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Optimization of Online Dispute Resolution (ODR) for Legal Certainty in E-Commerce Consumer Protection in Indonesia

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Abstract. *The development of e-commerce in Indonesia has driven the need for an effective, straightforward, and affordable dispute resolution model. Online Dispute Resolution (ODR) has a clear legal basis through Law No. 30 of 1999 and Government Regulation No. 80 of 2019, but its regulations are still scattered, not yet harmonized, and not supported by adequate institutional design. This study aims to analyze the harmonization of ODR regulations in e-commerce dispute resolution and formulate a model for optimizing its implementation through the Consumer Dispute Resolution Agency (BPSK). This study applies normative legal methods based on legislative, conceptual, and case study approaches. The analysis is based on the ideas of Law in Books vs. Law in Action and Law as a Tool of Social Engineering formulated by Roscoe Pound, as well as the concept of Access to Justice developed by Mauro Cappelletti and Bryant G. Garth. The results of the study indicate that ODR regulations in Indonesia still experience disharmony in procedural, institutional, and systemic aspects, mainly due to the lack of integration between marketplace platforms, the Directorate General of PKTN, and BPSK. Platforms' internal mechanisms also tend to be closed and do not fully guarantee procedural fairness for consumers. Optimizing ODR needs to be directed towards a hybrid model that positions platforms as providers of digital evidence, while the BPSK remains an independent dispute resolution authority. This model is expected to strengthen consumer protection, increase legal certainty, and achieve effective and equitable e-commerce dispute resolution.*

Keywords: *Consumer Protection; E-Commerce; Online Dispute Resolution.*

1. Introduction

Indonesia is one of the most populous countries in Southeast Asia and is currently experiencing rapid digital transformation, particularly in relation to patterns of internet use among the public. This development is reflected in people's increasing dependence on mobile devices. The We Are Social Digital Overview Report, published in February 2025, recorded Indonesia as the leading country in terms of internet access via mobile phones, with the proportion reaching 98.7% (We Are Social, 2025). The high level of mobile device usage is consistent with the national trend of steadily increasing internet use. According to data published by the Indonesian Internet Service Providers Association (APJII), the proportion of the population using the internet increased during the 2022–2026 period. In 2022, the internet usage rate was recorded at 77.0%, subsequently increasing to 81.72% in 2026 (Asosiasi Penyelenggara Jasa Internet Indonesia, 2026). This phenomenon confirms that the internet has developed into a dominant space for digital activities. Consequently, this condition has significantly encouraged the growth of e-commerce and electronic transactions, as people have become increasingly accustomed to carrying out various consumptive and economic activities through digital platforms.

The increase in electronic transaction activities has also expanded legal relationships between business actors and consumers in the online environment. In relation to this dynamic, Barkatullah emphasizes that although electronic transactions have become a major pillar of the digital era, the challenges accompanying them require clearer and more precise legal regulation. The primary characteristics of digital transactions, namely their intangible and borderless nature, have the potential to create legal uncertainty that may disadvantage consumers as platform users (Barkatullah, 2019). Data from the Ministry of Trade of the Republic of Indonesia indicate that from 2022 to 2025, consumer complaints were dominated by transactions conducted through Electronic-Based Trading Systems (Perdagangan Melalui Sistem Elektronik/PMSE), reaching 92.7% and increasing to 97% in 2024. The high number of recurring complaints indicates a considerable regulatory gap in consumer protection within the digital sphere, despite the very high dispute resolution rate of 97.8% (Nabila Ramadhanty, 2025). This situation underscores the urgent need to develop dispute resolution mechanisms that are not merely responsive, but also prompt, efficient, and capable of ensuring legal protection for both business actors and consumers in online transactions.

In line with this need, the integration of Online Dispute Resolution (ODR) has emerged as a contemporary technological innovation designed to facilitate negotiation, mediation, and arbitration processes in the digital sphere in response to the high number of disputes. From a legal perspective, the position of ODR in Indonesia has received initial recognition through Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (the Arbitration and Alternative Dispute Resolution Law), which was subsequently reinforced by Government Regulation No. 80 of 2019 concerning Trading Through Electronic Systems (PMSE), which legally recognizes the validity of electronic-based dispute resolution mechanisms. However, the effectiveness of legal enforcement in e-commerce consumer disputes remains constrained because Law No. 8 of 1999 concerning Consumer Protection has not yet specified procedural standards, institutional design, or the procedural fairness of ODR in a specific manner (Pusat Studi Hukum dan Kebijakan Indonesia, 2021b). The lack of detailed regulation has the potential to create inconsistencies in practical implementation, while also giving rise to new forms of legal uncertainty. Therefore, the successful implementation of ODR in Indonesia should no longer be confined to debates over its legal recognition, but should instead focus on infrastructural readiness and procedural certainty. This condition has resulted in an imbalance in the functional implementation of ODR, whereby the dispute resolution process is managed entirely in a unilateral and closed manner by the platform's internal parties in order to maintain the corporation's image. Such a condition creates an imbalance in the position of the parties and has the potential to disregard the principles of justice and transparency. Consumer dissatisfaction with the outcomes of internal platform-based ODR often reaches an impasse due to the absence of a structured follow-up complaint channel for further review. Based on the mandate of Article 49 paragraph (1) of the Consumer Protection Law, the Consumer Dispute Settlement Agency (BPSK) may be positioned as a non-litigation public escalation institution to bridge this need. BPSK offers a dispute resolution system that is more independent, accountable, and oriented toward consumer protection. As a public body, BPSK is not bound by the commercial interests of platforms and is therefore able to provide more balanced decisions.

