

Transparency Of Information In Upselling Practices In The Modern Retail Industry

Aurellia Zerikha Syah¹, Heru Sugiyono²

¹ Law Study Program, Faculty of Law, Universitas Pembangunan Nasional Veteran Jakarta, Indonesia; 2210611186@mahasiswa.upnvj.ac.id

² Law Study Program, Faculty of Law, Universitas Pembangunan Nasional Veteran Jakarta, Indonesia; herusugiyono@upnvj.ac.id

Received: 25/07/2025

Revised: 30/08/2025

Accepted: 25/10/2025

Abstract

The development of globalization and digital technology has spurred *the evolution of selling practices* in modern retail and *e-commerce*, which, lacking information transparency, can harm consumers via *dark patterns*. This study aims to analyze the role and responsibilities of the National Consumer Protection Agency (BPKN) in addressing *upselling* in Indonesia and compare its enforcement with the Federal Trade Commission (FTC) in the United States. The methodology employed is normative juridical, complemented by primary empirical data from interviews with BPKN and YLKI, using a comparative approach. Findings indicate that BPKN is passive and reactive, limited to a recommendatory function, which hinders optimal consumer protection. In sharp contrast, the FTC adopts a conduct-based model with strict investigative and punitive authority, imposing substantial sanctions to combat deceptive digital practices. The low transparency in Indonesia is attributed to the general regulatory framework (UUPK) and BPKN's institutional limitations. This study concludes that strengthening technical regulations, promoting proactive monitoring, and increasing BPKN's authority are essential for creating more adaptive and effective consumer protection.

Keywords

Upselling; Information Transparency; Consumer Protection

Corresponding Author

Aurellia Zerikha Syah

Law Study Program, Faculty of Law, Universitas Pembangunan Nasional Veteran Jakarta, Indonesia; 2210611186@mahasiswa.upnvj.ac.id

1. INTRODUCTION

The modern trade sector, driven by global technological advancements, has become a significant contributor to Indonesia's economy (Putri & Sugiyono, 2023). This digital transformation facilitates transactions, but also introduces increasingly complex and subtle marketing practices, particularly in retail and e-commerce. Technically, this seamless digital experience is supported by complex data architectures designed to handle high-velocity transaction data, ensuring that upselling prompts are delivered instantly without compromising system performance. (Ravi et al., 2022)



Current literature describes this evolution as an 'AI-powered retail ecosystem' where personalized and predictive shopping experiences make marketing strategies pervasive (Madhumanchi, 2025). Advanced technologies, such as Reinforcement Learning and Natural Language Processing, are leveraged to dynamically optimize upselling strategies and tailor offers to real-time consumer behavior. (Sharma et al., 2022)

One emerging phenomenon is the increasing prevalence of upselling practices in both the modern retail sector and e-commerce in Indonesia. This trend is driven by technological adoption, changing consumer behaviour seeking added value, and tight competition that pushes business actors to maximise customer transaction value (Sagar, 2024). Furthermore, the integration of artificial intelligence allows business actors to personalize upselling offers with high precision, which, while increasing engagement, also creates a deeper information gap if not balanced with adequate transparency. (Kumar et al., 2023)

Upselling itself is a marketing strategy that encourages consumers to purchase additional or more expensive products than those they initially intended to buy (Alex, 2021). Its primary objective is to increase profit margins by encouraging customers to choose higher-priced products of the same type, often differing only in size or quantity. While legitimate in business terms, the strategy risks misleading consumers without adequate information transparency. (Hertita 2023). This lack of transparency is sometimes exacerbated by the high work pressure on modern retail employees, who often prioritize aggressive *upselling* targets (Muhammad et al., 2025). Moreover, opaque upselling exacerbates product returns, a critical issue identified as a major driver of carbon emissions and waste in multichannel retail. (Zhang et al., 2023)

Consumers are often in a weaker position than business actors, so legal protection becomes crucial to maintain balance. The government needs to establish strong regulations to increase consumer awareness and guarantee their rights (Al Ghazali & Hardyanthi, 2024). Business actors strive for maximum profit, which can lead to unfair or fraudulent practices, necessitating legal protection for consumers (Kumar et al 2023). Consumer protection is a highly crucial aspect in supporting the continuity of sound business practices. In business interactions between consumers and entrepreneurs, a legal balance may exist that could lead to potential losses. Such losses typically result from changes involving business actors that negatively impact consumers.

In every interaction, conflict is almost unavoidable, particularly due to various factors such as differences in understanding between consumers and business actors regarding the products or services provided. Disputes may also arise due to the carelessness of either party in fulfilling their responsibilities under the agreement concerning the product or service, or caused by legal violations committed by either party, whether by the entrepreneur or the consumer. (Ulya et al., 2025)

Regulations regarding consumer protection play a crucial role in maintaining public trust in trade activities. Without strong regulation, companies risk harming consumers through unfair practices (Mansiz et al., 2024). Drawing from broader regulatory studies, mandatory disclosure regimes are essential for substantive corporate accountability, suggesting that voluntary transparency is often insufficient to curb unethical business practices. (Islam & Van Staden, 2022)

Non-transparent upselling is a widespread issue in Indonesia. The viral case at the J.CO Donuts outlet exemplified consumers being charged additional fees without explanation (Jiputra et al., 2021). Similar non-transparent practices are also prevalent in the *e-commerce* sector, such as the automatic addition of travel insurance on Traveloka and the inclusion of products through savings packages on Tokopedia and Shopee. Manipulative dark pattern practices such as sneak into basket and confirm-shaming have begun to be widely found in Indonesian e-commerce, which affect consumer choices without them realizing it. (Putri, 2025)

The phenomenon of upselling has been the subject of attention from several previous researchers. One study examines consumer protection against upselling practices by highlighting the normative legal aspects in the modern retail sector (FH UI, 2024). Other research highlights the impact of *upselling* strategies on consumer purchasing decisions, as seen in a case study of J.CO (Andina et al., 2021). Although these studies provide valuable insights into consumer behaviour and the doctrinal basis of upselling regulation, neither of them explores in depth the core issue of information transparency, which is the cornerstone of modern consumer law.

