

# Juridical Analysis of the Implementation of Consumer Protection Legislation in Digital Transactions

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**Abstract.** *Seeing the many conveniences presented by the internet, it is not surprising that Indonesia has recently continued to experience the development of online businesses ranging from small to large businesses. The development of technology in the business world has certainly encouraged the emergence of e-commerce using digital transactions. Digital transactions are transactions carried out by utilizing the internet. However, the widespread use of digital transactions is inseparable from the problems that occur such as fraud. This problem indicates that digital transactions carry significant risks. The method used is normative juridical research, where in this research data analysis is carried out based on literature relevant to consumer protection. The results obtained are that consumer protection is an important right and needs to be a concern of the government. Consumer protection needs to be tightened due to threats in the form of defective products, inaccurate information, and one-sided terms.*

**Keywords:** *Consumer; Digital; Transaction.*

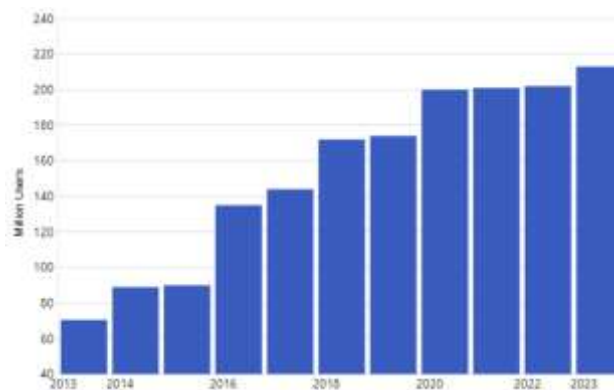
## 1. INTRODUCTION

The Internet is often referred to as cyberspace. The development of the internet has resulted from various social aspects that connect humans so that it requires humans to participate in changing. Along with the development of technology and the internet has a significant influence on the lifestyle and shopping patterns of individuals. The impact of this information technology on consumers provides increasingly critical behavioral changes and humans are required to be more selective when making product selection. The development of this technology also has a positive impact on manufacturers such as starting a business through the internet or often known as "online transactions" which is one way of doing business. Many online stores are starting to think of many ways to attract customers to their stores <sup>1</sup>. The advantages of online shopping are also felt by many people such as producers who can reach a wider range of consumers and consumers who can reach products without having to visit the store physically. The development of business along with the increase in the number of internet users globally,

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<sup>1</sup> H Hendi, 'Implementasi Perjanjian Jual-Beli Mobil Bekas Di PT. Ong Citra Nusa Ditinjau Berdasarkan Pasal 1320 Kitab Undang - Undang Hukum Perdata. Project Report' (unpublished Monograph, Universitas Internasional Batam, 2020) <<http://repository.uib.ac.id/id/eprint/2946>> [accessed 21 June 2024].

especially Indonesia which contributes to the increasing number of digital in the period of time. The number of internet users in Indonesia is described as follows.<sup>2</sup>



Picture 1. Number of Internet Users in Indonesia

Based on the We Are Social report, it is known that in Indonesia the number of internet users alone reaches up to 213 million people as of January 2023. This number has a range of 77% of Indonesia's population, which is 276.4 million people at the beginning of 2023. This number was revealed to have increased by 5.44% from the previous year, namely 2022 with the number of internet users of 202 million people.

Seeing the many conveniences presented by the internet, it is not surprising that Indonesia lately continues to experience the development of online businesses ranging from small to large businesses. The development of technology in the business world certainly encourages the emergence of *e-commerce* by using digital transactions. Digital transactions are transactions carried out by utilizing the internet. This transaction does not involve humans during the transaction process, but utilizes machines and software as a means of digital transactions. With the use of this machine, payments can be made for 24 hours without stopping, which means that if consumers want to transact can be done anytime and from anywhere with the condition that they are connected to the internet. So that this will encourage the level of people's consumptive behavior in conducting online transactions. Here is a graph showing the number of e-commerce users in Indonesia.<sup>3</sup>

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<sup>2</sup> Marina Yetrin Sriyati Mewu and Kadek Julia Mahadewi, 'Perlindungan Konsumen Dalam Pembelian Produk Online: Analisis Perspektif Hukum Perlindungan Konsumen Di Indonesia', *Jurnal Kewarganegaraan*, 7.1 (2023), pp. 441–50, doi:10.31316/jk.v7i1.4814; M. A. L Toruan, 'Tinjauan Yuridis Terhadap Perlindungan Konsumen Dalam Transaksi Melalui Layanan Aplikasi Online Menurut Perspektif Hukum Di Indonesia' (unpublished Skripsi, Universitas Putera Batam, 2023) <<http://repository.upbatam.ac.id/id/eprint/2749>> [accessed 21 June 2024].

