



# A Juridical Analysis of Business Actors' Liability for Breach of Online Sale and Purchase Agreements Based on Law Number 8 of 1999 on Consumer Protection

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**Abstract:** This study aims to analyze the provisions on business actors' responsibilities for defaults in online sales agreements based on Law Number 8 of 1999 concerning Consumer Protection and to examine obstacles and efforts to optimize consumer protection. The research method used is normative legal research with a statutory, conceptual, and case-based approach through literature review. The results indicate that business actors' responsibilities are regulated through the integration of the Civil Code, the Consumer Protection Law, and the Electronic Information and Transactions Law, applying the principle of absolute liability and a reversal of the burden of proof. However, its implementation still faces obstacles such as suboptimal e-commerce regulations, low consumer legal literacy, the limited role of the BPSK (Regional Consumer Protection Agency), detrimental standard clauses, and unclear marketplace responsibilities. Therefore, regulatory reform and institutional strengthening are needed to improve consumer protection in online sales transactions.

**Keywords:** Business Actors, Consumer Protection, Default, Online Sales and Purchase Agreements, Responsibility

## Introduction

The development of online buying and selling transactions in Indonesia has experienced a significant surge in line with the digital revolution, in which e-commerce has become an integral part of societal economic activities. From a theoretical perspective, online sale and purchase agreements constitute a form of civil obligation governed by the Indonesian Civil (Kitab Undang-Undang Hukum Perdata, 1847), particularly Article 1234, which defines performance (*prestasi*) as an obligation to give something, to do something, or to refrain from doing something. However, in online practice, such agreements are often vulnerable to breach of contract (*wanprestasi*), namely the failure of business actors to fulfill their contractual obligations, such as delivering goods that do not conform to specifications, delays in delivery, or the inability to provide the promised goods (Subekti, 2018).

This condition indicates that breach of contract is not merely a contractual violation, but also poses a threat to the principles of justice and balance in consumer–business actor relationships, as accommodated under Law Number 8 of 1999 on Consumer Protection (Republik Indonesia, 1999). This theoretical argument leads to the identification of a central

legal issue, namely the ambiguity surrounding the liability of business actors for breach of contract in the digital context, which forms the foundation of this study. Furthermore, breach of contract is defined as a condition in which a debtor fails to perform the agreed obligations, whether by non-performance, imperfect performance, delayed performance, or performing prohibited acts, which often results in legal consequences such as compensation or contract termination (Sinaga & Darwis, 2015).

This issue warrants scholarly examination because online transactions have become a new arena of power imbalance between consumers and business actors, where consumers are frequently placed in a vulnerable position due to information asymmetry and physical distance. Academically, Article 19 paragraph (1) of the Consumer Protection Law explicitly obliges business actors to provide compensation for consumer losses resulting from breach of contract, including costs as well as material and immaterial damages, with the objective of realizing substantive consumer protection (Miru, 2013). The urgency of this research is further supported by empirical data: the Ministry of Trade recorded 20,942 consumer complaints from 2022 to March 2025, of which 92% (19,428 complaints) originated from e-commerce transactions, predominantly related to breaches of contract such as defective goods or non-delivery (Mailina, 2025).

Several illustrative cases related to this issue include the following:

1. **Fraud by a Seller on Shopee: Purchasing a Samsung S24 FE but Receiving a Package Containing Tissue Paper and a Perfume Box.** This case was reported through a consumer complaint published on MediaKonsumen.com on November 20, 2025. The consumer ordered a Samsung Galaxy S24 FE from a seller on the Shopee platform. After full payment was made and the package arrived, the consumer discovered that it contained tissue paper and an empty perfume box instead of the ordered smartphone. This clearly constitutes a serious breach of contract by the business actor (seller), as the delivered goods did not correspond to the sale and purchase agreement or the product description. The consumer immediately filed a complaint with Shopee and the seller; however, the dispute resolution process proved protracted, as the seller denied liability, Shopee required video evidence of the unboxing process, and, at the time of publication, the refund had not yet been realized (Konsumen, 2025).
2. **Journalist Becomes a Victim of Online Shopping Fraud with Total Losses of IDR 66.3 Million.** In March 2024, a journalist fell victim to online shopping fraud after purchasing imported clothing via Instagram and being trapped in a fake refund scheme, which led to multiple transfers totaling IDR 66.3 million before the perpetrator blocked all contact. The case was subsequently reported to the Jakarta Metropolitan Police (detiknews, 2025).
3. **Purchase of an iPad with Goods Never Delivered.** On July 20, 2021, Dina Christina purchased an 11-inch iPad (256 GB) priced at IDR 13.99 million from a store identified as "MA" on Tokopedia, using a split payment system: IDR 10 million through a credit application and IDR 3.99 million via a bank virtual account. The order was shipped using GoSend Instant delivery, but the item never arrived. Upon checking the application, the delivery status indicated "completed" and recorded as received by another person. After tracing the courier address, it was revealed that the GoSend account had been borrowed