In the age of multichannel retail, pricing transparency and information consistency are not merely ethical obligations, but fundamental elements to prevent consumer confusion and build long-term trust. Furthermore, previous work largely overlooks the growing prominence of digital *upselling* in *e-commerce*, despite the sector's dominance in Indonesia, with transactions reaching approximately Rp 487 trillion in 2024. (The Leap 2024)

While these studies provide a foundational understanding of upselling, they do not systematically assess how information transparency functions within modern digital interfaces nor how Indonesia's regulatory structure responds to these challenges in practice. Furthermore, no existing research integrates empirical insights from key consumer-protection institutions with a comparative legal analysis. This creates a clear research gap that this paper aims to address by combining a normative examination, institutional perspectives, and international comparisons.

In contrast to these earlier studies, the present paper fills this research gap by examining upselling not merely as a marketing strategy, but as a transparency and fairness problem that directly affects the legal position of consumers. This paper offers two main contributions. First, it analyses the role and responsibility of the National Consumer Protection Agency (BPKN) in addressing upselling practices

in Indonesia's modern retail ecosystem. Second, it evaluates the level of information transparency in both modern retail and e-commerce upselling practices, and compares it with regulatory approaches in the United States, particularly through the enforcement model of the Federal Trade Commission (FTC).

A comparative approach with the United States is essential because the Federal Trade Commission (FTC) has developed a mature and proactive regulatory model that specifically addresses digital manipulation and non-transparent upselling. The US offers a concrete benchmark for evaluating how regulatory authority, enforcement tools, and disclosure obligations can shape market behaviour. This comparison highlights regulatory principles applicable to Indonesia.

To address these complex issues, this study employs a normative-empirical approach. The normative analysis examines statutory frameworks, institutional mandates, and doctrinal principles governing transparency obligations. The empirical component complements this by incorporating institutional insights from YLKI and BPKN, allowing the study to capture how legal norms operate in reality and where enforcement gaps persist. This methodological combination is necessary to fully understand both the legal design and the practical challenges surrounding upselling practices in Indonesia.

Specifically, this research has two objectives. First, to analyse the role and responsibility of the National Consumer Protection Agency (BPKN) in addressing upselling practices by the modern retail industry in Indonesia. Second, to examine the level of information transparency in upselling practices in both the modern retail and e-commerce sectors in Indonesia, as well as to compare it with the United States, particularly through the role of the Federal Trade Commission (FTC), to see how global standards in supervising upselling practices can serve as a lesson for Indonesia.

Accordingly, this research makes three contributions to the literature. First, it introduces empirical evidence from institutional actors, which has been largely absent from prior studies on upselling in Indonesia. Second, it proposes a structured comparative framework to analyse differences in regulatory authority, transparency obligations, and enforcement intensity between Indonesia and the United States. Third, it situates upselling within broader theories of transparency and fairness, thereby offering a more comprehensive understanding of how consumer protection should operate in digital markets.

The main argument to be discussed in this research is that weak information transparency in upselling practices in Indonesia is closely related to the limitations of the role and supervision carried out by BPKN. The lack of clarity makes consumers vulnerable to harm. Conversely, in the United States, the FTC actively takes action against upselling practices considered misleading, demonstrating a difference in consumer protection enforcement. Thus, improving information transparency and strengthening the role of BPKN will significantly enhance consumer protection in Indonesia. This research aims to demonstrate that information transparency is crucial in striking a balance between the

business interests of business actors and consumer rights.

Upselling practices in modern retail and *e-commerce* in Indonesia still pose issues related to information transparency. Weak supervisory mechanisms make consumers vulnerable to harm. BPKN, as the institution mandated to protect consumers, has the responsibility to provide policy recommendations; however, it does not yet have specific guidelines on upselling. This condition creates an urgent need to analyse the role of BPKN and compare it with practices in the United States so that more effective solutions can be formulated.

2. METHOD

This research employs a normative juridical approach, complemented by empirical evidence, and utilizes a comparative design between Indonesia and the United States. The normative component relies on secondary data, including primary legal materials (such as the Consumer Protection Law/UUPK, the ITE Law, and the FTC Act), secondary literature, journals, and academic articles. The comparative approach reinforces the analysis by providing a clear benchmark through the United States, allowing this study to assess Indonesia's consumer protection system against an established regulatory structure.

To strengthen the normative analysis, this study incorporates primary empirical data obtained through interviews with institutions directly involved in consumer protection, namely BPKN and YLKI. To maintain methodological coherence and justify the mixed-method approach (normative-empirical legal research), the empirical component was employed to validate the normative analysis and identify gaps between legal norms and actual practice, specifically in relation to transparency and institutional capacity. (Widiarty 2024).

The informants (YLKI and BPKN) were selected using purposive sampling, based on their expertise, institutional relevance, and direct involvement in handling consumer complaints related to upselling practices. The empirical component is descriptive and is not intended to generalize findings statistically, but rather to contextualize the normative analysis.

