

Original Research Article

Legal Protection for E-Commerce Platform Users Regarding Information Giving and Electronic Transactions

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Abstract: This study aims to examine the form of legal protection for e-commerce platform users in buying and selling transactions electronically using normative juridical research. The type of approach and research location used is the statutory approach and the case approach, namely North Jakarta Court Decision Number: 165/Pid.Sus/2020/North Jakarta District Court. The study results show that legal protection arrangements for e-commerce platform users in buying and selling transactions electronically in Indonesia can use the umbrella of criminal law as stipulated in the Criminal Code and the ITE Law. In contrast, civil legal remedies can be filed based on the UUPK. Regarding legal remedies that e-commerce platform users can take if they experience losses through two settlement channels: litigation and non-litigation.

Keywords: Legal Protection, Electronic Transactions, E-Commerce.

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INTRODUCTION

The rapid development of information technology has spread throughout the world, so information technology has an important position in the progress of a nation. Current technological developments are not only for establishing communication and socializing but also lead to a world business network without boundaries (Maskun, 2017). As a result of the rapid use of internet technology in the current era, the buying and selling system can not only be done directly but can be done online/via the internet.

There are multiple locations where online transactions can take place, including social media platforms such as Instagram and Facebook, e-commerce platforms such as Tokopedia, Bukalapak, etc., and online trading websites such as Ikea, Adidas, etc. (usually administered directly by the corporation. According to the provisions of Article 1 number 5 of Law no. 19 of 2016 concerning Amendments to Law no. 11 of 2008 concerning Information and Electronic Transactions, the Electronic System itself has the function of preparing, collecting, processing, analyzing, storing, displaying, announcing, sending and disseminating Electronic Information. According to President of the Republic of Indonesia, "Article 1 Point 5 Law No. 19 of 2016 and Serfiyani (2017) the existence of e-commerce has a very positive impact,

namely being able to carry out global interactions without limitations of place and time and geographical boundaries between countries.

Even though there are laws that regulate the consumer's position, sometimes it is weak. This is because legal knowledge and consumer awareness of their rights still need improvement. So that business actors can use it to reap the maximum profit by ignoring the obligations that should be inherent in business actors. If the public is aware, it can minimize the risk of occurrence, especially in e-commerce consumer trading practices' Director of Nielsen Indonesia Rusdy said that the number of consumers in online shopping increased because internet users in Indonesia increased by 32 percent from 34 million to 45 million people throughout 2021 (Putra, 2014).

Besides that, the spread of Covid-19 resulted in people spending more time at home and using the internet. According to the Indonesian Consumers Foundation (YLKI), there will be a 30 percent increase in online shopping in 2020. Based on the description above, this article examines legal protection for e-commerce platform users in electronic buying and selling transactions and legal remedies that can be taken by e-commerce platform users when experiencing losses.

METHODOLOGY

The sort of research employed by the author is normative juridical research since it investigates types of legal protection for e-commerce platform consumers. The kind of approach used is the statutory approach and the case approach, namely North Jakarta Court Decision Number: 165/Pid.Sus/2020/North Jakarta PN. This research of legal protection for e-commerce platform users given law no 19 of 2016 amendment to law no. 11 of 2008 concerning electronic information and transactions.

RESULT AND DISCUSSION

Legal Protection for E-Commerce Platform Users in Electronic Buying and Selling Transactions

If a dispute occurs between consumers and business actors, the conflict can be resolved through two channels, namely litigation (through court) and non-litigation (not through court). Settlement of litigation disputes is also a last resort for both parties if the dispute resolution cannot reach an agreement in non-litigation.

The Consumer Dispute Settlement Board (BPSK) facilitates the settlement of consumer issues handled through non-litigation channels. BPSK manages and resolves consumer disputes between business actors and consumers to protect harmed rights. This can be accomplished via mediation, conciliation, or arbitration. In the Decree of the Minister of Industry and Trade, No. 350 of 2001 concerning BPSK Duties and Authorities is regulated. In the Ministerial Decree itself, mediation is defined as resolving consumer disputes outside the court with BPSK as an advisor, and the settlement is left to the parties. In contrast to conciliation, in conciliation, BPSK only acts as an institution that brings together disputing parties. However, because it is an electronic transaction and uses e-commerce, it uses the ITE Law 28 paragraph (1) (Kurniawan, 2008). Apart from going through the litigation route, you can also go through the non-litigation course with institutions under the Ministry of Trade, the National Consumer Protection Agency (BPKN), and the Consumer Dispute Settlement Agency (BPSK) to carry out mediation.

