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Legal Protection of Consumers Following the Bankruptcy of The Digital Start-Up Company Fabelio

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Abstract

The rapid expansion of digital start-up companies in Indonesia has substantially reshaped commercial transactions by enhancing efficiency and accessibility through electronic platforms. Nevertheless, this transformation has simultaneously generated significant legal vulnerabilities for consumers, particularly when digital start-ups experience financial distress or bankruptcy. A prominent example is the bankruptcy of Fabelio (PT Kayu Raya Indonesia), which resulted in widespread consumer losses due to non-delivery of goods and the absence of refund mechanisms. This article examines the extent of legal protection afforded to consumers following the bankruptcy of Fabelio and identifies the structural obstacles faced by consumers in asserting their rights. Employing normative legal research with statutory and case-based approaches, this study focuses on the Commercial Court Decision of Central Jakarta Number 47/Pdt.Sus-PKPU/2022/PN.Niaga.Jkt.Pst. The findings demonstrate that consumer protection within the Indonesian bankruptcy regime remains ineffective, as consumers are classified as concurrent creditors and therefore lack priority in the distribution of the bankruptcy estate. This condition underscores the necessity for regulatory reform and normative harmonization between bankruptcy law and consumer protection law in order to ensure legal certainty and substantive justice within the digital business ecosystem.
Keywords : Consumer Protection; Bankruptcy Law; Digital Start-Ups; Insolvency.

Introduction

The digitalization of economic activities has accelerated the emergence of digital start-up enterprises operating through electronic and internet-based platforms. These enterprises offer innovative business models that facilitate efficiency, convenience, and market expansion. However, the growing reliance on digital commerce has also exposed consumers to heightened legal risks, particularly in situations where digital start-ups fail to fulfill contractual obligations or are declared bankrupt.

In the Indonesian context, consumer vulnerability becomes particularly evident when bankruptcy proceedings are initiated against digital start-up companies. Consumers who have made advance payments frequently encounter difficulties in obtaining either the purchased goods or reimbursement. The bankruptcy of Fabelio (PT Kayu Raya Indonesia) illustrates this phenomenon,

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revealing a systemic gap in the protection of consumer interests within the existing insolvency framework. This study therefore seeks to critically assess whether Indonesian law adequately safeguards consumer rights following the bankruptcy of digital start-up companies.

Methods

This research adopts a normative legal research methodology with a descriptive-analytical orientation. The study applies two principal approaches. First, a statutory approach is employed to examine relevant legislation governing bankruptcy and consumer protection in Indonesia. Second, a case approach is utilized through an analysis of the Commercial Court Decision of Central Jakarta Number 47/Pdt.Sus-PKPU/2022/PN.Niaga.Jkt.Pst concerning the bankruptcy of Fabelio.

Primary legal materials consist of statutory regulations and judicial decisions, while secondary materials include legal doctrines, scholarly monographs, and peer-reviewed journal articles relevant to bankruptcy law and consumer protection in the digital economy.

Results and Discussion

Consumer Legal Protection within the Bankruptcy Framework

Indonesian consumer protection law, as codified in Law Number 8 of 1999 on Consumer Protection, establishes a comprehensive framework aimed at safeguarding consumers from losses arising from unlawful conduct, defective goods, or the failure of business actors to perform contractual obligations. Article 19 of the Law explicitly obliges business actors to provide compensation in the form of refunds, replacement of goods, or other forms of restitution. Normatively, this provision reflects the principle that consumers occupy a legally protected position due to their inherent vulnerability in commercial transactions.

However, the effectiveness of consumer protection law is significantly constrained once a business actor is declared bankrupt. At this stage, consumer claims are no longer adjudicated exclusively within the consumer protection regime but are subsumed under the bankruptcy framework regulated by Law Number 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations (PKPU). This shift produces a fundamental legal tension, as bankruptcy law prioritizes the collective

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satisfaction of creditors based on the principle of *pari passu pro rata parte*, rather than the individualized protection of vulnerable parties such as consumers.

