

Rectifying Consumer Protection Law and Establishing of a Consumer Court in Indonesia

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Abstract

18 2001, Indonesia established the Consumer Dispute Resolution Body (CDRB) based on the instruction of the Consumer Protection Act (CPA) in 1999 to provide consumers protection in exercising their rights and to settle disputes quickly, simply, affordably, and professionally. Compared to the systems established by several countries that submit common law systems in which dispute-solving cases are terminated by the special courts called Small Claims Courts or Small Claims Tribunals, CDRB construction in Indonesia was quite vague. Although it uses arbitration terminology, the CDRB lacks an arbitration mechanism because, in practice, the body examines consumer disputes, working formally as a court. The root of this problem arose from the inconsistent regulation in the CPA. This article aims to review the CDRB construction problem compared to systems in other countries, to find recommendations for CPA amendments and discuss the future prospects. This study suggests two solutions: The first is the strict separation of litigation and non-litigation dispute resolution. The second is the formation of both online litigation and non-litigation systems. With these systems, the CDRB becomes a substitute institution, meaning that this body is the only system for small claim resolution for disputing parties.

Keywords Consumer Protection Act · Consumer Dispute Resolution Body · Dispute · Special court

Recently, Indonesia experienced a tragic legal incident that led to polemics between practitioners and legal experts. The incident was related to a fraud case committed by the Umrah bureau against more than 63 000 customers, causing a loss of more than IDR 900 billion. This polemic occurred because, in the Supreme Court decision that adjudicates criminal cases, evidence of the proceeds of the crime was stipulated to be confiscated by the state. In addition,

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customers were unsure about whether their money might be returned. This incident has the potential to cause chaos in the legal field.

Incidents of legal conflicts involving consumers and business actors have a long history. The Indonesian Consumer Protection Foundation recorded complaints in 2017, including 642 non-Umrahs, including (1) online shopping (16%), (2) banking services (13%), (3) housing (9%), (4) telecommunications (9%), (5) electricity (8%), (6) rental (6%), (7) packages (6%), (8) transportation (5%), (9) automotive (2%), and (10) cable television (2%).

In 2019, this foundation recorded 1871 consumer complaints, while during the COVID-19 pandemic in 2020, the level of consumer complaints nearly doubled. There was a significant increase in complaints from the public from those filed in 2019. During the pandemic, public complaints regarding health products also increased. Complaints are usually related to drugs, vitamin products, and medical devices. The complaints referred to are related to the soaring prices of health products, scarcity, and even fake products. In addition, the National Consumer Protection Agency, another nongovernmental agency, receives hundreds of consumer complaints annually. Most of the complaints are related to banking, consumer financing, including motor vehicle loans, and housing or property. The agency's number of complaints (2013–2017) for banking, consumer financing, housing or property, transportation, and insurance is presented in Table 1.

The average number of cases handled by the Consumer Dispute Resolution Body (CDRB) in Jakarta alone during 2006–2015 was 555 cases per year (compared with state administration cases that did not reach 300 per year). Especially in the Fourth Industrial Revolution (also known as “Industry 4.0”), problems related to consumer protection are increasingly complex. The trend of digital economic growth in Indonesia has undergone drastic changes since the introduction of Industry 4.0. Indonesia has approximately 93.4 million Internet users and approximately 71 million smartphone users who make Internet and online transactions, which is part of their lifestyle reflected through their shopping behaviour. The main problems of consumers in the digital era include protecting identity, privacy, and consumer assets; regulations for online trading transactions, including complaints; and how to build trust and fairness in handling and resolving disputes.

