

SUPERVISORY MECHANISMS IN CONSUMER PROTECTION FOR FLIGHT DELAYS (COMPARATIVE STUDY: INDONESIA AND MALAYSIA)

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Abstract

Flight delays remain a recurring issue that harms air transport consumers in both Indonesia and Malaysia. This study aims to comparatively analyze the consumer protection oversight mechanisms for flight delays in both countries in order to formulate an ideal supervisory model. The research employs a normative juridical method with statutory, conceptual, and comparative approaches, analyzed through Philipus M. Hadjon's theory of preventive legal protection and Lawrence M. Friedman's legal system theory. The findings show that oversight in Indonesia under PM 89/2015 remains administrative-reactive and involves multiple institutions (DJPU, BPKN, BPSK), while Malaysia's MACPC 2016 applies a more preventive and integrated continuous compliance monitoring system through MAVCOM/CAAM. The study recommends an ideal supervisory model for Indonesia that integrates administrative, operational, and continuous compliance oversight, supported by risk-based supervision and financial sanctions, to strengthen consumer rights protection preventively and sustainably.

Keywords : *aviation supervision, flight delay, consumer protection, comparative law, Indonesia-Malaysia*

INTRODUCTION

Air transportation is a means of mobility that plays a strategic role in supporting economic growth, regional connectivity, and social activities. In Southeast Asia, including Indonesia and Malaysia, air transportation is the primary choice because it offers speed and efficiency unmatched by other modes of transportation. In the provision of commercial aviation services, flight punctuality, or On-Time Performance (OTP), is a key indicator of airline service quality, closely related to the fulfillment of consumer rights as air transportation users. Flight delays remain a recurring problem in both countries. Generally, delays can be caused by adverse weather conditions, aircraft technical problems, limited airport facilities, air traffic congestion, or internal airline operational factors. In practice, airlines often cite weather as the primary cause of delays, categorizing them as *force majeure*, a situation that puts consumers in a vulnerable position because they lack the ability to directly verify the validity of these reasons.

Empirical data shows that this problem is systemic. In Indonesia, the OTP rate of Sriwijaya Air based on the 2024 Daily Activity Report only reached around 51 percent, where of the total 1,597 flights operated, as many as 783 flights experienced delays with the dominant cause coming from operational and technical factors of the airline, in 2024 one of the delay cases that received public attention was the delay of Lion Air on the Aceh-North Sumatra route. The delay occurred for five hours, this was caused by technical problems with the aircraft that required inspection and repair to ensure flight safety aspects. During the delay, passengers complained about the hot condition of the aircraft cabin and the lack of information regarding flight certainty, however, the airline still provided compensation to passengers in accordance with applicable regulations. This case shows that although technical factors are a justifiable reason for flight safety, communication, transparency of information, and fulfillment of consumer rights during flight delays still require serious attention in the provision of flight services. ¹In Malaysia, based on the official statement of Transport Minister

¹ [kompas.com. \(2024, July 12\). Lion Air flight to North Sumatra experiences technical problems, causing passengers to overheat and a 5-hour delay . Accessed on July 2, 2026 https://regional.kompas.com/read/2024/07/12/074107078/lion-air-tujuan-sumut-gangguan-teknis-penumpang-kepanasan-hingga-delay-5](https://regional.kompas.com/read/2024/07/12/074107078/lion-air-tujuan-sumut-gangguan-teknis-penumpang-kepanasan-hingga-delay-5)

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Anthony Loke in November 2024, 38 percent of AirAsia Malaysia flights experienced delays throughout 2024, with the domestic OTP rate only reaching 67.9 percent in September 2024 — far below the target of 80–85 percent set by the Ministry of Transport together with MAVCOM since April 2024. In response to the high number of delays, the Malaysian transport minister highlighted the case of Air Asia Malaysia which in 2024 experienced delays due to operational disruptions and technical factors in the implementation of flight schedules.² The government together with MAVCOM then tightened supervision of the airline's On-Time Performance performance through regular publication of OTP achievements and the implementation of incentive mechanisms and sanctions against airlines that do not meet standards, this policy shows that supervision in Malaysia is not only oriented towards providing compensation after delays occur, but is also directed at preventing them through continuous monitoring of airline operational compliance.

Normatively, in Indonesia, consumer protection for aviation service users is based on Law Number 8 of 1999 concerning Consumer Protection as a general legal umbrella, which is sectorally outlined in Minister of Transportation Regulation Number 89 of 2015 as amended by Ministerial Regulation Number 2 of 2025 concerning Scheduled Commercial Air Transport Passenger Service Standards. In Malaysia, a similar framework is established through the Consumer Protection Act 1999 and the Malaysia Aviation Consumer Protection Code 2016 as amended by MACPC 2024. Although the normative framework is in place, significant gaps exist at the implementation level, particularly in terms of institutional oversight design. In Indonesia, aviation regulatory and oversight functions fall under the Directorate General of Civil Aviation, which is part of the government bureaucratic structure. In contrast, Malaysia has a more independent institution through MAVCOM to carry out aviation consumer protection functions, thus having greater flexibility in conducting supervision and imposing sanctions. These differences in institutional design result in differing oversight capacities to ensure airline compliance with consumer rights. Malaysia's more progressive response is reflected in the 2024 amendments to the MACPC, which require airlines to offer automatic full refunds for flights delayed by five hours or more, along with administrative sanctions in the form of fines of up to RM200,000 for airlines that fail to comply. This measure aligns with Satjipto Rahardjo's progressive legal theory that a legal system is measured not only by the existence of written regulations but also by the ability of regulatory bodies to provide concrete protection to the public.³

Referring to Philipus M. Hadjon's theory of legal protection,⁴ legal protection is divided into two forms: preventive, namely preventing violations through regulation and supervision; and repressive, namely dispute resolution and the imposition of sanctions after violations. The existence of flight delay compensation regulations and airline monitoring mechanisms are manifestations of preventive legal protection that aims to ensure the fulfillment of consumer rights before further losses occur. Therefore, adequate positive legal instruments are needed to provide protection for the right to information, service, and compensation. Previous studies on consumer protection for flight delays in Indonesia have generally focused on the bilateral relationship between consumers and airlines rather than the regulatory oversight mechanism itself. Previous research found that weak preventive oversight by the Directorate General of Public Works and Public Housing (DJPU) resulted in passengers resorting to post-incident complaints rather than seeking assurance of airline compliance from the outset.⁵ This finding was further reinforced by research by Sany et al., who, through a case study of the delay in Garuda Indonesia flight 4202, demonstrated a gap between the norms of Ministerial Regulation No. 89 of 2015 and the practice of monitoring its implementation in the field, particularly regarding delays in providing transparency to passengers.⁶ Other research also highlighted that compensation mechanisms in Indonesia still rely heavily on the goodwill of airlines due to the lack of binding and measurable administrative sanctions from regulators.⁷ Based

²Scoop. (2024, November 12). 38% of AirAsia flights delayed in 2024: Loke . Accessed July 3, 2026 <https://www.scoop.my/news/235542/38-of-airasia-flights-delayed-in-2024-loke/>

³ Yaurwarin, W., & Siwabessy, DJ (2023). Legal protection for air transport service users due to flight delays. *Public Policy: Journal of Public Policy and Business Applications* , 4 (2), 313-329.

