

BUSINESS LIABILITY FOR OFF-PROCEDURE CONSUMER TRANSACTIONS: AN ANALYSIS OF ULTRA VIRES AND VICARIOUS LIABILITY

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Abstract

The phenomenon of off-procedure transactions between consumers and business actors is increasingly prevalent in business practices. The legal issue arising from this practice is the uncertainty in consumer protection, as business actors frequently evade liability by invoking the doctrine of ultra vires. This research aims to analyze the legal certainty of consumer protection in off-procedure transactions using an analytical approach based on the principles of ultra vires and vicarious liability. This study employs a normative legal research method, utilizing secondary data obtained through literature review. The findings indicate that the Consumer Protection Law, as *lex specialis*, provides a strong legal foundation to guarantee the protection of consumer rights, including in transactions conducted outside official procedures, provided that consumers act in good faith and the transactions are related to goods or services traded by business actors. Article 19 of the Consumer Protection Law applies the principle of strict liability, requiring business actors to compensate consumers for losses incurred, while Article 1367 of the Indonesian Civil Code reinforces corporate liability for employees' actions conducted within the scope of employment under the vicarious liability doctrine. Although business actors may assert the ultra vires doctrine, this principle cannot be used as an absolute defense to evade liability when transactions are connected to the business activities of the company. Therefore, consumer protection must remain a priority to ensure legal certainty and fairness in transactions within Indonesia's business landscape.

Keywords: Consumer Protection; Ultra Vires; Vicarious Liability; Off-Procedure Transactions; Business Actor Liability

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A. INTRODUCTION

In business practices, transactions between consumers and business actors conducted outside official procedures have increasingly become a common phenomenon across retail, restaurant, and e-commerce sectors.¹ These transactions typically occur directly between employees or agents of business actors and consumers without utilizing company-established payment systems, official platforms, or written contracts. Attracted by practicality or lower prices, consumers often opt to pay in cash, for instance, when a cashier offers a discount if the payment is not recorded in the system. Another example includes purchasing goods via cash on delivery (COD) from sellers without clear identities who fail to provide official transaction receipts, or e-commerce couriers offering payment outside the platform’s COD system to avoid transaction fees.

Unfortunately, such transactions are often perceived as a “shortcut” by both consumers and business actors, overlooking the potential legal risks that may arise. When issues occur—such as goods not being delivered, goods not matching the agreed specifications, or consumers incurring losses due to these transactions—consumers find it difficult to file claims. This is due to the absence of officially recorded transaction evidence, while business actors often deny responsibility by arguing that the transaction was conducted outside their official procedures, leaving consumers in a weak position when asserting their rights. This phenomenon creates legal uncertainty in consumer protection, as Law Number 8 of 1999 on Consumer Protection (Consumer Protection Law), particularly Article 19(1), mandates business actors to be responsible for consumer losses.² However, in practice, business actors often evade this responsibility by exploiting procedural and evidentiary loopholes. Therefore, it is

¹ Surtipito, T., Tan, D., & Agustianto, A. (2023). Exploring the Legal Dynamics: Analysis of the Relationship and Responsibilities of Parties in Online Purchases Using the COD Payment Method. *Barelang Journal of Legal Studies*, 1(2), 90-110. <https://doi.org/10.37253/barjoules.v1i2.8659>

² Article 19(1) of the Law Number 8 of 1999 on Consumer Protection

essential to further examine the liability of business actors for transactions conducted outside official procedures.

The case of Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi illustrates how transactions between consumers and business actors conducted outside official procedures can result in consumer losses and legal uncertainty. In this case, the consumer purchased a Benelli KEEWAY BENDA V252C motorcycle from the Head of Branch and Sales Counter of PT Benelli Bogor Branch, making payment to a personal account instead of the company's official account as stipulated by the company's procedure.³ Consumers were enticed to engage in such transactions due to convenience and trust in the company's employees, without realizing the legal risks they would face regarding administrative issues, document legality, or refund claims when goods were not delivered as agreed.⁴

This transaction became contentious when the company denied liability for the consumer's losses, arguing that the transaction was carried out outside its official mechanisms and the procedure acknowledged by the consumer upon signing the Sales Order.⁵ The company asserted that the actions of the Head of Branch and Sales Counter in receiving payments through personal accounts constituted ultra vires actions, falling outside the authority and responsibility of the company. The company further emphasized that the delivery note provided to the consumer was fraudulent and not issued by the company, resulting in the motorcycle unit not being administratively recorded as an official transaction in the company's system.⁶ This case demonstrates the complexities in enforcing business actors' liability in consumer protection disputes over off-procedure transactions. Consumers face legal uncertainty, as business actors may invoke

³ Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

⁴ Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

⁵ Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

⁶ Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

ultra vires defenses to disclaim responsibility, emphasizing the absence of authorization and non-compliance with company procedure. This situation underscores the urgency of academic and jurisprudential analysis to assess the extent to which the principles of ultra vires and vicarious liability can be applied in consumer protection to ensure legal certainty and fairness for consumers in Indonesia.

