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CONSUMER PROTECTION FOR ONLINE TRANSACTIONS BASED ON THE CONSUMER PROTECTION ACT

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Abstract

The development of information and communication technology has driven major changes in the pattern of economic transactions in society, especially with the presence of digital platforms that allow buying and selling to be done online. In Indonesia, the rapid growth of online transactions has not only brought economic benefits, but also created new legal risks, especially for consumers. In the relationship between business actors and digital consumers, there is an imbalance of information and bargaining power, where consumers are often in a weak position and vulnerable to various forms of violations, such as fraud, non-conforming goods, violations of privacy, and difficulty in obtaining compensation.

Law Number 8 of 1999 concerning Consumer Protection is the main legal basis for guaranteeing consumer rights, such as the right to correct information, the right to comfort and security, and the right to dispute resolution. In addition, Law Number 11 of 2008 concerning Information and Electronic Transactions also regulates the obligations of online business actors to provide complete and responsible information for products offered digitally. However, in practice, this legal protection is still ineffective due to weak supervision, limited dispute resolution mechanisms, and low consumer legal literacy.

This study aims to evaluate the effectiveness of the implementation of the Consumer Protection Law in the context of online transactions and analyze the need for legal reform to ensure justice for digital consumers. The method used is a normative legal approach through a literature study of regulations, decisions, and legal doctrines. The results show the need for regulatory updates, strengthening institutions such as BPSK and ODR, and increasing consumer education as strategic steps in realizing adaptive and responsive legal protection in the digital era.

Keywords: Consumers, Online Transactions, Legal Protection, Consumer Protection Act.

INTRODUCTION

The development of information and communication technology in the last two decades has brought about a significant transformation in the pattern of people's economic transactions. Buying and selling activities that were previously conventional have now shifted to the digital realm through e-commerce platforms, marketplaces, and social media. Online transactions have become a global phenomenon, and Indonesia is one of the countries that has experienced a massive surge in online transactions, especially since the COVID-19 pandemic era which has forced people to adopt digital technology in their daily activities, including the consumption of goods and services. (Nawawi and Djatmiko 2022)

In this context, consumers as parties who purchase goods and/or services online are in a vulnerable position to various forms of deviation, such as fraud, non-conformity of goods, damage, late delivery, violation of data privacy, to the absence of clear information regarding the identity of the business actor. On the one hand, online transactions offer convenience, efficiency, and flexibility; but on the other hand, there are major challenges to consumer legal protection, which in many cases do not have strong bargaining power against digital business actors, both small-scale and large corporations. This situation raises a fundamental question: to what extent is the Indonesian legal system, especially Law Number 8 of 1999 concerning Consumer Protection (hereinafter referred to as the Consumer Protection Law), able to provide protection guarantees for consumers in online transactions?

The Consumer Protection Law was drafted at a time when online transactions had not yet developed as they are today. Most of the provisions in the law are still based on offline transactions involving physical meetings between sellers and buyers. However, the basic norms in the law, such as the right to information, the right to comfort and security, the right to compensation, and the obligation of business actors to be responsible for their products, can in principle still be used as a legal basis for providing protection for online consumers. However, there are regulatory gaps and contextual inconsistencies that need to be reviewed so that consumer protection remains relevant amidst the dynamics of electronic transactions.

Article 4 of the Consumer Protection Law provides several basic rights for consumers, including the right to comfort, security and safety in consuming goods and/or services, the right to choose goods and/or services and obtain them in accordance with the exchange rate and conditions and guarantees promised, and the right to obtain correct, clear and honest information regarding the conditions and guarantees of goods and/or services. In online transactions, these rights are often not fulfilled because consumers cannot physically check the goods before purchasing them, and rely heavily on the descriptions provided by business actors. In addition, in many cases, the information displayed is misleading, non-transparent, or even contains elements of fraud. (Fahrurozy, Sidi, and Zarzani 2022)

In addition to consumer rights, the Consumer Protection Law also contains obligations for business actors, as regulated in Article 7. These obligations include good faith in carrying out their business activities, providing correct, clear and honest information regarding goods and/or services and providing explanations of use, repair and maintenance, and providing guarantees for goods and/or services produced and/or traded. In online transaction practices, violations of these provisions often occur, such as when business actors do not include contact information, do not provide return services, or refuse responsibility for goods that do not match the description.

