

# Legal Reconstruction of Consumer Protection for Users of Information Technology-Based Funding Services Based on Justice Value

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## Abstract

This research analyzes the weaknesses of the consumer protection for users of information technology-based funding services in Indonesia currently and how to reconstruct the law based on justice value in a constructivism paradigm where the type of research method used is normative juridical and the specifications of this research have a prescriptive analytical nature with the approach used by the author being a statutory approach. The research results found that the weaknesses of the Regulation of the Financial Services authority of the Republic of Indonesia Number: 10/POJK.05/2022 concerning Information Technology-Based funding Services and Reconstruction of improvements to the policy of POJK Regulation Number 10/POJK.05/2022 with the contents of SE OJK No.19/SEOJK.06/2023 and emphasize the requirements for the analysis of organizers to pay attention to the ability to pay as seen from evidence of the average consumer income to minimize default by being required to pass the SLIK data verification analysis and not exceeding 50% of the remaining income of prospective consumers. Therefore, the Reconstruction of POJK Regulations are in regard to the permission for online credit organizers to access consumer camera, location, and microphone applications that are only given when the consumer needs initial verification.

**Keywords:** Legal Reconstruction, Consumer Protection, Funding Services, Justice Value.

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## INTRODUCTION

Consumer protection with regulations is important to accommodate the Information Technology-Based Funding Service business in online credit (abbreviated as P2PL). The requirements for applying for credit attract people to apply for credit very easily, in practice, just by sending a photo of your ID card and filling in the borrower's personal data through the existing application, everyone can easily get credit money in a not too long time, but from this convenience, many borrowers are trapped in high interest rates, late collection is often done intimidatingly and even the distribution of personal data to other parties in an unethical manner (Andikatama, 2024).

This will certainly harm the personal interests of the borrower, resulting in unrest in society. The Indonesian Consumer Foundation (hereinafter referred to as YLKI) itself has released the number of complaints from online credit consumers received during 2023 with

a total of 180 complaints. Based on complaint data received by OJK itself from January 1, 2023 to December 31, 2023, it received 8,991 complaints on the Consumer Protection Portal Application (APPK) regarding the financial technology industry (Information Technology-Based Funding Services) or online credit. This Online Credit Complaint with details related to collection officers, account hacking, external fraud, transaction failures, and transaction delays (Widiarty, 2024).

Meanwhile, the complaints received regarding credit cards amounted to 2,200 complaints. Similar to complaints about online loans, the most complaints about credit cards are also about the behavior of collection officers. Other complaints are about differences in data in the financial information service system (SLIK) and objections to the number of transactions, where consumers receive bills even though they do not feel they have made a transaction.

Seeing this, Law Number 21 of 2011 concerning the Financial Services Authority then mandates the OJK to play a role in educating and protecting consumers and the public. Furthermore, this can be seen from the issuance of OJK Regulation (POJK) Number: 10/POJK.05/2022 concerning Information Technology-Based Joint Funding Services (LPBBTI).

The POJK contains regulations regarding the provision, management, and operation of information technology-based money lending services. The purpose of regulation and supervision by OJK is actually as a means of reducing risks that arise in relation to consumers and supporting sustainable, stable and equitable economic growth.

Many people think that online credit is an easy and fast solution to get money. However, it turns out that behind this convenience, of course there are consequences and risks that will be accepted by customers if they violate their obligations. The development of the Information Technology-Based Funding Services industry is also closely associated with negative stigma from the community, especially in the method of collection. The problem of online credit or Information Technology-Based Funding Services Online credit (Information Technology-Based Funding Services P2P) is increasingly in the public spotlight.