Previous studies have examined the liability of business actors in various consumer protection contexts. Raka Wicaksono, Andriyanto Adhi Nugroho, and Rosalia Dika Agustanti (2021) analyzed PT Telkom’s liability for Indihome consumer losses related to service quality under the Consumer Protection Law.⁷ Itra Saleh, Nur Mohamad Kasim, and Dolot Alhasni Bakung (2023) evaluated the effectiveness of BPSK in resolving consumer disputes arising from business actor defaults.⁸ Kristania Montolalu, Jemmy Sondakh, and Bobby Pinasang (2023) discussed consumer rights and business actor liability for goods or services that do not conform to agreements.⁹ Sekar Ayu Dita and Atik Winanti (2023) examined the application of vicarious liability regarding employer responsibility for employee actions.¹⁰ Hendrawan (2022) explored vicarious liability for corporations as subjects of criminal law in consumer protection.¹¹ Meanwhile, Zulian Claudia and Ariawan Gunadi (2023) focused on vicarious liability in

⁷ Wicaksono, R., Nugroho, A. A., & Agustanti, R. D. (2021). Perlindungan Hukum Terhadap Konsumen Indihome Ditinjau Dari Undang-Undang Perlindungan Konsumen. *Jurnal Ilmiah Penegakan Hukum*, 8(2), 149-159. <https://ojs.uma.ac.id/index.php/gakkum/article/view/4793>.

⁸ Saleh, I., Kasim, N. M., & Bakung, D. A. (2023). Tanggung Jawab Pelaku Usaha Terhadap Konsumen. *Eksekusi: Jurnal Ilmu Hukum dan Administrasi Negara*, 1(3), 358-369. <https://journal-stiayappimakassar.ac.id/index.php/Eksekusi/article/view/543>.

⁹ Montolalu, K., Sondakh, J., & Pinasang, B. (2023). Tanggung Jawab Pelaku Usaha Terhadap Konsumen Tentang Kesalahan Pengiriman Pesanan Makanan Melalui Aplikasi Gojek. *Lex Administratum*, 11(4). <https://ejournal.unsrat.ac.id/v3/index.php/administratum/article/view/48445>.

¹⁰ Dita, S. A., & Winanti, A. (2023). Analisis Asas Vicarious Liability Dalam Pertanggungjawaban Pengganti Atas Perbuatan Melawan Hukum Pegawai Bank. *Jurnal USM Law Review*, 6(2), 526-542. <https://journals.usm.ac.id/index.php/julr/article/view/7037>.

¹¹ Hendrawan, H. (2022). Tinjauan Normatif Terhadap Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Perlindungan Konsumen. *Dinamika*, 28(11), 4705-4717. <https://jim.unisma.ac.id/index.php/jdh/article/view/16458>.

personal data protection for victims of data misuse.¹²

However, previous studies have not specifically addressed the liability of business actors for transactions conducted outside official procedures in consumer protection disputes, nor have they deeply explored the intersection of ultra vires and vicarious liability concepts within Indonesia’s legal practice. Prior research has remained limited to the liability of business actors in specific service contexts or discussed vicarious liability in general without linking it to off-procedure transactions frequently occurring in business practices. This research introduces a novelty by focusing on business actors’ liability for off-procedure transactions using an integrated analysis of ultra vires and vicarious liability principles, supported by the case study of Decision No. 141/Pdt.Sus-BPSK/2025/PN Cbi to provide a practical perspective within Indonesia’s judicial practice. This study is expected to contribute academically and practically to strengthening consumer legal protection and ensuring legal certainty in the resolution of consumer disputes in Indonesia.

B. RESEARCH METHOD

This research employs a normative legal research method. Normative legal research is a method used to analyze legal principles, norms, and rules through the examination of statutory regulations, court decisions, and scholarly legal doctrines.¹³ It aims to provide a systematic understanding of the law by identifying and interpreting the applicable legal norms related to the issues being studied.¹⁴ This method is employed because the objective of this research

¹² Claudia, Z., & Gunadi, A. (2023). Vicarious Liability in Personal Data Protection. *Rechtsidee*, 11(2), 10-21070. <https://rechtsidee.umsida.ac.id/index.php/rechtsidee/article/view/995>.

¹³ Rosidi, A., Zainuddin, M., & Arifiana, I. (2024). Metode dalam penelitian hukum normatif dan sosiologis (field research). *Journal Law and Government*, 2(1), 46-58. <https://journal.ummat.ac.id/index.php/lago/article/view/21606>.

¹⁴ Tan, D. (2021). Metode penelitian hukum: Mengupas dan mengulas metodologi dalam menyelenggarakan penelitian hukum. *Nusantara: Jurnal Ilmu Pengetahuan Sosial*, 8(8), 2463-2478. <https://jurnal.um-tapsel.ac.id/index.php/nusantara/article/view/5601>.

is to analyze the legal certainty¹⁵ of consumer protection for off-procedure transactions through the lens of ultra vires and vicarious liability analysis, using the case study of Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi. The normative legal research method is appropriate for this study as it enables the systematic examination of statutory provisions, case law, and legal doctrines to assess how legal principles are applied in practice. By utilizing this method, the research will provide a comprehensive analysis of the extent to which the principles of ultra vires and vicarious liability can be enforced to ensure legal certainty and fairness for consumers in Indonesia, particularly in the context of disputes arising from transactions conducted outside official business procedures.

The research data utilized in this study are secondary data obtained indirectly through a literature review. The primary sources of data include Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi, Law Number 8 of 1999 concerning Consumer Protection, and the Indonesian Civil Code (KUHPerdata). These documents provide the legal framework and case context necessary for analyzing the liability of business actors in consumer protection disputes, particularly in off-procedure transactions. The data were analyzed using document analysis techniques with a deep interpretative approach. This method involves systematically examining and interpreting legal texts and court decisions to extract relevant legal principles, identify issues of legal accountability, and assess the alignment of judicial considerations with consumer protection principles. Through this approach, the study aims to construct a comprehensive understanding of how legal provisions and judicial practices interact in determining corporate liability for employees' actions within the framework of consumer protection in Indonesia.