On the other hand, online transactions also present challenges in terms of evidence and law enforcement. Consumers often find it difficult to prove that there has been a breach of contract or unlawful act by business actors, especially when transactions are carried out through third-party platforms or social media without a clear electronic agreement. In addition, the identity of business actors is often not known for certain because they use anonymous accounts, making it difficult to resolve disputes through litigation or non-litigation. In this case, the existence of institutions such as the National Consumer Protection Agency (BPKN), the Community-based Consumer Protection Agency (LPKSM), and online dispute resolution channels such as through e-commerce organizers, are important instruments in bridging consumer protection needs.

From a cyber law perspective, online transactions have actually been accommodated through regulations in Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE) as amended by Law Number 19 of 2016. Article 9 of the ITE Law states that business actors who offer products through electronic systems are required to provide complete and correct information relating to the contractual terms of a transaction, such as identity, product specifications, price, and payment method. This provision is in line with the principles of transparency and consumer protection. However, in practice, many online business actors do not comply with this rule, especially those who are not officially registered or do not have a permanent business license. (Fachrurozy, Sidi, and Zarzani 2023)

The above facts show that although there are a number of legal instruments that can be used to protect consumers in online transactions, their implementation is still far from ideal. Many consumers do not know their rights, do not understand how to access legal protection mechanisms, or are reluctant to take legal action because the process is complicated and costly. This condition indicates a gap between legal norms and social reality. On the other hand, the digitalization of the economy is an inevitability that cannot be avoided, so the legal system must be able to adapt and develop progressively.(Rianto, Zarzani, and Saragih 2024)

The urgency to strengthen consumer protection in online transactions is also a concern in the international context. International organizations such as the United Nations Conference on Trade

and Development (UNCTAD) and the Organisation for Economic Co-operation and Development (OECD) have developed guidelines and recommendations on digital consumer protection, which among other things emphasize the importance of transparency, personal data security, recognition of electronic contracts, and accessibility of online dispute resolution. Indonesia, as part of the international community and one of the countries with the largest number of internet users in the world, must not be left behind in building a modern, adaptive, and justice-oriented legal protection system for digital consumers.

Therefore, this study is relevant to review in depth how effective the regulations in the Consumer Protection Law are in responding to the challenges of online transactions. The focus of the analysis is directed at how consumer rights are accommodated in the digital context, the extent to which online business actors are subject to applicable legal obligations, and how protection and dispute resolution mechanisms are implemented. This study also aims to provide a critical evaluation of legal gaps and implementation gaps that hinder the achievement of optimal protection.

Furthermore, this study will use a normative legal approach that examines applicable and relevant legal norms, combined with a limited empirical approach through case studies or illustrations of practices that occur in society. Thus, it is expected that the results of this study can provide academic and practical contributions, both in strengthening consumer protection law literature, as well as policy input for regulators and supervisory institutions in formulating more effective legal protection strategies in the digital era. With this background, fundamental questions arise: How does the Indonesian legal system recognize and guarantee the protection of consumer rights in online transactions? Are the norms in the Consumer Protection Law sufficient to answer the challenges in the digital era? How can consumer dispute resolution mechanisms in the context of electronic transactions be implemented effectively and efficiently? These questions are the basis for conducting this legal research.

METHOD

The research method used in this study is the normative legal method, (Yam 2022) namely an approach that relies on the analysis of applicable laws and regulations, legal doctrine, and general principles of consumer protection law, especially those related to electronic transactions. This study focuses on examining the norms in Law Number 8 of 1999 concerning Consumer Protection, Law Number 11 of 2008 concerning Information and Electronic Transactions and its amendments, and related implementing regulations. The data used are secondary data, obtained through a literature study of legal literature, court decisions, journal articles, and other legal documents. The analysis was conducted qualitatively with a systematic and interpretive approach, in order to understand the extent to which existing norms provide legal protection guarantees to consumers in online transactions and how effective their implementation is in practice.