by an individual with the initials AS, who denied responsibility and issued counter-threats. Dina filed a claim with Tokopedia. The first invoice was fully refunded, while the second invoice was initially only partially refunded due to the non-recommended split payment method. After submitting an objection, Tokopedia ultimately refunded the entire amount (Tempo.co, 2025).

These facts confirm that although the Consumer Protection Law has been in force for more than two decades, its implementation remains suboptimal, as reflected in studies indicating a 25% increase in online fraud cases in 2024 due to low levels of consumer digital literacy (Azzahra et al., 2024). Moreover, consumer protection enforcement in Indonesia continues to face significant complexities, where business actors often fail to fulfill their ethical and legal obligations, thereby necessitating systematic efforts to safeguard consumer rights in online transactions (Anita Sinaga & Ir Tiberius Zaluchu, 2018).

The regulatory gap becomes increasingly evident, as the Consumer Protection Law originally designed for conventional transactions has not been fully adaptive to the dynamics of e-commerce, such as business actor anonymity and jurisdictional tracing difficulties. For instance, many consumers suffer losses without effective compensation because business actors frequently shift liability to marketplace platforms, despite Article 26 of the Consumer Protection Law establishing joint liability (Badruzaman, 2001). This gap is reflected in the low rate of dispute resolution, where only 40% of complaints resulted in recommendations by the National Consumer Protection Agency (BPKN) during 2023–2024, due to weak law enforcement and insufficient multichannel education (Nasional, 2024). In addition, contributing factors to breach of contract, such as logistical incapacity and misleading advertising, are increasingly prevalent, creating a disparity between normatively guaranteed consumer rights and the uncertain realities of practice. This phenomenon forms the basis for critical reflection on why existing liability regulations for business actors have not yet optimized consumer protection, particularly in addressing challenges such as cross-border jurisdiction and the lack of stringent sanctions.

Several previous studies have addressed similar issues, albeit with different emphases. One such study is by Darryl Anne Lanita Simanungkalit et al., entitled “*A Juridical Analysis of Breach of Contract in Online Sale and Purchase Agreements.*” The similarity between Simanungkalit et al.’s study and the present research lies in their shared focus on juridical analysis of breach of contract in the context of online sale and purchase agreements. However, the distinction lies in the scope and depth of analysis. Simanungkalit et al., (2023) examine breach of contract more generally from both seller and buyer perspectives with broader legal foundations, whereas this study specifically and comprehensively analyzes the liability of business actors (sellers) for breach of contract, positioning Law Number 8 of 1999 on Consumer Protection as the primary legal basis and central analytical framework.

Another relevant study by Delis Nia Nadiyahana et al., entitled “*Legal Protection for Business Actors Against Breach of Contract in Promotional Services,*” shares a similarity in its normative juridical approach to breach of contract based on the Civil Code and its orientation toward modern digital transactions involving business actors. However, the distinction is evident in the subject focus and direction of legal protection. Nadiyahana et al.

emphasize protection for business actors as victims of breach of contract by promotional service providers (such as influencers), particularly within endorsement services, whereas this study specifically examines the liability of business actors as perpetrators of breach of contract against consumers in online sale and purchase agreements, with the Consumer Protection Law serving as the primary legal foundation for enforcing consumer rights.