Along with the acceleration of digital transformation and the surge in commercial activities through digital platforms in Indonesia, the dynamics of consumer disputes have become increasingly cross-border in nature and require the evolution of electronic dispute resolution systems through Online Dispute Resolution (ODR). The urgency of optimizing ODR has become even more pronounced in line with the rapid growth of national digital transaction volumes, as APJII 2025 data indicate that the market is dominated by major platforms such as Shopee, with a share of 53.22%, and Tokopedia, with 9.57%, thereby substantially increasing the potential for disputes within the digital ecosystem (Asosiasi Penyelenggara Jasa Internet Indonesia, 2025). This situation requires the availability of dispute resolution channels that are prompt, transparent, and free from partiality. However, the Consumer Dispute Settlement Agency (BPSK), which is mandated to conduct mediation, arbitration, and conciliation, naturally continues to maintain the characteristics of conventional face-to-face procedures. Consequently, BPSK has become misaligned with the fast-paced and cross-regional nature of e-commerce transactions. Institutional unpreparedness and the complexity of public bureaucracy further exacerbate these obstacles, forcing most consumers to face a dilemma: either continue to pursue conventional dispute resolution through BPSK, with all its limitations related to distance, or accept the unilateral ODR mechanism provided internally by the platform (Rani Apriani, S. E., SH, M., Candra Hayatul Iman, S. H., Grasia Kurniati, S. H., & Pamungkas Satya Putra, 2024). The root of this problem lies in the absence of regulatory harmonization for ODR in Indonesia, as reflected in the lack of synchronization between the legal framework that recognizes electronic dispute resolution and the technical institutional arrangements that remain conventionally oriented. Although Government Regulation No. 80 of 2019 legally recognizes ODR in Trading Through Electronic Systems (PMSE), the procedural law governing BPSK normatively still refers to Minister of Industry and Trade Decree No. 350/MPP/Kep/12/2001, which does not contain provisions on fully electronic dispute resolution or ODR and therefore tends to remain conventional and based on physical processes (Puspita, D. A., & Susetio, 2026). This limited synchronization has created a structural gap between the efficiency of digital systems and the limited adaptive capacity of BPSK as an institution. As a result, there is no standard for system alignment or procedural certainty from internal marketplace mechanisms to BPSK. Ultimately, this condition hinders the optimization of ODR as a comprehensive mechanism for consumer protection.

The limitations of internal marketplace mechanisms in upholding procedural justice are clearly reflected in the widespread consumer complaints submitted through public complaint forums. Various real-life case studies, such as the cases of Johan, Erlina, and Desy during 2024–2025, reveal a pattern of weak protection, in which platforms frequently refused refunds, unilaterally closed reports, and disregarded valid evidence submitted by buyers, such as unboxing videos. From a legal perspective, such platform practices indicate violations of consumer rights guaranteed under Article 4 letters c and g of the Consumer Protection Law, as well as the neglect of the strict liability of business actors under Article 7 letter g in conjunction with Article 19 of Law No. 8 of 1999. This regulatory disharmony is further exacerbated by the weak coordination between physical and digital communication systems, as demonstrated in Supreme Court Decision No. 553 K/Pdt.Sus-BPSK/2025 in the case of PT Tokopedia v. Deden Gumilar. The absence of a standardized Online Dispute Resolution (ODR) procedure integrated with state institutions ultimately forces the emergence of high-cost litigation up to the cassation level for a small claim amounting to IDR 2,067,500.00. This phenomenon underscores systemic noncompliance that harms buyers, business actors, and the state alike.

On the other hand, previous studies indicate that research on digital consumer protection has developed, although clear analytical limitations remain. The study by Fitriani et al. only addresses the urgency of ODR at the level of general concepts and regulatory needs (Fitriani, R., Febiantina, E. A., Amanta, J., & Mawaddah, 2024). Research by Ariawan Gunadi focuses on the civil liability of business actors in general, but has not critically examined how internal marketplace ODR features operate in practice or whether such mechanisms reflect the principles of legal certainty and procedural justice (Gunadi, 2025). The tendency to allow ODR studies to remain confined to the theoretical level clearly represents a step backward amid Indonesia's rapid digital transformation, which records 98.7% mobile internet access. Online Dispute Resolution (ODR) remains dominated by debates between the urgency of new regulation and platform independence. This leaves a clear research gap, as no study has yet examined the optimization of ODR through a systemic integration approach between public institutions, particularly the Consumer Dispute Settlement Agency (BPSK), and internal marketplace systems. In the absence of such an operational model, ODR law, although already recognized under Indonesia's positive law, has regressed and has not yet been fully explored to reduce the complexity of access to justice for digital consumers.

