
URGENCE OF SPECIAL EDUCATION FOR COMMISSIONERS OF THE CONSUMER DISPUTE SETTLEMENT AGENCY

Anak Agung Sagung Laksmi Dewi
Faculty of Law, Warmadewa University, Indonesia
laksmidewi@gmail.com

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Abstract

Progress in science and technology, including telecommunications and information, have resulted in an increase in the variety and quality of the production of goods and services, including an increase in the space for transactions that cross national boundaries. The aims research is to know what are the methods of problem solving by the Consumer Dispute Settlement Agency and to know what is the urgency of special education for commissioners of the Consumer Dispute Settlement Agency. The result shows that The Consumer Dispute Settlement Agency has the duties and authorities as stipulated in Article 52 UUPK and the Decree of the Minister of Industry and Trade Number 350/MPP/Kep/12/2001, dated December 10, 2001, concerning the Implementation of the Duties and Authorities of the Consumer Dispute Settlement Agency, namely carrying out the handling and settlement of consumer disputes by conciliation, mediation, and arbitration. To support the performance of The Consumer Dispute Settlement Agency members, which consists of three different elements, special education, and training are needed to build the professionalism of The Consumer zDispute Settlement Agency members. Considering that The Consumer Dispute Settlement Agency itself has the scope of authority to resolve consumer disputes using conciliation, mediation, and arbitration, it can support the effectiveness of The Consumer Dispute Settlement Agency's performance in resolving issues related to consumer disputes.

Keywords: law, consumer dispute settlement agency

I. INTRODUCTION

Progress in science and technology, including telecommunications and information, have resulted in an increase in the variety and quality of the production of goods and services, including an increase in the space for transactions that cross national boundaries. On the one hand, this condition will benefit consumers, especially the fulfillment of their rights to choose various goods and services that available in society according to their abilities. However, on the other hand, such conditions have the potential or risk of detrimental to the rights and interests of the consumers because of the increasingly unbalanced position of consumers with businessmen, where consumers are in a weak position. Consumers become objects of business activities to reap the maximum profit possible by businessmen through promotional tips, sales methods, and the application of standard agreements that are detrimental to consumers (Harjono & Panjaitan, 2021). Samsul defines consumer protection law as the whole principles and rules governing and protecting consumers in the relationships and problems of supply and use of consumer products between providers and consumers constitute the entire legislation, both law and other legislation and decisions - a judge's decision whose substance governs the interests of consumers (Samsul, 2004).

The legal system exists, then, as an avenue through which every person in society who has a valid claim against another should be able to move to attain satisfaction of that claim. Conversely, it should be a protection to persons against invalid claims from other members of society. The fact that a claim is small or held by a person without the knowledge or capabilities to enforce it should be of no importance whatsoever. If the claim is a valid one it should be capable of enforcement. When a claim cannot be enforced because the relative cost is prohibitive, there is, as Pound has said, a "denial of justice" (Axworthy, 1976).

Everyone has been a consumer to meet his or her daily needs, both primary and secondary, to obtain goods and services. Consumer dispute settlement becomes an important instrument for

protecting consumers (Sari, 2018). Currently, many products or services are offered to the public as consumers, both through conventional markets and via the internet, given that in the free market era like now, and consumers are not spared from encountering various problems such as fraud committed by consumer actors, fraud, and other problems. Thus, consumers need to receive legal protection and guarantees from the state to guarantee public protection, especially as users of goods and services.

Law Number 8 of 1999 concerning Consumer Protection states that if there are problems related to consumer protection, they can be resolved through 2 channels, namely (1) dispute resolution is carried out outside the court using a) peaceful dispute resolution by the parties themselves; and b) dispute resolution through The Consumer Dispute Settlement Agency, from now on referred to as (The Consumer Dispute Settlement Agency), using mechanisms, namely Conciliation, Mediation and Arbitration. (2) Dispute resolution is carried out through the court.

The Consumer Dispute Settlement Agency is a non-structural institution with offices in districts and cities that "resolve consumer disputes out of court." The Consumer Dispute Settlement Agency members consist of elements from the Government, consumers, and elements of business actors. The legal basis for establishing a The Consumer Dispute Settlement Agency is Article 49 Paragraph 1 UUPK and Kepmenperindag Number 350/MPP/Kep/12/2001, stipulating that a The Consumer Dispute Settlement Agency must be formed in every city or district. The existence of The Consumer Dispute Settlement Agency can be part of the distribution of justice, especially for consumers who feel aggrieved by business actors, because disputes between consumers and business actors are usually minor in nominal terms. Hence, it is impossible to submit the dispute to court because there is no court fee with the amount of loss to be prosecuted comparable.