Various cases of violations by Information Technology-Based Funding Services Companies have begun to emerge in the mass media. The forms of violations by Information Technology-Based Funding Services Companies also vary. Starting from intimidating collection (Article 368 of the Criminal Code and Article 29 in conjunction with 45 of the ITE Law), distribution of personal data (Article 32 in conjunction with Article 48 of the ITE Law), fraud (Article 378 of the Criminal Code) which are suspected of occurring in this problem. The various alleged violations are partly based on the results of public complaint reports received by various legal aid institutions. Finally, the problem of Information Technology-Based Funding Services even claimed the lives of customers who chose to commit suicide due to depression due to the credit collection. Based on data from the National Crime Information Center (Pusiknas) of the Indonesian Police (Polri), there were 287 cases of suicide in Indonesia from January 1 to March 15, 2024. Unfortunately, law enforcement for this problem is still minimal so that similar cases continue to emerge. This problem was then bought by the author in a research where the problem studied are further organized into research with the following main problem:

1. What are the weaknesses of The Consumer Protection For Users Of Information Technology-Based Funding Services in Indonesia currently?
2. How Is The Consumer Protection For Users Of Information Technology-Based Funding Services Based On Justice Value?

## METHOD OF RESEARCH

This study uses a constructivist legal research paradigm approach. The constructivism paradigm in the social sciences is a critique of the positivist paradigm. According to the constructivist paradigm of social reality that is observed by one person cannot be generalized to everyone, as positivists usually do.

This research uses descriptive-analytical research. Analytical descriptive research is a type of descriptive research that seeks to describe and find answers on a fundamental basis regarding cause and effect by analyzing the factors that cause the occurrence or emergence of a certain phenomenon or event.

The approach method in research uses a method (*socio-legal approach*). The sociological juridical approach (*socio-legal approach*) is intended to study and examine the interrelationships associated in real with other social variables (Toebagus, 2020).

Sources of data used include Primary Data and Secondary Data. Primary data is data obtained from field observations and interviews with informants. While Secondary Data is data consisting of (Faisal, 2010):

1. Primary legal materials are binding legal materials in the form of applicable laws and regulations and have something to do with the issues discussed, among others in the form of Laws and regulations relating to the freedom to express opinions in public.
2. Secondary legal materials are legal materials that explain primary legal materials.
3. Tertiary legal materials are legal materials that provide further information on primary legal materials and secondary legal materials.

Research related to the socio-legal approach, namely research that analyzes problems is carried out by combining legal materials (which are secondary data) with primary data obtained in the field. Supported by secondary legal materials, in the form of writings by experts and legal policies.

## RESEARCH RESULT AND DISCUSSION

### 1. Weaknesses of the Consumer Protection for Users of Information Technology-Based Funding Services in Indonesia Currently

Overall, from 2023 to February 23, 2024, Indonesia's Financial Services Authority (OJK) received 380,758 service requests through the Consumer Protection Portal Application (APPK), including 27,283 complaints. In addition to complaints about Information Technology-Based Funding Services, 12,420 came from the banking sector, 5,142 came from the financing company industry, 1,820 came from the insurance industry, and the rest were capital market sector services and other Non-Bank Financial Industries (IKNB). In terms of eradicating illegal financial activities, OJK together with all members of the Illegal Financial

Activities Eradication Task Force (Satgas PASTI) continues to improve coordination in handling illegal online investments and credit. From January 1, 2023, to February 13, 2024, the PASTI Task Force has stopped 3,031 illegal financial entities, including 40 illegal investments and 2,481 illegal online credits. As of February 26, 2024, there were 3,296 complaints about illegal entities, including 3,121 complaints about illegal online loans and 175 complaints about illegal investments. (Mishra, 2024)

The data shows that consumer complaints about financial service products have a very dominant value, namely 46.9 percent with five commodities, namely banks, electronic money, insurance, leasing, and online credit. According to YLKI, complaints about financial service products since 2012 have been very dominant in complaints at YLKI, they always rank first. Regarding the problem of online credit itself, YLKI recorded complaints about the collection method of 39.5 percent, then the transfer of contacts and requests for reschedules 14.5 percent, interest rates 13.5 percent, administration 11.4 percent and collection by third parties 6.2 percent.