The focus on optimizing Online Dispute Resolution (ODR) through the integration of the Consumer Dispute Settlement Agency (BPSK) is adopted because this institution has formal recognition under the Consumer Protection Law to ensure procedural justice, in contrast to the closed nature of internal marketplace ODR mechanisms. This is supported by data showing the high number of consumer complaints related to Trading Through Electronic Systems (PMSE), which reached 92.7% (Nabila Ramadhanty, 2025) as well as real cases involving the rejection of consumer claims by platforms, indicating the weakness of internal dispute resolution mechanisms within marketplace platforms. On the other hand, the absence of ODR integration with BPSK has caused small-value disputes to result in high-cost litigation, as reflected in Supreme Court Decision No. 553 K/Pdt.Sus-BPSK/2025. Therefore, the optimization of ODR should be directed toward strengthening BPSK as a digital-based hybrid

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institution capable of bridging technological efficiency and legal certainty. Based on these considerations, this study examines the regulatory harmonization of Online Dispute Resolution (ODR) in e-commerce dispute settlement, as well as the optimization of Online Dispute Resolution (ODR) through BPSK integration in the settlement of e-commerce consumer disputes in Indonesia.

2. Research Methods

This study applies a normative juridical approach, in which statutory regulations are viewed as a set of written legal norms systematically arranged within the national legal system. The analysis is conducted through a literature review and secondary data sources (Soerjono Soekanto dan Sri Mamudji, 1995). The discussion focuses on the application of Online Dispute Resolution (ODR) to resolve consumer disputes on electronic commerce platforms, with a normative legal basis consisting of Law No. 8 of 1999 concerning Consumer Protection, Minister of Trade Regulation No. 31 of 2023 concerning the licensing and supervision of e-commerce business actors, Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, Government Regulation No. 80 of 2019 concerning Trading Through Electronic Systems (PMSE), and Decree of the Minister of Industry and Trade No. 350/MPP/Kep/12/2001, which strengthens the validity of out-of-court consumer dispute resolution and explains the structure of the authorized institution. The methods employed include a statutory approach to assess the relevance and synchronization among regulations, a conceptual approach to develop legal reasoning concerning non-litigation dispute resolution, guarantees of legal certainty, and consumer protection in digital trade, based on Roscoe Pound's theories of law in books and law in action and law as a tool of social engineering, as well as the theory of Access to Justice developed by Bryan G. Garth and Mauro Cappelletti. This study also employs a case study approach to evaluate the implementation of dispute resolution mechanisms in practice, with Supreme Court Decision No. 553 K/Pdt.Sus-BPSK/2025 serving as the object of analysis to examine the alignment between legal provisions and their implementation in practice. This study relies on secondary data consisting of primary legal materials, namely regulations and court decisions; secondary legal materials, namely literature in the form of books, journal articles, and scholarly works on the liability of digital business actors, consumer protection, and ODR; and tertiary legal materials. These materials are then examined using a descriptive-analytical method by interpreting the applicable legal norms and comparing them with the reality of dispute resolution. The study concludes by drawing conclusions to analyze efforts to optimize ODR mechanisms that are more effective, accountable, and legally certain.

3. Results and Discussion

3.1. Harmonization of Online Dispute Resolution (ODR) Regulations in E-Commerce Dispute Settlement

In principle, Indonesia already has various legal instruments that may serve as the basis for electronic dispute resolution. Nevertheless, the current regulation of Online Dispute Resolution (ODR) remains fragmented and has not yet been integrated into a comprehensive regulatory framework. Under the framework of Law No. 30 of 1999, ODR is not classified as an independent legal regime, but is instead regarded as a supporting instrument for facilitating Alternative Dispute Resolution (ADR) mechanisms. The use of ODR in e-commerce disputes is considered valid as long as the agreement and the Alternative Dispute Resolution process are conducted electronically based on the consent of the parties, made in writing, including in the form of electronic documents, and clearly determine the dispute resolution forum. The legal status of Online Dispute Resolution (ODR) has received stronger recognition through Government Regulation No. 80 of 2019 concerning Trading Through Electronic Systems (PMSE), which officially recognizes electronic-based dispute resolution mechanisms. However, this regulatory framework is still considered inadequate because it has not yet specified institutional design standards or specific ODR procedures for protecting consumers in the digital marketplace.

The 2025 survey conducted by the Indonesian Internet Service Providers Association (APJII) shows that Shopee is the most widely used e-commerce platform among Indonesians, while Tokopedia ranks third (Asosiasi Penyelenggara Jasa Internet Indonesia, 2026). This dominance naturally generates a high volume of complaints. Empirical facts indicate that absolute control remains in the hands of e-commerce platforms, even though Article 9 paragraphs (1) and (2) of Minister of Trade Regulation No. 31 of 2023 require Electronic System Trading Operators (PPMSE) to provide integrated consumer complaint services, and Article 10 requires the display of the contact information of the Directorate General of Consumer Protection and Trade Compliance (Ditjen PKTN). The entire resolution process on both platforms tends to be managed internally through the Resolution Center scheme on Shopee and Customer Care on Tokopedia in order to maintain the companies' economic image.

To clarify the position of this disharmony, a structured mapping is required to identify the inconsistency between regulation, or law in books, and practice in the field, or law in action. The following table presents the forms of disharmony in terms of regulation, institutions, and implementation, along with their impacts on legal certainty within the e-commerce ODR system.

