

The Importance of Consumer Protection Law Revision in the Development of E-Commerce in the Digital Transformation Era in Indonesia

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ABSTRACT

The need for legal regulations that can guarantee the rights of business parties in the digital transformation era, particularly the protection of e-commerce consumers, is growing rapidly alongside increasingly complex problems. This study seeks to determine how the current consumer protection legislation accommodates the problems that arise in the midst of the development of e-commerce, as well as the importance of revising consumer protection legislation in the era of digital transformation in Indonesia. This study employs a qualitative research method with a normative juridical approach that is descriptive analysis via data collection techniques carried out via library research, and data analysis is carried out qualitatively via a deductive reasoning analysis. The author believes that consumer protection regulations in the practice of e-commerce transactions have not been specifically regulated in Law No. 8 of 1999 concerning consumer protection at this time, despite the fact that several aspects have been accommodated by related regulations, such as the trade law and the Law on Information and Electronic Transactions, but has not been able to fully resolve various legal problems in the practice of e-commerce transactions faced by consumers.

Keywords: Consumer Protection, E-Commerce, Digital Transformation

INTRODUCTION

The internet's rapid development, increasing capacity, ease of access, and lower cost of use have resulted in revolutionary changes in its use in a variety of fields, including communication, entertainment, tourism, and others. However, among the

many, the trade sector saw the most significant growth in the use of internet media in society.

The development of trade rules is also inseparable from the influence of technological developments. The influence of this technology is increasingly evident with the birth of electronic commerce, or what is known as e-commerce, which is a form of exchanging business information concerning consumers, manufactures, service providers, and intermediary traders without using paper (paperless exchange of business information) but by using Electronic Data Interchange (EDI), electronic mail (e-mail), electronic bulletin boards (EBB), electronic funds transfer (EFT), and other network technologies (Aryana & Pura, 2022). E-commerce began to develop significantly when the internet was introduced. The development of the internet has encouraged international trade transactions to accelerate. With the internet, the boundaries of a country's territory in conducting trade transactions are no longer significant. The practice of trading via the internet is also described as the "final frontiers of commerce" in the 21st century.

According to data released by Bank Indonesia (BI), digital economic and financial transactions, in this case e-commerce, are still growing in tandem with the public's increasing acceptance. In February 2022, the value of e-commerce transactions reached Rp. 30.8 trillion, up around 12% from the previous year's figure of Rp. 27.3 trillion. In February 2022, the total volume of e-commerce transactions reached 222.9 million, a 27 percent increase over the 174.6 million transactions in February 2021 (*Ekonomi Digital Tumbuh Hingga Rp 4.500 Triliun Di 2030, Pemerintah Dan Asosiasi Sepakat Jaga Inklusi Dan Dorong Literasi Keuangan Digital*, 2021). Even in the future, e-commerce in Indonesia is expected to be a significant contributor to growth in Asia Pacific. According to RedSeer's analysis, the Indonesian e-commerce market is expected to grow to US\$137.5 billion by 2025 (Pahlevi, 2022).

Generally, e-commerce transactions are in the form of consumer-to-consumer, which includes all electronic transactions of goods or services between consumers carried out through third parties who provide an online platform to carry out these transactions (Natalina et al., 2021). Examples of applications that are currently used in Indonesia are through the Tokopedia, Gojek, Shopee, Lazada, Bukalapak, and Blibli websites, where in terms of marketing their products, the seller can directly sell their

products through these websites. Massive e-commerce activities are currently being carried out through social media such as Facebook, Instagram, and Tiktok, one of which is due to the increasing number of social media users in Indonesia. Currently, the number of active social media users in Indonesia reached 191 million in January 2022. That number increased by 12.35% compared to the previous year (Mahdi, 2022).

Consumer protection must be built to deal with the development and progress of e-commerce in the era of digital transformation in Indonesia that is currently taking place. The Consumer Protection Law is a guideline for business actors and consumers to follow in order to conduct business fairly and without causing harm to consumers. Consumer protection is critical in this digital era of e-commerce when sellers and buyers rely solely on the principle of trust in conducting electronic commerce transactions (Setiawan & Zunaidi, 2021).

Along with easy access to information, electronic commerce (e-commerce) can be used as a tool by people who are not in charge of marketing their products. Consumers can buy goods from outside their area or even from outside the territory of Indonesia using digital businesses without first seeing or inspecting the goods. This increases the likelihood of business actors defrauding consumers. According to the Consumer Protection Law, a business actor is defined as a business actor based in Indonesia. As a result, the consumer protection law cannot address disputes that arise between consumers and business actors based outside of Indonesia's borders.