¹⁵ Disemadi, H. S. (2022). Lenses of legal research: A descriptive essay on legal research methodologies. *Journal of Judicial Review*, 24(2), 289-304. <https://journal.uib.ac.id/index.php/jjr/article/view/7280>.

C. RESULTS AND DISCUSSION

1. Legal Framework on Business Actors’ Liability in Consumer Protection Disputes over Off-Procedure Transactions

Consumer protection in Indonesia is primarily governed by Law Number 8 of 1999 on Consumer Protection (Consumer Protection Law), reflecting the state’s commitment to safeguarding consumer rights while promoting business actors’ accountability. The enactment of this law was necessitated by the evolving national economy within the era of globalization, creating a need for legal certainty for consumers concerning the goods and/or services they consume.¹⁶ The Consumer Protection Law was established to address societal demands for guarantees regarding the quality, quantity, and safety of goods and services while balancing the relationship between consumers and business actors in fostering a fair, healthy, and transparent economy.¹⁷

Specifically, the Consumer Protection Law aims to enhance consumer awareness and independence in protecting their rights while encouraging business actors to act in good faith and take responsibility in all business activities.¹⁸ The law guarantees consumers’ rights to accurate information, safety, comfort, and compensation in cases of losses resulting from goods or services not meeting the agreed terms. In the event of disputes, the Consumer Protection Law serves as a legal foundation for consumers to claim accountability from business actors, including transactions conducted outside the official procedures of a business, as stipulated under Article 19, which

¹⁶ Tampubolon, W. S. (2016). Upaya Perlindungan Hukum Bagi Konsumen Ditinjau Dari Undang Undang Perlindungan Konsumen. *Jurnal Ilmiah Advokasi*, 4(1), 53-61. <https://jurnal.ulb.ac.id/index.php/advokasi/article/view/356>.

¹⁷ Primayoga, A. M., Saptono, H., & Njatrijani, R. (2019). Perlindungan Hukum Terhadap Konsumen Yang Menerima Barang Tidak Sesuai Pesanan Dalam Transaksi Jual Beli Online. *Diponegoro Law Journal*, 8(3), 1732-1743. <https://ejournal3.undip.ac.id/index.php/dlr/article/view/24558>

¹⁸ Bukit, A. N., Weley, N. C., Harahap, R. A., & Disemadi, H. S. (2022). Fenomena Produk dengan Merek Palsu: Perlindungan Konsumen?. *Sapientia Et Virtus*, 7(1), 01-17. <https://jurnal.ukdc.ac.id/index.php/SEV/article/view/341>.

obligates business actors to compensate consumers for losses arising from goods or services traded.¹⁹

Consumer protection serves as a crucial pillar in building a fair national economic legal system. In the current era of free trade and digitalization, consumer protection is not merely a societal need but a measure of the state's commitment to balancing the relationship between business actors and consumers. The Consumer Protection Law functions as a legal instrument that offers legal certainty and assurance of the protection of consumers' rights over goods and/or services consumed by the public.

The Consumer Protection Law establishes a clear legal basis for the liability of business actors in transactions conducted outside official procedures, provided the transactions relate to goods or services traded by the business actor and cause consumer loss. Under this law, business actors remain obligated to provide compensation in the form of refunds, replacements, or other remedies, even if transactions occur outside the company's internal procedures.²⁰ This underscores the law's commitment to protecting consumers by upholding legal certainty and fairness, compelling business actors to remain accountable for all business activities, including employee actions resulting in consumer losses in off-procedure transactions, provided consumers act in good faith and the transactions are related to the business actor's operations.²¹

The law incorporates essential principles of consumer protection under Article 2, including the principles of benefit, justice, balance, safety, security, and legal certainty. These principles serve as interpretive guidelines, ensuring that all

¹⁹ Article 19 Law Number 8 of 1999 on Consumer Protection

²⁰ Santiago, O., Situmeang, A., & Nurlaily, N. (2025). Consumer Protection Against the Sale of Counterfeit Products in E-Commerce: A Human Rights and Legal Certainty Perspective in Indonesia. *Jurnal Mediasas: Media Ilmu Syari'ah dan Ahwal Al-Syakhsiyyah*, 8(1), 221-239. <https://www.journal.staisar.ac.id/index.php/mediasas/article/view/288>.

²¹ Prastiyo, L.O.A., Nurlaily, N., & Sudirman, L. (2024). Legal Certainty in Judges' Decisions Regarding the Authority of the Batam City Consumer Dispute Settlement Agency. *Jurnal Mediasas: Media Ilmu Syari'ah dan Ahwal Al-Syakhsiyyah*, 7(2), 359-373. <https://journal.staisar.ac.id/index.php/mediasas/article/view/149>.

transactions between consumers and business actors, including off-procedure transactions, protect consumers' rights to safety, justice, and legal certainty. Thus, even when procedural breaches occur within a business entity, consumers' rights must be protected in accordance with these principles.

Article 3 of the Consumer Protection Law outlines the objectives of consumer protection, including the establishment of a system containing elements of legal certainty, transparency of information, and access to information.²² This objective requires business actors to not only guarantee the quality of goods and services but also to ensure sales systems, transaction procedures, and dispute resolution mechanisms are accessible and comprehensible to consumers. This is crucial in preventing consumers from falling into unofficial transactions due to unclear internal business procedures. Article 4 explicitly sets out consumers' rights, including the right to safety, comfort, accurate information, and compensation when goods and/or services do not conform to agreements.²³ In the context of off-procedure transactions, consumers remain entitled to compensation for losses suffered, even when payment is made through employees' personal accounts, as the transactions still pertain to goods under the business actor's responsibility.