RESULTS AND DISCUSSION

Legal Basis for Consumer Protection Against Online Transactions

The drastic changes in people's transaction patterns due to advances in information technology have resulted in significant legal implications, especially in terms of consumer protection. Conventional transactions that have previously been carried out directly (face to face), with goods that can be physically inspected directly before being purchased, have now shifted to digital-based transactions that rely on online platforms such as marketplaces, e-commerce sites, and social media as a space for buying and selling. This phenomenon has the logical consequence that the relationship between business actors and consumers is no longer in the same physical space, but is connected

online and anonymously, thus changing the way contracts are built and how rights and obligations are regulated.(Nawawi and Djatmiko 2022)

This transformation has become increasingly prominent with the COVID-19 pandemic which has accelerated the digitalization of the economy globally. Based on a report from e-Conomy SEA released by Google, Temasek, and Bain & Company in 2022, Indonesia is the country with the fastest e-commerce growth in Southeast Asia, with a transaction value reaching more than USD 50 billion. However, behind this figure, there is also a significant spike in the number of consumer complaints due to online fraud, goods not as described, late delivery, damaged products, and violations of consumer data privacy. This reality confirms that the higher the intensity of online transactions, the higher the risk of losses that consumers can experience without adequate legal protection. (Fahrurozy, Sidi, and Zarzani 2022)

Consumers as a relatively weak party in online transactions face a number of structural problems. First, unequal access to information between business actors and consumers causes consumers to not have enough basis to make rational purchasing decisions. Second, the unclear or non-transparent identity of business actors, especially in transactions via social media, results in difficulties in reporting or prosecuting if a dispute occurs. Third, the dispute resolution mechanisms provided by the platform are often ineffective, and litigation efforts through the courts become irrelevant for consumers due to the high time and cost. Thus, there is an urgent need to assess the extent to which consumer protection laws in Indonesia provide guarantees to consumers in online transactions.(Rizal 2024)

Law Number 8 of 1999 concerning Consumer Protection is the main foundation in the national consumer protection legal system. This law is present as a response to the legal needs of consumers in the context of an increasingly complex and competitive modern economy. In Article 1 number 2, it is stated that consumers are every person who uses goods and/or services available in society, either for the benefit of themselves, their families, other people, or other living beings and not for trading. This definition is broad and can include consumers in online transactions.

Article 4 of the Consumer Protection Law mentions fundamental consumer rights, including: (a) the right to comfort, security and safety in consuming goods and/or services; (b) the right to choose goods and/or services and to obtain the goods according to the exchange value and conditions and guarantees promised; (c) the right to obtain correct, clear and honest information regarding the conditions and guarantees of goods and/or services; (d) the right to have opinions and complaints heard regarding the goods and/or services used; and (e) the right to obtain advocacy, protection and efforts to resolve disputes appropriately.

When viewed in the context of online transactions, these rights are often inviolable. (Rianto, Zarzani, and Saragih 2024)nuhi optimally. Consumers often buy goods based only on photos or short descriptions, without being able to know for sure the quality or authenticity of the product. It is also not uncommon for business actors to manipulate information to attract consumers, such as the use of fake testimonials, fictitious reviews, or excessive advertising. In fact, some online business actors do not include a valid business address or legal identity, which has the potential to complicate the tracing process if a dispute occurs.

Meanwhile, the obligations of business actors in Article 7 of the Consumer Protection Law include having good intentions in running their business, providing correct and honest information, and being responsible for the quality of goods or services traded. In e-commerce practices, violations of these obligations often occur, for example by not responding to customer complaints, refusing to return goods, or ignoring requests for replacement of damaged goods. In the context of the marketplace, business actors can hide behind third-party platforms, so that legal responsibility becomes unclear.