The presence of an e-commerce platform as a third party acting as a liaison between sellers and consumers in dispute resolution is also not covered by the current Consumer Protection Law. Furthermore, cases that violate consumer protection are common. Among the incidents were data leaks in which millions of marketplace consumer records were allegedly traded on a website. Following that, another leak in the health data of participants in the government health insurance institution occurred (Rizki, 2022). Some of the issues raised above are just a sampling of the numerous issues that arise when conducting business in the digital age, and they will only become more complex as technology advances.

To ensure the rights of each individual involved in digital business, particularly consumers, existing regulations must be tested for their effectiveness in accommodating

any problems that arise, and if they are no longer effective, the Protection Law must be renewed or revised (Nugrahaningsih, 2017).

Based on this background, the author wishes to discuss how the current consumer protection law is regulated and why it is necessary to revise the consumer protection law in the midst of the development of e-commerce in the era of digital transformation in Indonesia.

METHODOLOGY

This study uses a qualitative research method with a normative juridical approach that is descriptive in nature through data collection techniques carried out through library research by analyzing secondary data consisting of primary legal materials in the form of laws and regulations, especially Law Number 8 of 1999 concerning Consumer Protection (Consumer Protection Law), and secondary legal materials in the form of literature reviews in the form of books or research journals, papers, and data from the internet related to consumer protection regulations amid the development of e-commerce in the era of digital transformation in Indonesia (Suteki., 2018). The data or legal materials collected are then analyzed in depth, namely by exploring the basic principles, values, and norms that exist in the data. Data analysis was carried out qualitatively through a study of the logic of thinking deductively.

RESULTS AND DISCUSSION

The current regulation on consumer protection in accommodating the problems that occur in the midst of the development of e-commerce

Consumer protection refers to legal protection. Consumer protection is defined as the principles and legal rules that govern the relationships and problems that various parties have with one another in social life in relation to consumer goods and/or services. Meanwhile, consumer protection law encompasses all regulations and laws that govern the rights and obligations of consumers and producers that arise as a result of their efforts to meet their needs as well as efforts to ensure the realization of legal protection for consumers' interests (Sidabalok, 2014).

Regulations related to consumer protection are specifically regulated by "Law - Law number 8 of 1999 concerning Consumer Protection". The Consumer Protection Law consists of fifteen (15) chapters which sequentially explain: *"general provisions, principles and objectives; rights and obligations of consumers and business actors; prohibited actions for business actors; inclusion of standard clauses; responsibilities of business actors; guidance and supervision; national consumer protection agency; non-governmental consumer protection agency; dispute resolution; consumer dispute settlement agency; investigations; sanctions; transitional provisions and closing provisions."*

This consumer protection law has regulated the rights of consumers as stated in Article 4 of the Consumer Protection Law, namely;

- 1) The right to be comfortable, secure, and safe when purchasing goods and/or services.
- 2) The right to select goods and/or services and obtain them in accordance with the exchange rate and the conditions and guarantees promised.
- 3) The right to correct, clear, and honest information about the terms and conditions of goods and/or services.
- 4) The right to have their views and complaints about the goods and/or services used heard.
- 5) The right to consumer counseling and education.
- 6) The right to be treated or served in a fair and honest manner, free of discrimination.
- 7) The right to seek restitution, compensation, and/or replacement if the goods and/or services received are not in accordance with the agreement or are not properly performed.
- 8) Rights that are governed by other laws and regulations.

When we look closer, it appears that consumer rights as stated in the Consumer Protection Law are limited to traditional buying and selling activities. Furthermore, protection is limited to the consumer and the traded products (goods and services). Meanwhile, protection from the producer/business actor side, such as information about the business actor/identity producer's and address/business location, both branch offices and main offices, as well as guarantees for the confidentiality of consumer data, are

ignored. Despite the fact that these things must be regulated for consumer security in transactions (Moksi., 2006).

Similarly, in the General Provisions of Article 1 Number 6 of the Consumer Protection Law, it is not explicitly stated what media is used in carrying out this promotion, whether it includes internet media or not. The Consumer Protection Law states in Article 1 Point 6 that *"promotion is the activity of introducing or disseminating information on goods and/or services that will be and are being traded."* As a result, given that there are still many materials that have not been regulated, it is time to consider including these materials in the new provisions.

In its role as a policymaker, the government is a legal structure that influences the effectiveness of a regulation's operation. The government is currently attempting to provide legal certainty in order to guarantee consumer rights in e-commerce transactions, which are specifically regulated in the Consumer Protection Law and are also supported by related regulations, namely;

- a. Code of Civil law;
- b. the Criminal Code;
- c. Law Number 7 of 2014 concerning Trading Law Number 19 of 2016 Amendment to Law Number 11 of 2008 Information and Electronic Transactions
- d. Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions
- e. Government Regulation Number 80 of 2019 concerning Trade through electronic systems
- f. Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Borrowing-Lending Services.