OJK noted that until the end of February 2024, there were only 101 Information Technology-Based Funding Services P2P lending or financial technology that were licensed out of a total of 161 Information Technology-Based Funding Services registered by the institution. As for illegal Information Technology-Based Funding Services, based on OJK data through the PASTI Task Force, 233 illegal online credits (pinjol) and 78 personal loan offers (pripadi) were determined until January 31, 2024. Currently, the entities with illegal status have been blocked because they have the potential to harm the public and violate the provisions on the distribution of personal data. In total, the PASTI Task Force has blocked 8,460 illegal financial entities from 2017 to January 31, 2024. Each consists of 1,218 illegal investment entities, 6,991 illegal online lending and private lending entities, and 251 illegal pawnshop entities (Saputro, 2024).

It must be ensured that users of Information Technology-Based Funding Services obtain adequate consumer protection, such as the provision of complete information about the characteristics of the products and services they use, benefits, risks, and data security. Efforts to maximize the role of Information Technology-Based Funding Services for economic growth and financial inclusion in Indonesia, are deemed necessary to address how to achieve a balance between the ease and flexibility of financial service connectivity offered by Information Technology-Based Funding Services with aspects of consumer protection. Without this balance, Information Technology-Based Funding Services will actually reduce public trust in the financial system and economic stability.

Currently, the regulations issued by the government, namely Financial Services Authority Regulation Number 10/POJK.05/2022 concerning Information Technology-Based Lending and Borrowing and OJK Circular Letter Number 19/SEOJK.06/2023 concerning the Provision of Information Technology-Based Joint Funding Services, have not been able to optimally cover the interests of legal protection for users of this service. Second, the legal protection of personal data is regulated in Article 26 of the ITE Law.

Specifically, the protection of borrowers' personal data in online credit services is regulated in POJK No. 10/POJK.05/2022 concerning Information Technology-Based Joint Funding Services. Information Technology-Based Funding Services or information technology-based credit is one of the innovations in the financial sector with the use of technology that allows credit providers and credit recipients to carry out lending and borrowing transactions without having to meet in person.

Information Technology-Based Funding Services Online credit is one form and function of Information Technology-Based Funding Services. Online credit is a money credit facility from a financial services provider that is integrated with information technology, starting from the application process, approval to disbursement of funds is done online or via SMS and/or telephone confirmation.

The way online credit works is that the organizer only acts as an intermediary that brings together the credit provider and the credit recipient. In its existence, currently, there are many online credits registered with the OJK. However, there are also many online credits that operate without supervision and permission from the Financial Services Authority (OJK). This is what is known as illegal online credit.

People with low incomes make online credit the right choice because it provides fast credit access with easy conditions, but this online credit is very vulnerable to predatory lending practices, especially for illegal online credits that are not registered and have OJK permits. When consumers have entered the online credit ecosystem, they will continue to receive offers via short messages containing links to download illegal online credit applications.

Consumers are aggressively given very attractive promos, so they are tempted and use online credit as the fastest solution to overcome financial problems. The low financial literacy of consumers is cleverly exploited by illegal online credit business actors by providing fast fund offers that can be disbursed directly in a matter of hours without complicated conditions. For credit disbursement, the requirements are quite easy, just provide your identity and a photo of yourself, but as a consequence, online credit service

providers charge very high interest and service fees that burden consumers, of course, few people know about the consequences if they are late in paying, our data could be spread without our knowledge, which is data that has confidentiality that must be maintained.

This is very contrary to consumer protection laws, in this case, related to privacy data. Meanwhile, legal online credit service providers who are registered and have permission from the OJK, are more careful in submitting credit applications. They are more obedient to the AFPI code of ethics and OJK provisions by setting a maximum interest and service fee of 0.8 percent per day. This obedience is due to the harsh sanctions for violations, namely being expelled from AFPI membership and revocation of business licenses by the OJK, therefore consumers who apply for online credit must complete documents including pay slips, NPWP, and family cards with a disbursement time of 1-2 days.