The study involved two key informants: Arianto, Head of the Complaints and Communications Division at YLKI, and the official written response representing BPKN's institutional position. Data collection for YLKI was conducted via a semi-structured Zoom interview lasting approximately 30 minutes, while the BPKN response took the form of document-based primary evidence.

To ensure credibility and reliability, the findings were validated through data triangulation, which involved comparing interview insights with statutory provisions and prior literature, as well as member checking, where the interview summaries were reconfirmed with the informants. The combined use of normative interpretation and institutional insights allows the study to identify practical problems, such as limited enforcement authority and unclear disclosure standards, which justify the relevance of this

mixed-method approach.

3. FINDINGS AND DISCUSSION

3.1 Transparency of Information in Upselling Practices by The Modern Retail Industry in Indonesia and the United States

Transparency is a fundamental pillar in consumer protection. Every commercial transaction, in essence, must be based on a balanced exchange of information between business actors and consumers, enabling them to make informed and intelligent purchasing decisions (Kumar et al., 2023). Upselling, while legitimate, can harm consumers when it violates the boundaries of transparency and fairness.

In the context of this study, transparency must be assessed not only as a normative obligation but also as a practical condition shaped by institutional capacity, digital design choices, and consumer literacy. By integrating statutory interpretation with empirical insights from YLKI and BPKN, the analysis aims to reveal the gap between legal norms and the actual consumer experience in modern retail and e-commerce transactions.

3.1.1 Conditions in Indonesia: Weak Norms and Reactive Enforcement

According to Article 1320 of the Indonesian Civil Code, an agreement can only be declared valid if it meets the requirement of consent. Business actors who fail to fulfil the obligation to provide correct and clear information to consumers may be violating Law Number 8 of 1999 on Consumer Protection (UUPK) (Wulansari, 2025). This is affirmed by Article 4 letter c, Article 7 letter b, and Article 9 paragraph (1) letter a, which affirm consumers' rights to correct, clear, and honest information.

In Indonesia, upselling is common, particularly in the fast-food retail industry, often carried out implicitly and swiftly. A prominent example at the J.CO Donuts & Coffee outlet involved consumers being directed to purchase packages, only to realize it upon seeing the receipt (Andina et al., 2021). This phenomenon exploits consumers' assumptions, disregarding their essential right to clear information. In the culinary and food retail sector, strict adherence to information transparency is critical, as upselling strategies are often designed to exploit the impulsive nature of food consumption, potentially disregarding consumer rights for the sake of higher transaction values (Ulya & Latumahina, 2025).

The main legal framework is Law No. 8 of 1999 on Consumer Protection (UUPK). Article 4 letter c expressly states that consumers have "the right to correct, clear, and honest information regarding the condition and guarantee of goods and/or services." (Republik Indonesia, Undang-Undang tentang Pelindungan Konsumen, UU No. 8 Tahun 1999, LN No. 42 Tahun 1999, TLN No. 3821 n.d.) Non-transparent *upselling*, in which information regarding changes to products, the addition of features, or price increases is not conveyed openly, is contrary to this right. In addition, Article 7 letter b obliges business actors to "provide correct, clear and honest information regarding the condition and guarantee

of goods and/or services and to give an explanation of their use, repair and maintenance.”

The primary issue is the highly general nature of the UUPK, which lacks specific technical guidelines or derivative regulations for modern marketing strategies. Consumer protection law aims to ensure legal certainty, thereby providing consumers with protection (Muhammad et al., 2021). This absence creates a “grey area”, weakening the consumer's position. Non-transparent *upselling* results not only in financial losses but also in non-material harm, eroding consumer trust, creating negative customer experiences, and damaging brand image, as seen in the viral J.CO case (Andina et al., 2021). The application of upselling strategies often causes consumers to feel harmed and deceived due to a lack of clear information. (Salsabila 2024).

In Indonesia, institutions like YLKI and BPKN tend to be reactive. This is affirmed by YLKI, which receives many complaints related to upselling. (Kumar et al., 2023). According to YLKI, the main problem is the lack of “disclosure of information by business actors”, which is considered to violate the principles of (Arianto, 2025). This reactive nature means that these institutions generally act after receiving reports, rather than through proactive supervision.

As a concrete example, a complaint submitted to YLKI detailed the experience of a consumer at an international coffee outlet at Soekarno–Hatta Airport. The consumer ordered three standard-sized drinks but was surprised to find that the bill increased to Rp 213,000,- because the cashier added various additional items without approval or even prior offer. Such cases emphasise that consumers’ awareness and willingness to report become the frontline, while the institutions’ role is more that of a facilitator of dispute resolution rather than a preventive force against the practice itself. The lack of authority to impose direct sanctions also limits their role to mediation and education. Without systematic supervision and clear industry standards regarding marketing transparency, harmful upselling practices will continue to recur.

In e-commerce, upselling is more complex, utilizing recommendation algorithms, digital interface design (UI/UX), and default options, such as automatically ticking delivery insurance fees. The most frequently debated example is the addition of delivery insurance fees that are automatically ticked during the checkout process on several major platforms such as Tokopedia, Shopee, and Lazada. Many consumers are unaware of these additional charges because they are displayed in small print or hidden at the bottom of the transaction page, resulting in payments being made without explicit consent.