Consumers' obligations under Article 5 include adhering to usage instructions, acting in good faith, paying according to exchange value, and engaging in fair legal dispute resolution.²⁴ However, these obligations do not absolve business actors from liability for off-procedure transactions, especially when consumers are not adequately informed of proper procedures or when internal business procedures are not implemented effectively, leading to unofficial transactions. Conversely, Articles 6 and 7 regulate business actors' rights and obligations, including providing clear and accurate information

²² Article 3 of the Law Number 8 of 1999 on Consumer Protection

²³ Article 4 of the Law Number 8 of 1999 on Consumer Protection

²⁴ Article 5 of the Law Number 8 of 1999 on Consumer Protection

regarding goods and/or services and compensating consumers for losses when goods do not meet agreed terms.²⁵ This demonstrates that business actors have a legal responsibility to ensure that transactions conducted by their employees, whether procedurally compliant or not, continue to protect and fulfill consumers' rights concerning purchased goods.

Articles 8 to 17 outline prohibitions for business actors regarding the production, distribution, and promotion of goods and/or services that may harm consumers, including selling goods inconsistent with agreements or information provided to consumers.²⁶ These provisions must be interpreted to prohibit business actors from exploiting procedural gaps to avoid liability when consumers suffer losses from transactions involving the company's goods or services. Article 19 specifically stipulates the obligation of business actors to compensate consumers for damages, pollution, and/or losses resulting from goods and/or services traded, reflecting the strict liability nature of the provision.²⁷ Business actors are required to compensate consumers without the need to prove fault unless it can be established that the loss resulted from the consumer's fault, as outlined in Article 19(5).²⁸

Furthermore, Article 23 grants consumers the right to file claims through BPSK or the courts if business actors refuse to provide compensation. It can thus be concluded that consumer protection under Indonesian law applies comprehensively, not limited to formal transactions alone.²⁹ Business actors remain responsible for consumer losses arising from transactions related to their goods and/or services, even when conducted outside official procedures.³⁰ This

²⁵ Article 6 and 7 of the Law Number 8 of 1999 on Consumer Protection

²⁶ Articles 8 to 17 of the Law Number 8 of 1999 on Consumer Protection

²⁷ Article 19 of the Law Number 8 of 1999 on Consumer Protection

²⁸ Article 19(5) Law Number 8 of 1999 on Consumer Protection

²⁹ Article 23 of the Law Number 8 of 1999 on Consumer Protection

³⁰ Syarief, E., & Rusdiana, S. (2016). Penerapan Prinsip Arbitrase dalam Penyelesaian Sengketa Konsumen Ditinjau dari Undang-Undang Nomor 8 Tahun 1999 dan Undang-Undang Nomor 30 Tahun 1999. *Journal of Law and Policy Transformation*, 1(2), 79-109. <https://journal.uib.ac.id/index.php/jlpt/article/view/64>.

underscores the critical need for business actors to consistently implement the Consumer Protection Law to establish legal certainty and justice for consumers in goods and/or services transactions in Indonesia.

In addition to the Consumer Protection Law, Article 1367 of the Indonesian Civil Code (KUHPperdata) also provides a legal framework for consumer protection in assessing corporate liability for employees' actions conducted beyond their authority.³¹ This article stipulates employer liability for damages caused by subordinates, provided the actions occur in the scope of their employment. In consumer protection, this provision is crucial given the practical occurrence of employees or agents conducting transactions with consumers while businesses attempt to disclaim liability on the grounds that employees acted outside official procedures or authority.

Applying Article 1367 KUHPperdata aligns with the vicarious liability principle, under which businesses can still be held liable for their employees' actions as long as there is an employment relationship and the actions relate to the employees' duties. Even when transactions occur outside official procedures, if the actions are conducted within the employment relationship and relate to the business activities of the company, the business actor cannot simply absolve itself of legal responsibility toward the consumer. This ensures that consumers continue to receive legal certainty and protection while preventing businesses from evading liability under the guise of internal procedural defenses.

2. Alignment of Judicial Considerations in Decision No. 141/Pdt.Sus-BPSK/2025/PN Cbi with Consumer Protection Principles in Off-Procedure Transaction Disputes

In Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi, the consumer, Abelma Brilian Suzeta, placed an order for a Benelli KEEWAY BENDA V252C motorcycle at PT Benelli Anugerah Motor Pusaka, Bogor Branch, paying an initial cash deposit of IDR 2,000,000 directly to the Branch Head,

³¹ Article 1367 of the Indonesian Civil Code

Sebastian Wahyu Muliadi. Subsequently, the consumer completed the payment of IDR 72,800,000 via transfer to Sebastian Wahyu Muliadi’s personal bank account with the knowledge of Tika Sugianti, the branch’s sales counter staff. The motorcycle unit was then delivered to the consumer accompanied by a delivery document, which was later found not to have been officially issued by the company.³²

The company asserted that the transaction was conducted outside its official procedures, which explicitly required all payments to be made to the company's official bank account and limited cash payments to a maximum of IDR 500,000. The Sales Order signed by the consumer also explicitly stated that payments made through personal accounts would not be recognized as legitimate company transactions. The company further explained that the transaction was not reported to the head office, was not recorded in the daily reporting system, and was carried out without the knowledge or authorization of the company.³³

