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Consumer And Business Actors Protection: Implementation of Law No. 8 Of 1999 On Consumer Protection

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ABSTRACT

The implementation of Law Number 8 of 1999 concerning Consumer Protection has an important meaning for the Unitary State of the Republic of Indonesia, especially in relation to the interests of consumers who are often in a vulnerable position in the provision of goods and services. The need for this legal protection is emphasized in the author's research which specifically examines consumer protection in the context of the eSaF framework. Any form of non-conformity in a product or its components can give rise to legal liability for business entities towards their consumers. This study uses a normative legal research framework, utilizing three different approaches, namely the literature approach, the case approach, and the observation approach. The legal sources analyzed are primary legal sources, including laws and regulations, secondary sources, such as books and scientific journals and tertiary sources, represented by legal dictionaries. The collection of legal materials is carried out through the methodology of literature review (bibliographic study) and online data collection (internet research). Analysis of legal materials is carried out using legal material reduction techniques and legal material analysis. The results of this study indicate that in its implementation AHM has taken action to overcome this by forming a team together with the government to find the problem points, although it did not produce the output desired by Honda consumers. PT. AHM has demonstrated its commitment to consumer protection by offering a five-year frame warranty, 24-hour complaint service, and the ability to offer free visits to AHASS workshops for consumers who experience problems with the eSaF frame. The obstacles experienced are the lack of strong data to address the problem, which is still in its early stages and does not yet have a comprehensive solution. This results in ineffective solutions and has a negative impact on consumers. Incomplete investigations also hinder manufacturers from implementing necessary improvements. A complex problem-solving process is essential to prevent further legal problems and reduce the risk of financial loss.

Keywords: Law Implementation, Consumer Protection, Honda eSaF Framework, Astra Honda Motor, Honda Motorcycle Consumers.

1. Introduction

In this era, industrial progress is running rapidly, especially in transportation factors such as motorbikes. Nowadays, motorbikes seem to have become the main choice of transportation in society considering the lack of comfortable facilities for walking and tropical weather makes people prefer to ride motorbikes rather than walk. Therefore, companies compete to make motorbike products that are liked by the public as consumers. Each company tries to provide the most profitable features of their products to consumers to gain a competitive advantage in the market. Consumers consider several criteria in choosing a motorbike, including model quality, availability of spare

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parts, authorized workshops, product design, engine performance, and resale price.1

In buying and selling activities, of course, there are those who become sellers as producers and there are also those who become buyers as consumers, both of which have the same rights and must be given legal protection to protect their rights. Balanced legal protection for consumers and producers is very important in ensuring fair market practices. Consumer protection plays an important role in encouraging fair trade by protecting the rights of consumers and business actors equally. Indonesia prioritizes consumer protection regulations to balance the interests of businesses and consumers for the sake of public welfare. Consumers can be defined as individuals who buy goods and/or services for a specific purpose, such as for personal use or for resale.² A trade transaction occurs when a consumer selects a particular good or service, which then forms a purchase relationship defined by an agreement with the seller. This relationship is very important because it facilitates the exchange of value and fosters trust between the two parties involved in the trade.

The relationship between entrepreneurs and consumers often experiences problems when the goods purchased are of poor quality or cannot be used, thus harming one of the parties, especially consumers who are often the injured party. Prior to the enactment of the Consumer Protection Act, consumer losses arising from the actions of business actors in commercial transactions were addressed through the legal instrument of unlawful acts (onrechtmatige daad), as regulated in Article 1365 of the Civil Code, which provides that 'every unlawful act that causes harm to another person obliges the person at fault to compensate for such loss.' However, following the enactment of Law Number 8 of 1999 concerning Consumer Protection (UUPK), this legislation has served as the lex specialis governing the legal relationship between business actors and consumers in commercial transactions.

