of unethical commercial practices and false ads, and imposing fines on suppliers or endorsers, or publishers of false advertising. The power of CCPA is categorical

regarding dangerous/hazardous/unsafe goods and false/misleading advertisements.

Many countries are struggling to draft and implement consumer protection laws, such as Ghana (Acheampong et al., 2017), India (Chawla & Kumar, 2021), Jordanian (Dahiyat, 2011), and Oman (Belwal et al., 2020). This law aims to provide legal certainty and increase trust in e-commerce transactions. Micklitz and Saumier (2018) suggest that consumer protection laws should focus more on services and digitization rather than the classic focus on consumer products. Mišćenić (2019) states that the enforcement of consumer protection laws is highly dependent on the role of the courts. Previous studies stated that the enforcement of consumer protection laws is quite effective but there are still some obstacles that need to improve, such as low consumer awareness (Trstenjak & Weingerl, 2018), the lack of consumer protection agencies' role (Pauknerová & Skalská, 2018), inadequate funding (Namysłowska & Jabłonowska, 2018), and the existence of a fair and ethical dispute agency (Goyens, 2020; Talesh, 2015). Another problem in implementing e-commerce customer protection laws is the coordination among relevant ministries and agencies, such as the central bank and consumer protection agency (Chawla & Kumar, 2021; Goyens, 2020; Shaik & Poojasree, 2021). The initial proposition in this study is that to reduce consumer incidents related to e-commerce, it is necessary to strengthen the coordination of ministries or agencies related to consumer protection.

Article 1 of the Indonesian Consumer Protection Law 1999 regulates consumer protection in Indonesia. However, this regulation does not fully regulate electronic transactions; only a few articles can be used in electronic transactions. The Consumer Protection Law is part of the Consumer Law which contains the principles and then the rules regulating and contain characteristics that protect the interests of consumers. The issuance of this Consumer Protection Law is expected to be used as one of the most valuable weapons for consumers to obtain legal certainty. On the other hand, producers also need to be careful. Article 30 of the Consumer Protection Law states:

1. Supervision of the implementation of consumer protection and the application of regulatory provisions of the legislation is implemented by the government, community, and non-governmental consumer protection institutions.
2. Supervision by the government, as referred to in paragraph (1), is carried out by the minister and/or the technical minister for repairs;

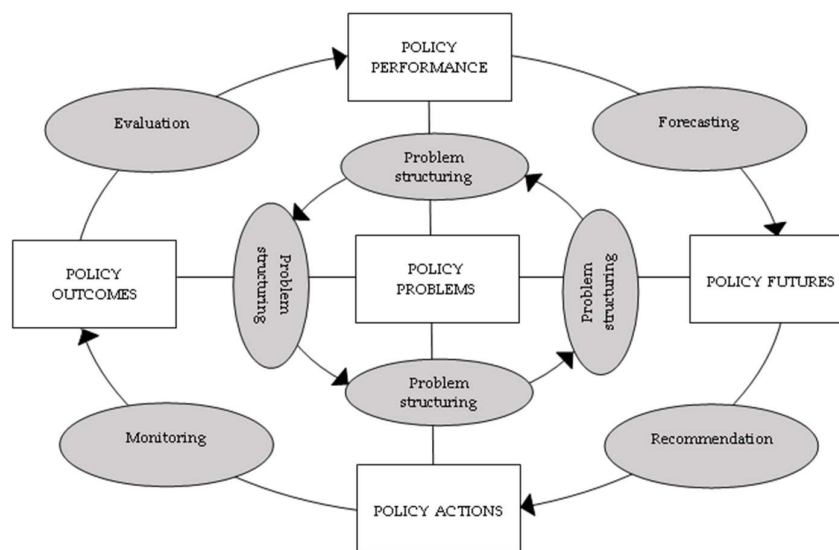
3. Supervision by the public is carried out on goods and/or services circulating in the market;
4. If the results of the supervision, as referred to in paragraph (3), are found to deviate from the prevailing laws and regulations and endanger consumers, the minister and/or technical ministers take action following the applicable laws and regulations;
5. The results of supervision completed by the community and non-governmental consumer protection institutions are disseminated to the public and can be submitted to the minister and technical ministers;

Provisions for the implementation of the

supervisory duties as referred to in paragraph (1), paragraph (2), and paragraph (3) shall be stipulated by a Government Regulation.