Table 1. Regulatory Disharmony of ODR in E-Commerce Consumer Protection

No.	Main Regulation (Law in Books)	Conflicting Regulation/Practice (Law in Action)	Type of Disharmony	Legal Gap	Legal Impact on Consumer Protection
1	Article 72 of Government Regulation No. 80 of 2019 concerning Trading Through Electronic Systems (PMSE). This provision recognizes the legality of electronic dispute	Decree of the Minister of Industry and Trade No. 350/MPP/Kep/12/2001. This regulation requires physical face-to-face hearings under Articles 26–36 because it does not yet recognize an e-litigation system.	Procedural	A legal gap arises because the PMSE Government Regulation mandates the digitalization of dispute resolution, whereas the operational procedural law of BPSK under Ministerial Decree No. 350/2001 does not yet recognize e-litigation	BPSK faces obstacles in carrying out its functions. E-commerce consumers located outside the legal domicile of BPSK experience difficulty in accessing justice due to geographical barriers and physical costs.

	resolution in e-commerce, including ODR.			or online hearings.	
2	Articles 4 and 19 of Law No. 8 of 1999 concerning Consumer Protection (UUPK). These provisions guarantee consumers' right to compensation and establish the strict liability of business actors.	Terms of Service (ToS) or internal platform policies of Shopee and Tokopedia. These mechanisms decide claims unilaterally and impose limited complaint periods.	Imbalance in the Position of the Parties	Standard clauses in platform ToS, as internal policies, disregard consumer rights guaranteed by state public law. Platforms act as unilateral decision makers in order to prevent corporate reputational risks.	An imbalance occurs in the implementation of the platform Resolution Center function. Disputes are resolved in a closed and subjective manner, thereby disadvantaging consumers with weak bargaining positions (Hulman Panjaitan, 2021), as reflected in the cases of Johan, Erlina, and Desy.
3	Articles 9 and 10 of Minister of Trade Regulation No. 31 of 2023. These provisions require Electronic System Trading Operators (PPMSE) to provide complaint services integrated with the Directorate General of Consumer Protection and Trade Compliance (Ditjen PKTN).	Internal platform Resolution Center systems. These systems are closed and do not provide an escalation channel to public institutions.	Functional and Systemic	There is no digital system interconnection or one-stop system that directly connects platform-owned Internal Dispute Resolution with state-administered External Dispute Resolution.	There is no system integration from platforms to BPSK. As a result, when a deadlock occurs in internal e-commerce dispute resolution, the case cannot be automatically escalated to a public institution.
4	Article 6 in conjunction with Article 1 point 10 of Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (AAPS). These provisions regulate out-of-court alternative dispute resolution, which theoretically prioritizes fast, simple, and low-cost settlement.	Supreme Court Decision No. 553 K/Pdt.Sus-BPSK/2025 in the case of PT Tokopedia v. Deden Gumilar. This decision reflects the escalation of a small-value dispute to formal litigation up to the cassation level.	Regulatory Gap at the Institutional Level	The absence of regulation requiring integration between platform systems and BPSK causes small claims to result in systemic paralysis through lengthy litigation processes.	High-cost litigation occurs. A dispute valued at IDR 2,067,500.00 had to consume state judicial resources up to the Supreme Court level, which contradicts the principle of legal efficiency.

The mapping presented in the table above confirms the existence of a sharp disharmony in the implementation of ODR when examined through Roscoe Pound's theory of Law in Books versus Law in Action. Roscoe Pound argues that law should not be viewed merely as normative text on paper, or law in books, but must instead be assessed based on how it actually operates and is obeyed in society, or law in action (Pound, 1910). In the context of Indonesia's e-commerce ODR, there are four mutually reinforcing dimensions of disharmony, namely procedural disharmony, imbalance in the position of the parties, lack of institutional integration, and, most importantly, disharmony at the systemic level.

Regulatory misalignment becomes evident when comparing Government Regulation No. 80 of 2019 concerning Trading Through Electronic Systems (PMSE) with the procedural law governing BPSK. On the one hand, the PMSE Government Regulation has expressly and formally recognized the use of Online Dispute Resolution (ODR) for e-commerce cases. On the other hand, BPSK remains bound by Decree of the Minister of Industry and Trade No. 350/MPP/Kep/12/2001, which requires hearings to be conducted through direct face-to-face proceedings. This poor synchronization creates a legal vacuum, as the digitalization mandate under the PMSE Government Regulation is not supported by BPSK procedural law, which has not yet accommodated an e-litigation system. The legal consequence is that BPSK's performance in adjudicating consumer disputes becomes less than optimal. As a result, e-commerce consumers who are geographically distant from BPSK offices are often hindered in pursuing their rights due to transportation costs and the need for physical accommodation (Hatibie, 2025). In small-value disputes, consumers must bear transportation costs and spend time that are disproportionate to the value of their losses, causing many of them to abandon their rights. BPSK's limited capacity to adopt e-litigation mechanisms creates institutional constraints that ultimately reduce the primary objective of implementing the PMSE Government Regulation to a merely administrative requirement. The synchronization of consumer justice does not require total digitalization, but rather the optimization of BPSK procedural law so that it can adopt an integrated ODR system. In this way, geographical barriers can be reduced without eliminating the core value of deliberation in the settlement of consumer disputes.

In addition to procedural issues, imbalance also arises from the dominance of internal platform policies, such as those of Shopee (Shopee, 2026) and Tokopedia (Tokopedia, 2026), which, through their Terms of Service, may limit, close, or even reject claims unilaterally. Although Articles 4 and 19 of the Consumer Protection Law guarantee consumers' right to compensation, in practice, platforms often act as though they are the final decision makers in disputes in order to protect their business interests and corporate reputation (Aziz, M. F., & Hidayah, 2020). This dominance risks creating conflicts of interest, whereby the policies adopted tend to prioritize the protection of the company's reputation over the fair and impartial restoration of consumer rights.