Empirical findings from YLKI support this observation: consumers often report that upselling is presented as the default or only available option. The lack of explicit disclosure creates a structural information imbalance that consistently disadvantages consumers (Arianto, 2025). This situation has prompted strong criticism from YLKI, which states that such practices violate consumers' rights to receive correct, clear, and honest information, as guaranteed under Article 4(c) of the Consumer

Protection Law. YLKI confirmed receiving numerous complaints related to digital upselling practices, demonstrating that business actors often neglect transparency in digital transactions due to concerns over business efficiency (Tarigan et al., 2021).

Legally, the Consumer Protection Law (UUPK) has not yet provided specific regulations regarding digital marketing practices such as upselling on e-commerce platforms. Provisions concerning the right to information (Article 4(c)) and the obligation of business actors to provide accurate and honest information (Article 7(b)) may serve as a legal basis; however, the absence of implementing regulations leaves a very broad room for interpretation. There are no technical guidelines prohibiting the use of dark patterns or digital designs that deliberately mislead consumers into choosing more expensive options. As a result, consumers are placed in a weaker position, as they must prove that business actors acted in bad faith.

This regulatory gap is partly addressed by the Electronic Information and Transactions Law (ITE Law). Article 28, paragraph (1) of the newly amended Law No. 1 of 2024 expressly prohibits disseminating false or misleading electronic information that results in material loss for consumers. This provision requires business actors to ensure clarity, accuracy, and non-deceptive disclosure in all digital offerings, including *upselling* prompts and add-ons. Thus, the ITE Law strengthens the demand for transparency and positions non-transparent *upselling* strategies as a potential statutory violation.

It may be concluded that the level of transparency in upselling practices in Indonesia remains relatively low, caused by a combination of several factors:

- 1) a regulatory framework (UUPK) that is overly general and does not specifically regulate modern marketing practices;
- 2) the absence of technical guidelines that can serve as a reference for business actors and consumers;
- 3) the role of supervisory bodies that tends to be reactive and does not have the authority to impose sanctions directly; and
- 4) an uneven level of consumer awareness to recognise and report such practices.

3.1.2 Conditions in the United States: Proactive Enforcement

The United States has one of the most developed consumer protection legal frameworks, with a focus on strong and proactive law enforcement. This robust legal framework is a necessary response to the high level of sophistication in the US market, where retailers extensively utilize real-time data analytics to optimize customer targeting and maximize transaction values (Raji et al., 2024). The Federal Trade Commission (FTC) holds a central role as an independent government agency (Franjković et al., 2023). Unlike Indonesia, the US regulates upselling through a broader prohibition on deceptive conduct.

The primary legal basis is Section 5(a) of the Federal Trade Commission Act (FTC Act), which prohibits “unfair or deceptive acts or practices in or affecting commerce.” This broad prohibition serves

as a powerful tool to address various marketing practices that harm consumers, including non-transparent upselling. Such practices can easily be categorised as a “deceptive act” if they fail to disclose material information to consumers before the transaction occurs.

Literally, ‘deceptive’ means ‘misleading’. In the American legal regime, this term is used to describe legal acts by individuals or legal entities that have a deceitful character for personal interest (selfish interest). The concept of Deceptive Acts and Practices is essentially a development of Section 5 of the Federal Trade Commission Act. In order to be legally classified as deceptive, an act must meet three elements. First, there must be a representation, omission, or practice that is misleading or is likely to mislead consumers. Second, the consumer’s interpretation of the act is considered reasonable under certain conditions. Third, the misleading representation or omission must be material, meaning it is significant enough to affect the consumer’s decision (Ramadani, Abimanyu, and Yudana 2021).

In the context of upselling, this approach becomes highly relevant. Omission, where business actors fail to provide key information, is the most common violation. For example, a cashier processing a larger order without informing of the price increase commits an omission. Non-transparent upselling is categorized as a deceptive practice because it removes the consumer's right to make an informed decision, an approach more specific than the general “right to information” in the UUPK.

The FTC demonstrates firmness through key cases. The 2014 lawsuit against AT&T Mobility resulted in a USD 60 million settlement for omitting material information about data throttling. The 2021 case against Amazon Prime alleged the use of dark patterns and hidden recurring fees, leading to a USD 2.5 billion settlement. These cases demonstrate that digital upselling becomes unlawful when transparency is compromised, underscoring the FTC's proactive regulatory approach, which involves conducting investigations and imposing substantial penalties.

When compared, differences are evident: Indonesia relies on general legislation (UUPK) with reactive bodies (YLKI, BPKN), focusing on whether “consumer rights” were violated. The US employs a broader prohibition against “deceptive practices,” enforced by a proactive, investigative, and punitive FTC, which focuses on the “business actor's conduct.” This contrast illustrates a fundamental divergence: Indonesia's *rights-based model* depends on consumers reporting violations, while the US adopts a *conduct-based model* that evaluates business behavior proactively. Effective transparency requires a system where regulators possess clear authority to investigate and sanction deceptive practices without waiting for formal complaints.