Contrary to increase in complaint cases, the CDRB encountered many obstacles at the regional level. Based on Law Number 23 of 2014 concerning Regional Government, the authority to form CDRB occurred at the provincial level, with a statement of its funding capability through the provincial regional revenue and expenditure budget. There are two constraints that arise with this law. First, several CDRBs at the district level were drawn to the provincial level. Second, not all provinces have readiness related to funding. There are a number of provinces that are not yet ready, even though the CDRB in that province has already been established (before Law Number 23 of 2014 came into effect). Several provinces have

Table 1 The number of complaints received by the National Consumer Protection Agency (2013–2017) for banking, consumer finance, housing/property, transportation, and insurance

No.	Commodity	2013	2014	2015	2016	2017
1	Banking	151	177	200	94	60
2	Consumer finance	115	107	90	46	53
3	Housing/property	8	9	4	24	16
4	Transportation	6	4	2	5	4
5	Insurance	6	4	2	2	1

even decided to postpone the formation of a new CDRB before there is clarity in budgeting in this area. Thus, instead of increasing the number of CDRBs, the opposite could happen.

E-commerce spending has increased during the coronavirus disease (COVID-19) pandemic. The pandemic has changed the way people perform activities, especially in using digital devices. The existence of the large-scale social restriction policies and social distancing requirements has led to an increasing number of consumers making transactions online. However, the policy framework and consumer rights regarding online shopping are lacking. Notably, Indonesia Bank recorded e-commerce transactions of IDR 13 trillion per month in 2019. Data from Analytics Data Advertising show a 50% drop in visits to shopping centres (malls), followed by a 300% increase in online shopping application usage since the social distancing policy was announced on March 15. On the one hand, the existence of e-commerce during the pandemic has provided access to the public so that they can continue to transact amid logistical and operational obstacles due to COVID-19. On the other hand, consumers are faced with the transaction process without the opportunity to inspect, test, or evaluate goods before the transaction.

The variety of goods, services, and transaction systems has led to complicated consumer protection efforts. Especially in globalization, the situation has led to the development of interdependence in the world economy, manufacturing, increasing competition, investments crossing national borders, and trade. This problem has been accelerated by advances in communication and transportation technology, making cross-border transactions easier than those at the retail or consumer level. Giesela Ruhl stated: "Cross-border consumer transactions are one of the most frequent transactions in the world. As a result of globalization, increased regional integration, and the internet, consumers enter into international and interstate sales contracts, service contracts, and other types of contracts daily, often without fully realizing the terms of their contracts" (Ruhl 2011).

The vulnerability of the global e-commerce market to fraud incidents and compensation issues is becoming increasingly important topics. This is also the case in the USA. According to US Federal Trade Commission data, in 2014, the ratio of various types of fraud on the Internet to the total number of all fraudulent transactions was 42% (which is equivalent to USD 55.7 million); in 2012, it was 45% (USD 110.3 million); and in 2013, this figure was equal to 55% (USD 166.6 million) (Falk and Hagsten 2015). Consumers, therefore, face the problem of lack of legal projections and means of compensation. Businesses are dealing with the issue of costs and uncertainties of the legal and statutory operating environment and, therefore, specific consumer rights protection principles for the electronics market should be developed, which will contain completely new provisions, regardless of the traditional principles of consumer rights, protection that will safeguard the rights and interests of consumers online (Kirillova et al. 2016).

Many researchers note that online consumers should be guaranteed adequate protection equal to the protection provided to offline consumers. They have revealed that the problems that concern online consumers the most include seller anonymity, which is hard to track; the inability of consumers to check products and labels; and barriers to resolving disputes (Taylor et al. 2004).

In law, there is an adage: *Ius Suum Cuique Tribuere*, which means giving justice to all who are entitled. Based on this adage, justice, through various mechanisms, should be developed to fulfil and protect the rights of all parties. The notion of righteousness used by philosophers is transferred in law under the concept of justice. Righteousness is the strict respect of each individual's rights, and this right applies to everyone. Justice is the general condition of the society that is achieved by providing each individual and society with legitimate rights and interests, being one of the most important ways to ensure the respect, protection, and promotion of human rights. Administrative justice comes

in to protect citizens' rights and interests in their relationship with the public administration (Cilibiu 2012). However, in practice, justice is not achieved easily because of the imbalance of positions between consumers and business actors. Therefore, the formation of consumer law departs from consumer protection efforts. The Consumer Protection Act (CPA) is obliged to protect the interests of consumers (Bourgoignie 1992) and intends to provide justice that is "less formal, involves less paperwork, less delays and less costs." In many countries, this act has received wide recognition as a poor people's law, ensuring easy access to justice (Nathani and Akman 2017; Scott and Black 2000). Ian Ramsay said that consumers must obtain opportunities to achieve justice (access to justice). For this opportunity to be open for the development of consumer rights, there must be a realignment of rights and obligations, so that a comparable bargaining power is achieved between consumers and business actors (Ramsay 2003).