The role of The Consumer Dispute Settlement Agency in resolving consumer cases has been regulated in the Consumer Protection Act Number 8 of 1999. The law states that there are 2 (two) main topics of The Consumer Dispute Settlement Agency namely:

1. Consumers do not have to resolve conflicts or problems through the Consumer Dispute Settlement Agency. However, The Consumer Dispute Settlement Agency decision has strong legal force to deter business actors. In addition to being subject to severe sanctions, decisions can be used as case files for investigators.
2. Article 46 Paragraph (1) of Law Number 8 of 1999 states that business actors may be sued by:

The Consumer Dispute Settlement Agency, which is tasked with handling cases of consumers and business actors, has the following roles:

1. Handling consumer cases through mediation, conciliation and arbitration.
2. Open a consumer protection consultancy.
3. Supervise the inclusion of standard clauses.
4. If there is a violation of the Consumer Protection Act, The Consumer Dispute Settlement Agency is obliged to report it to investigators.
5. The Consumer Dispute Settlement Agency is obliged to accept written or unwritten complaints regarding various types of violations.
6. The Consumer Dispute Settlement Agency is tasked with conducting case examinations and research related to consumer protection issues.
7. The Consumer Dispute Settlement Agency has the right to summon business actors who are suspected of violating the Consumer Protection Law.
8. The Consumer Dispute Settlement Agency has the right to present expert witnesses, witnesses, or someone who is deemed to know of violations of the Consumer Protection Act.
9. The Consumer Dispute Settlement Agency can ask for help from investigators in bringing in witnesses, expert witnesses, and business actors - if they don't want to comply with The Consumer Dispute Settlement Agency's invitation.
10. Checking the correctness of evidence for the purpose of investigation.
11. Ensuring whether or not there is a loss on the part of the consumer.
12. The Consumer Dispute Settlement Agency must notify every decision on violations to business actors.
13. The Consumer Dispute Settlement Agency has the right to impose administrative sanctions on business actors who commit violations.

The role and position of The Consumer Dispute Settlement Agency, which is so complex in resolving consumer disputes, should be a solution for consumers in seeking justice. However, within The Consumer Dispute Settlement Agency itself there are still many problems including the professionalism of human resources (HR) which still requires increased knowledge and experience in resolving consumer disputes through The Consumer Dispute Settlement Agency.

Based on the conditions and problems described above, the authors are interested in conducting scientific research or studies with the title "Special Educational Urgency For The Commissioners Of The Consumer Dispute Settlement Agency (The Consumer Dispute Settlement Agency)". The aims research is to know what are the methods of problem solving by the Consumer Dispute Settlement Agency and to know what is the urgency of special education for commissioners of the Consumer Dispute Settlement Agency.

III. RESULT AND DISCUSSION

3.1 Methods of Problem Resolution by the Consumer Dispute Settlement Agency

The Consumer Dispute Settlement Agency is a non-structural institution with offices in districts and cities that "resolve consumer disputes out of court." The Consumer Dispute Settlement Agency's members consist of elements from the government, consumers, and business actors. The establishment of the Consumer Dispute Settlement Agency is intended to facilitate, speed up, and provide a guarantee of legal certainty for consumers to claim their civil rights from "unscrupulous" business actors. Apart from that, it can also be a way to obtain information and guarantee the same legal protection for consumers and business actors.

The Consumer Dispute Settlement Agency's function is as an alternative to resolving consumer disputes outside the court, and this institution is formed in districts/cities. In Article 3 of the Decree of the Minister of Industry and Trade of the Republic of Indonesia, Number: 350/MPP/Kep/12/2001, concerning the Implementation of the Duties and Authorities of the Consumer Dispute Settlement Agency, the duties and authorities of the Consumer Dispute Settlement Agency include:

1. Handle and resolve consumer disputes by way of conciliation, mediation or arbitration;
2. Provide consumer protection consulting;
3. Supervise the inclusion of standard clauses;
4. Report to the general investigator if there is a violation of the provisions in Law Number 8 of 1999 concerning Consumer Protection;
5. Receiving complaints, both written and unwritten, from consumers regarding violations of consumer protection;
6. Conduct research and examine consumer protection disputes;
7. Summon business actors suspected of having violated consumer protection laws;
8. Summon and present witnesses, expert witnesses and/or anyone who is deemed to know of violations of Law Number 8 of 1999 concerning consumer protection;
9. Ask for help from investigators to present business actors, witnesses, expert witnesses or everyone as referred to in letters g and h, who are not willing to fulfill The Consumer Dispute Settlement Agency's summons;
10. Obtain, examine and/or evaluate 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. Notify the decision to business actors who violate consumer protection;
13. Imposing administrative sanctions on business actors who violate the provisions of Law Number 8 of 1999 concerning Consumer Protection.