In electronic transactions, the applicable legal aspects are not only the Consumer Protection Law, but also Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law) and its amendments in Law Number 19 of 2016. The ITE Law stipulates that business actors who offer goods and/or services through electronic systems are required to provide complete and

correct information, including the identity of the business actor, product specifications, prices, and payment and delivery mechanisms.(2013 Investigation)

Article 9 of the ITE Law explicitly states:

"Every Business Actor who offers products through an Electronic System is required to provide complete and correct information relating to the contractual terms of the products offered."

This article strengthens the provisions in the Consumer Protection Law, by emphasizing the legal responsibility of business actors in conveying accurate information to consumers. However, the implementation of this article is often ineffective due to the lack of supervision of informal business actors or those who do not have official permits. Many business actors on social media or digital advertising platforms do not comply with this provision, so that product information is not available transparently or is even misleading.(Dhadha et al. 2021)

The absence of binding technical regulations on the supervision of digital business actors leaves many consumers in a vulnerable position. For example, if a transaction is made through a personal social media account, and the goods are not delivered, it is difficult for consumers to sue legally because the business actor cannot be traced or does not have a legal entity. This is a serious challenge in the context of digital consumer legal protection.

The Consumer Protection Law and its derivative regulations have provided a framework for resolving disputes between consumers and business actors through litigation and non-litigation mechanisms. One of the institutions established to resolve disputes quickly, simply, and cheaply is the Consumer Dispute Resolution Agency (BPSK), as regulated in Articles 52-58 of the Consumer Protection Law. BPSK can examine and decide disputes, as well as impose administrative sanctions on business actors who violate consumer rights.

However, in practice, BPSK has not been able to reach cases originating from online transactions, especially those involving business actors who are not in the same jurisdiction as consumers. Not to mention the fact that consumers are often unaware of the existence or function of BPSK, and prefer to report their problems to the digital platform where the transaction was made, such as Tokopedia, Shopee, Bukalapak, or Instagram. (Winarno 2011)

Some e-commerce platforms do provide complaint and return/refund policy features, but these mechanisms are internal and do not have legal force like court decisions or BPSK. This is where the dilemma of consumer protection in the digital ecosystem lies: dispute resolution mechanisms depend on the good faith of the platform or business actor, not on formal legal mechanisms.

To address this, the Indonesian government has begun to encourage the development of an Online Dispute Resolution (ODR) system as part of a digital consumer protection system. ODR is an online dispute resolution mechanism using a digital platform as a medium of communication between the parties. Although not specifically regulated in the Consumer Protection Law, ODR has great potential to become an effective means of dispute resolution in the digital era.

Based on the description above, there are several weaknesses in the consumer protection system in Indonesia in dealing with the reality of online transactions. First, the Consumer Protection Law has not specifically regulated the characteristics of electronic transactions, so that the norms used are still general and not always relevant in online cases. Second, the dispute resolution mechanism is still oriented towards the offline model, so it is not efficient in accommodating digital disputes. Third, online business actors who are not legal entities or are not officially registered are difficult to monitor and prosecute.

This condition requires an update to consumer protection law through a revision of the Consumer Protection Law or the preparation of implementing regulations that specifically regulate online transactions. In addition, integration is needed between the Consumer Protection Law with the ITE Law and the Personal Data Protection Law (Law No. 27 of 2022) so that there is a comprehensive harmonization of legal protection. In the long term, it is also important to increase digital literacy in the community so that consumers are able to understand their rights, as well as encourage e-commerce platforms to apply the principle of shared responsibility in guaranteeing consumer rights.