In the world of literature, there are two different terms related to consumer law issues: consumer law and consumer protection law. According to Az. Nasution, these terms are not the same, because consumer protection law is part of consumer law. Furthermore, according to AZ. Nasution, consumer law is related to a set of comprehensive principles and regulations that regulate interactions and issues surrounding the provision and utilization of products (both goods and services) between suppliers and consumers in society, while consumer protection law, which is a branch of consumer law, includes principles and regulations that regulate and protect consumers in transactional dynamics and issues surrounding the procurement and utilization of consumer goods and services by suppliers and consumers in society.³

Yusuf Shofie systematically categorizes the consumer protection norms contained in the Consumer Protection Law into two different groups: norms that prohibit certain actions

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¹ Nurcahyo, 'Faktor-Faktor Yang Mempengaruhi Konsumen Dalam Membeli Sepeda Motor Merek Honda', *Uin Syarif Hidayatullah*, 2010.

² Az. Nasution, Hukum Perlindungan Konsumen Suatu Pengantar (Diadit Media, 2009).

³ AZ Nasution, Hukum Perlindungan Konsumen (Diadit Media, 2007).

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by business actors, and provisions related to the inclusion of standard clauses.⁴ This categorization is intended to provide protection for consumers against actions taken by businesses. In terms of consumer protection, specific areas of focus include ensuring physical safety, promoting and protecting the economic interests of consumers, setting standards for the safety and quality of products and services, ensuring fair access to essential resources, facilitating consumers' ability to seek compensation, conducting educational initiatives and disseminating information, and regulating certain sectors such as beverages, food, cosmetics, and pharmaceuticals.⁵

Honda is a motorcycle brand under the auspices of Astra Honda Motor whose products are distributed in Indonesia. PT Astra Honda Motor continues to innovate technology and also keep up with every introduction of automatic motorcycle models that they produce, one of which is the eSaF (Enhanced Smart Architecture Frame) frame innovation. Honda launched the eSaF frame innovation for the first time in 2019 on the Genio model. The use of this frame has been used on various Honda motorbike models, such as Genio, BeAT, BeAT Street, Scoopy, and Vario 160.

However, the eSaF frame innovation is also not free from controversy. Several people complained about the circulation of videos showing several Honda automatic motorbikes that were rusty and broken. The first video was uploaded by the Instagram account @infodepok_id which showed a Honda BeAT motorbike breaking in the middle of the vehicle. Then on August 21, 2023, a Facebook user named David HaLevi uploaded a video of himself trying to check his motorbike frame. He checked after news emerged about the eSaF frame which rusts easily and causes motorbikes to split into two parts. Later he was shocked after finding out that his BeAT Street frame, which had just been bought three weeks ago, was already rusty and that made him concerned. The video received more than 3,800 reactions and 4,200 shares in a week.⁷ A number of parties have urged PT Astra Honda Motor as the manufacturer to conduct a recall or withdraw sales following the emergence of many complaints from the public.

This signifies that the rights of consumers as purchasers of Honda automatic motorcycles with eSaF frames to obtain security, comfort, and safety constitute fundamental rights that must be fulfilled by business actors. If, for example, a consumer is transporting goods such as vegetables or carrying a child on the front of the motorcycle and the vehicle suddenly breaks down while in use, this would pose a serious risk to the consumer's safety and well-being, thereby constituting a violation of the consumer's right to security and safety. In addition to regulating consumer rights, the Consumer Protection Act also stipulates the obligations of business actors, as provided in Article 7. Specifically, point (a) obliges business actors to act in good faith in the conduct of their business activities, while point (d) requires business actors to

⁴ Yusuf Shofie, Perlindungan Konsumen Dan Instrumen-Instrumen Hukumnya (Citra Aditya Bakti, 2004).

⁵ Taufik Simatupang, Aspek Hukum Periklanan (Citra Aditya Bakti, 2004).

⁶ Muhammad Rahadian and Heru Sugiyono, 'Problematika Penggunaan Rangka Enhanced Smart Architecture Frame Pada Sepeda Motor Yang Cacat Produksi', *Jurnal Interpretasi Hukum*, 2023.

⁷ 'Ekonomi.Bisnis.Com/Read/202309178/98/1695647/Kelebihan-Rangka-Esaf-Motor-Honda-Menurut-Ahli, Diakses Tanggal 30 Januari 2024, 23:45 Wib'.