Table 1. Comparison between Indonesia and the United States About Transparency of Customer Information

Aspect	Indonesia	United States
Regulatory Basis	Law No. 8/1999 on Consumer Protection (UUPK); very general; no “unfair or deceptive acts or practices”; explicit regulation on upselling or dark patterns.	Consumer Section 5(a) of the FTC Act prohibits deceptive practices.
Specificity of Rules	No technical guidelines on upselling or digital marketing transparency; absence of detailed enforcement guidelines, sectoral policies, and clear jurisprudence (AT&T case; Amazon Prime case).	Detailed enforcement guidelines, sectoral policies, and jurisprudence (AT&T case; Amazon Prime case).
Supervisory Bodies	YLKI and BPKN.	Federal Trade Commission (FTC).
Regulatory Approach	Focus on advocacy, independent, proactive, investigative, and mediating; reactive; lacks strong enforcement powers, including the authority to impose sanctions.	Conduct-based approach; focuses on whether business actors engage in deceptive practices, making regulatory assessment easier and more enforceable.
Mode of Regulation	Rights-based approach: focuses on whether consumer rights (e.g., right to information) are violated.	Conduct-based approach: focuses on whether business actors engage in deceptive practices.
Common Issues in Upselling	Lack of disclosure; implicit cashier-driven upselling (e.g., J.CO case); hidden add-ons in e-commerce (auto-ticked insurance, small-print fees).	Dark patterns, hidden fees, and misdirection (e.g., Amazon Prime's "roach motel" patterns; AT&T's omission of speed-throttling information).
Consumer Vulnerability	High, due to low transparency, uneven digital literacy, and weak enforcement, consumers must prove that business actors acted in bad faith.	Lower, due to strong transparency standards and mandated disclosures, regulators act even without consumer complaints.
Enforcement	Limited; no punitive authority; depends on	Strong, substantial penalties (USD 60

Aspect	Indonesia	United States
Style	voluntary compliance and post-complaint actions.	million, AT&T; USD 2.5 billion, Amazon Prime); mandatory corrective actions.
Overall Transparency Level	Low due to lack of supervision, weak enforcement, and proactive oversight.	High due to flexible legal tools, strong enforcement, and proactive oversight.

3.3.3 The Application of the Theory of Justice, Rawls, and Aristotle to Upselling Practices in Indonesia and the United States

Before applying justice theory, it is essential to note that the empirical and comparative findings above reveal recurring structural issues: limited transparency, information asymmetry, weak enforcement, and the vulnerability of consumers with lower digital literacy. These findings provide the factual basis for evaluating whether Indonesia's current regulatory framework fulfills the principles of fairness and proportionality.

In analyzing the practice of upselling from the perspective of consumer protection law, the theory of justice can provide a strong normative foundation. Aristotle, in his work *Nicomachean Ethics*, distinguishes between distributive justice and corrective justice (Madung, 2022). Distributive justice emphasizes the importance of proportionality in the allocation of rights and obligations, while corrective justice aims to restore balance when violations or injustices occur in relationships between individuals (Chourasia et al., 2025). In the context of upselling, non-transparent practices violate distributive justice because consumers do not receive the right to information in proportion to their obligation to pay a higher price. Corrective justice, through regulation or supervisory institutions, is also necessary to restore consumers to a balanced position.

Meanwhile, John Rawls, through his theory *Justice as Fairness*, emphasizes two main principles: (1) every person has an equal right to the most extensive basic freedoms insofar as they do not violate the freedoms of others; and (2) socio-economic inequalities can only be justified if they provide the greatest benefit to the least advantaged (the difference principle). (Narang & Tiwari, 2025)

When applied to the practice of upselling, the first principle requires full transparency, allowing consumers to make informed choices based on honest information. This concern for autonomy is deeply rooted in Rawls's intellectual history, given that Rawls fundamentally opposed forms of "propaganda" or manipulation that reduce human agents to mere objects. This critique is particularly relevant to algorithmic systems that circumvent consumer rationality. (Cheah, 2022)

The second principle demonstrates that business models that disadvantage consumers, particularly those with low digital literacy, are unjust. Rawls's concern further emphasizes that economic systems must sustain a "reasonable faith" in the possibility of a just social order, which is eroded by predatory retail practices. (Eich, 2021)

Therefore, regulations that strengthen the openness of information not only protect consumer rights but also serve as a means of distributing justice more evenly (Fletcher, L. 2023). Rawls's principles are locally relevant, as they are compatible with the values of Muslim societies (Idris, 2020). This local relevance is further supported by the demonstration that Rawls's principles can be effectively adaptable for fair economic policies within the contemporary Indonesian legal system. (Sulaiman et al., 2025)

Expanding on this, Rawls is contextualized within Indonesia's unique societal constellation, with the argument that his principles of fairness are congruent with the nation's diverse moral and religious fabric, thereby providing a robust ethical basis for consumer protection (Wahyudhi & Baihaqi, 2023). Moreover, the persistence of such 'unreasonable' commercial practices poses a challenge to the stability of justice, necessitating a regulatory framework that actively contains actors who refuse to abide by the fair terms of social cooperation. (Giovanola & Sala, 2021)

The theories of justice reveal the core issue in Indonesian upselling as an imbalance of rights and obligations, constituting a violation of distributive justice. The absence of corrective justice is equally apparent: Indonesia's regulatory framework, characterised by a general and outdated UUPK, a lack of technical guidelines, and supervisory institutions that remain reactive and lack sanctioning power, fails to restore consumers to a fair position when informational injustice occurs. (Imtihani, H et al. 2024)

Rawls's theory further underscores these structural deficiencies. Low transparency in Indonesia, stemming from broad legislative provisions and weak oversight, often undermines consumer autonomy. The legitimacy of legal norms depends on their ability to guarantee private autonomy, suggesting that consumer protection laws fail their democratic purpose if they allow market coercion to override free choice (Kędziora, 2021). The second principle stipulates that arrangements must benefit those who are least advantaged, primarily referring to consumers with low digital literacy. A regulatory environment that permits opaque upselling contravenes this principle by placing vulnerable consumers at a disproportionate disadvantage. Strengthening transparency requirements would therefore not only protect consumer rights but also serve as a redistributive mechanism that aligns with Rawlsian justice.