Among legal and illegal online credit business actors, illegal online credit is the one that often violates the law. Illegal online credit business actors are less transparent in providing information on the benefits and risks of the products offered so consumers often do not understand the mechanism for calculating service fees and interest which have an impact on the nominal credit disbursed and the amount that must be returned. In addition, consumers are also unaware that the organizer charges a fee for paying off credit before it is due or for canceling a credit application.

The problem arises when the consumer cannot pay the bill by the due date, then the collection will be transferred to a third party, namely a debt collector. Debt collectors often collect by coming directly to the house/office by forcing and cursing consumers to pay their debts. Ironically, debt collectors gain access to data on consumers' cellphones including personal photos in galleries, social media, transportation, and online shopping applications, emails, even so, when the credit is quickly approved and disbursed, consumers are forced to provide their IMEI number.

Worse still, consumers experience unreasonable terror (called in the middle of the night), threatened, either by phone or text message, verbal sexual harassment, and cyber bullying by intimidating by spreading consumer data and photos to people on the consumer's contact list accompanied by discrediting words. Billing is also done to family, friends, co-workers, and relatives, disrupting family and social relationships (Ikegwu, 2024).

This causes trauma, stress, depression, anxiety, lack of focus on work, and loss of self-confidence, even to the point of suicide. Worse, there are consumers who have lost their jobs due to billing done to their superiors at work.

Basically, the purpose of the establishment of the 2023 PPSK Law, Financial Services Authority Regulation Number 22 of 2023 concerning Consumer Protection in the Financial Services Sector and Financial Services Authority Regulation of the Republic of Indonesia Number 10 / Pojk.05 / 2022 concerning Information Technology-Based Joint Funding Services is that it is hoped that the Financial Services Authority and the standby task force can improve supervision of the financial services sector and optimize consumer protection in the financial services sector. However, the author still sees various weaknesses in the OJK regulations in the implementation of Information Technology-Based Funding Services only resulting in a lot of injustice for debtors.

## **2. Consumer Protection for Users of Information Technology-Based Funding Services Based on Justice Value**

In order to realize the various ideas above, it is necessary to carry out legal reform in several legal provisions related to e-contracts and Information Technology-Based Funding Services. The provisions that need to be reconstructed are, Regulation of the Financial Services Authority of the Republic of Indonesia Number 10 / Pojk.05 / 2022 Concerning Information Technology-Based Joint Funding Services with improvements to the contents of the Financial Services Authority of the Republic of Indonesia Number 19 / Seoik.06 / 2023 Concerning Information Technology-Based Joint Funding Services and confirmation of the requirements for pay slips or average account balances proven by bank statements for the last 3 (months) and must pass the SLIK data verification analysis and not exceed 50% of the remaining income of prospective consumers (which is carried out by the Organizer) and personal data management through improvements to the Financial Services Authority of the Republic of Indonesia Number 19 / Seoik.06 / 2023 Concerning Information Technology-Based Joint Funding Services Letter F: The Organizer can only access the camera, location, and microphone on the User's device, (and there needs to be an addition to the paragraph: only when initial data verification is needed). The term online contract for electronic contracts (e-contract) and defines online contracts as an agreement or legal relationship carried out electronically by combining a network of computer-based information systems with a system (e-contract) is an agreement between two or more parties carried out using computer media, especially the internet network. Based on how it occurs, there are several forms of electronic contracts (e-contracts) that have been widely carried out so far:

- a. Electronic contracts (e-contracts) carried out through electronic mail communication (e-mail). In this electronic contract, offers and acceptances are exchanged via electronic mail (e-mail) or combined with other electronic communication media

- b. Electronic contracts (e-contracts) carried out through websites and other online services. In this form of contract, offers are made through the website and consumers accept the offer by filling out a form on the website.

Bashir (2023) put forward three types of evidence created by computers, namely:

- a. Real Evidence, An example is a bank computer that automatically calculates the value of banking transactions that occur. The results of this calculation can be used as real evidence
- b. Hearsay Evidence, Examples are documents produced by a computer as a copy of information entered by someone into the computer
- c. Derived Evidence, Derived evidence is a combination of real evidence and hearsay evidence.