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ensure the quality of goods and/or services produced and/or traded in accordance with the applicable quality standards for goods and/or services. Letter a states that business actors are obliged to act in good faith in carrying out their business activities. Furthermore, letter d states that business actors are obliged to guarantee the quality of goods and/or services produced and/or traded based on the provisions of applicable goods and/or service quality standards. If the motorcycle frame is an important component, of course it is not enough to provide a one-year warranty. Because the motorcycle frame is an important component that should be used throughout the life of the motorcycle. It is known that throughout previous experience, the motorcycle frame is a component that is never replaced, except for a terrible accident that causes the vehicle to be crushed or destroyed. So the frame warranty should not be enough for just one year but throughout the life of the motor vehicle. However, ironically, on the one hand the price of Honda automatic motorcycles is getting more expensive every day, but on the other hand this is not balanced with a guarantee of increased quality.

2. Research Method

This research is included in the realm of legal research that includes various methodologies and approaches. Legal research, like social research in general, can be categorized based on perspective, methodology, nature, form, purpose, and application, which can be analyzed from various disciplinary perspectives. This research is included in the category of normative legal research. The type of normative legal research, supported by an empirical legal approach, is used to describe library materials related to the problem being studied, including laws and regulations, books, data research results, magazines, and newspapers. The empirical legal approach is used to study consumer and business actor protection: Implementation of Law No. 8 of 1999 concerning Consumer Protection Case Study of Honda Esaf Frame Damage. While in terms of its nature, this research uses descriptive analytical.

3. Result and Discussion

3.1. Consumer and Business Protection: Implementation of Law No. 8 of 1999 Concerning Consumer Protection (Case Study of Honda Esaf Frame Damage)

Consumer protection refers to legal protection given to consumers to ensure their safety and well-being when obtaining goods and services that have the potential to harm them. This concept is relatively new in the legal field, especially in Indonesia, where discussions on consumer protection have emerged along with the progress of industry and technology seen in developed countries.⁸ The purpose of Law Number 8 of 1999 concerning Consumer Protection is to ensure that all consumer interests are protected in the same way. If there is no balance of legal protection between business actors, consumers, and the government in healthy

⁸ Janus Sidabalok, Hukum Perlindungan Konsumen Di Indonesia (Citra Aditya Bakti, 2010).

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business activities, consumers are in a weak position. To adapt to market growth and increase competitiveness in the ever-growing automotive industry, product research and development are continuously needed. The Consumer Protection Law not only provides protection to consumers but also regulates business actors. According to the definition of Article 1 number 3 of the Consumer Protection Law:

"Business actors refer to any individual or business entity, whether incorporated as a legal entity or not, that is established and domiciled in, or conducts activities within, the jurisdiction of the Republic of Indonesia, either independently or in cooperation with others under an agreement, for the purpose of engaging in business activities across various sectors of the economy."

Focusing on consumer protection for defective products, this is actually regulated in Article 1504 of the Civil Code, which reads:10

"The seller must guarantee the goods against hidden defects, which are such that the goods cannot be used for the purpose for which they were intended, or which so reduce their use, that if the buyer had known about the defect, he would not have bought them at all, or would not have bought them except at a reduced Price."

This provision requires the Author's analysis related to Article 19 of the Consumer Protection Law which reads:

- a) Business actors shall be responsible for providing compensation for any damage, pollution, and/or losses suffered by consumers as a result of the consumption of goods and/or services that they produce or trade.
- b) The compensation as referred to in paragraph (1) may take the form of a refund, replacement of goods and/or services of the same type or equivalent value, health care services, and/or the provision of other benefits in accordance with the provisions of the applicable laws and regulations.
- c) Compensation shall be provided within a period of seven (7) days from the date of the transaction.
- d) The provision of compensation as referred to in paragraphs (1) and (2) does not preclude the possibility of criminal prosecution should further evidence establish the existence of an element of fault.
- e) The provisions as referred to in paragraphs (1) and (2) shall not apply where the business actor is able to demonstrate that the fault lies with the consumer.

According to the Author, although the provisions of Article 19 of the Consumer Protection Law do not use the nomenclature of defect, because this provision also regulates the responsibility of business actors, it can be interpreted that this

⁹ Kristiyanti, Hukum Perlindungan Konsumen (Sinar Grafika, 2008).