A comprehensive juridical analysis of the Consumer Protection Law, along with the identification of obstacles and strategies for optimization, is expected to contribute to the development of more adaptive policies, in line with the spirit of Pancasila in realizing social justice for consumers in the digital era. Based on the foregoing discussion, it is therefore necessary to further examine the liability of business actors for breach of online sale and purchase agreements in a study entitled "A Juridical Analysis of Business Actors' Liability for Breach of Online Sale and Purchase Agreements Based on Law Number 8 of 1999 on Consumer Protection."

## Methodology

This study is classified as normative legal research (doctrinal legal research). Normative legal research examines statutory regulations, legal doctrines, and relevant legal theories in order to address legal issues (Soekanto & Mamudji, 2015). This approach is selected because the primary issue of the study concerns the legal regulation and forms of legal protection afforded to consumers in online sale and purchase transactions, which require an analysis of the applicable legal norms.

Within this normative legal research framework, several approaches are employed. First, the statute approach is used by examining all statutory regulations related to the legal issue under study, namely consumer protection in online sale and purchase transactions (Marzuki, 2017). This includes Law Number 8 of 1999 on Consumer Protection; Law Number 11 of 2008 (Undang-Undang Republik Indonesia Nomor 11 Tahun 2008, 2008) on Electronic Information and Transactions, as amended by Law Number 19 of 2016 and further amended by Law Number 1 of 2024 (Konstruksi Hukum & Issn, 2024) concerning the Second Amendment to Law Number 11 of 2008 on Electronic Information and Transactions; as well as Government Regulation Number 80 of 2019 (Peraturan Pemerintah Nomor 80 Tahun 2019 Tentang Perdagangan Melalui Sistem Elektronik, 2019) on Trade Through Electronic Systems.

Second, the conceptual approach is applied by reviewing legal scholars' views, doctrines, and legal theories developed within legal science concerning consumer protection, electronic contracts, and legal liability (Marzuki, 2017). This approach is utilized to construct a conceptual analytical framework for understanding and examining the research problems.

Third, the case approach is employed by analyzing relevant cases or court decisions that have obtained final and binding legal force concerning consumer disputes arising from online sale and purchase transactions. Although this research is normative in nature, case studies provide insight into how the law is applied and interpreted in practice.

The data collection technique used in this study is library research (documentary research). This technique is conducted by collecting, identifying, inventorying, reviewing, and analyzing legal materials relevant to the research topic. The process includes several stages: identification and classification, by identifying relevant statutory regulations, legal documents, and legal literature; critical reading, by critically examining all collected legal materials to understand their content, relevance, and context, as well as to distinguish between materials that are relevant and irrelevant to the research; and note-taking, by recording essential data and information relevant to the formulation of the research problems, including direct quotations or summaries from the legal materials used.

The data analysis method employed is descriptive qualitative analysis. This analysis is conducted by systematically explaining, elaborating, and interpreting the collected legal materials in order to provide a coherent and comprehensive understanding of the legal issues under examination (Soekanto & Mamudji, 2015).

## Result and Discussion

### A. Regulation of Business Actors' Liability for Breach of Online Sale and Purchase Agreements under Law Number 8 of 1999 on Consumer Protection

Breach of contract (*wanprestasi*) constitutes a violation of a contractual obligation that has been mutually agreed upon. Article 1243 of the Indonesian Civil Code stipulates that a breach of contract occurs when a debtor, despite having been declared in default, remains negligent in fulfilling the obligation, or when an act or performance that should have been delivered or performed can only be delivered or performed beyond the stipulated time limit. Based on the substance of Article 1243 of the Civil Code, at least three essential elements of breach of contract can be identified, namely:

1. the existence of a contract;
2. the presence of a party who fails to perform or violates the contract; and
3. a declaration of default, followed by continued non-performance of the contractual obligations.

According to Subekti in *Law of Contracts*, a debtor may be deemed to have committed a breach of contract if he or she (Wiranata et al., 2024):

1. fails to perform the agreed obligation;
2. performs the obligation improperly;
3. performs the obligation beyond the agreed time frame; or
4. engages in conduct that is expressly prohibited under the agreed contract .

This phenomenon is reflected in various contemporary cases, such as the delivery of counterfeit or empty packages through marketplace platforms, fraud conducted via social media, and delivery failures by logistics service providers that ultimately result in consumer losses. Breach of contract in the digital context is increasingly complex due to physical distance, the anonymity of business actors, and the involvement of third parties such as marketplace operators and logistics providers (Usman, 2020).