This gap is reflected in various empirical findings that demonstrate the failure of internal platform mechanisms to provide justice for consumers. Complaints submitted through online platforms reveal patterns of inconsistent decisions and limited transparency. Several cases illustrate this issue. Johan's case on October 31, 2024, demonstrated different outcomes in three similar complaints concerning damaged products (Johan, 2024). Erlina's case on November 10, 2025 (Erlina, 2025), and Desy's case on November 30, 2025 (Desy, 2025), highlighted the rejection of claims despite the submission of supporting evidence, indicating a tendency to favor business actors. Furthermore, data from the Ministry of Trade of the Republic of Indonesia recorded that from 2022 to 2025, consumer complaints were dominated by transactions conducted through Trading Through Electronic Systems (PMSE), reaching 92.7% and increasing to 97% in 2024. The high number of recurring complaints indicates a serious regulatory gap in consumer protection within the digital sphere, despite the very high dispute resolution rate of 97.8% (Nabila Ramadhanty, 2025).

These three cases demonstrate that the internal dispute resolution mechanisms of platforms have not fully functioned as instruments for realizing justice for consumers, but instead tend to accommodate the interests of the platforms themselves. This condition places consumers in an unequal position because they are required to comply with standard clauses unilaterally determined by the platform, while the platform holds broad authority to determine and terminate disputes, even when evidence has been submitted by consumers. This reflects the weak role of the state in supervising dispute resolution mechanisms on digital platforms, resulting in such authority being, in practice, concentrated in corporations. Consequently, the principle of equality before the law has not been fully realized, as consumers do not have an equal bargaining position in asserting their rights.

The next problem arises at the systemic level, namely the mismatch between regulations requiring the integration of the national complaint system and the reality that there is no digital integration among internal platform systems, BPSK, and the Directorate General of Consumer Protection and Trade Compliance (Ditjen PKTN). Articles 9 and 10 of Minister of Trade Regulation No. 31 of 2023 expressly require Electronic System Trading Operators (PPMSE) to provide complaint services integrated with Ditjen PKTN. In practice, however, internal platform Resolution Center systems remain closed, are not integrated across platforms, and do not provide an automatic escalation channel to public institutions.

This weakness ultimately drives small-value disputes into formal litigation, which is time-consuming and costly, as reflected in Supreme Court Decision No. 553 K/Pdt.Sus-BPSK/2025. The absence of a digital system connection, such as a one-stop system, that directly links platform-owned Internal Dispute Resolution with state-administered External Dispute Resolution means that when a deadlock occurs in internal e-commerce dispute resolution, the case cannot be automatically escalated to a public institution (Hatibie, 2025). Consumers who encounter an impasse on the platform must restart the complaint process from the beginning at BPSK, even though dispute data, transaction evidence, and complaint histories are already available in the platform's system. Disharmony at the systemic level is not merely an operational constraint, but also a failure in regulatory design, as the existing framework does not require one-stop system standardization, uniform data formats, or mandatory interconnection between PPMSE and BPSK. The absence of binding regulation that promotes system integration causes Minister of Trade Regulation No. 31 of 2023 to function only as a formal norm that is not effectively implemented. This condition reflects a comprehensive regulatory failure, resulting in the disconnection of the consumer protection system within the e-commerce ecosystem.

Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (AAPS) is intended to realize fast, simple, and low-cost dispute settlement outside the courts. However, Supreme Court Decision No. 553 K/Pdt.Sus-BPSK/2025 in the case of PT Tokopedia v. Deden Gumilar demonstrates that a dispute valued at IDR 2,067,500.00 had to consume state judicial resources up to the cassation level before the Supreme Court. Such high-cost litigation is inconsistent with the principle of legal efficiency. A dispute involving a small claim was instead processed through lengthy and complex litigation stages, thereby creating an ineffective process within the judicial system. As a result, a simple case that should have been resolved promptly ultimately burdened the performance of the judiciary. This condition indicates the need to improve the design of the dispute resolution system so that small-value cases are not continuously directed toward formal litigation.

In response to this disharmony, Online Dispute Resolution (ODR) should be positioned not merely as an operational tool within Alternative Dispute Resolution, but also as an instrument of social engineering, as articulated by Roscoe Pound in the concept of law as a tool of social engineering. From this perspective, the legal order does not function merely as a set of formal norms, but rather as an active instrument for shaping a balance of interests within society, including within the digital trade ecosystem. ODR must be systematically designed to correct the imbalance of power relations among consumers, business actors, e-commerce platforms, and the state by ensuring fair, transparent, and accountable access to justice. In this regard, the state can play an active role in establishing procedural, institutional, and system integration standards capable of guiding ODR practices so that they are not dominated solely by the business interests of platforms.

The harmonization of ODR regulation should ideally be directed toward the establishment of an integrated system by directly connecting platform-owned internal dispute resolution mechanisms with public institutions such as BPSK and the Directorate General of Consumer Protection and Trade Compliance (Ditjen PKTN), accompanied by the strengthening of procedural law that is flexible in responding to digital transformation. This approach reflects the function of law as a means of social engineering that not only follows technological advancement, but also seeks to balance rights in order to provide greater justice for e-commerce consumers. If existing regulations are unable to comprehensively control ODR practices, national law will face difficulty in addressing the realities on the ground. Consequently, regulatory reform of ODR has become urgent to prevent dispute resolution from becoming increasingly inclined toward platform interests, while also restoring the bargaining position of consumers, which currently tends to be weakened in the digital marketplace.