### 3. RESEARCH METHOD

This research method is a qualitative descriptive method. As part of the qualitative method, the descriptive qualitative approach includes the construction of social reality and cultural meaning. In addition, this method also focuses on interactive processes, events, authenticity, not value-free, integrated theory and data, situational or contextual, and researcher involvement (Creswell, 2014).



Sources: Dunn (2017)

**Figure 2.** Dunn model of policy analysis

For the method of analysis, this study used policy analysis. According to Dunn (2017), policy analysis methodology combines five general procedures: formulation of the problem, forecasting, recommendation, monitoring, and valuation. The problem formulation (definition) produces information about the condition that creates policy problems. The forecasting (prediction) provides information about the relative value or usefulness of the future consequences of implementing policy alternatives, including doing nothing. The recommendation (prescription) provides information about values or problems. The monitoring (description) produces information about implementing policy alternatives' current and past consequences. Meanwhile, the valuation provides information about the value or usefulness of the consequences of solving or alleviating problems.

### 4. DATA ANALYSIS AND DISCUSSION

#### Consumer Incident Analysis in the Electronic Commerce Sector

In letter f paragraph (1), article 34 of Law No. 8/1999 on Consumer Protection, this paragraph assigns BPKN, the Indonesian National Consumer Protection Agency, to receive complaints about consumer protection from the public, non-governmental consumer protection institutions, or business practitioners. Complaints to BPKN can be made either offline or online. For offline/direct complaints, the complaint is addressed to Graha BPKN RI, Jalan Jambu No 32 RT 05/RW 02 Gondangdia, Menteng, Jakarta. Online complaints can be made via WhatsApp 08153153153, social media channels: Instagram @bpkn\_ri and Facebook BPKN RI, email complaint@bpkn.go.id, website www.bpkn.go.id. With the Covid-19 pandemic worldwide since 2020, BPKN has optimized the

BPKN 153 application.

Government Regulation Number 4 of 2019 concerning the BPKN, as referred to in Article 4 paragraph (2), in carrying out its duties, BPKN may form a Commission. In particular, the task of consumer complaints is coordinated by the BPKN Advocacy Commission. In classifying incoming complaints, BPKN classifies them as the sectors contained in PP No 50/2017 concerning the National Strategy for Consumer Protection. Those that are not included in the classification are classified into

others.

From the existing data, it can be seen that there were 328 complaints in Electronic Trading. It is the largest number of complaints sector after financial services. Some of these complaints are related to default on delivery of goods, refunds/refunds, accounts, counterfeit goods, defective goods, transaction cancellations, and OTP/Phishing. Based on existing data, the number of consumer complaints contained in BPKN is as follows:

**Table 1.** Consumers' complaints per sector

No	Sectors	Number of Complaints
1	Financial Sector	1,853
2	E-Commerce	328
3	Housing	113
4	Miscellaneous	65
5	Telecommunication Service	24
6	Transportation Service	15
7	Electronic goods, Telemetric, and Motor-Vehicles	24
8	Electricity and Household goods	11
9	Medicines and Food	5
10	Health Care Services	6
Total		2,444

Sources: www.bpkn.go.id. Data of Complaints 1 January 2021 to 3 June 2021

### Consumer Protection Policy Analysis in the Electronic Commerce Sector

Electronic trading, in particular, is regulated in Government Regulation (PP) of the Republic of Indonesia Number 80 of 2019 concerning Trading through Electronic Systems (TTES). PP No 80/2019, among others, regulates:

1. Parties conducting TTES;
2. Requirements in TTES;
3. Implementation of TTES;
4. Obligations of Business Actors;
5. Proof of TTES transaction;
6. Electronic Advertising;
7. Electronic Offer, Electronic Acceptance, and Electronic Confirmation;
8. Electronic Contracts;
9. Protection of personal data;
10. Payment in TTES;
11. Delivery of Goods and Services in TTES;
12. Exchange of Goods or Services and cancellation of purchases in TTES;
13. Settlement of disputes in TTES; and
14. Guidance and supervision.

This regulation also regulates the settlement of disputes in TTES contained in Article 72; Paragraph

(1). This article states that in the event of a dispute in TTES, the parties can resolve the dispute through the courts or other dispute resolution mechanisms. Paragraph (2) states that the TTES dispute resolution, as referred to in paragraph (1), can be carried out electronically (online dispute resolution) following the provisions of the legislation. Paragraph (3) states that in the case of a dispute between a Domestic Business Actor and a Consumer, the consumer may sue the Business Actor through the Consumer dispute settlement agency or submit it to a judicial institution at the consumer's domicile.