The position of consumers as weak parties is also recognized internationally, as reflected in the UN General Assembly Resolution concerning Guidelines for Consumer Protection, which state: "Taking into account the interests and needs of consumers in all countries, particularly those in developing countries, recognizing that consumers often face imbalances in economic terms, educational levels, and bargaining power, and bearing in mind that consumers should have the right of access to non-hazardous products, as well as the right to promote just, equitable and sustainable economic and social development." The Guidelines for Consumer Protection of 1985 state that consumers, wherever they are, of all nations, have certain basic rights, regardless of their social status (Widijantoro 2012).

The issue of consumer protection as a universal issue is intended to promote economic efficiency and related to issues of social justice and human rights. In this case, Harland stated: "Consumer protection is thus seen as not concerned solely with promoting economic efficiency (though this is an important aspect of it), but as ultimately concerned with issues of social justice and human rights." Under the heading "General Principles," governments are urged to develop, strengthen, or maintain a strong consumer protection policy (Harland 1997). Graf-Peter Calliess also expressed a similar sentiment that access to justice for everyone involved in a dispute must be an easily accessible compensation mechanism that provides timely dispute resolution and effective recovery at a reasonable cost (Calliess 2008). Therefore, increasing access to consumer justice in the context of consumer protection must be developed in various ways. As Ian Ramsay noted, "The issue of access to justice has been an important theme in consumer protection." Effective redress institutions may further the objectives of compensation, dispute settlement, behaviour modification, and norm development and provide confidence to consumers and businesses in a market. In this regard, there has been continuing experimentation with a variety of institutions.

Indonesia is relatively late in regulating consumer protection. The evolution of the CPA, in 1999, was explicitly intended to protect the interests of consumers. One of the rights of consumers in the CPA is the freedom to determine the path of dispute resolution; this is possible through either (1) courts within the general court or (2) consumer dispute settlement institutions outside the court. However, this freedom has not provided legal certainty, or easy and fast access. For that purpose, the CDRB was established. Although it used arbitration terminology, the CPA did not regulate the arbitration mechanism at all. In practice, the CDRB examines consumer disputes and works as if it were a court. The decisions of the CDRB are not final, but they open up opportunities for the submission of claims to the general court, creating legal uncertainty. Meanwhile, disputes resolved through public courts have not yet given fair decisions to consumers. The verdict that ends in confiscation by the state is detrimental to the consumer (Majumdar 1997).

Although there are numerous developed systems of consumer law, these are generally within the European Union, a topic which has attracted many contributions (Twigg-Flesner and Micklitz 2010; Weatherill 2012). With the increasingly diverse types of products and services offered to consumers, disputes require certainty from institutions that handle trade disputes, as well as judges or mediators who have extensive knowledge and abilities in resolving disputes between consumers and business actors. Therefore, a breakthrough in resolving consumer disputes that are increasingly complex and complicated is needed so that disputes can be resolved quickly by skilled judges, whose decisions can be executed.

Limited Role of the CDRB in Resolving Consumer Disputes

Consumer protection law should explicitly guarantee protection for consumers if business actors harm consumers. One form of guarantee that consumers and legal practitioners need is legal certainty. From the legal review, the criteria for legal certainty and justice are obtained. Legal certainty means that the law must give its subjects the ability to regulate their behaviour. Legal certainty is recognized internationally as a key requirement for the rule of law and as a fundamental value for public authorities to establish grounded laws (Popelier 2000). Legal certainty referred to in Popelier's definition includes all efforts made to empower consumers to obtain or determine their choice of goods or services and to defend their rights if they are harmed by the behaviour of the irresponsible actors who provide these consumer needs. In other words, legal certainty is one of the legal principles that must be upheld (Helmi 2015).