Sidharta (2004) defines what is meant by "consumer disputes" as "disputes regarding violations of consumer rights." Its scope includes all aspects of law, both civil, criminal, and state administration. Therefore, the term "consumer transaction dispute" is not used because the latter seems narrower and only covers aspects of civil law. Nasution stated that consumer disputes are any between consumers and providers of consumer products (consumer goods and/or services) in legal relations regarding certain consumer products.

Article 23 UUPK states that if the manufacturing business actor and/or distributor business actor refuses and/or does not respond and/or does not fulfill compensation for consumer demands, then the consumer is given the right to sue the business actor and resolve disputes that arise through the

Dispute Settlement Agency. Consumers (The Consumer Dispute Settlement Agency) or by filing a lawsuit to the judiciary at the consumer's domicile. This is by the provisions in Article 45 UUPK, which states:

1. Every consumer who is harmed can sue business actors through an institution tasked with resolving disputes between consumers and business actors or through a court within the general court environment.
2. Settlement of consumer disputes can be reached through court or out of court based on the voluntary choice of the disputing parties.
3. Settlement of disputes outside the court as referred to in paragraph (2) does not eliminate criminal responsibility as stipulated in the law.
4. If an out-of-court consumer dispute settlement effort has been chosen, a lawsuit through a court can only be pursued if the said attempt is declared unsuccessful by one of the parties or by the parties to the dispute.

Settlement of consumer disputes can be reached through court action or out-of-court, depending on the voluntary choice of the parties to the dispute. Consumers can sue businesses in general court individually or in groups (class action). Lawsuits against these business actors can also be filed by non-governmental consumer protection agencies, the government, or related agencies if the goods and/or services consumed or utilized result in significant material losses and/or victims who are not as.

2. The Urgency of Special Education for Commissioners of the Consumer Dispute Settlement Agency

Law No. 8 of 1999 concerning Consumer Protection (UUPK) has been expected to be a solution for consumers in seeking justice, but in reality, it is still complicated to implement. This is because the legal provisions differ from what is expected, namely for fast, simple, and inexpensive settlement of consumer disputes. The large volume of consumer disputes requires an effective dispute resolution system and mechanism with legal certainty to achieve justice (Fikry & Fibrianti, 2022).

In the case of consumer disputes, the presence of The Consumer Dispute Settlement Agency, which the government formed, should be part of efforts to protect consumers when disputes with business actors. As the institution that forms The Consumer Dispute Settlement Agency, the government needs to be more severe in developing it to be optimal. The general impression appears that central and regional governments are more busy pursuing and serving investors than thinking about the public interest, including consumer rights.

The Consumer Dispute Settlement Agency members consist of 3 elements: government, consumer, and business actors. The representation of these elements by law is intended to show public participation in efforts to protect consumers and that consumer protection is a shared responsibility between the government and the community.

Each Consumer Dispute Settlement Agency has at least 9 to 15 members according to the volume and workload of The Consumer Dispute Settlement Agency, which consists of these three elements in a balanced manner, namely:

1. Government elements originating from representatives of agencies whose scope of duties covers the fields of industry, trade, health, mining, agriculture, forestry, transportation and finance.
2. Entrepreneurs come from business associations or organizations located in the local city or regency area.
3. The consumer element comes from LPKSM which is registered and recognized by the mayor or regent or head of the local service.

The division of The Consumer Dispute Settlement Agency members into these three elements relates to balancing the interests of the disputing parties (consumers and business actors) and the interests of the government, which positions itself as a neutral party in policymaking. At least 1/3 of The Consumer Dispute Settlement Agency members must have a legal education background. This is important because the Consumer Dispute Settlement Agency is a body formed by the government whose main task is carrying out the courts' functions.

The process of appointing The Consumer Dispute Settlement Agency members raises problems because, in reality, the appointment of the Consumer Dispute Settlement Agency members

emphasizes elemental representation rather than member competence in managing and resolving disputes, so many The Consumer Dispute Settlement Agency members do not master the subject matter of disputes between business actors and consumers.