¹⁰ Halimah Humayrah Tuanaya, *Prinsip Tanggungjawab Produk (Product Liability) Menurut Undang-Undang Nomor 8 Tahun* 1999 *Tentang Perlindungan Konsumen* (Universitas Pamulang, 2021).

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provision also regulates the responsibility of business actors for consumer losses caused by defective products they produce. Thus, this provision also regulates the principle of product liability, namely the principle of responsibility for the quality of goods produced. The provisions of Article 19 of the Consumer Protection Law are also related to the provisions of Article 23 of the Consumer Protection Law which states that:

"Business actors who refuse, fail to respond to, and/or do not fulfill compensation claims made by consumers as referred to in Article 19 paragraphs (1), (2), (3), and (4), may be subject to legal action before a consumer dispute resolution body or brought before a court within the jurisdiction of the consumer's domicile."

This provision is then continued by Article 28 of the Consumer Protection Law which states that:

"Proving whether or not there is an element of error in the claim for compensation as referred to in Article 19, Article 22, and Article 23 is the burden and responsibility of the business actor."

Fundamentally, pursuant to Article 8 paragraph (2) of Law Number 8 of 1999 concerning Consumer Protection, business actors are prohibited from offering or trading goods that are damaged, defective, used, or contaminated, even if they have provided complete and accurate information regarding such goods. In addition, business actors are not allowed to advertise goods or services in a misleading manner, and may not state that the goods or services do not have hidden defects.

In ensuring the implementation of consumer protection, cooperation between the government, consumer protection agencies, and non-governmental organizations is very important in handling consumer complaints. These agencies help ensure that all complaints are handled quickly and appropriately because consumers are often in a relatively disadvantageous position compared to business entities. Consumers are very dependent on information and data provided by business actors regarding the products involved in the transaction process. Consumers who feel disadvantaged by the use of eSaF frame products have the right to fight for their rights as stated in the provisions of the law. Based on Article 4 paragraph (8) of the Consumer Protection Law (UUPK), consumers have the right to demand compensation and/or replacement if the goods received do not comply with the provisions of the agreement or previous statement. Furthermore, Honda has implemented a guarantee to ensure that its products comply with the established standards.

At the time of the controversial news about the eSaF frame damage, Honda initially asserted that the eSaF frame controversy did not really impact sales of automatic transmission motorcycles using this frame. However, the situation regarding the eSaF frame, which was initially spread mainly among Honda automatic transmission motorcycle customers, has increasingly attracted public

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attention. In addition, the advancement of the internet has enabled consumers to participate in collective action through online petitions demanding that Honda be held responsible for the recall of the Honda eSaF frame. The Indonesian Consumers Foundation (YLKI) officially communicated with Honda on August 21, 2023 to request an explanation regarding the many consumer reports of broken frames and damage due to rust. As a result, YLKI suggested a recall or return of the affected products. Furthermore, PT. AHM was contacted by the Ministry of Trade through the Directorate General of Consumer Protection and Trade Order (PKTN), and the Ministry of the National Transportation Safety Committee (KNKT) also took action to investigate the problem by starting an intensive investigation into this matter. The government decided to take quick steps to clarify existing complaints and find the best solution.

As an initial step, the government held a clarification meeting with PT Astra Honda Motor (AHM). In this meeting, the government requested a detailed explanation from AHM regarding the production and quality control of the eSaF frame. The government wants to ensure that motor vehicles circulating in the market meet high safety standards. The government also asked AHM to conduct a recall on affected products. This recall aims to recall problematic products and provide repairs or replacements according to the conditions required. "Recall is a crucial process to ensure consumer safety and maintain brand trust," said Danto Restyawan, Director of Road Transportation Facilities, Directorate General of Land Transportation.¹¹ In addition, the Directorate General of Consumer Protection and Trade Order (PKTN) of the Ministry of Trade also monitors the protection of consumer rights. PKTN is authorized to provide guidance and education to business actors to ensure that their obligations are fulfilled. "Consumers must be protected and their rights must be guaranteed by business actors," said Moga Simatupang, Acting Director General of PKTN, Ministry of Trade. The recall process involves identifying and recording affected vehicles. AHM is asked to work with the authorized dealer network to expedite the vehicle recall and repair process. This data is very important to ensure that all affected vehicles can be handled immediately. The government has also formed an independent investigation team consisting of various experts in the field of engineering and motor vehicle safety. This investigation team is tasked with conducting an in-depth investigation of the design and material of the eSaF frame.