Nonetheless, many provisions in the Consumer Protection Law are still violated by business actors and have not been able to accommodate the problems that have arisen in the midst of the development of e-commerce in the era of digital transformation in Indonesia (Nugrahaningsih, 2017).

Regulations related to consumer protection in the digital transformation era, as supported by the ITE Law, have undergone several changes to compensate for societal

legal changes. Articles that can be used to protect parties in digital transactions can be found in Article 9 of the ITE Law, which states:

"Business actors who offer products through electronic systems must provide complete and correct information relating to contract terms, manufacturers, and products offered."

Contract terms information relates to the rights and obligations that the parties in the sale and purchase agreement must fulfill, as well as information on the identity, competence, and status of legal subjects as stipulated as a condition for the agreement's validity. Products must also include sufficient information, such as item descriptions, quality, and so on. Following that is Article 28 of the ITE Law, which governs actions that are prohibited in an online sale and purchase agreement, specifically that sellers are prohibited from spreading false and misleading news that can harm buyers. Sellers who violate these provisions face up to six years in prison or a fine of one billion rupiah, according to Article 45A paragraph (1) of the ITE Law (Akhmaddhian, 2016). The ITE Law provides repressive protection in the sense that the provisions of the ITE Law are based on actions classified as criminal acts, punishable by imprisonment and fines (Tumbel, 2020).

In addition to the ITE Law, digital buying and selling transactions are governed by the Trade Law and its implementing regulations. Domestic and foreign business actors must comply with Articles 65 and 66 of the Trade Law and its implementing regulations. They must be followed by all parties in any digital sale and purchase transaction conducted by domestic and foreign business actors with the Indonesian people as their target market. Article 65 of the Trade Law requires digital buyers and sellers to provide complete and accurate data and information to facilitate tracing the legality of transactions (Pariadi, 2018). However, Article 98 of the Trade Law states that the government and regional governments have the authority to supervise trade activities. However, the trade law's supervisory function is only limited to general trade, not e-commerce trading, which has distinct characteristics from traditional trade. Ignorance of this supervisory function can open the door to e-commerce fraud.

The Urgency of Revision of the Law on Consumer Protection Amid the Development of E-Commerce in the Era of Digital Transformation in Indonesia

The rise of online trading today opens up the market share in Indonesia; the ease of offering and accepting a product sold through e-commerce encourages irresponsible people to use this e-commerce facility to trade products that should not be traded. In the Indonesian archipelago Not only that, but e-commerce is used by drug dealer syndicates to sell drugs to consumers in other forms, such as food, via e-commerce. This is undoubtedly very concerning, particularly from the standpoint of the consumer, because there is no guarantee for the goods or products purchased in terms of health and safety, as a consumer protection principle.

Many problems arise as a result of the practice of conducting e-commerce transactions, which tend to harm consumers (Barkatullah, 2007). Consumers in modern society have an unbalanced relationship with business actors, putting them in a vulnerable position. This is based on the argument that there are so many different types of goods on the market that it is difficult for consumers to understand all of them. Furthermore, modern advertising models are being used to mislead consumers rather than provide objective information (Barkatullah, 2010).

The problem of digital transformation when transacting e-commerce is actually based on three issues, namely trust, privacy, and security issues. The fear of online fraud has resulted in not making extensive online purchases. So, even though online buying and selling users continue to experience an increase, fear or anxiety about fraud also goes hand in hand (Zunaidi, 2015). E-commerce platforms such as Shoopy, Tokopedia, Lazada, Bukalapak already have a privacy policy that regulates the use of consumer data and the behavior of other parties, in this case sellers on e-commerce platforms in relation to personal data (Nadaraja, 2013). However, this policy is still vulnerable to be deviated because the regulation is not yet binding on transaction actors, especially sellers, so that this obligation seems to only be an option to be obeyed so as not to violate the policies set by the e-commerce platform. Therefore, in order to create optimal protection, legal protection is still needed for consumers when transacting electronically (e-commerce) (Hidir et al., 2021).

According to Mochtar Kusumaatmadja, the law has the power to protect and protect all levels of society, allowing the law's purpose of achieving social justice for all

Indonesians to be realized. Furthermore, the law serves as a means of supporting development by increasing and perfecting the development of the national legal system through reform, codification, and unification of law in specific fields by focusing on legal awareness in society (Kusumaatmadja, 2006).

The problem of determining which legal field should be developed and choosing which legal field to develop can be assessed using two criteria: first, there is an urgent need; and second, there are fundamental changes, namely changes (via legislation) are required due to political, economic, and/or social considerations (Suharianto, 2014).