The juridical consequences of breach of contract grant the creditor several possible legal remedies against the debtor (Sinaga & Darwis, 2015), including:

1. contract rescission, whereby both parties are restored to their pre-contractual positions;
2. contract rescission accompanied by claims for damages arising from the debtor's breach of contract;
3. specific performance, whereby the creditor demands fulfillment of the contractual obligation;
4. specific performance accompanied by claims for damages; and
5. claims for damages alone. Pursuant to Article 1246 of the Civil Code, damages consist of three components:
  - a. costs, namely actual expenses incurred;
  - b. losses, namely damage to the creditor's property caused by the debtor's negligence; and
  - c. interest, namely profits that the creditor should have obtained had the debtor not been in default.

Law Number 8 of 1999 on Consumer Protection adopts several principles governing business actors' liability that are particularly relevant to breaches of contract in online sale and purchase transactions. First, the principle of strict liability. Article 19 paragraph (1) of the Consumer Protection Law provides that business actors are responsible for providing compensation for damage, pollution, and/or losses suffered by consumers as a result of consuming goods and/or services that are produced or traded. Accordingly, in the event of a breach of contract in an online sale and purchase agreement, business actors remain obligated to provide compensation, even where they have acted in good faith. According to Shidarta, the principle of strict liability is intended to afford maximum protection to consumers, given their inherently weaker position within the structure of modern transactions, including electronic transactions.

Second, the principle of the reversal of the burden of proof. Article 28 of the Consumer Protection Law stipulates that the burden of proving the presence or absence of fault in claims for damages as referred to in Articles 19, 22, and 23 rests with the business actor. This principle reflects a legal bias in favor of consumers, who generally lack the technical and financial capacity to prove the fault of business actors. In online sale and purchase transactions, this principle is particularly significant, as transactional evidence is predominantly digital in nature, such as electronic transfer records, electronic invoices, and online communication logs.

Article 7 of the Consumer Protection Law further regulates the obligations of business actors, the violation of which may be classified as breach of contract. These obligations include the duty to:

1. act in good faith in conducting business activities;
2. provide accurate, clear, and honest information regarding the condition and guarantees of goods and/or services, as well as explanations regarding their use, repair, and maintenance;
3. treat or serve consumers fairly, honestly, and without discrimination;

4. ensure the quality of goods and/or services produced or traded in accordance with applicable quality standards;
5. provide consumers with the opportunity to test and/or try certain goods and/or services and to offer guarantees and/or warranties for goods produced or traded;
6. provide compensation, indemnification, and/or replacement for losses resulting from the use, consumption, or utilization of traded goods and/or services; and
7. provide compensation, indemnification, and/or replacement where the goods and/or services received or utilized do not conform to the agreement.

In the context of online sale and purchase transactions, these obligations encompass the duty of business actors to ensure conformity between product descriptions and the goods delivered to consumers. Violations of these obligations not only give rise to civil liability but may also result in administrative and criminal sanctions as stipulated under the Consumer Protection Law.

Based on the foregoing discussion, the author argues that the liability of business actors for breach of contract in online sale and purchase transactions does not operate in isolation, but rather constitutes an integrated legal framework involving the Consumer Protection Law, the Civil Code, and the Law on Electronic Information and Transactions. The Civil Code provides the general legal basis for breach of contract, the Consumer Protection Law offers specific protections for consumers, and the Electronic Information and Transactions Law regulates the validity of electronic evidence. Accordingly, in cases of breach of contract in online sale and purchase transactions, consumers possess a strong legal foundation to hold business actors accountable through civil mechanisms reinforced by the special provisions of the Consumer Protection Law.

## **B. Challenges in the Implementation of Business Actors' Liability and Efforts to Optimize Consumer Protection in Online Sale and Purchase Agreements**

The development of information and communication technology has brought significant changes to trading patterns, particularly through online sale and purchase transactions (e-commerce). This transactional model offers convenience, efficiency, and extensive market reach; however, it simultaneously gives rise to various legal issues, especially those related to consumer protection and the implementation of business actors' liability. In practice, consumers frequently suffer losses due to breaches of contract by business actors, such as goods that do not conform to their descriptions, delays in delivery, or the absence of effective compensation mechanisms (Hamid, 2017).