3.2. 2009 Obstacles in Consumer and Business Protection: Implementation of Law No. 8 on Consumer Protection (Case Study of Honda Esaf Frame Damage)

One of the obstacles in implementing Law No. 8 concerning Consumer Protection

¹¹ 'Inspiro. Bpkn Sebut Ahm Perlu Melakukan Recall Imbas Viral Sasis Esaf Mudah Patah. Bpkn.Go.Id/Beritaterkini/Detail/Bpkn-Sebut-Ahm-Perlu-Melakukan-Recall-Imbas-Viral-Sasis-Esaf-Mudah-Patah. Accessed 31 Oct. 2024'.

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is the lack of public understanding, in the case of Honda's Esaf for example, many people still do not know the potential dangers and how to identify damage early on. The Ministry of Transportation in collaboration with the National Transportation Safety Committee (KNKT) has conducted an investigation into the Honda eSaF frame from August to September 2023. This research shows that the main problem with the eSaF frame is the presence of rust on the inner surface of the frame that is not coated. Although this KNKT research is still not complete, many consumers still do not know this potential danger and how to identify indicators of damage early on.¹² One significant factor that causes limited public understanding of this subject is the lack of education and information to consumers. PT Astra Honda Motor (AHM) has a big responsibility in disseminating clear and transparent information regarding the risks associated with the eSaF framework.¹³ However, the information currently available is often lacking in detail or presented in a manner that is not easily accessible to the average consumer. Without adequate educational resources, consumers may not be aware of the importance of routine inspections and the preventive measures that are essential to ensuring the safety of their vehicles.

Lack of awareness of potential risks has profound implications for consumer safety and confidence. Individuals who are unaware of these hazards may neglect to implement important precautions, such as conducting regular inspections or promptly reporting problems to authorized repair shops. This negligence increases the likelihood of incidents that can result in physical injury and financial loss. Furthermore, consumer confidence in manufacturers and regulatory bodies is reduced, as they perceive a lack of adequate protective measures. To raise public awareness, a series of strategic steps can be implemented. Initially, collaboration between manufacturers and regulatory bodies is essential to build a comprehensive education campaign. This campaign should convey information about the hazards associated with eSaF frames, methods for identifying signs of damage, and strategies for preventive maintenance in a clear and accessible manner.

Then another problem is the lack of seriousness in the investigation. The Ministry of Transportation in collaboration with the National Transportation Safety Committee (KNKT) has conducted an investigation into the Honda eSaF frame from August to September 2023.¹⁴ However, many stakeholders have expressed reservations about the completeness of the investigation, suggesting that it has not adequately identified the root causes of the problem. Hendro Sugiatno, Director

¹² Rizal Setyo. Nugroho, "'Ramai Soal Rangka Esaf Motor Honda Disebut Mudah Patah" Kompas.Com, 15 Aug. 2023, Www.Kompas.Com/Tren/Read/2023/08/15/183000365/Ramai-Soal-Rangka-Esaf-Motor-Honda-Disebut-Mudah-Patah-Ini-Kata-Ahm-Dan?Page=All.'

¹³ Nadela Febria Putri, 'Pertanggung Jawaban Pt Astra Honda Motor Terhadap Kerusakan Rangka Esaf Yang Menimbulkan Kerugian Konsumen Ditinjau Dari Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen', *Universitas Islam Kadiri*, 2024.

¹⁴ Ferry Sandi., 'Knkt & Kemenhub Ungkap Hasil Investigasi Rangka Esaf Honda', 2023.

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General of Land Transportation, emphasized that the purpose of the study was to improve motor vehicle safety; however, there are still concerns that the investigation has not met the expected results.

A significant indicator of the lack of thoroughness in this investigation is the absence of substantive steps aimed at addressing the issue in its entirety. The investigation is still in its early stages and has not thoroughly examined all dimensions of the eSaF framework issue. As a result, the proposed solutions have proven to be ineffective, failing to provide adequate protection for consumers.¹⁵

Furthermore, the lack of comprehensive investigations has left PT Astra Honda Motor (AHM) without adequate oversight to force them to implement important corrective measures. For example, the recall process, an urgent procedure intended to remove defective products from circulation, has been marked by slowness and inefficiency. This suggests that the investigations conducted were not rigorous enough to effectively address the issues at hand.