⁴ Sihombing, A. (2023). *Consumer Protection Law* . CV. Azka Pustaka.

⁵ *Ibid.* pp. 314-329.

⁶ Sany, AM, Natalie, C., Haga, CSL, Riser, MAG, Manek, MC, & Athallah, RM (2024). Evaluation of the Implementation of Passenger Rights Regulations in Facing Flight Delays in Indonesia: A Case Study of Garuda Indonesia GA 4202. *Begawan Abioso* , 15 (2), 85–98. <https://doi.org/10.37893/abioso.v15i2.1111>

⁷ Damayanthi, NMR, Ardhya, IN, & Hadi, IGAA (2025). Consumer protection for compensation related to cancellations and compensation for delays in airline passenger transportation. *Bhirawa Law Journal* , 6(2), 171–178. <https://doi.org/10.26905/blj.v6i2.16236>

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on the literature review, existing oversight in Indonesia remains responsive-repressive, and has not yet developed into a preventive oversight system as has been studied and found in Malaysian regulations. This research is expected to provide new ideas for monitoring flight delays in Indonesia based on a comparative study with the existing Malaysian oversight model. This gap serves as the basis for this research. The research gap lies in the lack of a comparative study of regulatory oversight mechanisms in preventing flight delays and ensuring airline compliance with consumer rights. Malaysia was selected as a comparison country based on its geographic proximity, similar aviation market characteristics, and the establishment of measurable OTP standards as a delay prevention instrument. Therefore, this study fills this gap by conducting a comparative analysis of the two countries' oversight mechanisms to identify best practices that can be adapted to the Indonesian oversight system. The comparative results then serve as the basis for formulating an ideal oversight model, not only oriented towards handling delays but also capable of encouraging airline compliance in a preventive manner through its regulatory function. Thus, this study offers a proactive, measurable, and consumer protection-oriented oversight model. Based on this description, this study analyzes the consumer protection oversight mechanisms for flight delays in Indonesia and Malaysia to assess regulatory oversight. Through a comparative approach, this study identifies differences between the two systems as a basis for formulating an ideal oversight model for Indonesia, namely a model that not only addresses delays but also strengthens preventive oversight, improves airline compliance, and ensures the fulfillment of consumer rights in an ideal manner.

RESEARCH METHODS

This research is a normative legal research that is perspective, which aims not only to describe the applicable law, but also to formulate what should apply.⁸ This research uses three approaches, the first is the statute approach, by systematically reviewing Law No. 8 of 1999 concerning Consumer Protection, Ministerial Regulation No. 89 of 2015, Ministerial Regulation of Transportation No. 2 of 2025, Malaysian Aviation Consumer Protection Code 2016 and MACPC amendment 2024⁹, the second is the conceptual approach which The conceptual approach is used with Philipus M. Hadjon's legal protection theory to assess preventive and repressive protection, as well as Lawrence M. Friedman's legal system theory to compare Indonesian and Malaysian supervision based on structure, substance, and legal culture, and the third is the comparative approach used to identify the ideal supervision model of each country, to obtain the concept of an ideal supervision mechanism.¹⁰ Legal materials were collected through library research, which encompassed three categories: primary legal materials, including legislation; secondary legal materials, including law books and scholarly articles; and tertiary legal materials, including legal dictionaries, encyclopedias, and official regulatory websites. All materials were analyzed qualitatively through five stages: data collection, comparison of forms of liability, identification of similarities, assessment of consumer protection based on indicators, and formulation of an ideal model.

RESULTS AND DISCUSSION

A. Consumer Protection Monitoring Mechanism for Flight Delays in Indonesia and Malaysia

Consumer protection in the aviation services sector is a crucial aspect of consumer protection law, ideally implemented by the state through adequate regulatory instruments and supervisory bodies. In general, the legal basis for consumer protection in Indonesia is based on Law Number 8 of 1999 concerning Consumer Protection (UUPK), which guarantees fundamental consumer rights, including the right to a sense of security and comfort, the right to receive accurate information, and the right to receive compensation or redress for losses. Specifically, Article 4 of the UUPK affirms that consumers have the right to receive advocacy, protection, and appropriate resolution of consumer protection disputes.

⁸ Soekanto, S. (2007). Normative legal research: A brief review.

⁹ MAVCOM, *Malaysian Aviation Consumer Protection Code 2016*; and MACPC (*Amendment*) *Code 2024*; Tokio Marine Malaysia, 'Flight Delay Compensation in Malaysia', <https://www.tokiomarine.com/my/en/non-life/resources/blog/flight-delay-malaysia.html>, accessed June 8, 2026.

¹⁰ Rifa'i, IJ, Purwoto, A., Ramadhani, M., Rusydi, MT, Harahap, NK, Mardiyanto, I., ... & Surasa, A. (2023). *Legal research methodology*. Sada Kurnia Pustaka.

1. Supervisory Mechanism in Indonesia

Law Number 1 of 2009 concerning Aviation occupies a position as *lex specialis* within the national aviation legal framework, which specifically regulates the implementation of scheduled commercial air transportation including the rights and obligations of air transportation companies towards passengers for delays, flight cancellations, and denied boarding. This law also serves as the legal basis for the delegation of technical regulatory authority to the Minister of Transportation, which is structurally implemented through the supervisory function of the Directorate General of Civil Aviation (DJPU). However, the provisions regarding flight delays in Law 1/2009 are formulated in general terms without detailing preventive and ongoing supervisory mechanisms, so that more detailed regulations regarding delay categories and airline obligations are only regulated at the implementing regulation level. This lack of technical norms at the statutory level has implications for the limited legal force of existing supervisory instruments, as they rely solely on Ministerial Regulations which are hierarchically subordinate to the law. This condition is the basis for further analysis regarding how PM 89 of 2015 was formulated as an implementing regulation to fill the gap in technical regulations.