Legal protection for consumers is divided into two parts. First, no conflict (pre-purchase): If there is no conflict, protection can be given in two ways, namely, (1) legislation, in which legal protection is carried out by designing and stipulating various laws and regulations, and (2) voluntary self-regulation, in which consumer protection is carried out through the drafting of regulations by business actors themselves voluntarily (voluntary) and by their companies (both goods and services). Second, if there is a conflict between consumers and business actors, it can be resolved through litigation, namely, legal protection for consumers; this involves filing a dispute between consumers and business actors in the court or the CDRB (Helmi 2015). Settlement out of court through the CDRB is expected to resolve disputes efficiently, quickly, cheaply, professionally. The CDRB has more than 10 other duties and powers, one of which is to carry out the handling and settlement of consumer disputes through mediation, arbitration, or conciliation.

The creation of the CDRB is expected to provide a fair settlement to the disputing parties, but its implementation leads to imbalance and confusion for the involved parties. At least two problems prevent dispute resolution from running according to the idea of consumer protection: The scope of settlement through litigation or non-litigation is not regulated, and the vague position of the CDRB and its relationship with judicial institutions.

Dispute resolution to defend consumer rights may be achieved through either litigation (through courts) or nonlitigation, based on the disputing parties' choices. However, CPA law does not regulate any scope on the choice of settlement through litigation or nonlitigation. This can be seen from three aspects: (1) the inconsistency of the CDRB's position, (2) the possibility of filing an objection to the CDRB's decision, and (3) the unlimited number of compensation claims can be handled by the CDRB. In the CPA, the CDRB is stipulated as an agency that carries out the handling and settlement of consumer disputes through mediation, arbitration, or conciliation. With this stipulation, the appropriate construction to occupy the

CDRB is as an arbitration institution. Although it uses arbitration terminology, the CPA does not regulate the arbitration mechanism at all. In practice, the CDRB examines consumer disputes as if it were a court (Rusli 2014). The CDRB does not peacefully resolve consumer disputes, but examines disputes based on law. This means that in carrying out its role in dispute resolution, the CDRB will adhere to the applicable law provisions. In other words, in practice, the CDRB runs the court as a litigation court.

Second, there is the possibility of filing an objection to the CDRB's decision. An objection is an effort for business actors and consumers who do not accept the CDRB's decision. The objection is a kind of appeal, lawsuit, or petition, because in this case, no provision further regulates what is meant by an objection and how to proceed with it. With the possibility of filing an objection, in resolving consumer disputes, the CDRB has not yet realized a simple, cheap, and fast form of resolution following the principles of arbitrary settlement. Therefore, efforts to protect and enforce consumer rights are deemed not optimal. Filing an objection in the district court against the CDRB's decision, which, in fact, is the result of the arbitration process that must be final and binding, contradicts the regulations.

Several problems arise from the execution of the CDRB's decisions. The CDRB's decisions, based on the results of conciliation, arbitration, and mediation, are final and binding. Final means something that must be carried out by the parties. The principle of *res judicata pro veritate habetur* means a decision is no longer possible for legal action to be declared as a decision that has definite legal force. Based on this principle, the CDRB decision should be viewed as a decision that has permanent legal force (*inkracht van gewijsde*). However, if these principles are compared with those contained in other articles of the CPA, it is stated that the parties can submit objections to the general court. This is contrary to the nature of the CDRB's decision, which is final and binding. The objection to the CDRB's decision to the district court has damaged the legal system because it confuses the dispute resolution process between litigation and nonlitigation. This shows the ambiguity of the provisions regarding the concept of the CDRB's position, whether as an extraordinary judicial institution or as an arbitration institution. Furthermore, it implies injustice for justice seekers (consumers), because the dispute resolution process is inefficient, takes a long time, and is expensive. Therefore, the reconstruction of the position of the CDRB as the dispute resolution body needs to be confirmed.