3.2. Optimization of Online Dispute Resolution (ODR) Through BPSK Integration in the Settlement of E-Commerce Consumer Disputes in Indonesia

The rapid development of digital platforms and e-commerce has brought Indonesia's digital economy to a value of nearly USD 100 billion, or approximately IDR 1,672 trillion, in 2025, positioning Indonesia as the largest digital market in Southeast Asia (Media Indonesia, 2025). This condition reflects the high level of electronic transaction activity involving consumers and business actors across various sectors. Along with the increase in such activities, the potential for consumer disputes has also continued to rise, whether related to product or service nonconformity, breach of contract, or other issues arising from digital activities. Therefore, dispute resolution efforts are needed that are not only effective and efficient, but also capable of adapting to the fast-paced and cross-border characteristics of digital transactions.

Amid this rapid progress, the implementation of digital dispute resolution systems in Indonesia is considered less than optimal, particularly in the context of Online Dispute Resolution (ODR). The main issue in the implementation of Online Dispute Resolution (ODR) in Indonesia lies not in the absence of online mechanisms, but rather in the suboptimal utilization of these mechanisms to resolve electronic commerce consumer disputes. From a legal perspective, online dispute resolution processes are already possible; however, in practice, consumers still tend to choose direct or face-to-face settlement due to various obstacles, such as the limited availability of online procedures at BPSK, insufficient dissemination of ODR mechanisms, low levels of digital literacy, and administrative and electronic evidentiary procedures that have not yet been simplified (Aziz, M. F., & Hidayah, 2020). As one of the consumer dispute resolution forums established by the state, BPSK holds a strong legal position, offers relatively simple procedures, and provides more affordable costs compared with the general courts. On this basis, the optimization of ODR through BPSK integration is essential to ensure access to justice that is prompt, effective, and oriented toward consumer protection within the e-commerce ecosystem.

The theory of access to justice developed by Mauro Cappelletti and Bryant G. Garth views the optimization of Online Dispute Resolution (ODR) through the integration of the Consumer Dispute Settlement Agency (BPSK) as part of an effort to establish a dispute resolution mechanism that is not merely formally compliant with legal rules, but is also genuinely effective and usable for consumers. This concept places emphasis not only on the existence of legal norms, but also on the availability of institutions, procedures, and facilities that enable individuals to obtain meaningful access to justice. This study operationalizes access to justice through three principal indicators: availability, accessibility, and affordability, each of which assesses whether dispute resolution mechanisms are genuinely available, easily accessible, and financially affordable for consumers (Garth, Bryant G. and Cappelletti, 1978).

The availability indicator emphasizes that dispute resolution mechanisms must be institutionally present and provide a clear avenue for resolution when disputes cannot be settled at the initial stage. In the context of e-commerce, the application of this indicator means that ODR should not merely function as an internal complaint feature within a marketplace platform, but must also be integrated with BPSK as an external forum that possesses a clear legal basis. Such integration ensures that consumers continue to have access to a subsequent forum through which they may obtain legal remedies when dispute resolution at the platform level reaches a deadlock.

Furthermore, the accessibility indicator emphasizes that dispute resolution mechanisms must be easily reachable in terms of procedures, location, time, and the use of technology. In practice, the resolution of e-commerce consumer disputes continues to face obstacles due to procedures that have not yet been fully simplified, limited levels of digital literacy, and the absence of electronic escalation channels that are effectively connected between platforms and BPSK (Pusat Studi Hukum dan Kebijakan Indonesia, 2021a). These conditions further reinforce the relevance of integrating ODR with BPSK in order to reduce geographical and procedural barriers while simultaneously expanding consumers' access to dispute resolution forums.

The affordability indicator concerns cost accessibility, meaning that a dispute resolution mechanism can only be considered consistent with the principle of access to justice if consumers are not burdened with costs that are disproportionate to the value of the disputed loss. In small-value disputes, the requirement to pursue conventional dispute resolution often generates additional costs in the form of transportation, time, and effort, which ultimately discourages the use of such forums. This is also reflected in Supreme Court Decision No. 553 K/Pdt.Sus-BPSK/2025, which demonstrates that a relatively small-value dispute may lead to high-cost proceedings up to the cassation level. The optimization of ODR through BPSK integration should therefore be focused on ensuring that dispute resolution can be conducted through simpler procedures, with more affordable costs, while also producing fair outcomes for all parties involved.

Based on these three indicators, it can be understood that the main issue in resolving e-commerce consumer disputes in Indonesia does not lie solely in the legal recognition of ODR, but rather in the absence of an institutional design that connects internal platform dispute resolution with subsequent dispute settlement through BPSK. Internal marketplace mechanisms generally remain procedural in nature and are limited to initial-stage resolution; therefore, they cannot yet be positioned as final forums for dispute settlement. When internal resolution fails to reach an agreement, there is still no structured escalation pathway to the competent public institution. This condition shows that the existing mechanism has not fully fulfilled the principle of access to justice, as barriers remain in terms of availability, accessibility, and affordability.

The following scheme shows that the optimization of ODR does not end with the provision of a complaint channel, but must continue through a structured escalation mechanism toward BPSK.