This normative contrast is clear when compared with the United States. The Amazon Prime case, where dark patterns led to a USD 2.5 billion settlement, illustrates that digital *upselling* becomes unlawful when transparency is compromised. The FTC's proactive enforcement, supported by broad prohibition and strong investigative powers, operationalizes both Aristotelian and Rawlsian principles by actively intervening to restore fairness. (Triyudiana & Neneng, 2024)

In conclusion, the reliance on general legislative norms (UUPK) and reactive institutions (YLKI, BPNP) in Indonesia results in weak enforcement of both distributive and corrective justice. Indonesia's current regulatory setup not only fails to prevent unfair upselling but also does not adequately protect the most vulnerable consumers, thereby falling short of both Aristotelian proportionality and Rawlsian fairness.

3.2 Conditions in The role and responsibility of the National Consumer Protection Agency (BPNP) Regarding Upselling Practices by The Modern Retail Industry in Indonesia

BPNP, as a state institution established based on Law Number 8 of 1999 (UUPK), holds normative and recommendatory functions. Its main function is to provide advice, considerations, and policy recommendations to the government (Anon, n.d.), rather than acting as a direct dispute resolution body between consumers and business actors. In carrying out its functions, BPNP is tasked with providing policy recommendations, conducting research on regulations and safety, receiving complaints, disseminating information, and conducting surveys on consumer needs and preferences. Based on the research interview, BPNP's official response stated: "Current upselling complaints are mostly related to lack of transparency in digital transactions, and our role is limited to recommending sanctions because we have no enforcement power." This confirms that BPNP's role is more indirect in the context of upselling.

BPNP's indirect role is implemented through:

- a) Policy Advocacy Function, by recommending derivative regulations of the UUPK or technical guidelines to regulate modern marketing practices, including non-transparent upselling;
- b) Education and Socialisation Function, to increase consumer awareness of their rights, particularly the right to accurate information (Article 4 letter c UUPK);
- c) Coordination Function, referring consumers to other institutions with direct legal authority for dispute resolution, such as YLKI or BPSK;
- d) Provision of Legal Recommendations, formulating legal and policy recommendations addressed to the government so that business actors may be sanctioned in accordance with the UUPK.

From a justice theory perspective, BPNP's recommendations must be directed towards structural fairness. Drawing on Aristotle's concept of distributive and corrective justice, BPNP's recommendations must ensure consumers receive proportional information and that regulatory intervention restores balance. From Rawls' *Justice as Fairness*, policy recommendations should prioritize transparency. In line with the difference principle, these policies must particularly protect consumers with low digital literacy, who are the most disadvantaged and most vulnerable to manipulative upselling. Therefore, BPNP needs to recommend specific technical guidelines targeting the prevention of *dark patterns* and deceptive digital design.

In the regulatory context, BPKN emphasizes that the UUPK has already provided the legal basis for assessing the legality of *upselling* through Article 4 letters b and c; Article 7 letters a and b; and Articles 8, 10, and 17. However, in practice, BPKN's role is not optimal. Based on the interview, BPKN has never received a direct complaint concerning the practice of *upselling*, indicating that BPKN tends to be passive and reactive, only taking action when an official complaint is made. This passive nature is a major weakness, as BPKN rarely uses reports from other institutions (YLKI and BPSK) as a basis to promote regulatory reform. BPKN is more often confined to the role of maintaining existing consumer protection laws, without proactive measures to adapt to the dynamics of modern business practices

The existence of BPKN has so far been ineffective in responding to new challenges, such as *upselling* and dark patterns. The inability of BPKN to take action without a direct report makes consumers increasingly vulnerable. To become more effective, BPKN must transform. Key recommendations include: BPKN must be proactive by establishing an e-commerce monitoring mechanism; encouraging the drafting of technical guidelines that explicitly regulate *upselling* and dark patterns; and strengthening coordination with YLKI/BPSK as a basis for regulatory improvements. Finally, institutional strengthening is needed through amendments to the UUPK so that BPKN has investigative or semi-punitive authority, moving beyond a merely recommendatory function.

When compared with the Federal Trade Commission (FTC) in the United States, BPKN's weaknesses become apparent. The FTC is proactive, having both investigative and punitive authority, unlike BPKN, which is limited to issuing recommendations. Therefore, BPKN must transform from a passive institution into one that is oriented towards stronger prevention, supervision, and enforcement of the law.

4. CONCLUSION

This research reveals that the practice of *upselling* in Indonesia falls short of the principle of adequate information transparency, both in the modern retail sector and in e-commerce. What would not have been known without this research is the existence of a close relationship between such weak transparency and the limited role of the National Consumer Protection Agency (BPKN), which remains normative, reactive, and not yet proactive in supervising business practices that have the potential to harm consumers. Compared with the United States, where the Federal Trade Commission (FTC) has firm investigative and punitive authority, Indonesian consumers are in a more vulnerable position.

The analysis using the theories of justice of Aristotle and Rawls confirms that non-transparent *upselling* practices violate the principles of proportionality, fairness, and consumers' rights to honest information. Using a normative-comparative juridical method complemented by empirical data from interviews, this research provides comprehensive answers to the research questions. It identifies

regulatory and institutional gaps in consumer protection in Indonesia.

Nevertheless, this research still has limitations, particularly because it is not yet supported by quantitative empirical data that can describe the scale of upselling practices more broadly, and because the comparison is limited to only Indonesia and the United States. Therefore, further research is recommended to adopt a quantitative empirical approach through consumer surveys and to expand comparisons to other countries, such as the European Union or Japan, which have strict standards regarding digital marketing practices.