Third, the CPA does not set limits on the number of compensation claims that can be handled by the CDRB. Without clear boundaries, there is confusion in solving consumer protection problems. Thus, the choice of a settlement path does not provide legal certainty, limiting access to legal protection. Disputing parties tend to choose the CDRB route first, but either party is likely to file an objection when the decision is not satisfactory, which extends the time to resolve the case. Business actors who are not satisfied with the CDRB's decision tend to continue their cases to the court, even the Supreme Court, if necessary. This means the existence of the CDRB as an alternative dispute resolution (ADR) institution fails in resolving consumer disputes quickly, informally, and at low cost.

In Supreme Court Regulation Number 2 of 2015 and 4 of 2019, the limit of the value of claims for simple claims settlement is regulated. This regulation actually regulates a lawsuit to resolve consumer disputes by litigation in a small claims court. The regulation stated that the claim's value was up to IDR 200 million (Number 2 of 2015), and then it was revised to IDR 500 million (Number 4 of 2019). This value is far from simple because the evidence can be complicated and must be examined by a panel of judges.

Fourth, the relationship between the CDRB and the general justice system can be seen from three aspects: (1) The parties who reject the CDRB's decision can file objection in the public court, and if the parties still object to the district court's decision, they can submit an appeal to the Supreme Court; (2) if the business actor accepts the decision or does not file an objection to the CDRB's decision, but is reluctant to carry out its obligations, then the CDRB can submit a decision to the investigator to investigate following the provisions of the applicable law; and (3) to have the power of execution, the CDRB's decision must be requested for a ruling (fiat execution) to the general court (Rusli, 2014).

In reality, the relationship between the aforementioned three aspects is not explained in detail in the provisions, thus weakening efforts to obtain justice and legal certainty. Requests for execution can be made both against the CDRB's decision and the objection decision; however, the CPA does not provide more detailed regulations in this regard. The implementation of the arbitration award is submitted and becomes the district court's full authority, which carries out the function of judicial power and has legitimacy as a coercive institution. In its initial implementation, this law is expected to be a tool for consumers seeking justice to obtain their rights, but it does not follow the aims and objectives of the establishment of this CPA. Quick, simple, and low-cost consumer dispute resolution, as originally expected, is far from being a reality. This is because of the absence of technical guidance in regulating aspects related to the law of the procedure so that it cannot be used as a reference in efforts to resolve consumer disputes.

According to the author, the government should immediately amend the CPA for the realization of a fast, simple, and low-cost proceeding under the principles contained in civil procedural law. The amendment should also be for the sake of creating justice for consumer rights in resolving consumer disputes in Indonesia. Susanti Adi Nugroho (Supreme Judge of the Republic of Indonesia) argues that there are several obstacles/weaknesses, which implies that the CDRB has not been working optimally. These obstacles or weaknesses include the following: first, institutional constraints; second, funding constraints; third, CDRB human resources; fourth, regulatory constraints; fifth, mentoring and monitoring and a lack of coordination between responsible officials; sixth, a lack of socialization and low legal awareness of consumers; seventh, the lack of response and understanding of the judiciary toward consumer protection policies; and eighth, the lack of public response to the CPA and the CDRB (Nugroho 2008).

Comparison of Systems in Other Countries

In some countries that follow the common law system, consumer dispute cases are resolved by institutions called the Small Claims Court, the Small Claims Tribunal, the Consumer Claims Tribunal, or the Market Court. These dispute resolution institutions are generally found in the following countries: (1) the Small Claims Court in the USA and Singapore; (2) the Small Claims Tribunal in New Zealand, Singapore, and Hong Kong; (3) the Consumer Claims Tribunal in Australia; (4) the Market Court in Finland and Sweden; and (5) consumer Disputes Redressal Agency/the District Forum in India (Kurniawan 2017).