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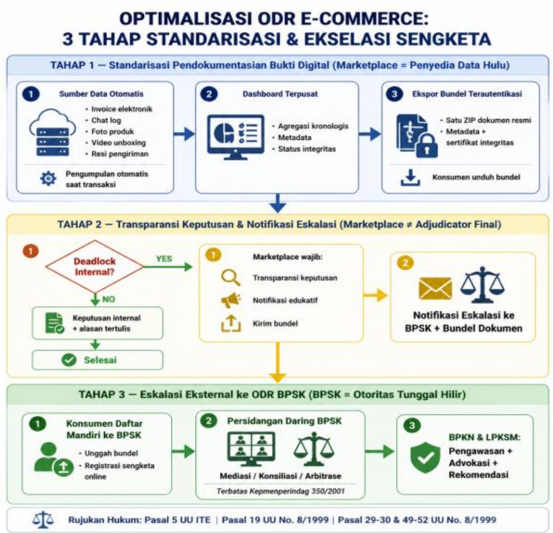
Table 2. Conceptual Flow for Optimizing E-Commerce Dispute Resolution



The initial stage of optimization focuses on the obligation of marketplace platforms to provide a standardized system for documenting digital transaction evidence in a transparent and easily accessible manner. At this stage, the primary function of the platform is not to serve as a dispute registration institution, but rather to guarantee the availability of valid electronic data. The proposed functional ODR model clearly separates the boundaries of institutional authority and does not lead to software integration between private platforms and public institutions. This optimization is based on dispute data management, with platforms operating at the upstream level as providers of authenticated digital evidence download instruments, including invoices, chat logs, and complaint histories, while BPSK retains control at the downstream level as the sole authority responsible for administering procedural law and hearings. Digital evidence, including electronic invoices, chat logs, product photos, unboxing videos, and shipping receipts, is automatically compiled into a single digital dashboard equipped with an authenticated data export feature in accordance with the standards set forth in Article 5 of the Electronic Information and Transactions Law. This feature generates an official electronic document bundle that consumers can download as valid primary evidence to proceed with reporting to BPSK. This construction is necessary to prevent the monopolization of information by platforms, which may further exacerbate the imbalance in the position of the parties.

If internal resolution through customer service or the marketplace’s automated system reaches a deadlock, the platform must not act as the final dispute adjudicator that closes consumers’ access to further remedies. Under such circumstances, the marketplace is required to provide clear, objective, and electronically evidence-based written reasons for any rejection of a claim or refund request. The platform is also required to provide the electronic document bundle prepared at the first stage; however, the role of the platform must remain limited to that of an information and documentation facilitator, rather than the final decision maker in the dispute. This obligation prevents platforms from using their dominant position to restrict access to a more equitable forum. From the perspective of access to justice, this represents an effort to prevent the dominance of private platforms from obstructing access to justice.

At the third stage, an administrative deadlock at the internal platform level marks the end of the validity of the internal dispute resolution process and reveals the structural imbalance in the position of the parties, in which consumers occupy a weaker position than marketplace platforms that control data infrastructure, algorithms, and dispute resolution mechanisms. Therefore, disputes must be transferred to the BPSK ODR mechanism as one of the forums that possesses legal authority and the capacity to correct such imbalance. The implementation of ODR is not directed toward a fully online model, which is not yet institutionally realistic, but rather toward a predominantly online scheme with limited offline support, or a hybrid model. In the next step, consumers independently register their disputes by uploading a digital evidence bundle, while mediation, conciliation, and arbitration processes are prioritized to be conducted online in order to improve access efficiency. Nevertheless, offline channels must remain available to ensure the optimization of evidentiary procedures and the protection of consumers with limited digital literacy. The affirmation of this hybrid model also strengthens the position of BPSK as an institution that functions to correct the imbalance in the position of the parties and to guarantee fair treatment, rather than merely fulfilling administrative requirements. This legitimacy is based on Articles 49 to 52 of Law No. 8 of 1999 concerning Consumer Protection, which establish BPSK as an institution authorized to handle consumer dispute resolution outside the courts, as well as Articles 29 to 30, which affirm the state's obligation to provide guidance and supervision so that digital transformation is not left to the dominance of internal platform mechanisms that may further reinforce the imbalance in the position of the parties.

At the final stage, litigation remains available as a last resort, but not as the primary avenue for small-value e-commerce disputes. The optimization of ODR should be directed toward increasing the use of online mechanisms in the practice of consumer dispute resolution, considering that the public still tends to prefer face-to-face settlement because online procedures are perceived as not yet simple, not yet familiar, and not yet fully supported by adequate digital facilities. ODR optimization can be carried out through the simplification of online dispute filing, the use of electronic documents, the provision of clear reasons for decisions, and the availability of online consultation and administrative services at BPSK. These measures are important to prevent complex litigation from becoming the only option for consumers who in fact seek prompt and affordable justice, while also preventing marketplace platforms from exploiting procedural complexity to prolong the imbalance in the position of the parties.

In the European Union, the online dispute resolution (ODR) mechanism for consumers was integrated into the consumer protection framework through Regulation (EU) No. 524/2013, which provided an ODR platform for cross-border disputes and connected such disputes with Alternative Dispute Resolution (ADR) bodies in the Member States. However, the ODR platform was subsequently discontinued as of July 20, 2025, and the European Commission redirected consumer dispute resolution information to Consumer Redress in the EU, which provides a list of relevant Alternative Dispute Resolution bodies in the Member States, Norway, and Iceland (Imam Fathwa, Annie Myranika, Tri Susanto, Ratu Chumairoh Noor, 2026). This experience indicates that the success of ODR is not determined solely by the existence of a digital platform, but is also influenced by institutional integration, structured procedures, and the active involvement of business actors. This is important for Indonesia so that the development of ODR is not limited to the establishment of a new institution, but also promotes an integrated relationship between digital platforms and existing public authorities, such as BPSK.