As a consequence of this off-procedure transaction, the motorcycle unit was not recorded in the company’s official administrative system, and the delivery document provided to the consumer was identified as falsified. The company also presented evidence that Sebastian Wahyu Muliadi, who received the payment, had stopped reporting for work as of 14 December 2024 and had been listed as a fugitive by the police on allegations of fraud and embezzlement. The company argued that the actions constituted personal misconduct for which it could not be held liable.³⁴

In response, the consumer filed a claim with the Consumer Dispute Settlement Body (*Badan Penyelesaian Sengketa Konsumen/BPSK*), demanding either a refund of the purchase payment or the delivery of the motorcycle unit

³² Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

³³ Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

³⁴ Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

along with the official documentation. BPSK ruled in favor of the consumer, declaring the sale and purchase transaction legally valid and ordering the company to deliver the motorcycle unit with its documentation or fully refund the consumer’s payment. Following this decision, the company filed an objection with the Cibinong District Court.³⁵

In its objection, the company argued that the employee’s actions constituted ultra vires conduct, carried out beyond the scope of authority, in violation of company procedures, and outside the company’s oversight, thus exempting the company from liability under Article 1367 of the Indonesian Civil Code (KUHPERDATA) and the principle of the separation of company assets from employee actions. The company further emphasized that there was no arbitration clause governing the legal relationship between the parties, asserting that BPSK lacked absolute authority to adjudicate the matter, rendering its decision legally invalid.³⁶

Table 1. Judicial Considerations in Decision No. 141/Pdt.Sus-BPSK/2025/PN Cbi

Aspect of Consideration	Judicial Consideration
Off-Procedure Transaction	The court found that payment through the employee's personal account was contrary to the company's established procedures, which were known to the consumer through the Sales Order.
Ultra Vires Principle	The court considered the employee's acceptance of personal payments as an act beyond their authority (ultra vires), thereby exempting the company from absolute liability.
Vicarious Liability	The court acknowledged Article 1367 of the Indonesian Civil Code but emphasized that the principle of vicarious liability does not apply absolutely if the employee acts unlawfully and against company procedures.
Consumer Conduct	The consumer was deemed to have acted negligently by making payments outside the procedures clearly stipulated by the company.
BPSK and Arbitration	The court held that BPSK lacked authority to decide the dispute through arbitration, as there was no written arbitration agreement between the consumer and the company.
Legal Certainty	The BPSK decision was declared null and void to uphold legal certainty within the consumer dispute resolution mechanism.
Final Judgment	The court partially upheld the company's objection, nullifying the BPSK

³⁵ Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

³⁶ Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

decision, and rejecting absolute liability on the part of the company for the employee's off-procedure actions.

a. Judicial Considerations in Partially Granting the Petitioner's Objection

The court considered that a legal relationship between the consumer and the company indeed arose due to the transaction involving the purchase of the Benelli KEEWAY BENDA V252C motorcycle.³⁷ However, the court observed that the transaction was conducted in a manner that did not comply with the company's procedures, as payment was made through the Branch Head's personal account rather than the company's official account. The Sales Order signed by the consumer explicitly stated the prohibition of payments outside the official account, and this provision had been made known to the consumer at the time of the transaction.³⁸

Furthermore, the court determined that the employee's acceptance of payment outside the company's official mechanism constituted a personal act beyond the employee's authority. Although the employee held a strategic position as Branch Head, this did not automatically impose liability on the company if the employee's actions clearly violated internal rules known to the consumer. This aligns with the application of the *ultra vires* principle, under which the company may disclaim liability when an employee acts beyond the scope of authority granted.

The court further assessed Article 1367 of the Indonesian Civil Code concerning *vicarious liability*, which establishes that an employer may be held liable for the acts of subordinates performed in the course of their duties. However, the court emphasized that this principle does not apply absolutely, particularly when there is evidence that the employee intentionally engaged in unlawful acts that contravened the company's established procedures. Additionally, the court considered that the company could not be held fully

³⁷ Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

³⁸ Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

liable under these circumstances, as the company had provided accessible official mechanisms for consumers and had disseminated payment procedures through the Sales Order and other methods.³⁹ Therefore, the court found that the consumer also bore the obligation to observe the payment provisions communicated by the company prior to engaging in the transaction, in accordance with the principle of due diligence in transactions. Based on these considerations, the court decided to partially grant the petitioner’s (the company’s) objection. Although the consumer suffered losses, these resulted from the employee’s actions that violated company procedures, thereby exempting the company from absolute liability for the employee’s conduct. This decision reflects a balanced legal protection between consumer rights and the rights of business actors within transactional relationships.

b. Judicial Considerations in Declaring the BPSK Decision Invalid and Without Legal Force

The court also examined the authority of the BPSK in adjudicating the present dispute. Under Article 52 letter k of the Consumer Protection Law, BPSK is authorized to settle disputes through arbitration, conciliation, and mediation. However, the court found that in this case, BPSK employed an arbitration mechanism to decide the dispute without the existence of a written arbitration agreement between the consumer and the company.⁴⁰

The court emphasized that the use of arbitration mechanisms requires a written agreement between both parties as mandated by civil procedural law and arbitration principles in Indonesia. The absence of a written arbitration agreement between the consumer and the company rendered the arbitration proceedings conducted by BPSK legally invalid, resulting in a formal defect concerning BPSK’s absolute authority. Moreover, the court determined that