Effectiveness of Consumer Protection Implementation in Online Transactions and the **Urgency of Legal Reform**

Consumer protection in online transactions has become an increasingly important discourse in the modern legal system, especially in countries with rapid digital economic growth such as Indonesia. Although normatively Indonesia already has a main legal framework through Law Number 8 of 1999 concerning Consumer Protection, as well as support from the Electronic Information and Transactions Law (UU ITE), the implementation of this protection in the context of online transactions still leaves many problems, both in terms of legal certainty, enforcement of rights, and the effectiveness of dispute resolution mechanisms. In this chapter, the discussion will focus on the effectiveness of the implementation of existing regulations, the main obstacles faced in practice, and how the urgency of legal reform is inevitable in overcoming the gap in protection for digital consumers.(Rofiqoh, nd)

One indicator of the effectiveness of consumer protection is the ability of the law to provide a sense of security and certainty regarding consumer rights during and after the transaction process. In conventional transactions, this form of protection is relatively more secure because buyers and sellers are in the same physical space, allowing for direct communication, physical returns of goods, and even direct intervention from law enforcement if a violation occurs. However, in online transactions, the legal relationship between consumers and business actors is distorted by distance, physical absence, and the digital character of the goods/services being traded. This creates an imbalance in legal position that often harms consumers. (Ghany and Yandi 2024)

In practice, online consumers often experience losses both materially and immaterially. One example is when consumers buy products through e-commerce or social media, but the products received do not match the description, are damaged, or are not even sent at all. In this condition, although consumer rights are legally guaranteed by the Consumer Protection Act, consumers still face difficulties in demanding compensation or accountability from business actors. This happens for two main reasons: first, the identity of the business actor is unclear or anonymous; and second, there is no easy and fast legal path for consumers to claim their rights.

As an illustration, many online business actors do not include the official name of the company, physical address, or contact number that can be verified. In many cases, business actors only use social media account names without including the legality of their business. In this kind of transaction, consumers have almost no equal bargaining position. When there is a default or fraud, business actors can easily delete accounts, change identities, or cut off communication. This situation reflects the weak supervision and law enforcement system for online business actors who are not registered or do not have legal status.

In the existing legal framework, the obligation of business actors to provide clear and accurate information has actually been regulated in Article 7 of the Consumer Protection Law and Article 9 of the ITE Law. However, the effectiveness of the implementation of this obligation does not only depend on normative regulations, but also on the capacity of supervision and enforcement of law enforcement officers and consumer protection institutions. Unfortunately, so far supervision of online business actors has not been optimal. Not all business actors are registered with the Ministry of Trade, not all transactions are officially recorded, and most consumer complaints cannot be followed up due to lack of evidence or consumer ignorance of legal procedures.

Furthermore, the effectiveness of legal protection for consumers in online transactions is also determined by the availability of a fast, cheap, and accessible dispute resolution forum for the public. The Consumer Protection Law has indeed established the Consumer Dispute Resolution Agency (BPSK) as an alternative forum for dispute resolution outside the courts. However, the BPSK institution itself faces many obstacles: limited personnel, the lack of an integrated online system, and a work area that does not cover all of Indonesia. As a result, many online transaction disputes cannot be resolved effectively by the BPSK, especially disputes that are cross-regional or involve business actors from abroad.(Balaka, Hakim, and Sulistyany 2024)

In this context, e-commerce platforms often act as mediators between business actors and consumers. Several large platforms such as Tokopedia, Shopee, and Bukalapak provide refund or return features to resolve consumer complaints. However, these mechanisms are internal and do not have binding legal force. In addition, decisions in the system are not always fair, especially if the business actor is an exclusive partner or official store owner on the platform. Therefore, it is very important to have an online dispute resolution (ODR) system that is integrated into the formal legal system and accessible to consumers.

Meanwhile, an equally important obstacle in the implementation of online consumer protection is the issue of education and legal literacy. Most consumers in Indonesia still do not understand their rights as regulated in the Consumer Protection Law. Not a few of them who suffer losses due to online transactions but choose to remain silent or only vent their complaints on social media, without taking appropriate legal action. This low level of legal literacy makes business actors feel safe to ignore their legal obligations, because the possibility of being sued is very small. In fact, in many cases, consumer losses can be minimized if consumers know the legal steps that can be taken, including reporting to BPSK, the Ministry of Trade, or through other alternative mechanisms. (Sinaga, Mahat, and Simarmata 2023)