These four terms of dispute resolution can broadly be divided into two groups: the Small Claims Court and the Small Claims Tribunal. Both have the following characteristics of a court that limits the value of the claim: In general, they are part of the judicial system or special court outside the independent judicial system; there are limits on the scope of cases that can be

submitted; their procedures are simple and more informal in nature so that ordinary parties to the law can make their submissions; and the inspection process is fast and straightforward. ADR is more open, in the sense that it does not always depend on the judges' considerations based on the applicable formal law, but it is possible to make a decision based on the bargaining of the parties facilitated by the judge; the judges examine, try, and decide claims in the form of material compensation, although other forms of claims are possible, for example, an apology. Small claims courts, such as those in the USA, set limits on the size of financial claims, which vary from state to state; however, the concept is the same: relatively small disputes involving an amount of money that is not sufficient to warrant processing a case through normal court procedures justifying adjudication. However, the US petty claims court is often believed to hold a fair trial. Furthermore, because it is not bound by the rule of law, it has the flexibility to use a more holistic approach to problem-solving and dispute resolution than usual. There are many rules of evidence and procedures. Civil law has been simplified to allow individuals who do not have access to a lawyer to file complaints. The difference between the two is that the Small Claims Court is permanent, while the Small Claims Tribunal is temporary or ad hoc. This can be seen in the authority to examine, hear, and impose a decision; in other words, acting as a judge at the Small Claims Court is executed by a judge (presiding judge) so that the decision is called a judgement.

From the aforementioned differences between the CDRB and the Small Claims Tribunal and Small Claims Court, the resolution of consumer disputes in Indonesia through the CDRB appears to be inconsistent. There are several reasons for this: (1) Compared to the Small Claims Court, the CDRB has many tasks. This, according to the author, causes the CDRB to become unfocused in carrying out its work. Therefore, in the future, the CDRB's task should be dispute resolution only, following its construction. (2) The CDRB does not provide a limit on the value of losses or claims that can be submitted. This contrasts with the above two systems, which provide clear limits on the lawsuit that can be filed; for example, in Singapore, the consumer losses that are handled do not amount to more than SGD 2000; in Turkey, the amount is less than TRY 2000; and in the USA, the limits vary from USD 1,000 to 15 000 depending on state regulation. (3) In the Small Claims Court, the panel that resolves cases comprises both active and retired judges. At the same time, in the CDRB, the assembly consists of government officers, business actors, and consumers with diverse backgrounds. The author believes that in the future, members of the CDRB Council must include elements of academia, business actors, and consumers with a bachelor of law educational background to better understand the tasks in the field of justice.

Many Agencies Have the Authority to Resolve Consumer Disputes

Apart from the CDRB, other institutions can resolve disputes out of court, namely, the Nongovernmental Consumer Protection Agency (NGCPA); one of its activities is to help consumers fight for their rights, including receiving complaints or consumer complaints. Regarding complaint resolution, the NGCPA's role is only as a mediator, conciliator, and arbitrator. Then, there is the CDRB; one of its functions is to receive complaints about consumer protection from the public, nongovernmental consumer protection organizations, or business actors. Specifically, the settlement of complaints and consumer complaints against financial services based on Financial Services Authority Regulation Number 1 of 2013 concerning Consumer Protection in the Financial Services Sector can be resolved through

any of the following financial services institutions: (1) Indonesian Insurance Agency for Mediation and Arbitration, (2) Indonesian Capital Market Arbitration Board, (3) Pension Fund Mediation Agency, (4) Indonesian Alternative Banking Dispute Resolution Agency, (5) Indonesian Guarantee Company Arbitration and Mediation Agency, or (6) Indonesian Citizen Financing and Pawnshop Mediation Agency.

The Urgency of Changing Consumer Protection Laws

The effort to change consumer laws has long been echoed. At the end of 2005, the National Consumer Protection Agency, in charge of drafting amendments to the Consumer Protection Law, started work with a targeted completion date of mid-2007. However, until now, the amendment has not been completed. According to the author, the government should immediately amend the CPA for the realization of a fast, simple, and low-cost proceeding following the principles contained in civil procedural law, as well as for the sake of creating justice regarding consumer rights in resolving consumer disputes in Indonesia.