It is the Presidential Regulation of the Republic of Indonesia Number 50 of 2017 concerning the National Strategy for Consumer Protection. One of them includes the Trade Transactions sector through the Electronic System as a priority for consumer protection. Table 2 shows that implementing policies related to e-commerce consumer protection involves the coordination of three ministries and the Central Bank. The Ministry of Finance is tasked with formulating tax policies that do not overlap and establishing the digitalization of payment systems. The use of e-commerce transactions is only taxed once and is the same as conventional transactions. The Ministry of Communications and Informatics

maintains the security system and users' personal data. This ministry also provides a call center to accommodate consumer complaints related to violations in e-commerce. Bank of Indonesia is responsible for providing a payment system for the instant settlement of individual transactions. At the same time, the Ministry of Commerce is responsible for increasing public awareness of the benefits and

risks of e-commerce transactions and ensuring that e-commerce providers provide customer complaint facilities. The government has issued regulations to anticipate consumer disputes. The regulation is also an effort to make business actors responsible so that public or consumer trust is maintained in conducting transactions of goods and services electronically.

**Table 2.** Target related to trade transactions through the electronic system

Target in 2019	Person in Charge
There are 100% registered providers of trade transactions through the electronic system (TTES) who have an escrow account to ensure conformity between the specifications of the goods offered and those received by consumers.	Ministry of Finance
1,000 TTES Operators already have electronic transaction system reliability certification.	Ministry of Communication and Informatics
100% Strengthening of Consumers payment system protection, including TTES.	Bank Indonesia
100% of registered TTES Operators have a mechanism for handling consumer complaints.	Ministry of Trade

When looking at the age structure of the Indonesian population, they are dominated by Generation Y (Millennial Generation) and Generation Z and tend to conduct transactions electronically. Therefore, electronic commerce will continue to increase in line with the internet distribution policy spread throughout Indonesia. From this phenomenon, the government must also anticipate potential consumer incidents. The existing policies must be completed, including facilitating alternative dispute resolution in case of a dispute between consumers and business people. In addition, the coordination regarding e-commerce taxation and policy needs to be carried out consistently and transparently. Policy implementation must be non-discriminatory, simple, and enforceable. The government must avoid unclear policies and overlapping authorities between ministries or government agencies. It is necessary to clarify the difference in roles between the ministry of trade and the ministry of communication and informatics. The government also needs to synergize the roles of the BPKN and the non-governmental organization, the Indonesian Consumers Foundation. Coordination is not only carried out between government agencies but also with non-governmental consumer protection institutions.

## 5. CONCLUSION, IMPLICATION, SUGGESTION, AND LIMITATIONS

The development of technology and the encouragement of generations are accustomed to using technological facilities. It is estimated that

there will be an increase in transactions through electronic commerce or e-commerce. This increase also has the potential to increase consumer incidents. Therefore, this study suggests that consumer incidents can be minimized by responding to changes with responsive policies to create a conducive business climate.

Consumers are expected to obtain their rights quickly in considering the consumer incident. Therefore, a cross-Ministry/Agency Coordinator related to Consumer Protection is needed to overcome this problem. It is due to the current presence of the authority and consumer complaints that are not yet well managed. Therefore, it is necessary to have an effective framework to resolve consumer incidents. In addition, it is also necessary to strengthen alternative institutions for consumer dispute resolution. The positive impact will be an increase in transactions on e-commerce if consumer incidents can be resolved quickly. However, if many incidents are still not handled properly on a macro basis, it will lead to a decline in consumer confidence in e-commerce. In that case, it potentially affects household transactions and consumption decline. Coordination must be done between government agencies and non-governmental consumer protection agencies.

The limitation of this study is that this study only analyzed the data by looking at the complaints that occurred in BPKN RI (National Consumer Protection Agency). It is advisable for further research such as the researchers can do it more comprehensively by looking at consumer

complaints in the Ministry of Trade of the Republic of Indonesia. Further studies must examine and compare data from the BPKN and the Indonesian Consumers Foundation. It is because consumers can be more comfortable submitting complaints to non-governmental organizations than to government agencies.

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