The ITE Law does not use the terminology of fraud as in Article 378 of the Criminal Code; what is used is Article 28 paragraph 1 of the ITE Law, where every person intentionally and without right spreads and misleads fake news, which results in consumer losses because, in an electronic transaction, there are various parties. Sellers and buyers, couriers, joint accounts, and platforms. Because the UUPK does not have a regulatory article regarding fraud, if there is a problem regarding the crime of fraud, the regulation used is the fraud article, namely 378 of the Criminal Code, not UUPK. Regulations regarding online fraud are also regulated in article 28, paragraph (1) of the ITE Law,

which states that anyone who provides incorrect information that can harm consumers.

Nielsen IQ, which is an industry leader in global measurement and data analytics, said that the number of consumers recorded in online shopping in Indonesia who used e-commerce reached 32 million people in 2021, where this number increased to 88 percent compared to 2020, which was only 17 million people. Director of Nielsen Indonesia Rusdy said that the number of consumers in online shopping increased because internet users in Indonesia increased by 32 percent from 34 million to 45 million people throughout 2021. Besides that, the spread of Covid-19 resulted in people spending more time at home and using the internet.

The National Consumer Protection Agency (BPKN) noted that there were complaints from e-commerce consumers about online fraud, which had increased along with the corona pandemic due to the increased use of e-commerce services. If we look at the data above, in 2016, there were around 1,570 reports; in 2017, there were about 1,430 reports; in 2018, there were about 1,781 reports; in 2019, there were about 1,617 reports; and in 2020, there were around 649 reports.

The level of awareness regarding the importance of knowledge of the risks of electronic crime is the fulcrum of the problems experienced by the community, often victims are deceived by the mode of purchasing products that are diverted to applications outside of available e-commerce, a product, a product ordered with a product received it's different. Based on the 2017 Global Cybersecurity Index report The UN International Telecommunication Union (ITU) released, Indonesia is included in the category of countries with weak cyber security. The situation experienced by Indonesia is similar to countries in South America, such as Brazil and Africa, which are also included in the category of countries with weak cybersecurity. In terms of overcoming the occurrence of increasingly widespread online fraud.

We are forming a Legislative Regulation in Indonesia, such as Law Number 8 of 1999 concerning Consumer Protection, which regulates consumer protection. Law Number 11 of 2008 concerning Information and Electronic Transactions, and Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, laws governing transactions or matters relating to electronic information and electronic commerce. Establish institutions for consumer protection such as the Consumer Dispute Settlement Agency (BPSK), the Non-Governmental Consumer Protection Agency (LPSKM), the National Cyber and Crypto Agency (BSSN), and the National Consumer Protection Agency (BPKN). Creating a "Born to

Protect” program organized by Xynexis International, which KOMINFO fully supports, is a technology competition event in the field of cyber security to capture talented young people who can later be educated and become cyber security experts. We provide report services for consumer protection to the National Consumer Protection Agency (BPKN).

There are already several such regulations, namely the Criminal Code and the ITE Law. However, in the provisions in the ITE Law, there is no definition of fraud and article arrangements related to fraud. Still, the ITE Law uses the terminology in Article 28, paragraph 1: "spreading false and misleading news that results in consumer losses in electronic transactions." If it is seen from the point of view of the ITE Law, it is something that results in consumer losses. The Criminal Code regulates fraud article in Article 378, which states "gaining one by violating the law by using deception." This definition is the same as the definition of fraud. The ITE Law does not use fraud terminology as in the Criminal Code because in an electronic transaction,

Referring to the explanation above, Article 378 of the Criminal Code regarding fraudulent acts falls into the category of fraud with a maximum imprisonment of 4 (four) years. Article 35, in conjunction with article 51 paragraph (1) of the ITE Law, states that anyone who intentionally and without rights or in violation of the law manipulates, creates, modifies, deletes, or destroys Electronic Information and Electronic Documents with the intent that Electronic Information and Electronic Documents be misused is guilty of a crime. Suppose the Electronic Document is considered to be valid data. In that case, it may be liable to a maximum sentence of 12 years in prison and a maximum fine of Rp. 12 billion (twelve billion rupiahs). According to the principle of *lex specialis derogate lex generalis*, which states that a particular law supersedes a general rule; a special law trumps a general direction.

It is anticipated that a clear legal framework relating to public product awareness will limit or minimize the risk of fraudulent trading practices, thereby protecting customers, particularly e-commerce consumers. Because the degree of legal knowledge and understanding of customers' rights remains low, business actors can use this condition to maximize profits by ignoring the responsibilities inherent to business actors.