The concept of grouping evidence into written and electronic evidence (not known in Indonesia) (Widodo, 2018). This concept is mainly developed in common law countries. The regulation does not create new evidence but expands the scope of documentary evidence. According to Article 164 HIR, Article 284 RBg, and Article 1866 of the Civil Code, the evidence in civil evidence law is applicable in Indonesia.

In this reconstruction, the government can minimize the risk of data leakage. Personal data is currently vulnerable to theft, so prevention is needed to minimize the impact of personal data leakage. which can affect anyone, including individuals and companies (Widodo, 2019). Small and large companies have the same opportunity regarding personal data leakage. The government needs to have resources to mitigate the risk if personal data leakage occurs.

Education not to allow cellphone applications to access microphones and webcams on laptops continues to be intensified by a number of parties. Knowledge of the dangers of applications and services to access microphones or webcams is very important in today's digital era. Many users allow online applications or services to access their microphones or webcams. This is based on Kaspersky's global report, from 15 thousand people studied, the number of users who opened access was almost a quarter or 23%.

Of those who gave permission, 27% of people aged 25-34 always allowed access to the camera and microphone. However, it turned out that a smaller number was obtained from the group aged 55 years and over with 38% admitting to never giving access to services or applications.

Even though they gave permission, users were worried that someone was watching via webcam as much as 59%. In addition, 60% of users were wary that the

surveillance was carried out via malicious software. There are still many people who do not immediately understand the security protocol regarding the use of webcams and their security processes.

The best way to balance vigilance while taking advantage of modern communication facilities is to carefully consider the applications and services used and read carefully what permissions are requested. granting access permissions like this risks the cellphone being tapped or hacked by irresponsible people. The Ministry of Communication and Informatics (Kemenkominfo) in its upload on Instagram @Kemenkominfo, reminded the public as cellphone users not to carelessly give access or click "allow" for the camera or microphone feature of a cellphone application. It turns out that there are a number of risks that lurk if cellphone users are not careful and cautious in giving permission for such access. In its upload, Kemenkominfo said that giving camera or microphone access carelessly has the potential to make gadgets tapped by irresponsible parties. The public can re-select well which ones are really important to get access. However, in reality, it is not easy to educate the public massively, and prevention is better than cure is the right term for the reconstruction of this regulation, which is a preventive effort related to the leakage of consumer personal data from the organizer's access to consumer personal data.

## CONCLUSION

1. Weaknesses of Consumer Protection Law for Credit Based on Information Technology-Based Funding Services, namely weaknesses in legal substance, legal structure, and legal culture and culture of the community itself. In addition, weaknesses that affect the implementation of debtor protection when unable to pay their debts to Information Technology-Based Funding Services institutions, weaknesses in the lack of regulations related to document requirements in analyzing consumer payment capabilities, and weaknesses in supervision that result in the growth of the impact of bad credit increasing which also has an impact on community welfare, increasing crime rates, increasing suicide rates, increasing poverty and affecting the future of Indonesia because without verification and clear rules, many generations y and z are trapped in default on online credit.
2. Legal reconstruction is carried out, namely by Reconstruction regarding the Reconstruction of the Regulation of the Financial Services Authority of the Republic of Indonesia Number 10 / Pojk.05 / 2022 Concerning Information Technology-Based Joint Funding Services with improvements to the contents of the SE Financial Services Authority Of The Republic Of Indonesia Number 19 / SEOJK.06 / 2023 Concerning Information Technology-Based

Joint Funding Services and confirmation of the requirements for pay slips or average account balances proven by bank statements for the last 3 (months) and Must pass the SLIK data verification analysis and not exceed 50% of the remaining income of prospective consumers (which is carried out by the Organizer) and personal data management through improvements to the SE Financial Services Authority Of The Republic Of Indonesia Number 19 / SEOJK.06 / 2023 Concerning Information Technology-Based Joint Funding Services Letter F: The Organizer can only access the camera, location, and microphone on the User's device, (and there needs to be an addition to the paragraph: only when initial data verification is needed).

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