Sectorally, consumer protection for flight delays in Indonesia is specifically regulated in the Minister of Transportation Regulation No. 89 of 2015 concerning Flight Delay Management in Scheduled Commercial Air Transport Companies (Permenhub 89/2015). The regulation establishes six categories of delays based on the duration and the airline's obligations, ranging from providing refreshments to accommodation and full ticket refunds.¹¹ For delays exceeding six hours, airlines are required to provide accommodation if needed and waive additional fees if passengers choose alternative flights. This tiered classification represents a fairly detailed regulatory approach, although in practice there are still gaps between norms and implementation on the ground.¹²

The monitoring mechanism for handling flight delays in the Minister of Transportation Regulation Number 89 of 2015 is implemented by the Directorate General of Civil Aviation through a monitoring system that combines administrative, operational, and response aspects to consumer complaints. Based on Article 13 paragraph (2), monitoring begins with the obligation of air transportation business entities to report the implementation of Standard Operating Procedures (SOPs) for handling flight delays that have been submitted to the Director General as a form of administrative evaluation of airline compliance. Furthermore, the Directorate General through the Air Transportation Inspector conducts inspections to identify findings of violations in the implementation of delay management, so that the government does not only rely on airline reports, but also verifies the implementation of provisions in the field. In addition, monitoring is measured from the handling and resolution of complaints from air transportation service users as an indicator of the fulfillment of consumer rights regarding flight delays.

As stipulated in Article 16, consumers who are harmed due to violations of service standards do not need to wait for the completion of the accumulation of sanctions because there is a parallel path for resolving complaints through the BPKN and BPSK. Consumer complaints can be submitted in writing or verbally to the BPSK, which then offers three non-litigation resolution mechanisms: conciliation, mediation, and arbitration, with the parties free to choose the agreed method. BPSK decisions through conciliation and mediation are final and binding from the moment they are issued, while arbitration decisions still require an execution order from the District Court before they can be implemented. The author believes that the existence of complaint offense channels through BPKN and BPSK actually functions as a short-term compensation mechanism for individual consumers, which runs independently from the tiered administrative sanction process against airlines, so that these two mechanisms should be understood as complementary instruments rather than replacing each other in realizing complete preventive legal protection for air transportation passengers.

Based on the provisions of Article 16, it can be concluded that the sanction mechanism for Domestic Air Transport Business Entities that do not meet service standards is designed in a gradual and tiered manner (graduated sanctions), starting from written warnings, freezing of new routes, reducing routes, to revocation of business permits as the most severe sanction. This sanction imposition pattern is cumulative-progressive, where each new level of sanction can be imposed if the airline continues to have an assessment weight below 60% (category: Not Good) consecutively for 3 (three) months since the previous sanction was given. Although this structure normatively provides space for guidance

¹¹ Regulation of the Minister of Transportation of the Republic of Indonesia Number PM 89 of 2015 concerning Handling of Flight Delays (Delay Management) in Scheduled Commercial Air Transport Business Entities in Indonesia. State Gazette of the Republic of Indonesia 2015 Number 1166.

¹²Yuliana, T. (2022). Legal Protection for Airline Passengers Due to Flight Delays. Discipline: The Magazine of the STIH Youth Pledge Academic Community, 28(2), 99–108. <https://doi.org/10.46839/diisiplin.v28i2.78>

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before the final sanction is imposed, the author is of the view that the 3-month evaluation period at each stage actually has the potential to slow down the deterrent effect, considering that the total time needed to achieve the sanction of revoking a business license can reach 9 (nine) months to 1 (one) year from the time the first violation is identified—a relatively long period compared to the MACPC progressive administrative sanction mechanism in Malaysia which allows fines to be imposed immediately without having to wait for the accumulation of consecutive violation periods, so that from the perspective of preventive legal protection, this Article 16 sanction model still places the guidance element above the prevention element.



Figure 1: Flow of the Monitoring and Assessment Mechanism of Ministerial Regulation No. 89 of 2015

The supervisory mechanism in Ministerial Regulation Number 89 of 2015 shows that the Directorate General of Civil Aviation carries out a multi-layered supervisory function through administrative compliance evaluations, operational inspections, and complaint-based supervision, although supervisory performance is still greatly influenced by the quality of airline reporting, the intensity of inspections by Air Transportation Inspectors, and the level of consumer participation in submitting complaints.

The latest development in Indonesian aviation regulations is marked by the enactment of Minister of Transportation Regulation Number 2 of 2025 concerning Amendments to Minister of Transportation Regulation Number 35 of 2021 concerning Air Transportation Operations (Permenhub 2/2025). This regulation strengthens aspects of air transportation governance, including affirming airline obligations regarding information transparency, minimum service standards, and operational accountability that directly impact consumer rights.¹³ Enacted on January 2, 2025 and effective January 13, 2025, Permenhub 2/2025 is a significant update that reflects regulatory adaptation efforts to the dynamics of

¹³Regulation of the Minister of Transportation of the Republic of Indonesia Number PM 2 of 2025 concerning Amendments to Regulation of the Minister of Transportation Number PM 35 of 2021 concerning the Implementation of Air Transportation.

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the post-pandemic aviation industry, where domestic passengers surged 13% in 2023 and international passengers by 132% compared to the previous year.¹⁴ The presence of Minister of Transportation Regulation Number 2 of 2025 demonstrates the government's commitment to strengthening air transportation governance that is more responsive to consumer needs and developments in the aviation industry. The affirmation of airline obligations regarding information transparency, minimum service standards, and operational accountability is a positive step in improving passenger rights protection, particularly in addressing flight delays. However, this regulation is not only determined by the substance of the norms stipulated, but also by consistent oversight and law enforcement by regulators to ensure consumer rights are effectively protected in air transportation practices.

The aviation consumer protection oversight body in Indonesia involves several agencies with cross-sectoral authority. The Ministry of Transportation's Directorate General of Civil Aviation acts as a technical regulator, monitoring airline compliance with service standards, while the National Consumer Protection Agency (BPKN) carries out oversight and advocacy functions under the Consumer Protection Law (UUPK). According to BPKN data, 122 consumer complaints in the aviation sector were received from 2018 to March 2024, with cases classified as delays, unilateral cancellations, lost baggage, and compensation with vouchers.¹⁵

The Consumer Dispute Resolution Agency (BPSK) also serves as an alternative non-litigation dispute resolution platform for aggrieved consumers, creating a multi-layered protection ecosystem, but with significant institutional coordination challenges.¹⁶ BPKN complaint data shows that consumer protection oversight in the Indonesian aviation sector is still primarily conducted after a problem has occurred and after a consumer has filed a complaint. While the presence of BPKN and BPSK assists in dispute resolution, it is insufficient to replace the oversight that should have been carried out from the outset by regulators. This suggests that inter-agency collaboration has not been effective in preventing flight delays and ensuring airline compliance. As a result, consumer protection remains more focused on resolving problems after delays occur, rather than preventing them.