Thus, the policy recommendations produced may be more comprehensive, not only emphasizing the strengthening of technical regulation and the authority of BPKN, but also encouraging the establishment of a consumer protection system that is adaptive, proactive, and oriented towards justice in the face of modern marketing practices.

REFERENCES

- Andina, F., L. Ruth, T. Siagian, & A. Dwi Bayanaka. (2021). "PENGARUH STRATEGI PEMASARAN UPSELLING TERHADAP KEPUTUSAN PEMBELIAN KONSUMEN (STUDI KASUS Jco MALL GRAHA CIJANTUNG)." 16(2):40–48.
- Franjković, J., D. Dujak, dan A. Živković. 2023. "Pricing and Information Transparency in the Age of Multichannel Retail." 33rd RSEP International Conference on Economics, Finance & Business 17–25.
- Arianto. 2025. *Bidang Pengaduan Dan Komunikasi YLKI*.
- Sharma, A., N. Patel, dan R. Gupta. (2022). "Optimizing Product Upselling Strategies Using Reinforcement Learning and Natural Language Processing Algorithms." *European Advanced AI Journal* 11(9): 1-10
- Ulya, S. L., dan R. E. Latumahina. (2025). "Consumer Protection against Upselling Practices in Food Product Marketing Strategies." *Journal Evidence of Law* 4(1):51–60.
- Cheah, R. (2022). "Inhuman destiny": Naturalism, propaganda, and despair before Rawls's conversion. *Modern Intellectual History* 20(3): 1–26.
- Eich, S. 2021. Theodicy of Growth: John Rawls, Political Economy, and Reasonable Faith. *Modern Intellectual History* 18: 984–1009.
- Kumar, A., A. Joshi, FNU Antara, S. P. Singh, O. Goel, dan P. K. Gopalakrishna. 2023. "Leveraging Artificial Intelligence to Enhance Customer Engagement and Upsell Opportunities." *International Journal of Computer Science and Engineering (IJCSE)* 12(2):89–114.
- Federal Trade Commission. N.D.-B. "FTC Says AT&T Has Misled Millions Of Consumers With 'Unlimited' Data Promises." Retrieved (FTC Says AT&T Has Misled Millions Of Consumers With 'Unlimited' Data Promises %7C Federal Trade Commission).

- FTC. (N.D.). *Federal Trade Commission Act*, 15 U.S.C. (United States).
- Fletcher, L. (2023). A modern theodicy: John Rawls and The Law of Peoples. *European Journal of Political Theory*, 24(1), 92–110. <https://doi.org/10.1177/14748851231201471> (Original work published 2025)
- Alex, A. (2021). "A Comprehensive Study on Newer Trends in Recruitment Practices with Reference to Retail Industry." *International Journal of Multidisciplinary Research* 1(1): 1-20
- Ghozali, A. F., & T. Hardyanthi. (2024). "Perlindungan Konsumen Pada Platform E-Commerce: Regulasi Dan Peran Pemerintah." *Ethics And Law Journal: Business And Notary* 2(3):136–41.
- Giovanola, Benedetta, and Roberta Sala. 2021. "The reasons of the unreasonable: Is political liberalism still an option?" *Philosophy & Social Criticism* 48(9): 1-10 <https://doi.org/10.1177/01914537211040568>.
- Hertita, D. (2023). *Setiap Pebisnis Harus Tahu Promo Upselling Cross-selling Ini!*. Elex Media Komputindo.
- Narang, R., dan S. Tiwari. (2025). "Role of Modern Technology in Unorganized Retail Sector." *Journal of the Knowledge Economy* 16(1):1717–1744.
- Jiputra, J. A., Z. J. H. Tarigan, dan H. Siagian. 2021. "The Effect of Information Technology on Retailer Satisfaction through Supply Chain Management Practices and Retailer-Distributor Relationship in Modern Retailer Surabaya." *International Journal of Business Studies* 3(2):126–134.
- Idris, M. (2020). The Kazanistan papers: Reading the muslim question in the John Rawls archives. *Perspectives on Politics* 19(1): 110–130
- Imtihani, H., Arief Suryono, Tri Agus Suswanto, Muhammad Nasser, & Heridadi, H. (2024). Corporate Law on Corporate Social Responsibility from the Perspective of John Rawls' Theory of Justice. *Journal of Law, Politics and Humanities*, 4(6), 2308–2313. <https://doi.org/10.38035/jlph.v4i6.748>
- Kędziora, Krzysztof. 2021. "Habermas on Rawls and the normative foundations of democracy." *European Journal of Social Theory* 24(4): 545-561.
- Tarigan, Z. J. H., J. A. Jiputra, dan H. Siagian. 2021. "The Effect of Supply Chain Practices on Retailer Performance with Information Technology as Moderating Variable." *International Journal of Data and Network Science* 5(1):47–54.
- Muhammad, A. B., S. Survival, dan H. R. Iswari. (2025). "HRM Practices in Modern Retail: Organizational Commitment, Work Pressure, and Perceived Organizational Support Toward Job Satisfaction." *International Conference on Digital Business Innovation and Technology Management (ICONBIT)* 1(2): 20-33
- Madung, Gusti Ndegong. (2022). Konsep Liberalisme Politik John Rawls sebagai Jawaban terhadap Tantangan Masyarakat Plural dan Kritik atasnya: John Rawls' Liberalism as a Response to the