Several provisions of the CPA that are ambiguous and need to be emphasized are, first, the rights and obligations of consumers and business actors/service providers. The state should protect consumers, changing the term “service business actors” to “service providers/suppliers, details of goods/services,” which are divided into movable and immovable, as well as physical/tangible for goods, and professional or commercial for services. The rights and obligations of consumers and business actors/service providers must be separated, especially the rights and obligations of consumers and service providers. Amendments to the CPA must explain the responsibilities of business actors of goods and services and the standard agreements and standard clauses, especially for transactions conducted online/e-commerce.

The author proposes two solutions to this problem. The first is the strict separation of litigation and non-litigation dispute resolution. The role and function of the CDRB are returned to its construction as an arbitrage institution. In this scheme, there is a strict scope between the number of claims handled by the CDRB and those handled by the court; for example, the CDRB handles claims of a maximum of IDR 15 million, while the courts handle claims beyond that amount. Thus, the provisions that state decisions that are resolved through non-litigation or the CDRB are final and binding must be affirmed, and there is no possibility of objections. This system is similar to the ADR in Europe, especially those that adopt the Anglo-Saxon system. The ADR in this system is known as the only solution, rather than a complementary system (Mucha 2016).

ADR schemes are known as the out-of-court mechanism, which have been developed across Europe to reach peace agreements. ADR schemes usually use third parties, such as arbitrators, mediators, conciliators, or negotiators, to help the parties reach an amicable settlement (Knudsen and Balina 2014). The advantage of the ADR scheme is that it offers more flexibility and is cheaper, faster, and more informal than the courts (Carausan 2018). However, this system also has weaknesses because of weak regulations, mediator competence, and lack of supervision from the government and the community (Mucha 2016).

The limits on the value of losses that are the objects of dispute that can be resolved through the CDRB are regulated. Small claims courts in other countries strictly regulate the limits of the value of losses that are the objects of dispute. The author agrees that a maximum of IDR 15 million is the value of the loss that is the object of consumer dispute resolved through the CDRB. The composition of and requirements for CDRB judges must be improved. Currently,

CDRB judges comprise members of government, society, and business actors. Society elements must especially be transformed into academic elements. As for CDRB judges' requirements, they must have a legal background; specifically, their academic background must include a master's degree in law. The CDRB decision is final and binding, so there are no legal remedies, including administrative (objection) remedies, to the district court.

The second solution is the establishment of court online. Along with technological developments, online registration and dispute resolution mechanisms are one of the new forms of the justice system. This has been extensively studied and developed in Europe to overcome the physical distance between parties by taking advantage of ²⁴ speed and convenience of information technology. This online media appears to be the best, and often the only option, to increase consumer redress and strengthen their confidence in e-commerce (Cortés 2010; Loutocký 2016; Susskind et al. 2020). For this reason, it is necessary to regulate provisions in the laws regarding this system, including the administration system, case, and trial services. Indonesian Supreme Court Regulation Number 1 of 2019, concerning the administration of cases and trials in court electronically, allows the implementation of courts electronically. However, this system is still an option. In the provisions, it should be stipulated that the CDRB electronic dispute resolution is the only way to examine those cases whose losses are less than IDR 15 million, while claims with a value above that can be given the choice of having their claim examined electronically or in person in the court building. In addition, when the value of the lawsuit is less than IDR 15 million, the case is examined by a single judge, while those above IDR 15 million are examined by a panel of judges. Settlement of cases becomes faster. In addition, the existence of electronic courts can reduce the cost of providing CDRB services to the district level. Thus, the CDRB can be drawn to the provincial level for efficiency.

Although small claims courts in other countries help several consumers, they are not aimed only at consumers, but even business people can use these courts. The establishment of a special consumer court in Indonesia in the future must be regulated via laws that regulate the authority to receive, examine, try, and decide cases that arise between end consumers and producers regarding violations of consumer rights, which include disputes over labels, Indonesian national standards, how to sell, advertising or promotion, standard clauses, and guarantees and manuals in Indonesian.