The phenomenon of reactive oversight in the Indonesian aviation sector is not a new issue, but rather a recurring pattern identified in various previous consumer aviation disputes. This situation indicates that weak oversight is not simply a technical administrative issue, but rather reflects structural weaknesses in the institutional design of aviation oversight, which places a greater emphasis on dispute resolution.

Reflecting on airline liability law, the absence of a proactive oversight mechanism is also related to the suboptimal enforcement of the principle of legal responsibility of air transport companies towards passengers as mandated by national air law. The normative provisions in Permenhub 2/2025, which emphasize transparency obligations and minimum service standards, actually have the potential to become a preventive oversight instrument, if accompanied by a legally binding periodic reporting mechanism and compliance audits, rather than relying solely on consumer complaints. Without strengthening the active oversight function by the Directorate General of Civil Aviation and synchronizing authority with BPKN and BPSK, then regulations, no matter how strong, will remain trapped in a corrective paradigm that only responds to system failures, rather than preventing them from the start.

2. Supervision Mechanism in Malaysia

The consumer protection mechanism in the aviation sector in Malaysia is specifically and comprehensively regulated through the Malaysian Aviation Consumer Protection Code 2016 (MACPC 2016), issued by the Malaysian Aviation Commission (MAVCOM) under Section 69 of the Malaysian Aviation Commission Act 2015. The MACPC 2016 is the first consumer protection instrument specifically aimed at the Malaysian aviation industry and includes provisions regarding passenger rights in the event of delays, cancellations, and denied boarding, including the right to

¹⁴National Consumer Protection Agency of the Republic of Indonesia. (2024). Problems of Air Transportation Consumers in Indonesia. Jakarta: BPKN RI.

<https://bpkn.go.id/beritaterkini/detail/jawab-problematika-konsumen-transportasi-udara-di-indonesia-bpkn-kasih-solusi>

¹⁵National Consumer Protection Agency of the Republic of Indonesia. (2024). BPKN Performance and Evaluation of Consumer Protection Development. Jakarta: BPKN RI. <https://bpkn.go.id/siaranpers/detail/kinerja-bpkn-dan-evaluasi-pengembangan-perlindungan-konsumen>

¹⁶Aisah, S., & Pratama, R. (2024). Analysis of the Legal Responsibility of Airline Companies that Unilaterally Cancel Flights to Consumers. Journal of Law, Humanities and Politics (JIHP), 5(1). <https://dynastirev.org/JIHP/article/view/3193>

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food, communication, accommodation, and ticket compensation.¹⁷ MAVCOM also has the authority to impose financial sanctions on airlines that violate the MACPC provisions under Section 22, namely a maximum fine of RM 200,000 for the first violation and ten times that amount for subsequent violations.¹⁸ The consumer protection oversight mechanism for flight delays in Malaysia, based on Article 21 of the Malaysian Aviation Consumer Protection Code (MACPC) 2016, is implemented through a compliance reporting system to regulators. Each airline service provider is required to submit a report containing statistics on non-compliance with the MACPC, data on consumer complaints and their resolution, violations found and their corrective actions, recurring complaints, and the development of an internal compliance system.

This report serves as the basis for regulators to evaluate airlines' compliance levels, identify patterns of violations, and determine necessary supervisory and law enforcement actions. With this mechanism, supervision in Malaysia is more oriented towards periodic and preventative compliance monitoring because regulators obtain information actively without having to wait for complaints from consumers. A significant development occurred with the enactment of the Malaysian Aviation Consumer Protection (Amendment) Code 2024, officially announced on August 30, 2024, and effective September 1, 2024. This amendment presents a significant breakthrough, namely the obligation for airlines to offer a refund option in the original form of payment to passengers experiencing delays of five hours or more. Prior to this amendment, airlines were only required to provide meals, telephone access, internet access, and accommodation with no cash refund option.¹⁹ In addition, MACPC 2024 requires airlines to immediately remove canceled flights from all booking platforms, provide notification of schedule changes at least two weeks before departure, and guarantee that refunds are completed within 30 days of the original payment method.²⁰ Based on the news description, the author is of the view that the transfer of MAVCOM's economic and consumer protection functions into the CAAM structure has ambivalent implications for aviation supervision in Malaysia.

On the one hand, this integration has the potential to strengthen supervision from an institutional and operational aspect, because it creates a single - window system that unites technical-safety and economic-consumer aspects in one authority, thus theoretically facilitating the coordination of airline violation data and accelerating the process of enforcing sanctions without bureaucratic obstacles across agencies as previously occurred between MAVCOM and CAAM; the financial independence obtained by CAAM after the merger also allows for continued investment in surveillance technology and more competent human resources, which are important prerequisites for effective preventive supervision as stated by Hadjon. However, on the other hand, from the perspective of Friedman's legal system theory—especially on the element of legal structure — this merger risks weakening the independence of the consumer protection function, because the function that was originally carried out by an autonomous institution specifically oriented to consumer interests (consumer-oriented) is now merged into an agency that has historically focused on technical and aviation safety aspects, so that there is the potential for subordination of consumer interests under technical-operational priorities, as feared by a number of stakeholders who assess the loss of the checks and balances mechanism due to the absence of an independent institution that exclusively advocates for the rights of aviation consumers.

Thus, the author concludes that the strengthening or weakening of post-integration supervision ultimately depends heavily on the extent to which CAAM is able to maintain a balanced weight of attention between technical safety functions and consumer protection functions in its new institutional structure, something that is relevant to compare with the Indonesian institutional model which still maintains fragmentation between DJPU, BPN, and BPSK. A comparison of regulatory institutions between Indonesia and Malaysia reveals significant differences in terms of specialization and integration of regulatory functions. Malaysia will rely on MAVCOM as the sole agency to handle economic aspects, consumer protection, and competition regulation in the aviation sector until 2025, before these functions are fully transferred to the Civil Aviation Authority of Malaysia (CAAM) on August 1, 2025.