³⁹ Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

⁴⁰ Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

BPSK had erred in applying procedural law by resolving the dispute through arbitration, thereby rendering its decision legally unenforceable. The principles of justice and legal certainty require dispute resolution bodies to adhere strictly to procedural rules, including the necessity of a written agreement when utilizing arbitration mechanisms.⁴¹

These judicial considerations were intended to uphold legal certainty in the resolution of consumer disputes while ensuring the principle of legality is maintained in the actions of dispute resolution bodies. Allowing procedural breaches would create legal uncertainty and the potential misuse of authority by such bodies in the future. Based on these considerations, the court declared *BPSK Decision No. 01/PTS-ARB/BPSK/IV/2025* null and void and without legal force. This ruling affirms that while BPSK plays a critical role in consumer protection, it remains bound by prevailing laws and procedures in exercising its authority, ensuring that consumer legal protection is realized within a lawful and proper framework.⁴²

In Cibinong District Court Decision No. 141/Pdt.Sus-BPSK/2025/PN Cbi, the Court placed significant emphasis on the principle of legal certainty in favor of the company, applying the doctrine of *ultra vires* to exempt the company from liability. By ruling that payments made through the Branch Head’s personal account constituted acts beyond corporate authority, the Court reinforced the importance of adhering to predetermined corporate procedures as a safeguard for business entities. This approach reflects a strict adherence to Article 1367 of the Indonesian Civil Code, which limits vicarious liability where an employee’s actions are clearly outside the scope of their lawful authority. Such reasoning demonstrates a judicial preference for ensuring predictability and stability in commercial transactions, even at the expense of consumer protection.

⁴¹ Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

⁴² Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

The decision also illustrates the Court’s reliance on positivist legal theory, prioritizing written contractual provisions and company procedures over the substantive fairness of the consumer’s position. By declaring that the consumer should have exercised due diligence in observing the payment instructions explicitly set forth in the Sales Order, the Court shifted the burden of risk to the consumer. This reflects a formalistic interpretation of law, where compliance with procedural stipulations is deemed paramount, regardless of the consumer’s relative bargaining power or reasonable expectations. In doing so, the Court arguably subordinated the principle of *equity*—a cornerstone of consumer protection law—to the pursuit of formal legal certainty for business actors.

From a broader theoretical perspective, the ruling underscores a tension between Gustav Radbruch’s triad of justice, legal certainty, and expediency. While consumer protection law, as *lex specialis*, is designed to safeguard fairness and justice for the weaker party, the Court opted to elevate legal certainty for corporate actors as a superior value. This creates a conflict of principles: the decision strengthens the predictability of corporate liability boundaries but risks undermining the very essence of consumer protection, which is to shield consumers from unfair disadvantages. Thus, while the judgment may be defensible from the standpoint of corporate law doctrine, it raises critical questions about the adequacy of Indonesia’s consumer protection regime in ensuring substantive justice for consumers facing fraudulent conduct within formal business structures.

3. Application of the Ultra Vires Principle in Determining Corporate Liability for Employees’ Off- Procedure Transactions: A Study of Decision No. 141/Pdt.Sus-BPSK/2025/PN Cbi

In Decision No. 141/Pdt.Sus-BPSK/2025/PN Cbi, the company argued that the motorcycle purchase transaction conducted by the consumer through payment to the Branch Head’s personal account constituted an act beyond the employee’s authority (*ultra vires*). The company emphasized that, according to

its procedures and the clauses in the Sales Order, all payments were only valid if made to the company’s official account, with cash payments limited to a maximum of IDR 500,000. These provisions had been clearly conveyed to the consumer before the transaction as a measure to prevent disputes, thereby establishing that the consumer understood the applicable payment procedures.

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The company asserted that the employee’s acceptance of personal payment was never authorized by the company and directly violated the company’s internal regulations.⁴⁴ Therefore, the company contended that such actions constituted the employee’s personal conduct, which could not be imputed to the company, even though the employee held the position of Branch Head. The ultra vires principle was invoked to demonstrate that the employee’s actions exceeded the scope of authority and responsibilities conferred upon him by the company. Additionally, the company argued that the receipt of payments into the employee’s personal account provided no financial benefit or profit to the company, as the transaction was not recorded in the company’s accounting system. The company emphasized that the absence of payment into the company’s treasury confirmed that the company never recognized the transaction as a valid obligation. Therefore, the company argued that no legal relationship existed between it and the consumer that would create an obligation to deliver the motorcycle unit or refund the payment.

In applying the ultra vires principle, the company further contended that Article 1367 of the Indonesian Civil Code, which stipulates employer liability for the acts of employees, was inapplicable in this case. This was due to the employee’s actions being in violation of explicit orders and company authority, constituting personal unlawful acts for which the company bore no legal

⁴³ Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

⁴⁴ Cibinong District Court Decision Number 141/Pdt.Sus-BPSK/2025/PN Cbi

responsibility for the consumer’s losses.⁴⁵ The company maintained that the application of the ultra vires principle in this case was essential to uphold legal certainty for businesses in conducting their operations. If all employee actions conducted outside of authority and company procedures were automatically attributed to the company, it would create legal uncertainty and open avenues for employees to abuse their positions in the future. The ultra vires doctrine serves as a necessary limitation on corporate liability, restricting responsibility only to acts within the employee’s authorized scope of employment.