Singapore, as one of Indonesia's closest trading and technological partners, demonstrates a relatively advanced approach to the recognition of electronic evidence through amendments to the Evidence Act under the Evidence (Amendment) Bill 2012, which strengthened the position of computer output and electronic records in evidentiary processes. This regulatory framework supports the admissibility of digital evidence in disputes, including those related to electronic commerce and e-commerce. Moreover, Singapore's experience shows that procedural simplification, clear recognition of electronic documents, and the use of information technology can help accelerate the settlement of small-value disputes more efficiently. Therefore, Singapore's experience may serve as a reference for Indonesia, provided that it is adapted to the social, institutional, and legal characteristics of the national system (Low, 2012).

This comparative study shows that Indonesia should not focus solely on establishing a new ODR institution, but should instead prioritize the development of a system that is genuinely usable and connected to existing institutions, such as BPSK. The European Union's experience provides an important lesson that digital platforms do not automatically become effective unless they are supported by institutional integration, simplified procedures, and the active involvement of business actors. Therefore, the discontinuation of the European Union's ODR platform on July 20, 2025, should not be viewed merely as a technological failure, but rather as evidence that institutional design is far more decisive than the mere existence of a platform. Meanwhile, Singapore demonstrates a more practical approach by providing strong recognition of computer-based evidence, simplifying procedures, and enabling the settlement of small-value disputes to proceed more quickly. However, Singapore's model cannot be adopted directly, because Indonesia has different social conditions, institutional structures, and enforcement capacities. Thus, the most important issue is to adapt such a model to the needs of access to justice in Indonesia. These two models demonstrate that the fulfillment of access to justice is not determined solely by the use of technology, but also by efficient institutional and procedural design.

Based on this comparative study, the development of ODR in Indonesia appears to need to be directed toward a more integrated model that is consistent with national conditions, rather than merely imitating the establishment of a new platform as previously undertaken by the European Union. The European Union's experience shows that the success of ODR is strongly influenced by institutional support, procedural clarity, and the involvement of business actors; therefore, the existence of a digital platform alone is not necessarily sufficient to ensure optimal dispute resolution. In this context, the discontinuation of the European Union's ODR platform on July 20, 2025, may be interpreted as an important lesson that the success of online dispute resolution mechanisms is not determined solely by technological sophistication, but also by the extent to which the system can be optimally implemented in practice. Meanwhile, Singapore demonstrates a simpler yet effective approach through the recognition of electronic evidence and more structured procedures, allowing e-commerce disputes to be resolved more promptly and with greater certainty. Accordingly, Indonesia may use both models as references, while adapting them to national needs, particularly in establishing a clearer relationship between private digital platforms and public institutions such as BPSK.

The optimization of Online Dispute Resolution (ODR) within the framework of the Consumer Dispute Settlement Agency (BPSK) cannot be adequately achieved merely through the provision of an online-based complaint channel. Such an approach tends to be limited if it is not accompanied by adjustments in institutional aspects and implementation procedures. Strengthening the capacity of BPSK should be directed toward the development of digital mechanisms that are standardized, easily accessible, and capable of being integrated with other dispute resolution systems. This transformation must still take into account the readiness of infrastructure, human resources, and the regulatory framework so as not to create new obstacles in the practice of dispute resolution.

The development of integrated ODR has the potential to improve the efficiency of e-commerce consumer dispute resolution while also expanding access to justice for the parties involved. This optimization process is more appropriately positioned as a gradual measure that combines technological innovation with the strengthening of institutional governance. A measured and responsive approach to change enables BPSK to maintain the relevance of its role without neglecting the principle of protecting consumer rights, which constitutes its primary mandate.

4. Conclusion

This study shows that the regulation of electronic e-commerce dispute resolution in Indonesia already has a clear legal basis, yet it has not been fully realized within a harmonious framework between norms and practice. Viewed through Roscoe Pound's perspective of law in books and law in action, there remains a considerable gap between the legal recognition of electronic dispute resolution and its implementation, which continues to be conventionally oriented. This gap is reflected in implementation procedures that are not yet fully responsive to the characteristics of digital transactions, the imbalance in the position of the parties caused by the dominance of platform standard clauses, the weak institutional linkage between platforms and BPSK, and the absence of a system design that effectively integrates the dispute resolution process. This condition has prevented ODR from functioning optimally as a consumer protection instrument that provides legal certainty, as overlapping authority and the tendency of business actors to control the mechanism still persist. Therefore, the optimization of e-commerce dispute resolution in Indonesia should be directed toward strengthening BPSK as a hybrid institution capable of balancing online and offline mechanisms without eliminating its public and independent character, while adopting digital technology to improve access, accelerate the process, and support the efficient management of electronic evidence. In practice, consumers may download dispute evidence bundles from the platform system for use in online mediation at BPSK, thereby making the preliminary examination more efficient without diminishing the validity of the evidence. If no agreement is reached, the process may then continue through an offline mechanism. This design enables dispute resolution to be simpler, faster, and more affordable, while reducing dependence on internal platform mechanisms that tend to be closed. Thus, system integration between e-commerce platforms and BPSK constitutes an essential prerequisite for strengthening consumer legal protection, balancing the position of the parties, and preventing small-value disputes from proceeding to inefficient litigation.

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