The effectiveness of the law is not only measured by how well a regulation is designed, but also by the extent to which it can provide a real impact on society. In this case, the effectiveness of consumer protection in online transactions is still unsatisfactory. The Consumer Protection Law as the main legal framework is still very general and has not touched on many technical aspects of online transactions. When this law was drafted in 1999, internet-based transactions had not yet become the dominant phenomenon they are today. Therefore, many provisions in the law do not cover new legal situations such as digital contracts, personal data management, cross-border transactions, and protection against misuse of algorithms and automation systems in digital marketing. For example, the Consumer Protection Law does not explicitly regulate the obligations of business actors to protect consumers' personal data. In online transactions, consumer data such as name, address, telephone number, and even credit card number must often be provided to business actors or platforms. However, not all business actors have a good data security system. In some cases, consumer data is even sold or shared with third parties for commercial purposes without valid consent. The Consumer Protection Law does regulate the right to convenience and security, but does not describe in detail the protection of privacy and personal data.

Only in 2022, Indonesia has Law Number 27 of 2022 concerning Personal Data Protection (UU PDP) which provides a legal basis for personal data protection. However, coordination between the PDP Law, the Consumer Protection Law, and the ITE Law is still not optimal. There is a lack of technical regulations regarding how the obligations of digital business actors to protect consumer data are carried out, and how consumers can claim compensation in the event of data leaks or misuse. This adds to the complexity of consumer protection in the ever-growing digital ecosystem. From a law enforcement perspective, consumer protection cases are rarely a priority in the criminal or civil justice system. Law enforcement officers often focus more on major cybercrimes, such as banking fraud or large-scale data theft, and ignore individual cases involving small consumer losses. In fact, cumulatively, consumer losses from problematic online transactions can be very large and detrimental to the stability of the digital economy nationally.(Barkatullah 2019)

This condition emphasizes the need for holistic legal and institutional reforms based on community needs. Revision of the Consumer Protection Law is one of the strategic agendas that must be realized immediately. The revision must include specific regulations on electronic transactions, digital contracts, consumer data protection, online business actor verification systems, and ODR integration into the national consumer dispute resolution system. In addition, there needs to be harmonization with the ITE Law, the PDP Law, and regulations from the Ministry of Trade and the Financial Services Authority (OJK), especially in supervising fintech and e-commerce.

The government also needs to encourage increased capacity of BPSK to resolve digital disputes effectively, including through digitalization of services, HR training, and expansion of jurisdiction online. In addition, the role of non-governmental consumer protection institutions (LPKSM) must also be strengthened, both in terms of education, advocacy, and legal assistance for consumers who experience losses. The community also has an important role in encouraging consumer protection. Consumers must be active in reporting violations, assessing business actors, and exercising their rights to the maximum. In the digital era, the collective power of consumers can be an effective control tool against business actor behavior. If regulations, institutions, and public participation work synergistically, consumer protection in online transactions can be realized more effectively and fairly.

CONCLUSION

Based on the discussion that has been outlined, it can be concluded that consumer protection in online transactions in Indonesia has sufficient legal basis through Law Number 8 of 1999 concerning Consumer Protection and Law Number 11 of 2008 concerning Information and Electronic Transactions. Both laws regulate consumer rights to security, comfort, correct information, and the obligation of business actors to act honestly and responsibly in their business activities. However, in practice, the implementation of these provisions still faces various obstacles, such as weak supervision of online business actors, suboptimal digital dispute resolution mechanisms, and low consumer legal literacy. As a result, consumers are often harmed without obtaining adequate protection or recovery.

In the context of the development of the digital economy, this condition demands an update of the consumer protection legal system to be more adaptive to the challenges of electronic transactions. Reform can be carried out through the revision of the Consumer Protection Law by adding special provisions related to online transactions, strengthening dispute resolution institutions such as BPSK and developing Online Dispute Resolution (ODR), as well as integrating consumer personal data protection in the e-commerce system. Synergy between regulations, institutions, and increasing consumer awareness is the main key to realizing effective, fair, and appropriate protection in accordance with the dynamics of the digital era.

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