E-commerce is a service that makes it easy to sell or buy products. Of course, cases of fraud committed by business actors have violated the obligations of business actors under Article 7 of the UUPK; this article states that commercial actors are required to offer accurate, transparent, and truthful information regarding the terms and guarantees of goods and services.

The term consumer is contained in Article 1, paragraph 2 of Law Number 8 of 1999 concerning Consumer Protection (UUPK). It is "every user and user of goods and services according to their interests or for the interests of other parties." The rights and obligations of business actors and consumers are regulated to provide legal certainty to each party. The factors that affect the weak position of consumers compared to business actors are: high level of dependence on a product, weak knowledge of the production process, and weak bargaining power (bargaining power) economically (Burhan, 2022).

Consumer rights are regulated in Article 4 of Law Number 8 of 1999 concerning Consumer Protection which reads; Consumer rights are: 1) The right to convenience, security, and safety when consuming products and services. 2) The right to select goods and services and to get them in line with the exchange rate and conditions and the provided guarantees. 3) The right to accurate, transparent, and truthful information regarding the terms and warranties of the goods and services. 4) The right to voice thoughts and complaints regarding the used goods and services. 5) The right to get adequate representation, protection, and efforts to address consumer protection disputes 6) the right to counsel and consumer education. 7) The right to be served or treated fairly and without discrimination. 8) The right to receive compensation, compensation, and reimbursement if the products and services received are not in compliance with the contract or are not as expected. In addition to 9) the rights governed by other laws and regulations.

Consumer obligations are also regulated in Article 5 of Law Number 8 of 1999 concerning Consumer Protection which reads; Consumer obligations are: a) to read or follow information and procedure instructions. b) in good faith and c) pay according to the agreed exchange rate; d. following efforts to settle consumer protection dispute law properly.

As for the rights and obligations of business actors based on Law Number 8 of 1999 concerning Consumer Protection Articles 6 and 7, the rights of business actors in Article 6 read, The rights of business actors are: a) the right to receive payments by the agreement regarding conditions and exchange rates of traded goods and services. b) The right to obtain legal protection from consumer actions with bad intentions. c) The right to defend oneself correctly in the legal settlement of consumer disputes. d) The right to rehabilitation of good name if it is legally proven that the consumer's loss was not caused by the goods and services traded. e) The rights regulated in the provisions of other laws and regulations.

The obligations of business actors in Article 7 read, the duties of business players are as follows: 1) to

conduct business activities in good faith. 2) Give accurate, transparent, and honest information; 3) treat or serve consumers fairly and without discrimination. 4) Ensure the quality of goods and services produced and exchanged 5) Provide consumers with the opportunity to test and try specific products and services and guarantees and warranties. 6) To offer recompense, compensation, and indemnification.

According to Mochtar Kusumaatmadja, the definition of consumer protection is the general principles and legal rules governing the relationship and problems between various parties with one another and relating to consumer goods or services in the social life of society. Based on Article 2 of Law Number 8 of 1999 concerning consumer protection, 5 (five) principles are relevant to national development, namely: principle of benefit, the principle of justice, the principle of balance, the principle of consumer security and safety, and principle of legal certainty (Burhanuddin, 2011).

Efforts to avoid fraud that business actors can do are shopping using e-commerce applications because there are various procedures for carrying out transactions, such as when the consumer has received the goods, the funds will only be disbursed back to the seller. Applications in e-commerce also provide various ways for consumers to shop without fear of being scammed, such as providing payment methods by Cash On Delivery (COD). COD is a payment method where the buyer pays after the goods or products ordered have arrived at their door, so the buyer has a sense of security in making transactions because they do not pay in advance for the goods ordered.

E-commerce applications also provide customer service to tell various complaints related to transactions made in the application, such as an error in sending the address, the package ordered did not arrive, and many more. If the consumer who is a victim of fraud can ask for compensation from the seller to hold the seller accountable, or if the perpetrator of this fraud is not the seller, the victim can ask for accountability from the perpetrator, for example, a courier. The first step the victim can take is to contact the perpetrator to ask for good faith in carrying out the obligations of the business actor. If indeed there is no goodwill from the perpetrator, the consumer can take the criminal route, namely reporting the crime to the local police station; the illegal way is one of the optimum remedies that the victim can take. Reported cases of online fraud are ranked highest, which is a severe problem for the government, even though there have been various efforts made by e-commerce applications to prevent online fraud from increasing. Based on the CekRekening.id service from the Ministry of Communication and Informatics from 2017 to 2022, approximately 486 reports have been received.

To minimize the increasing number of frauds, the government's role in overcoming online fraud so that it does not harm the community in the future is an urgent consideration. Still, it should also be remembered that the government's role in making the rules governing this fraud does not work that way. Because the population is vast, there needs to be collaboration between the government and the community. The government, in reducing the number of online frauds so that it decreases must play an active role.