According to SK Menperindag No. 301/MPP/Kep/10/2001, members of the Consumer Dispute Settlement Agency who are government elements are automatically elected as chairman. At the same time, the deputy chairman comes from elements outside the government element. Decree of the Minister of Industry and Trade/MPP/Kep/10/2001, dismissal of members of the Consumer Dispute Settlement Agency secretariat, article 4 paragraph (2) and (3). Members of the Consumer Dispute Settlement Agency who are government employees are used to a strict and meticulous government bureaucratic system. This can hinder the process of the Consumer Dispute Settlement Agency becoming an independent institution.

The Consumer Dispute Settlement Agency members, who are government representatives, are usually local government officials whose position is far below the head of the local industry and trade office. This means that government representatives in The Consumer Dispute Settlement Agency have no independence because before making a decision, they must first seek advice from their superiors. The culture of superiors and subordinates in the government bureaucracy that is often carried over to The Consumer Dispute Settlement Agency can become a psychological burden internally between The Consumer Dispute Settlement Agency members of the government and members of The Consumer Dispute Settlement Agency secretariat and externally with their respective superiors.

The Consumer Dispute Settlement Agency members from the consumer element are recruited from LPKSM representatives who are registered and recognized by the local government, in general and are activists in the field of consumer protection who are accustomed to the world's culture of critical and dynamic advocacy. In many ways, the concept is considered unrealistic and difficult for other elements to understand.

The difference in the cultural background of each of The Consumer Dispute Settlement Agency elements has led to the emergence of different perceptions of aspects of consumer protection and interpretation of the law, thereby hindering the dispute resolution process. The Consumer Dispute Settlement Agency members from business actors recruited and representatives of associations and/or employers' organizations in the local city/regency area are generally strong with business elements that are often trapped in practical views of the economy to achieve certain goals.

Membership requirements that force The Consumer Dispute Settlement Agency members to be recruited from those who already have established positions cause The Consumer Dispute Settlement Agency tasks to only be sidelines, so they cannot be optimal. The obligation to resolve disputes must be resolved in an assembly consisting of three elements in a balanced manner, even though each member has a busy schedule so that The Consumer Dispute Settlement Agency 'S duties are not full-time. In practice, this is often technically difficult because, generally, it is difficult for The Consumer Dispute Settlement Agency members to leave their main duties outside of The Consumer Dispute Settlement Agency.

These problems become more complex when faced again with the problem of average professionalism of human resources (HR), which still requires increased knowledge and experience in resolving consumer disputes through The Consumer Dispute Settlement Agency. Some of the factors that cause The Consumer Dispute Settlement Agency HR un-professionalism are as follows:

1. Not all members of the The Consumer Dispute Settlement Agency have a legal education background and whether they have legal education or not, on average they lack adequate knowledge about aspects of consumer protection and technical dispute resolution.
2. Almost all members of the The Consumer Dispute Settlement Agency secretariat who have to handle consumer complaints do not have knowledge and skills in court administration.
3. Lack of educational and training facilities to build the professionalism of The Consumer Dispute Settlement Agency members and secretariat, both those held by the Ministry of Industry and Trade, universities, LPKSM and The Consumer Dispute Settlement Agency itself.
4. The low interest in self-learning of The Consumer Dispute Settlement Agency members and sects.

5. Lack of supporting infrastructure to build professionalism for The Consumer Dispute Settlement Agency members and secretariat such as computers, meeting rooms/consultation rooms, and The Consumer Dispute Settlement Agency libraries.

Based on the problems described above, special education and training are required to build the professionalism of Consumer Dispute Settlement Agency members, who consist of three different elements. Considering that the Consumer Dispute Settlement Agency itself has the scope of authority to resolve consumer disputes using conciliation, mediation, and arbitration (non-litigation). So resolving the dispute requires particular expertise in terms of analyzing cases or problems that occur. Thus consumer dispute resolution can effectively become an intermediary in resolving problems without litigation. Therefore what is expected in the UUPK related to fast, simple, and cheap consumer dispute resolution can be implemented.

IV. CONCLUSION

The Consumer Dispute Settlement Agency has the duties and authorities as stipulated in Article 52 UUPK and the Decree of the Minister of Industry and Trade Number 350/MPP/Kep/12/2001, dated December 10, 2001, concerning the Implementation of the Duties and Authorities of the Consumer Dispute Settlement Agency, namely carrying out the handling and settlement of consumer disputes by conciliation, mediation, and arbitration.

To support the performance of The Consumer Dispute Settlement Agency members, which consists of three different elements, special education, and training are needed to build the professionalism of The Consumer zDispute Settlement Agency members. Considering that The Consumer Dispute Settlement Agency itself has the scope of authority to resolve consumer disputes using conciliation, mediation, and arbitration, it can support the effectiveness of The Consumer Dispute Settlement Agency 'S performance in resolving issues related to consumer disputes.

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