¹⁷ Malaysian Aviation Commission. (2016). Malaysian Aviation Consumer Protection Code 2016 (MACPC 2016). Kuala Lumpur: MAVCOM. [Section 69 Malaysian Aviation Commission Act 2015]. <https://www.mavcom.my/en/consumers/your-rights/macpc/>

¹⁸ Clyde & Co. (2024). Impact of the Malaysian Aviation Consumer Protection (Amendment) Code 2024 on Airlines Operating in Malaysia. <https://www.clydeco.com/en/insights/2024/11/impact-of-the-malaysian-aviation-consumer-protecti>

¹⁹ MAVCOM. (2024). Enhancement to the Malaysian Aviation Consumer Protection Code 2016 (MACPC): FAQ. Kuala Lumpur: MAVCOM. <https://www.mavcom.my/wp-content/uploads/2024/09/ENG-MACPC-2024-FAQ.pdf>

²⁰ Free Malaysia Today. (2024). Airlines Must Refund Consumers Within 30 Days, Says Mavcom. <https://www.freemalaysiatoday.com/category/nation/2024/09/02/airlines-must-refund-consumers-within-30-days-says-mavcom>

Previous comparative research found that although Indonesia, Malaysia, and Thailand all issued consumer protection regulations in 1999, differences in implementation mechanisms resulted in varying levels of actual protection.

²¹The ideal differences in supervision between Indonesia and Malaysia are influenced by legal substance, legal structure, and legal culture. In comparing consumer protection supervision of flight delays in Indonesia and Malaysia, Lawrence M. Friedman's legal system theory is relevant because it assesses the effectiveness of the law through legal substance, legal structure, and legal culture; that is, supervision is not only assessed from the existence or absence of regulations, but also from the implementing institutions and the parties' attitudes towards the law. In terms of legal substance, both countries regulate passenger rights in the event of delays, but Malaysia is more advanced because it not only regulates compensation but also requires internal compliance, regular reporting, and corrective action, while Indonesia still emphasizes compensation after the delay occurs. In terms of legal structure, supervision in Indonesia still relies on inspections and public complaints, while in Malaysia the regulator also receives regular compliance reports from airlines, making supervision more active and data-driven. In terms of legal culture, compliance in Indonesia tends to emerge after supervision, while in Malaysia it is more proactive because it is seen as part of good corporate governance.

According to the author's analysis, the main difference lies in the overall way the law operates: Malaysia is more preventative, while Indonesia is more reactive. Therefore, Indonesia needs to strengthen oversight through mandatory compliance reports, repeated complaint evaluations, and corrective actions so that consumer protection not only occurs after delays occur but also prevents losses from occurring in the first place. Malaysia has more integrated oversight through a single regulatory agency, making coordination and compliance enforcement more ideal. In contrast, Indonesia's institutional structure, which involves several institutions, makes coordination less than optimal and potentially leads to overlapping authorities. This demonstrates that consumer protection is not solely determined by regulations, but also by institutional design and the culture of law enforcement.

C. Differences in Supervisory Mechanisms in Indonesia and Malaysia

One crucial element of consumer protection in the aviation sector is the transparency of information provided by airlines to passengers. Timely and accurate information not only provides certainty for consumers but also serves as a benchmark for air transport operators' accountability. Therefore, regulations regarding the obligation to provide information to passengers are a crucial aspect to analyze in assessing consumer protection oversight systems. In addition to administrative sanctions against airlines, oversight of air transportation operations also depends heavily on the extent to which regulations can guarantee the fulfillment of consumers' rights to information in a measurable and verifiable manner. In this context, a comparison of Malaysian and Indonesian aviation regulations is relevant to examine, particularly regarding the mandatory notification of flight schedule changes to passengers, given that information transparency is a key indicator in assessing the quality of consumer protection in the aviation sector.

Regarding the right to information and transparency, there are significant differences in the mechanisms. MACPC 2016 and its 2024 amendment explicitly stipulate that airlines are required to inform passengers of schedule changes at least two weeks before departure, with exceptions for extraordinary circumstances such as adverse weather conditions, security risks, and strikes that affect airline operations. Meanwhile, Permenhub 89/2015 also requires airlines to provide delay information to passengers, but the notification deadline provisions are not as detailed as the Malaysian regulation. ²²concluded that airlines' failure to provide timely delay information is one of the most frequent violations of consumer human rights, and this is directly related to the weak mechanisms for monitoring information compliance by the relevant authorities in Indonesia. ²³In the study, violations of the right to information in cases of flight delays are not solely a matter of individual airline compliance, but rather a reflection of the DJPU's weak preventive oversight function in ensuring information compliance from the outset, rather than simply taking action after consumer complaints arise. The gap between the normative obligations in Ministerial Regulation No. 89/2015 (*das sollen*) and the practice of

²¹ The Indonesian Government's Policies to Improve Air Travel Consumer Protection. (2023). *Asian Journal of Social and Humanities* , 2 (03), 525-534. <https://doi.org/10.59888/ajosh.v2i03.198>

²²ASEAN Consumer. (2024). Enhancement to the Malaysian Aviation Consumer Protection Code 2016 (MACPC). <https://www.aseanconsumer.org/read-news-enhancement-to-the-malaysian-aviation-consumer-protection-code-2016-macpc>

²³Legal Arena. (2026). Consumer Protection Against Flight Delays Resulting from Airline Operational Failures to Provide Information Services as Part of Human Rights. Brawijaya University Law Arena. <https://arenahukum.ub.ac.id/index.php/arena/article/view/2806>

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minimal education and awareness of consumer rights in the field (*das sein*) further emphasizes the urgency of shifting the supervision paradigm from reactive to preventive-sustainable, as has been implemented by Malaysia through MACPC and CAAM. The comparison of aviation oversight mechanisms above shows that Indonesia and Malaysia apply different approaches. Based on Article 13 paragraph (2) of the Minister of Transportation Regulation Number 89 of 2016, supervision in Indonesia is carried out through three indicators, namely airline compliance in reporting the implementation of Standard Operating Procedures (SOP) for handling flight delays to the Directorate General of Civil Aviation, findings from supervision by Air Transport Inspectors, and resolution of complaints from air transport service users. This mechanism shows that supervision in Indonesia combines administrative supervision, field inspections, and consumer complaint-based supervision. In contrast, Article 21 of the Malaysian Aviation Consumer Protection Code 2016 requires airlines to submit periodic reports on compliance levels, violation statistics, complaint resolution, corrective measures, and the development of internal compliance systems to regulators. Thus, supervision in Malaysia is more oriented towards continuous, preventative compliance monitoring.