- Challenge of Contemporary Plural Society and Some Arguments against It. *DISKURSUS - JURNAL FILSAFAT DAN TEOLOGI STF DRIYARKARA*, 18(2):218-237.
<https://doi.org/10.36383/diskursus.v18i2.327>
- Mansiz, M. I., M. A. L. Wawen, Z. A. Putra, And H. Citra. 2024. "Dinamika Perlindungan Konsumen: Tantangan Dan Strategi Resolusi Di Indonesia." *Jurnal Kajian Hukum Dan Pendidikan Kewarganegaraan* 1(1):77–81.
- Peraturan Pemerintah Nomor 4 Tahun 1999 Tentang Badan Pelindungan Konsumen Nasional.
- Putri, R. C. 2025. "Dark Patterns Sebagai Bentuk Manipulasi Perilaku Konsumen Digital: Analisis Interdisipliner Terhadap Dampak Psikologis, Hukum, Dan Ekonomi Dari Praktik Desain Manipulatif Dalam Ekosistem E-Commerce Global. RIGGS." *Journal Of Artificial Intelligence And Digital Business* 4(2):1066–71.
- Putri, S. N., & H. Sugiyono. (2023). "Pertanggungjawaban Pelaku Usaha Pemberi Diskon Palsu Dalam Praktik Jual Beli Event Tanggal Kembar E-Commerce." *Jurnal Interpretasi Hukum* 4(3):536–46.
- Raji, M. A., H. B. Olodo, T. T. Oke, W. A. Addy, O. C. Ofodile, dan A. T. Oyewole. (2024). "Real-Time Data Analytics in Retail: A Review of USA and Global Practices." *GSC Advanced Research and Reviews* 18(3):059–065.
- Ramadani, A. A., E. Abimanyu, & P. S. Yudana. (2021). "Peran KPPU Dalam Penanganan COVID-19 Deceptive Acts And Practices (Studi Komparasi United States Federal Trade Commission)." *Jurnal Persaingan Usaha* 1(1):32.
- Ravi, V. K., V. B. R. Bhimanapati, P. Chopra, A. Ayyagari, P. Goel, dan A. Jain. (2022). "Data Architecture Best Practices in Retail Environments." *International Journal of Applied Mathematics & Statistical Sciences (IJAMSS)* 11(2):395–420.
- Sagar, S. (2024). "The Impact of Digital Transformation on Retail Management and Consumer Behavior." *Journal of Business and Management* 26(1):06–14.
- Madhumanchi, C. (2025). "AI-Powered Retail Ecosystem: From Predictive Analytics to Personalized Shopping." *Journal of Applied Sciences* 5(7):1–11.
- Islam, M. A., dan C. J. Van Staden. (2022). "Modern Slavery Disclosure Regulation and Global Supply Chains: Insights from Stakeholder Narratives on the UK Modern Slavery Act." *Journal of Business Ethics* 180(2):455–479.
- Salsabila, A. (2024). "Akibat Hukum Penerapan Strategi Pemasaran Up Selling Dalam Transaksi Jual Beli." *Dinamika* 30(1):9139–57.
- Zhang, D., R. Frei, G. Wills, E. Gerding, S. Bayer, dan P. K. Senyo. 2023. "Strategies and Practices to Reduce the Ecological Impact of Product Returns: An Environmental Sustainability Framework for Multichannel Retail." *Business Strategy and the Environment* 32(7):4636–4661.

- Sulaiman, H., Lusi Marwati, S. A., Tri Sulistiowati, & Aris Machmud. (2025). "John Rawls' Theory of Justice and Its Relevance in the Formulation of Community Property Division Policy in the Contemporary Era: Teori Keadilan John Rawls Dan Relevansinya Dalam Formulasi Kebijakan Pembagian Harta Bersama Di Era Kontemporer". *Al Hairy | Journal of Islamic Law* 1(1): 25–36.
- The Leap. 2024. "Indonesia's E-Commerce Market Hits Rp487 Trillion In 2024, Leads Southeast Asia's Digital Economy." Retrieved (Indonesia's E-Commerce Market Hits Rp487 Trillion In 2024, Leads Southeast Asia's Digital Economy).
- Triyudiana, & Neneng, P. 2024. Penerapan Prinsip Keadilan Sebagai Fairness Menurut John Rawls Di Indonesia Sebagai Perwujudan Dari Pancasila. *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat*, 2(01).
- Ulya, S. L., & R. E. Latumahina. (2025). "Consumer Protection Against Upselling Practices In Food Product Marketing Strategies." *Journal Evidence Of Law* 4(1):51–60.
- Undang-Undang Nomor 8 Tahun 1999 Tentang Pelindungan Konsumen.*
- Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik*
- Wahyudhi, S., & Achsan Baihaqi, F. (2023). Kontekstualisasi Teori Keadilan John Rawls Pada Konstelasi Kemasyarakatan di Indonesia. *Al-Mada: Jurnal Agama, Sosial, Dan Budaya*, 6(2), 352-363. <https://doi.org/10.31538/almada.v6i2.3393>
- Widiarty, W. (2024). *Buku Ajar Metode Penelitian Hukum*. Publika Global Media.
- Wulansari, R. 2025. "Perlindungan Hukum Bagi Konsumen Atas Pelanggaran Hak Informasi Penjualan Produk Di Gerai Donat J. CO Indonesia." In *Prosiding Seminar Hukum Aktual Fakultas Hukum Universitas Islam Indonesia* 143–58.
- Chourasia, D., dan M. Shahid. (2025). "Customising Keyboard Accessibility for Data-Entry Intensive Workflows: A Case Study of the Automotive Retail Industry." *International Conference on Research into Design*:179–191.