To improve the thoroughness and effectiveness of the investigation and management of the Honda eSaF frame issue, several steps should be taken. First, a collaborative approach between government agencies and the manufacturer is essential to facilitate a more thorough and comprehensive investigation. Second, if a manufacturing defect is proven, the recall process should be expedited and simplified. PT Astra Honda Motor (AHM) should take immediate action to remove the defective product from the market and offer appropriate solutions to consumers, such as frame replacement or financial compensation. This proactive step will not only reduce the risk of accidents but also increase consumer confidence in the manufacturer. Third, it is essential to increase the seriousness and depth of the investigation. The government should ensure that the investigation is conducted with the highest standards of quality and transparency. Furthermore, the findings of the investigation should be communicated to the public in a clear and accessible manner, so that consumers can understand the steps being taken to resolve this critical issue.

Inefficient handling of issues surrounding eSaF frames has had a negative impact on various aspects, especially in the area of consumer protection. Consumers who have purchased vehicles with defective eSaF frames often experience feelings of anxiety and insecurity regarding their use. The absence of a timely and effective resolution mechanism exacerbates the risk of accidents, potentially resulting in physical injury and financial loss to consumers. Furthermore, consumer trust in manufacturers such as PT Astra Honda Motor (AHM) and government regulatory bodies has declined, as these bodies are perceived as lacking the capacity to address issues quickly and effectively.

Nugroho, "Ramai Soal Rangka Esaf Motor Honda Disebut Mudah Patah" Kompas.Com, 15 Aug. 2023, Www.Kompas.Com/Tren/Read/2023/08/15/183000365/Ramai-Soal-Rangka-Esaf-Motor-Honda-Disebut-Mudah-Patah-Ini-Kata-Ahm-Dan?Page=All."

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4. Conclusion

In accordance with the provisions of the Consumer Protection Law (UUPK), motor vehicle manufacturers are required to comply with the basic principles of consumer safety and security. The basic basis of UUPK consists of Articles 3, 4, 7, and 8 which regulate different consumer rights, including the right to use safe, comfortable, and guaranteed products, as well as the right to obtain clear, accurate, and honest information about product warranties and service provisions. Because the problem of eSaF frame damage due to corrosion has the potential to cause risks and losses to consumers, this is a clear violation of consumer rights. In the process, AHM has taken action to overcome this by forming a team together with the government to find the problem point, although it does not produce the output desired by Honda consumers. Manufacturers are required to uphold the principles of consumer safety and security during their business operations. In Indonesia, the Consumer Protection Law regulates consumer rights and forms the National Consumer Protection Agency (BPKN). Consumers have the right to file complaints about product defects if defects are found in the Honda motorcycle eSaF frame. Consumers also have the right to sue PT. AHM to replace or compensate for losses. Business actors are expected to run their businesses honestly, provide accurate information about their products, and pay compensation for any losses caused by the use of the product. In this regard, PT. AHM has demonstrated its commitment to consumer protection by offering a five-year frame warranty, 24-hour complaint service, and the ability to offer free visits to AHASS workshops for consumers who experience problems with the eSaF frame. There is a lack of solid data to address the issue, which is still in its early stages and does not yet have a comprehensive solution. This results in ineffective solutions that have a negative impact on manufacturers consumers. Incomplete investigations also hinder implementing necessary improvements. A complex problem-solving process is essential to prevent further legal issues and reduce the risk of financial losses. To improve the quality and effectiveness of research and management of the Honda eSaF issue, several steps must be taken. First, collaboration between the government and the manufacturer is essential for a more comprehensive and thorough investigation. This involves the involvement of various stakeholders, including technology, consumers, and other stakeholders, to ensure all issues are identified and addressed. Second, research must be conducted with high standards of quality and transparency. Finally, the lack of effective communication between consumers and manufacturers has led to a lack of capacity to address the issue efficiently and effectively.

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