Based on these arguments, the company requested that the court apply the ultra vires principle to absolve it of liability for the transaction conducted personally by the employee, which was outside of official procedures and provided no financial benefit to the company. Thus, the company maintained that liability in this dispute should rest entirely with the employee who engaged in unlawful acts, while the company adhered to its established procedures as legal safeguards in business transactions. However, from the perspective of consumer protection under the Consumer Protection Law, business actors hold strict liability for consumer losses arising from goods or services traded, regardless of fault.⁴⁶ Article 19(1) of the Consumer Protection Law mandates that business actors must compensate consumers for losses incurred from consuming goods and/or services, affirming that consumer protection guarantees legal certainty and safety for consumers in transactions with business actors.⁴⁷

In the context of this dispute, the transaction conducted by the consumer was still related to the company’s business operations, specifically the purchase of a motorcycle from PT Benelli, even though it was not carried out in

⁴⁵ Article 1367 of the Indonesian Civil Code

⁴⁶ Gunawan, J. (2018). Kontroversi Strict Liability Dalam Hukum Perlindungan Konsumen. *Veritas et Justitia*, 4(2), 274-303. <https://journal.unpar.ac.id/index.php/veritas/article/view/3082>.

⁴⁷ Article 19(1) Law Number 8 of 1999 on Consumer Protection

accordance with procedures. The employee’s acceptance of payment, despite being made through a personal account, was closely related to the company’s business activities. From the consumer’s perspective, the employee, as Branch Head, appeared to possess the authority to conduct the transaction, aligning with the apparent authority principle in civil law. Furthermore, the application of the ultra vires principle requires an assessment of whether the company exercised adequate supervision over its employees. In this case, the company cannot simply absolve itself of liability if there is evidence of negligence in supervising its employees, particularly those in strategic positions such as the Branch Head. Weak internal supervision can contribute to consumer losses, thereby maintaining the company’s responsibility under Article 1367 of the Civil Code regarding vicarious liability.

The ultra vires principle cannot serve as a shield to absolve the company of consumer protection obligations when the transaction occurs within the scope of the company’s business activities, and the consumer has no way of knowing that internal procedures have been violated. From the consumer’s perspective, as long as the transaction is related to the company’s business activities, the consumer is entitled to legal protection under Articles 4 and 7 of the Consumer Protection Law, ensuring the right to proper service and compensation in case of loss.⁴⁸

Jurisprudence also indicates that within the consumer protection context, the ultra vires principle has limitations in absolving a company of liability. Consumer protection law operates as *lex specialis* over general civil law and aims to protect consumers as the weaker party in transactions. Therefore, a company may still be held liable even if the employee exceeded their authority, provided the actions were connected to the company’s business operations.

⁴⁸ Articles 4 and 7 of the Law Number 8 of 1999 on Consumer Protection.

An assessment of the ultra vires argument in this case must also consider the consumer’s good faith. The consumer paid for a product that was clearly a company product through an employee who was formally part of the company at the time of the transaction. If the consumer can demonstrate a lack of knowledge regarding the internal procedures that were violated and that the employee used their official status to assure the consumer, consumer protection principles will prioritize safeguarding the consumer’s rights. Justice also dictates that the burden of employee supervision should rest on the company, not the consumer. This will encourage companies to strengthen internal control systems and protect consumers from potential abuse of authority by employees. Therefore, the application of the ultra vires principle must be limited to ensure it does not conflict with the objectives of consumer protection law in providing legal certainty to good-faith consumers.

Based on the above analysis, the ultra vires principle cannot fully absolve a company from liability in the consumer protection context, particularly when the consumer has acted in good faith, the transaction is related to the company’s business activities, and there is evidence of inadequate internal supervision by the company. The principle may only absolve a company of liability when the consumer is proven to have acted in bad faith or when the employee’s actions constitute personal fraud entirely unrelated to the company’s business. In consumer protection, the ultra vires principle has a limited scope and cannot be used as an absolute defense against corporate liability. Protecting consumers as the weaker party remains a priority, requiring companies to ensure robust internal supervision to prevent potential consumer losses resulting from employee misconduct during business transactions.

4. Applying the Vicarious Liability Doctrine in Consumer Protection Disputes to Determine Business Actors’ Liability for Employees’ Off-Procedure Transactions

The doctrine of vicarious liability in civil law, particularly under Article 1367 of the Indonesian Civil Code, stipulates that employers may be held liable for losses caused by their subordinates’ actions, provided these actions are conducted within the scope of their employment.⁴⁹ Within the context of consumer protection disputes, this principle is crucial to ensure consumers remain protected even when procedural deviations are committed by company employees. Fundamentally, this doctrine emphasizes that the employment relationship between an employee and a company creates an obligation for the company to be accountable for the employee’s actions as long as they are performed within the scope of assigned duties and functions.

In cases involving off-procedure transactions, such as payments made through an employee’s personal account, the question arises as to whether such actions still fall within the employee’s scope of employment, thereby retaining the company’s liability. In theory, as long as the employee’s actions relate to the company’s business activities, such as selling the company’s goods or services to consumers, the employment relationship and the scope of the employee’s duties remain relevant under the vicarious liability doctrine. This interpretation reinforces legal protection for consumers who act in good faith during transactions.

Consumers typically lack sufficient knowledge regarding a company’s internal procedures, particularly restrictions on payments through personal accounts, unless such information is explicitly conveyed by the company. When an employee, acting in their capacity as part of the company, offers a transaction to a consumer and the consumer makes a payment for goods owned by the company, the consumer is entitled to assume that the employee

⁴⁹ Article 1367 of the Indonesian Civil Code.

has the authority to execute the transaction. This aligns with the principle of apparent authority, where an employee is deemed to have authority in the eyes of third parties due to their position and role within the company's business operations.