Figure 2: MACPC 2016 monitoring mechanism flow

These differences are also evident in the institutional aspect. Indonesia implements a supervisory system involving several institutions, namely the Directorate General of Civil Aviation and the National Consumer Protection Agency (BPKN). Although this division of authority provides broader protection, coordination between institutions has the potential to create overlapping authority and hinder the complaint handling process. In contrast, Malaysia implements integrated supervision through MAVCOM, which was later transferred to CAAM, so that the functions of supervision, compliance enforcement, and consumer protection are under a single, more coordinated authority. Another difference is also evident in the mechanism for enforcing sanctions against airlines. Indonesia, through Article 16 of Ministerial Regulation No. 89 of 2015, applies administrative sanctions in stages based on compliance monitoring results, ranging

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from written warnings, freezing new routes, reducing routes, to revoking business licenses. Conversely, Malaysia, through Article 22 of the MACPC 2016, can impose sanctions in the form of administrative fines of up to RM 200,000 for the first violation and up to ten times that for subsequent violations. The Indonesian system emphasizes gradual guidance and improvement of airline compliance, while the Malaysian system prioritizes a deterrent effect through direct financial consequences for consumer violations.²⁴ Differences in institutions and sanction mechanisms indicate that Indonesia still implements supervision oriented toward guidance through coordination between several institutions and gradual administrative sanctions. In contrast, Malaysia implements more integrated supervision with financial sanctions that provide a direct deterrent effect. Therefore, Indonesia needs to strengthen inter-institutional coordination and sanction mechanisms so that supervision is not only corrective but also preventive in protecting consumer rights.

Table 1
Comparison of Flight Delay Monitoring Mechanisms in Indonesia and Malaysia

No	Comparative Aspects	Indonesia (PM 89/2015 Article 13 Paragraph 2)	Malaysia (MACPC 2016 Article 21)	Substantial Differences
1	Basis for Reporting	Report on compliance with the implementation of the delay management SOP that has been submitted to the Director General (self-reporting against internal SOP)	The report shall be prepared in the form and manner determined by the Commission.	Indonesia is administrative-formalistic (checks compliance with SOPs), Malaysia is substantive-standardized (format determined by authority)
2	Number of Supervision Components	3 components (letters a, b, c)	6 components (letters a–f)	Malaysia is more detailed and comprehensive in its reporting coverage.
3	Non-Compliance Statistics	Not explicitly regulated as a statistical reporting obligation	Must contain statistics on non-compliance with the Code and its resolution (letter a)	Malaysia requires measurable quantitative data, Indonesia only relies on the “number of findings” from the results of the Inspectorate's supervision.
4	Handling Consumer Complaints	Regulated in letter c: handling/resolution of service user complaints	Set out in letter b: detailed statistics of complaints and their resolution	Malaysia requires statistical data on complaints, Indonesia only requires the handling process without any obligation to quantify.
5	Recurring Complaints Analysis	Not regulated	Explicitly regulated in letter d: identification of recurring complaints and steps to handle them	Malaysia encourages systemic pattern evaluation, Indonesia has not yet regulated trend/pattern analysis of complaints

²⁴DayakDaily. (2023, January 13). *Batik Air issued a show-cause letter for the KL-Kuching 8-hour flight delay incident*. Accessed July 1, 2026. <https://dayakdaily.com/batik-air-issued-with-show-cause-letter-for-kl-kuching-8-hour-flight-delay-incident/>

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6	In-house Compliance System	Not regulated	Explicitly regulated in letter e: steps for developing an internal compliance system by airlines/airport operators	Malaysia encourages sustainable self-regulation at the corporate level, Indonesia does not have similar provisions
7	Additional Information Flexibility Clause	Not regulated	Regulated in letter f: other information as determined by the Commission	Malaysia provides adaptive space for regulators to expand the scope of reporting as needed, Indonesia is rigid/limitative
8	Reporting Subject	Domestic Air Transportation Business Entity (airlines only)	Provider of aviation service (including airlines and aerodrome operators/airport managers)	Malaysia has a wider scope of reporting subjects, covering the land side (airports) in addition to airlines.
9	The Role of the Supervisory Authority	The role of the Air Transport Inspector is limited to supervisory findings (letter b)	The role of the Commission (MAVCOM/CAAM) is more dominant in determining the format, standards and scope of reports.	Malaysia positions regulators as active determinants of reporting standards, while Indonesia is relatively passive in accepting reports in accordance with the airline's internal SOP.

Source: processed by researchers from PM 89 of 2015 and MACPC 2016 (2026).

Based on this comparison, flight delay monitoring in Indonesia and Malaysia both aim to protect consumers, but differ in their approaches. Indonesia, through Ministerial Regulation No. 89 of 2015, is still administrative and reactive, while Malaysia, through MACPC 2016, is more comprehensive and preventative, requiring regular reports on non-compliance, complaints, corrective actions, and an internal compliance system. Malaysia's advantage lies in continuous compliance monitoring, which enables early detection and prevention of violations.²⁵ Meanwhile, Indonesia's weakness lies in the lack of structured statistical reporting, evaluation of repeat violations, and an internal compliance system. Therefore, the ideal model for Indonesia is to combine existing administrative oversight with a risk-based approach and continuous compliance monitoring through regular reports, complaint analysis, corrective actions, evaluation of repeat violations, and a digital reporting system overseen by the Directorate General of Civil Aviation. This model will make oversight more ideal, increase airline accountability, expedite complaint handling, reduce repeat violations, and strengthen consumer protection. The comparison shows that the flight delay oversight mechanisms in Indonesia and Malaysia differ in their oversight approaches. Indonesia still applies administrative and reactive oversight, while Malaysia applies more preventative oversight through continuous monitoring. Therefore, supervision in Indonesia needs to be strengthened by implementing risk-based supervision and regular compliance reporting to achieve more effective and preventative consumer protection, as in Lawrence M. Friedman's theory. Flight delay supervision in Indonesia and Malaysia both aim to protect consumers, but differ in their approaches. Indonesia, through Ministerial Regulation No. 89 of 2015, still applies administrative and reactive supervision, while Malaysia, through MACPC 2016, applies more preventive supervision through mandatory periodic reporting on non-compliance, complaints, corrective measures, and internal compliance systems. Malaysia's advantage lies in the implementation of continuous compliance monitoring that allows early detection of potential violations. Therefore, the ideal supervision model in Indonesia is to integrate existing administrative supervision with a risk-based supervision approach and continuous compliance monitoring through

²⁵Arliman, L., et al. (2026). Consumer Protection Against Flight Delays Resulting from Airline Operational Failures to Provide Information Services as Part of Human Rights. *Legal Arena*, 19(1), 15–32. <https://doi.org/10.21776/ub.arenahukum2026.01901.2>

periodic reporting, evaluation of repeated violations, and a digital reporting system overseen by the Directorate General of Civil Aviation.

B. Ideal supervision in ensuring the protection of consumer rights due to flight delays

Aviation oversight is a crucial instrument in ensuring airline compliance with service standards, including in handling flight delays that directly impact consumer rights. In Indonesia, this oversight function is carried out by the Directorate General of Civil Aviation (DJPU) through a mechanism that tends to be reactive, namely that new action is taken after a violation occurs or a complaint from the public, as stipulated in Minister of Transportation Regulation Number 89 of 2015 and Minister of Transportation Regulation Number 2 of 2025. This approach differs from the preventive oversight model implemented in a number of other countries, where aviation authorities actively monitor airline performance before violations cause harm to consumers. This difference in the nature of oversight serves as an important starting point for examining aviation oversight mechanisms in protecting consumer rights due to flight delays.