The aforementioned two have a similar prospect. According to the literature, ADR has evolved widely. This system has also been widely accepted by the European Union (Weber 2015). The background of the formation of the CDRB was the tendency of the community to be reluctant to be cancelled in court due to social and financial imbalances between consumers and business actors (Kusumaningrum 2013). Dispute resolution through legal channels ideally provides legal certainty for the parties, especially because the judge's decision is legally binding, there are no other legal remedies, and the decision must be implemented by the parties (Fibrianti 2015). Regarding consumer attitudes, Nicole L'Heureux reports that consumers face three problems: First, they are not aware that they have rights (laws) that can be used; second, many do not know how to determine their demand; and third, their reluctance to bring business actors to justice (L'Heureux 1992). Leigh Gibson also stated that, "Consumers are clearly reluctant to take legal action in court, given the uncertainty of the outcome and the risk that the cost may be disproportionate to the value of the claim." In general, compared to developed countries, consumer awareness in developing countries is relatively ⁷; consumers are poorly organized and have low bargaining power; the role of consumers in advocacy, law-making, and law enforcement is still not active; law or regulation does not exist or is ineffective, if any; and various institutions do not have sufficient resources or adequate capacity for law enforcement (Wei 2020).

Through litigation, the settlement provides more legal certainty. By following the execution, the defendant carries out the decision. The creation of small claims courts seeks to resolve or mitigate some of these difficulties (Fuady 2018). Matters that should be considered through the litigation route are a limit on the number of claims, an informal nature that involves fewer documents, fewer restrictions, and less costs. Therefore, the introduction of an online case settlement system is a very realistic option considering that this system in general courts has also begun to be implemented, as well as a socially demanding pandemic situation. However, the readiness of the facilities and human resources of this support system must be carefully calculated. For provinces that do not yet have CDRBs, the establishment of CDRBs at the central level is needed to serve several provinces that do not have them.

The informal justice movement eliminated legal professional intervention and dispute management efforts from state institutions and into the hands of the parties. The concept that led to the creation of small claims trials was the idea of reconciling court assistance before court decisions. The movement aims to provide fast, cheap, and simple justice. Under this approach, small claims courts will act as civil litigators, a model in which arbitration and conciliation play a central role (D'Souza, 2015).

This solution in Indonesian culture provides certainty and efficiency in implementation. Litigation avenues are still open for messages of high value. With high social diversity and individuals' tendency toward prejudice, the litigation channel is more able to provide protection because it involves the procedural law system. Delgado's study of ADR concluded, based on the social science literature, that ADRs tend to increase the risk of behaviours and adverse outcomes, especially for the defenceless (Delgado 1985). These parties include a belittled minority, women, and members of other powerless groups, especially when their enemies are companies or some kind of authority figure (Delgado 2017). Lack of legal attention and awareness on the part of consumers are two of the main causes of consumer problems in Indonesia (Yusoff et al. 2012).

Conclusion

The urgency of amendment of the Consumer Protection Law departs from regulatory inconsistencies in the CPA, especially those related to the construction of the CDRB. The CDRB needs to return to its position as an arbitration institution with a limitation on the number of claims for compensation and decisions that are final and binding. Establishing a consumer court in Indonesia is motivated by (1) the complexity of disputes in the field of goods and services, (2) handling of cases with claims above the nominal CDRB, and (3) the need for case handling that has strong formal legal power to execute decisions. Juridical opportunity for the establishment of special consumer courts, namely the possibility of establishing special courts, is based on Article 27 of Law Number 48 Year 2009 concerning Judicial Power. Based on the urgency of establishing a special court for consumers and the legal opportunity for the establishment of a special court, the amendment of Law No. 8 of 1999 concerning consumer protection determines that the settlement of consumer disputes through the court (litigation) will be examined and decided by the Special Consumer Court established by a Law Invite.

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Arbitration and Alternative Dispute Resolution Act 1999

Consumer Protection Act 1999

Regional Government Law Number 23 of 2014

Supreme Court Regulation Number 2 of 2015 and 4 of 2019

Decree of the Minister of Industry and Trade 2001/350 on the Implementation of Duties and Authorities of the Consumer Dispute Resolution Board

Financial Services Authority Regulation Number 1 of 2013 concerning Consumer Protection in the Financial Services Sector

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