Within the consumer protection framework, applying the vicarious liability doctrine aligns with the strict liability principle under Law No. 8 of 1999 on Consumer Protection, which prioritizes consumer protection by holding business actors liable for consumer losses without requiring proof of fault.⁵⁰ Therefore, even if employees deviate from internal procedures, the company may still be held liable for consumer losses resulting from such transactions, as long as the employee's actions remain connected to the company's business activities.

Exceptions to the application of the vicarious liability doctrine may occur if the employee's actions are entirely unrelated to their employment scope or if the employee engages in personal fraud unrelated to the company's business. However, in transactions involving the sale of the company's goods, the use of company attributes, and actions by employees holding official positions within the company, proving that the employee's actions fall completely outside their employment scope becomes exceedingly difficult. Substantively, such transactions remain linked to the company's business activities.

In Decision No. 141/Pdt.Sus-BPSK/2025/PN Cbi, although the company argued that the transaction was conducted outside its official procedures, the transaction itself related to the purchase of a motorcycle, which was part of the company's business operations, conducted by the Branch Head who held an official employment relationship, and the consumer acted in good faith. This

⁵⁰ Yuanitasari, D., Kusmayanti, H., & Suwandono, A. (2023). A comparison study of strict liability principles implementation for the product liability within Indonesian consumer protection law between Indonesia and United States of America law. *Cogent Social Sciences*, 9(2), 2246748. <https://www.tandfonline.com/doi/full/10.1080/23311886.2023.2246748>.

forms the basis for applying the vicarious liability doctrine, indicating that the company retains liability to compensate the consumer for losses caused by the employee's actions, except where consumer negligence or employee fraud entirely unrelated to the company is proven. Therefore, in consumer protection disputes over off-procedure transactions, the vicarious liability doctrine remains applicable to establish the company's liability for the actions of its employees, provided these actions are related to the company's business, involve the sale of its goods or services, and the consumer acts in good faith. This aligns with the objectives of consumer protection law in ensuring legal certainty and justice for consumers as the weaker party in transactions with business actors.

In examining consumer protection disputes involving off-procedure transactions, the court should not focus solely on the company's internal procedures but also on the substantive legal relationships between the consumer, the employee, and the company. The court must consider that transactions occur within the legitimate scope of the company's business activities, involving the company's goods or services, allowing the consumer to act in good faith in assuming that the employee has the authority to represent the company, despite internal procedural violations.

The court must also consider that consumer protection law, as *lex specialis*, prevails over the *ultra vires* principle in general civil law. In the context of consumer protection, the company as a business actor has an obligation to provide truthful, transparent, and safe services to consumers, as stipulated under Article 7 of the Consumer Protection Law. Therefore, procedural violations by employees do not automatically absolve the company of its responsibility toward consumers.

The court should assess the employment relationship between the employee and the company as the basis for applying the vicarious liability doctrine, whereby the employee's actions may be deemed as the company's

actions, as long as they remain related to the employee’s role, such as selling company goods to consumers. Even in cases of procedural violations, as long as the transactions are linked to the company’s business, the company cannot evade liability unless it can be proven that the employee engaged in personal fraud unrelated to the company’s activities. Moreover, the court should evaluate whether the company exercised proper supervision and internal control over its employees. If the company’s weak supervision enables employees to commit procedural deviations in transactions with consumers, it indicates the company’s negligence in internal oversight. Under the principles of consumer protection liability, such negligence cannot be used to exempt the company from liability for consumer losses.

When deciding disputes, the court should also consider the consumer’s good faith in engaging in the transaction. If the consumer made payments to an employee officially employed by the company, using company attributes, and for the purchase of the company’s legitimate goods, the consumer is entitled to legal protection and compensation for losses incurred. This assessment ensures that consumers are not burdened with risks arising from the company’s internal supervisory failures. Furthermore, the court should emphasize the objectives of consumer protection law, namely ensuring legal certainty and justice for consumers. Legal protection should not be limited to formal internal procedures but should also encompass the essential protection of consumers who transact in good faith based on the company’s reputation and the perceived authority of its employees. Thus, in deciding cases involving off-procedure transactions, the court should consider that the employment relationship persists as long as the employee’s actions are related to the company’s business, and the company retains liability for consumer losses under the vicarious liability doctrine within the consumer protection legal framework, ensuring legal certainty and justice for consumers in Indonesia.

D. CONCLUSION

Based on the above analysis, it can be concluded that the Consumer Protection Law provides a strong and *lex specialis* legal basis for upholding consumer rights protection, including in transactions conducted outside the official procedures of a company. Business actors remain obligated to provide compensation for consumer losses arising from transactions related to the goods or services they trade, as long as the consumer acts in good faith and the employee's actions are still connected to the scope of the company's business activities. This aligns with Article 19 of the Consumer Protection Law, which applies the principle of strict liability, and Article 1367 of the Indonesian Civil Code, which reinforces corporate accountability for employee actions within the scope of employment under the vicarious liability doctrine.

In the context of Decision No. 141/Pdt.Sus-BPSK/2025/PN Cbi, the company's invocation of the *ultra vires* principle does not fully absolve it from liability if consumer losses arise from transactions still related to the company's business activities. The court should consider that consumer protection prioritizes justice and legal certainty, ensuring that consumers, as the weaker party in transactions, remain protected even when internal procedural violations occur by employees. Accordingly, the company retains the responsibility to compensate consumers for their losses as a form of accountability in promoting fair and sound commercial transactions in Indonesia.

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