Flight delays are a recurring problem in the national aviation industry and often harm consumers, both materially and immaterially. Although legal instruments such as Law Number 8 of 1999 concerning Consumer Protection, Law Number 1 of 2009 concerning Aviation, and the Regulation of the Minister of Transportation are available, their implementation in the field still shows a gap between *das sollen* and *das sein*, especially in the aspect of preventive supervision. This is increasingly relevant to study considering that the approach to aviation supervision in other countries, such as Malaysia, has shifted towards more integrated and proactive supervision to prevent violations before they harm consumers, in line with the idea of preventive legal protection by Philipus M. Hadjon. On that basis, a comparative study of the mechanism for monitoring consumer rights due to flight delays in Indonesia and Malaysia is important in order to provide recommendations for strengthening consumer protection for aviation services in Indonesia. Ideal supervision in ensuring the protection of consumer rights due to flight delays must integrate administrative supervision, operational supervision, and continuous compliance monitoring. This concept is in line with the theory of preventive legal protection put forward by Philipus M. Hadjon,²⁶ which positions supervision as an instrument to prevent violations from occurring before they cause harm to society. The differences in regulations between Indonesia and Malaysia can also be explained through Lawrence M. Friedman's legal system theory which emphasizes three main elements, namely legal structure, legal substance, and legal culture.²⁷

²⁶ Halawa, F., Situmeang, A., & Amboro, FYP (2023). Preventive Legal Protection for Capital Market Legal Consultants in Indonesia (Comparative Study of Indonesian and Singaporean Law). *AL-MANHAI: Journal of Islamic Law and Social Institutions*, 5 (1), 827-836.

²⁷ Efrizon, E., Agisty, F., & Kasman, M. (2025). Legal culture in the digital era: Social and cultural implications of social media in law enforcement. *Locus Journal of Academic Literature Review*, 4 (3), 177-185.

Table 2
Comparison of Indonesian and Malaysian Theories

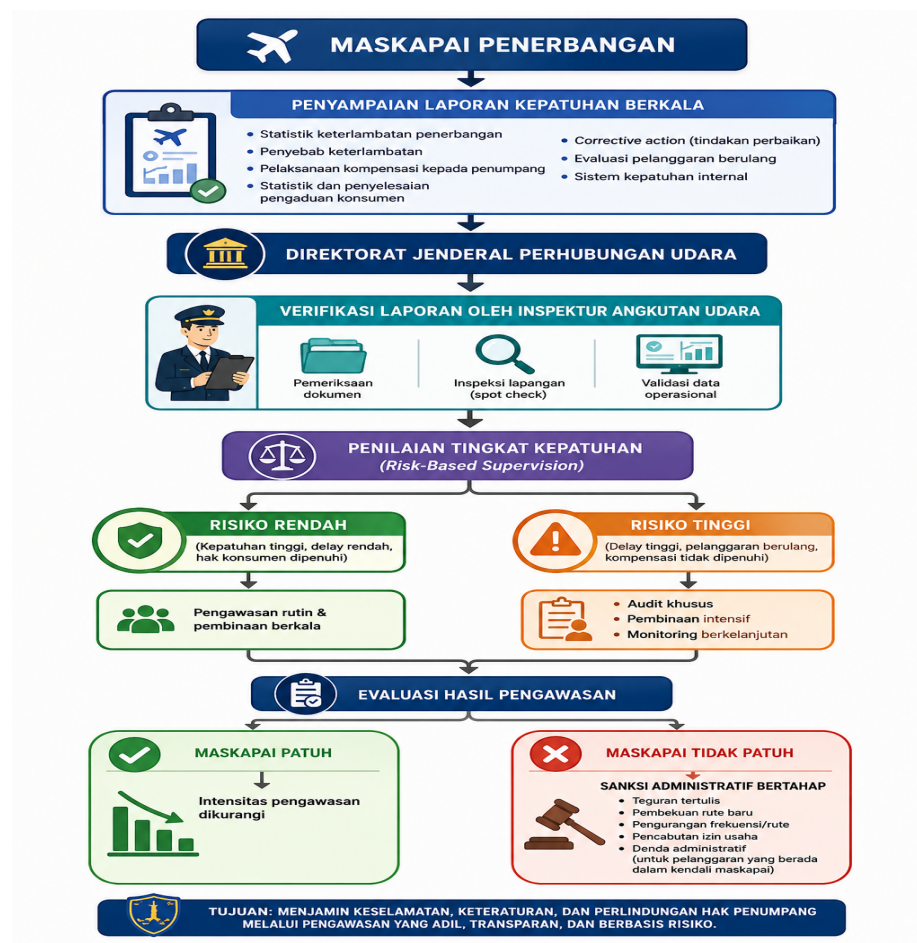
Elements of the Legal System Lawrence M. Friedman	Indonesia	Malaysia	Comparative Analysis
Legal Substance	Supervision is regulated in Ministerial Regulation No. 89 of 2015 through evaluation of SOPs, inspection results, and resolution of consumer complaints. It does not yet regulate statistical reporting of violations, evaluation of repeat violations, or internal compliance systems.	Supervision is regulated in MACPC 2016 which requires periodic compliance reports containing statistics on non-compliance, complaints, corrective actions, repeat violations, and internal compliance systems.	Malaysian regulations are more comprehensive and prevention-oriented (preventive regulation), while Indonesia still focuses on handling after violations occur.
Legal Structure	Supervision is carried out by the Directorate General of Civil Aviation, BPKN, and BPSK, thus involving several institutions with relatively complex coordination.	Supervision is carried out in an integrated manner by one regulatory authority (MAVCOM, later transferred to CAAM) so that the supervisory and consumer protection functions are more coordinated.	Malaysia's institutional structure is more integrated, making coordination and compliance enforcement more effective, while Indonesia has the potential for overlapping authorities.
Legal Culture	Airline compliance still relies heavily on regulatory inspections and consumer complaints. Oversight tends to be reactive.	Compliance is built through periodic reporting obligations and internal compliance systems, thus encouraging a proactive compliance culture.	The legal culture in Malaysia is more supportive of continuous compliance , while Indonesia is still oriented towards resolving violations after they occur.