Normatively, Law Number 8 of 1999 on Consumer Protection provides a relatively strong legal foundation for consumers to assert their rights and obliges business actors to bear responsibility for losses incurred. Nevertheless, the effectiveness of enforcing such liability in online sale and purchase transactions continues to face numerous challenges, including juridical, institutional, and sociological constraints (Shidarta). This situation reflects a persistent gap between legal norms (*das sollen*) and their implementation in practice (*das sein*).

The challenges encountered include the following:

### 1. Complexity of Electronic Transactions and the Lack of Specific Regulatory Clarity

One of the primary obstacles in enforcing business actors' liability in online sale and purchase transactions is the absence of clear and specific regulations governing the rapidly evolving e-commerce sector in Indonesia. Although Law Number 8 of 1999 on Consumer Protection serves as the principal legal framework, it was enacted prior to the widespread penetration of digital commerce and is therefore often insufficiently responsive to the characteristics and dynamics of contemporary e-commerce transactions (Jeannie Connie Rotinsulu).

Moreover, while Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 on Electronic Information and Transactions provides legal recognition of electronic transactions and digital signatures, it focuses primarily on transactional validity rather than comprehensive consumer protection. As a result, a legal vacuum persists, complicating the enforcement of business actors' liability for breach of contract in the digital context (Yuwono & Israhadi, 2025).

### 2. Low Levels of Legal Literacy and Consumer Awareness

Low levels of consumer legal literacy regarding their rights and the available legal mechanisms for protection in online transactions constitute a significant barrier. Many consumers are unaware of their rights to request refunds, lodge complaints with marketplace platforms, or pursue litigation or non-litigation dispute resolution mechanisms, such as the Consumer Dispute Settlement Body (Badan Penyelesaian Sengketa Konsumen—BPSK). Consumers often assume that dispute resolution can be sufficiently achieved through direct communication with sellers or platforms, without realizing that formal legal protection mechanisms are available when their rights are violated by business actors (Fezliani, 2024).

### 3. Limited Capacity and Jurisdiction of the Consumer Dispute Settlement Body (BPSK)

BPSK is a non-litigation institution established under the Consumer Protection Law to resolve consumer disputes in a simple, swift, and low-cost manner. However, in practice, the capacity of BPSK remains limited in terms of institutional reach, human resources, and the executorial force of its decisions. Furthermore, BPSK's jurisdiction in handling cross-regional or cross-border e-commerce disputes remains unclear, resulting in many digital consumer disputes being unresolved or ineffectively addressed through this mechanism.

### 4. Standard Form Contracts and Unfair Standard Clauses Detrimental to Consumers

Many e-commerce platforms employ standard form contracts unilaterally drafted by business actors to regulate their legal relationships with consumers. These contracts frequently contain unfair, non-transparent, and consumer-detrimental clauses, such as limitations of seller liability, complex refund conditions, or forum selection clauses that require dispute resolution outside Indonesia. The widespread use of standard clauses

without stringent legal oversight places consumers in a structurally weaker contractual and legal position and significantly impedes their ability to assert their rights when violations occur (Nugraheni et al., 2025).

#### 5. Electronic Evidence and Evidentiary Challenges in Consumer Disputes

In online breach of contract disputes, available evidence typically takes the form of electronic or digital evidence, such as chat records, emails, electronic invoices, or digital transaction logs. Although the Electronic Information and Transactions Law and Supreme Court regulations recognize electronic evidence as legally valid, inconsistencies in judicial decisions persist with regard to the evidentiary weight accorded to such digital evidence (Widijowati, 2023). Some judges continue to experience limitations in technological understanding, leading to legal uncertainty concerning the probative value of electronic evidence in substantiating consumer claims against business actors who have committed breaches of contract.

#### 6. Ambiguity in the Liability of Marketplace Platforms as Intermediaries

Marketplace platforms frequently function as intermediaries in online sale and purchase transactions; however, there is no explicit legal provision that clearly delineates the scope of platform liability for the actions of business actors operating on their platforms. This ambiguity creates uncertainty as to whether marketplace platforms bear direct responsibility for breaches committed by sellers or merely act as facilitators of transactions. Efforts to Optimize Consumer Protection

##### 1) Regulatory Reform and Harmonization of Consumer Protection Law in the Digital Era

A critical initial step involves reforming and updating consumer protection regulations to specifically address e-commerce transactions, including the liability of digital business actors and the role of marketplace platforms as entities that also bear responsibility for transactions conducted within their ecosystems. Such regulatory reform should integrate principles of data protection, digital transaction security, and platform operator liability, while aligning with international standards and best practices in digital consumer protection law (Firdausi & Prastyanti, 2025).