According to a quote from Davidson & Sillence, one of the government's efforts has been proven to increase public awareness of online-based fraud. Socialization and education from the government can be in the form of online presentation of material so that the public can easily find and understand this information, online representation of the material, namely holding live streaming (live broadcasting) so that footage from the video can be broadcast again on the media social so that people who are left behind or don't have time to follow the live broadcast can watch the video again.

There still needs to be more protection provided by Law Number 8 of 1999 concerning Consumer Protection. This UUPK still regulates conventional consumer protection articles where in the occurrence of fraud in e-commerce, the UUPK alone cannot become an excellent legal umbrella in protecting consumers because, in the UUPK, there are no regulations regarding fraud, especially in the realm of e-commerce, which only is a regulatory article regarding the rights and obligations of business actors and consumers. The legal umbrella for consumer protection regarding fraud can use Article 378 of the Criminal Code and Article 28 paragraph (1) of the ITE Law, which explicitly regulates fraud; consumers can also take litigation and non-litigation if they become victims of this fraud.

In the Consumer Protection Act, 3 (three) institutions play a role in consumer protection, namely the Non- Governmental Organization for Consumer Protection (LPKSM), the National Consumer Protection Agency (BPKN), and the Consumer Dispute Settlement Agency (BPSK). These three institutions were formed to help Indonesian consumers to obtain legal protection so that they are not disadvantaged when consuming goods and services.

Based on Article 1, paragraph 12 of the Consumer Protection Act, BPSK is a body formed to assist efforts to develop consumer protection, and the function of BPSK based on Article 33 of the Consumer Protection Act is to provide advice and considerations to the government to establish consumer protection in Indonesia. BPSK was formed as a development effort to protect consumers related to the regulation of the rights

and obligations of consumers and business actors, the rule of prohibitions for business actors, the statute of responsibilities of business actors, and the law of consumer dispute resolution.

Article 1, paragraph 9 of the Consumer Protection Act regulates LPKSM, which means a non-governmental organization registered and recognized by the government that has activities to deal with consumer protection. Consumer protection in Indonesia is carried out in various ways to protect every consumer in Indonesia. There are three fundamental rights that consumers have, namely: 1) The right to prevent consumers from suffering losses and The right to obtain goods and services reasonably. 2) The right to obtain an appropriate settlement of the problems that will arise faced.

E-commerce is a transaction between a seller and a buyer in establishing a legal relationship in which each party aims to market goods and services electronically. The parties in electronic buying and selling transactions establish a legal relationship, namely the existence of an agreement/contract. Law Number 11 of 2008, Concerning Electronic Information and Transactions (UU ITE), alluded to electronic contracts. Article 1, paragraph 2 of the ITE Law states, "Electronic Transactions are legal acts carried out using computers, computer networks, and other electronic media." Article 1, paragraph 17 of the ITE Law reads: "Electronic Contracts are agreements between parties made through an Electronic System."

One example that is involved in transactions between business actors and consumers, namely Shopee and Tokopedia; the procedure in these two applications is that if a transaction occurs between a buyer and a business actor, the buyer who wants to buy goods published by the business actor can buy using make a payment. The amount of money will be held by the e-commerce itself; if the goods or products purchased by the buyer have arrived and have reached their destination, the e-commerce party will disburse the funds to the business actor. A transaction can occur if there is an agreement between the two parties, an agreement that is considered legally regulated in Article 1320 of the Civil Code, which reads: "For a valid agreement to occur, four conditions need to be fulfilled: 1) There is an agreement, 2) The ability to agree., 3) A particular subject matter and 4) A cause that is not forbidden. Online fraud is a fraud that uses the internet to commit these crimes and no longer relies on conventional and natural means. Traditional fraud is almost the same as online fraud; it's just that the point of difference lies in the media or the means used to act.

CONCLUSION

Based on the discussion above, it can be concluded that legal protection arrangements for e-commerce platform users in buying and selling

transactions electronically in Indonesia can use the umbrella of criminal law as stipulated in the Criminal Code and the ITE Law. In contrast, civil law remedies can be filed based on UUPK. So that legal protection for consumers can take refuge in the three laws and regulations and various institutions that have a role in protecting consumers—then related legal efforts that users of the e-commerce platform can carry out if they experience a loss through two settlement channels, namely litigation and non-litigation. The litigation path that can be taken must also look at the various elements of fulfillment so that a person can be said to be the perpetrator of a crime through multiple institutions resolved through mediation, conciliation, or arbitration.

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