Lawrence M. Friedman's legal system theory states that supervision is not only determined by the existence of regulations, but also by the alignment between legal substance, legal structure, and legal culture. The comparative results show that Malaysia has a more effective supervisory system because these three elements support each other in forming preventive and sustainable supervision. Conversely, in Indonesia, these three elements have not been optimally

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integrated, so supervision still tends to be administrative and reactive. Therefore, strengthening the legal substance through mandatory periodic compliance reporting, improving institutional coordination, and establishing a culture of airline compliance are necessary steps to realize more effective consumer protection supervision. In terms of legal structure, Malaysia has a more centralized supervisory mechanism through a single regulatory authority, while Indonesia still involves several institutions, so supervisory coordination tends to be more complex. In terms of legal substance, Malaysian regulations are more detailed because they require reporting statistics on non-compliance, complaints, corrective actions, and internal compliance systems, while Indonesian regulations are still more limited to reporting SOPs, inspection results, and complaint resolution. In-flight supervision is not sufficient only to be carried out after a delay occurs through inspections or complaint resolution, but must be able to detect potential violations early through a periodic reporting system, analysis of airline compliance levels, and field verification by regulators. Therefore, the supervision model in Indonesia remains based on Law Number 8 of 1999 concerning Consumer Protection, Law Number 1 of 2009 concerning Aviation, and Article 13 of the Minister of Transportation Regulation Number 89 of 2015, but is strengthened by a periodic reporting mechanism as regulated in Article 21 of MACPC 2016.



The ideal oversight process begins with each airline's obligation to submit periodic compliance reports to the Directorate General of Civil Aviation, which include flight delay statistics, the causes of delays, the implementation of compensation to passengers, the number and types of consumer complaints, complaint resolution, corrective actions, and evaluations of repeated violations. These reports are then verified through inspections by Air Transportation Inspectors to ensure compliance between the reported data and operational conditions in the field. The regulator then assesses the level of compliance based on established indicators, so that oversight is no longer general in nature, but rather risk-based. Airlines that demonstrate high levels of compliance, low delay rates, and consistent compliance with consumer rights remain under routine oversight as a form of guidance. Conversely, airlines that experience high levels

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of delays, repeated violations, or failure to fulfill compensation obligations will be prioritized for oversight through special audits and intensive guidance. If the oversight results indicate that the airline continues to fail to comply, the regulator can gradually impose sanctions in accordance with Article 16 of Minister of Transportation Regulation Number 89 of 2015, including written warnings, suspension of new routes, reduction in flight frequency or routes, and even revocation of business licenses. Based on the comparative results with Malaysia, this mechanism needs to be complemented by administrative sanctions in the form of financial fines imposed for violations arising from operational or management factors within the airline's control. The imposition of financial sanctions will increase the deterrent effect, encouraging airlines to improve operational management, increase schedule accuracy, strengthen fleet maintenance systems, and build sustainable internal compliance systems.²⁸ Conversely, if airlines meet all compliance obligations, regulators can reduce the intensity of specific oversight, allowing oversight resources to be focused on airlines with higher risk levels.

This oversight model can be considered ideal because it combines the advantages of the Indonesian system, which already has a legal basis for administrative supervision and field inspections, with the advantages of the Malaysian system, which implements periodic compliance reporting, statistical analysis of violations, and ongoing evaluation of airline compliance systems. By integrating these two approaches, oversight is no longer merely reactive after a violation occurs, but shifts to a preventative, data-driven, and risk-based approach, enabling regulators to detect potential violations early, take corrective action before delays become widespread, and evaluate airline improvements. Analyzing Lawrence M. Friedman's theory, this model is also more ideal because it simultaneously improves three elements of the legal system: the legal structure through strengthened coordination and verification of supervision, the legal substance through more detailed reporting obligations and more ideal sanctions, and the legal culture through more proactive compliance encouragement from airlines. The impact for airlines is increased compliance with service standards, operational efficiency, and accountability in fulfilling legal obligations. Meanwhile, for consumers, this model provides higher legal certainty, as well as transparency of information regarding delays, faster complaint resolution, reduced recurrence of violations, and increased assurance of fulfillment of the right to compensation as stipulated in laws and regulations. Thus, the objective of preventive legal protection as stated by Philipus M. Hadjon can be realized more optimally because supervision not only functions as a means of enforcement, but also as a preventive instrument that ensures the fulfillment of the rights of air transportation service consumers on an ongoing basis.

Conclusion

The consumer protection oversight mechanisms for flight delays in Indonesia and Malaysia differ in legal substance, legal structure, and legal culture. From a legal substance perspective, Malaysian regulations mandate periodic compliance reporting, which includes statistics on violations, consumer complaints, corrective actions, and internal compliance systems. Indonesia, on the other hand, limits oversight to reporting on SOP implementation, inspection results, and complaint resolution. From a legal structure perspective, oversight in Indonesia is carried out by several institutions, namely the Directorate General of Civil Aviation, the National Agency for National Development Planning (BPKN), and the Financial and Security Agency (BPSK). In Malaysia, oversight functions are more integrated within a single regulatory authority, resulting in more effective oversight coordination. From a legal culture perspective, airline compliance in Indonesia still tends to rely on oversight and consumer complaints, while in Malaysia, compliance is built through periodic reporting obligations that encourage preventive and ongoing oversight. Therefore, the ideal oversight model for Indonesia is to strengthen oversight mechanisms by integrating existing administrative oversight with continuous compliance monitoring, so that legal protection for consumers can be implemented more effectively and preventatively.

Suggestions/Recommendations

The government needs to improve the flight delay monitoring mechanism through the revision of the Minister of Transportation Regulation Number 89 of 2015 by adopting the continuous compliance monitoring approach as implemented in the Malaysian Aviation Consumer Protection Code (MACPC) 2016. This strengthening can be realized through the obligation of regular compliance reporting, the implementation of risk-based supervision, the development

²⁸ Thoriq, J., & Ilham, M. (2023). Implementation of Legal Protection for Passengers Experiencing Unilateral Flight Cancellations by Airlines. *Jurnal Notarius*, 2(2), 233–241.

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of a digital reporting system, and strengthening coordination between the Directorate General of Civil Aviation, BPKN, and BPSK, so that supervision is no longer merely repressive, but is able to prevent violations and ensure the protection of consumer rights more effectively and sustainably. On the other hand, airlines need to build a compliance culture by strengthening internal compliance systems, increasing information transparency to passengers, regular compliance reporting to regulators, and implementing corrective actions for any violations found, including improving the quality of operational management and fleet maintenance to minimize delays due to operational factors. In line with this, consumers need to improve their understanding of their rights, especially the right to information, services, and compensation, and actively submit complaints to airlines or to the Directorate General of Civil Aviation, BPKN, or BPSK if violations occur, so that these complaints also function as evaluation material for regulators in increasing the effectiveness of airline compliance supervision.

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