Within the bankruptcy framework, consumers are generally classified as concurrent creditors. This classification places consumers on an equal footing with other unsecured creditors, notwithstanding the fact that consumer losses typically arise from advance payments made in good faith and without bargaining power. The absence of preferential status for consumers results in a structural disadvantage, as concurrent creditors are paid only after secured and preferred creditors have been satisfied. In practice, this frequently leads to minimal or even zero recovery for consumers, particularly in cases involving digital start-up companies with limited tangible assets.

The bankruptcy of Fabelio (PT Kayu Raya Indonesia) exemplifies this structural deficiency. In this case, consumers had completed full payment for goods through the company's digital platform but neither received the purchased products nor obtained refunds following the declaration of bankruptcy. The insufficiency of the bankruptcy estate, combined with the absence of legal mechanisms prioritizing consumer claims, rendered consumer protection largely illusory. Although consumer protection norms formally recognize consumers' right to compensation, such rights were effectively neutralized by the operation of bankruptcy law.

This condition demonstrates a broader normative inconsistency between consumer protection law and insolvency law within the digital economy. Consumer protection law is premised on the recognition of consumers as a weaker party requiring substantive legal safeguards, whereas bankruptcy law is primarily designed to ensure procedural fairness among creditors. In the context of digital start-ups—where transactions are predominantly pre-paid and assets are largely intangible—this inconsistency becomes more pronounced and systematically disadvantages consumers.

From a theoretical perspective, this situation contradicts the principle of substantive justice, which requires legal systems to account for unequal power relations and differential vulnerability among legal subjects. By treating consumers merely as ordinary concurrent creditors, bankruptcy law fails to accommodate the unique characteristics of consumer transactions in the digital marketplace.

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Consequently, consumer protection in digital start-up bankruptcies remains predominantly normative and formalistic, lacking effective remedial outcomes.

Structural Obstacles to Consumer Protection after Bankruptcy

Several structural barriers significantly undermine the effectiveness of consumer protection following the bankruptcy of digital start-up companies. The first and most fundamental obstacle lies in the absence of explicit legal recognition of consumers as a distinct and vulnerable category of creditors within Indonesian bankruptcy law. Law Number 37 of 2004 adopts a creditor classification system that prioritizes secured and preferred creditors, while consumers are relegated to the position of concurrent creditors without special legal safeguards. This approach reflects a traditional, debt-centered conception of bankruptcy law that inadequately accounts for the asymmetrical power relations between business actors and individual consumers in digital transactions.

The second structural barrier arises from the asset composition of digital start-up companies. Unlike conventional enterprises, digital start-ups primarily rely on intangible assets, including software systems, digital platforms, user data, brand value, and intellectual property rights. These assets present substantial challenges in terms of valuation, verification of ownership, and liquidation within bankruptcy proceedings. The lack of clear regulatory standards governing the treatment of digital and data-driven assets often results in prolonged insolvency processes and diminished asset realization, thereby reducing the likelihood of meaningful recovery for concurrent creditors, including consumers.

A third significant obstacle concerns procedural accessibility and informational asymmetry within bankruptcy proceedings. Bankruptcy procedures are highly technical, formalistic, and costly, rendering them largely inaccessible to individual consumers who typically lack legal expertise and financial resources. Furthermore, consumers often receive limited or delayed information regarding bankruptcy filings, creditor meetings, and claim verification processes. This situation effectively excludes consumers from active participation in insolvency proceedings and weakens their ability to assert legal claims.

Collectively, these barriers reveal a broader systemic deficiency in the integration between

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bankruptcy law and consumer protection law. Existing regulations remain ill-equipped to address the distinctive features of digital business models, particularly the prevalence of prepaid transactions, platform-based commerce, and data-driven assets. Without normative harmonization and procedural reform, bankruptcy law continues to prioritize commercial efficiency over consumer justice, leaving consumers insufficiently protected in the event of digital start-up failure.

Conclusion

This study concludes that legal protection for consumers following the bankruptcy of digital start-up companies in Indonesia, as exemplified by the Fabelio case, remains inadequate. The classification of consumers as concurrent creditors without special legal consideration undermines principles of legal certainty and substantive justice. Accordingly, there is a pressing need to reform Indonesian bankruptcy law by incorporating consumer protection principles and adapting insolvency mechanisms to the realities of the digital economy. Such reforms are essential to ensure balanced legal protection and to strengthen trust in the digital business ecosystem.

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