The criteria for urgent needs or criteria for point 1, can be seen that both the legal umbrella for Indonesian consumer protection is Law Number 8 of 1999 and Law Number 11 of 2008 jo. Information and Electronic Transactions as a supporting law for consumer protection is not sufficient to resolve emerging problems relating to consumer rights in e-commerce transactions, including:

- a) Consumers are unable to directly identify, see, or touch the goods to be ordered;
- b) There is uncertainty about the products offered and/or whether consumers have obtained various information that deserves to be known or that should be required to make a decision in the transaction;
- c) The legal status of the business actor is unclear.
- d) There is no guarantee of transaction security and privacy, as well as an explanation of the risks associated with the system used, especially in terms of electronic payments, either by credit card or electronic cash.
- e) Unbalanced risk assignment: because the payment for buying and selling on the internet is usually made in advance by the consumer. The goods are not necessarily received or will follow later, because the existing guarantee is a guarantee of delivery of goods, not receipt of goods.
- f) Borderless transactions that raise questions about which country's legal jurisdiction should be enforced (Barkatullah, 2010).

When we look closer, it appears that consumer rights as stated in the Consumer Protection Law are limited to traditional buying and selling activities. Furthermore, protection is limited to the consumer and the traded products (goods and services). Meanwhile, protection from the producer/business actor side, such as information about the business actor/identity producer's and address/business location, both branch offices

and main offices, as well as guarantees for the confidentiality of consumer data, are ignored.

In general, there are four basic consumer rights recognized internationally, namely: the right to security (the right to safety), the right to get information (the right to be informed), the right to choose (the right to choose), and the right to be heard (the right to be heard). According to Helldya, one of the rights that is very important but cannot be protected properly in digital transactions (e-commerce) is the right to guarantee the confidentiality of the parties' personal data, including personal data of sellers and buyers. The Consumer Protection Act has not regulated the protection of these rights. The protection of data confidentiality is very important for the security and convenience of the parties, to avoid fraudulent acts in the form of misuse of personal data or buying and selling of personal data for the benefit of one of the parties (Simanullang, 2017).

Consumer legal issues concerning consumer legal protection become increasingly pressing when a consumer conducts e-commerce transactions with merchants in one or more countries. A question of jurisdiction or the location of a transaction, a question of law or forum. Business transactions conducted via the internet or telematics media do not specify the location of the transaction. This is very important legally because it relates to the jurisdiction of the competent court in the event of a dispute and the issue of choice of law (choice of law or applicable law).

The government, through the relevant ministries, is expected to further enhance the role of supervision, especially in trade and product marketing through e-commerce. Because of the potential for violations that exist today, mostly through e-commerce trade. Because the characteristics of e-commerce are different from conventional trade, where virtual transactions that occur in online buying and selling use banks as payment intermediaries, considering that sellers and buyers can come from different locations, so that sellers and buyers do not need to face each other directly (Susanti, 2017). It is hoped that the government, through Civil Servant Investigators (PPNS), can improve technical capabilities in terms of information technology and, if necessary, cooperate with companies in the field of information technology to improve the skills and abilities of their investigators.

Legal protection for consumers of electronic financial services, also known as financial technology (fintech), requires additional attention. The Financial Services Authority (OJK) is the regulatory body in charge of fintech companies. The OJK Regulation Concerning Information Technology-Based Lending and Borrowing Services guides supervision, but the regulation still has many shortcomings in accommodating all types of problems related to the activities of these fintech companies, so there is a need for more comprehensive regulations that can be used as guidelines for OJK in order to oversee fintech companies and can balance quite complex problems in the implementation of financial technology (Rahmayani, 2018).

Beginning with the explanation above, where there are still many provisions in the current Consumer Protection Law that are violated by business actors and have not been able to accommodate the problems that have occurred in the midst of the development of e-commerce in the era of digital transformation in Indonesia, the consumer protection law is very urgent to be revised from the standpoint of social law reform. This is done to restore order and justice while protecting the interests of consumers, particularly those in vulnerable positions.

CONCLUSION

Consumer Protection Law No. 8 of 1999 on Consumer Protection was enacted long before Indonesia's digital transformation, and it regulates at least the rights and obligations of consumers in Articles 4 and 5, while business actors' rights and obligations are regulated in Articles 6 and 7. Furthermore, aspects of prohibited actions for business actors are regulated in Articles 8 to 17, and aspects of business actor responsibility are regulated in Articles 19 to 28, where this aspect applies when business actors carry out actions that cause losses. For consumers, namely if the consumer discovers that the goods and/or services he purchased do not conform to the agreement. Unfortunately, in the era of digital transformation in Indonesia, Law No. 8 of 1999 has not been able to optimally guarantee consumer rights and resolve all problems that arise in e-commerce transactions. Even related regulations, such as the trade law and the Information and Electronic Transactions Act, have not been able to fully protect consumers when conducting e-commerce transactions. Based on the urgent need and taking into account the economic, social, and political aspects, it is imperative to revise

the Indonesian Consumer Protection Act in order to deal with the various complexities of problems that continue to emerge in Indonesia during the era of digital transformation.

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