##### 2) Enhancement of Consumer Legal Literacy and Education

Government institutions, consumer protection agencies, and civil society organizations should actively engage consumers through legal education campaigns, dispute resolution tutorials, and the dissemination of information regarding consumer rights in online commerce. These initiatives may be implemented through social media outreach, public campaigns, and the integration of consumer protection materials into general education curricula. Improved legal literacy would empower consumers to assert their rights more effectively and utilize available legal mechanisms.

##### 3) Strengthening the Capacity of BPSK and the General Judiciary

Strengthening BPSK's institutional capacity, including enhancements in human resources, technical infrastructure, and the establishment of specialized digital dispute resolution units, is essential to enable effective handling of e-commerce consumer disputes. Additionally, improving judicial competence in digital transactions and electronic evidence

through targeted training programs would further reinforce legal enforcement in online breach of contract cases.

#### 4) Regulating Marketplace Platform Liability

The state should enact regulations that explicitly define the liability of marketplace platforms not merely as facilitators, but as entities that share responsibility for ensuring transactional compliance on their platforms, particularly with respect to refunds, data security, and consumer dispute resolution. This may be achieved by adopting international best practices, including rules that mandate algorithmic transparency, effective consumer complaint handling, and minimum consumer rights standards within user–platform agreements.

### Conclusion

The regulation of business actors' liability for breach of contract in online sale and purchase agreements demonstrates that non-performance constitutes a violation of contractual obligations with clear legal consequences as stipulated in the Indonesian Civil Code, particularly Articles 1243 and 1246, and further reinforced by the specific provisions of Law Number 8 of 1999 on Consumer Protection. In the context of electronic transactions, the Consumer Protection Law applies the principles of strict liability and reversal of the burden of proof, which normatively provide stronger legal protection for consumers as the weaker party. The obligations of business actors as regulated in Article 7 of the Consumer Protection Law emphasize that any failure to comply with contractual performance, accuracy of information, and quality of goods or services in online transactions may be classified as a breach of contract, giving rise to civil liability and potentially leading to administrative and criminal implications. Therefore, the liability of business actors in online sale and purchase transactions forms part of an integrated legal framework involving the Civil Code, the Consumer Protection Law, and the Law on Electronic Information and Transactions, which collectively establish a solid legal basis for consumers to claim the fulfillment of their rights and compensation for losses incurred.

However, the implementation of business actors' liability in online sale and purchase agreements continues to face various structural and substantive challenges arising from regulatory, institutional, and societal legal awareness aspects. Although the Consumer Protection Law provides a normative foundation for consumer protection, the rapid growth of electronic commerce has not been fully matched by adaptive and comprehensive regulations, particularly with regard to e-commerce governance and the clarity of responsibilities borne by marketplace platforms. Low levels of consumer legal literacy, limitations in the capacity and jurisdiction of the Consumer Dispute Resolution Agency, the widespread use of standard clauses detrimental to consumers, and difficulties in electronic evidence verification reflect a gap between legal norms and practical implementation. Consequently, consumer protection in online sale and purchase transactions has not yet been optimally realized, leaving consumers in a vulnerable position when breaches of contract by business actors occur.

## Suggestions

For future research, it is recommended to conduct empirical and comparative studies that examine the effectiveness of consumer protection enforcement mechanisms in digital commerce across different jurisdictions, particularly in relation to the legal accountability of marketplace platforms. From a practical perspective, policymakers should prioritize regulatory harmonization to clearly define the distribution of liability among business actors, platform providers, and intermediaries, while strengthening institutional capacities for dispute resolution and consumer supervision. Additionally, systematic efforts to enhance consumer legal literacy and stricter oversight of standard contractual clauses are essential to ensure fair contractual practices and to improve the overall effectiveness of consumer protection in online sale and purchase transactions.

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