<sup>3</sup> A Rifaladi, 'Implementasi Perlindungan Konsumen Dalam Transaksi Jual Beli Online Pada Platform Mediv.Id Berdasarkan Perspektif Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen Dan Fatwa DSN-MUI' (unpublished Skripsi, UIN Syarif Hidayatullah, 2023) <<https://repository.uinjkt.ac.id/dspace/handle/123456789/71269>> [accessed 21 June 2024].



Picture 2. e-Commerce Users in Indonesia

Based on the graph above, it is known that internet users continue to increase from 2017 to 2023. It was noted that in 2017, e-commerce users were at 70.8 million users, and then continued to increase until in 2023 it was at 180.6 million users. It is estimated that in 2024 there will be an increase of 189.6 million e-commerce users. This means that as many as 65% of internet users in Indonesia make digital transactions through e-commerce. This is supported by the many offers provided by online stores to offer products that can attract visitors to make transactions. <sup>4</sup>

However, with the widespread use of digital transactions, it cannot be separated from the problems that occur. As stated by the Director General of Consumer Protection and Commercial Code Widodo who stated that: "Many cases of commerce through online sites or electronic commerce (ecommerce) until the end of February 2018 and received up to 34 complaints related to online transactions." Problems that usually occur during the online transaction process such as goods that are not in accordance with the provisions, some that cannot be in *Returns* in case of disability, as well as the process *Refund* which tends to be long. This problem can identify that this digital transaction has a large risk such as payment cases where consumers are required to make payments in advance (*advanced payment*) But consumers cannot see directly the quality of the goods ordered. This is because in this digital transaction process, transaction activities are carried out from the offer from the seller to the stage of agreement agreement for sale and purchase using internet facilities. As is known that internet facilities are a fairly extensive and insecure network. Digital transactions will create consequences for the actors in them because they are at high risk. <sup>5</sup>

Although this online transaction provides tremendous advantages and this online business continues to grow, it is undeniable that people must remain vigilant. Therefore, to prevent these digital transactions, Indonesia created a law that regulates the protection of consumers. This regulation is created so that there is a balance of rights and obligations between consumers and producers. It is even known that Indonesia is ranked first to have online fraud cases in Southeast Asia, followed by Thailand and Vietnam.

<sup>4</sup> Janus Sidabalok, 'Hukum Perlindungan Konsumen Di Indonesia', Bandung: Citra Aditya Bakti, 2014.

<sup>5</sup> Roberto Ranto, 'Tinjauan Yuridis Perlindungan Hukum Terhadap Konsumen Dalam Transaksi Jual Beli Melalui Media Elektronik', *Jurnal Ilmu Hukum: ALETHEA*, 2.2 (2019), pp. 145–64, doi:10.24246/alethea.vol2.no2.p145-164.



Picture 3. Southeast Asia Fraud Victims Ranking

The law that regulates and is used as a model is the Consumer Protection Law (UUPK) with the aim of creating a consumer protection system which contains elements of legal certainty, information transparency, and access to information. Although it does not "specifically" regulate online transactions because consumers can have their own way of enforcing or educating business actors who commit fraud <sup>6</sup>. Apart from the UUPK, there is a need for regulations that can regulate buying and selling activities that are able to provide protection to both producers and consumers who are victims. Based on the 1945 Constitution Article 28F states that:

*"Everyone has the right to communicate and obtain information for the development of his or her personal and social environment, and has the right to seek, obtain, possess, store, process and convey information using all available channels"*

The use of digital transactions is often a problem from various parties through social media. The ITE Law is also an innovation that can encourage the growth of technology and information (IT) as well as public interest. Information technology is now like a double-edged sword, it can have a positive impact if used properly but can also have a negative impact. This is in line with buying and selling activities or transactions carried out through electronic media, fraud often occurs which can provide consumer losses so that consumer legal protection needs to be developed. <sup>7</sup>

This paper explores how Indonesian law addresses these issues, focusing on the Consumer Protection Law (UUPK) and its application to digital transactions. The title of this study is, "Juridical Analysis of the Implementation of Consumer Protection Legislation in Digital Transactions".

## 2. RESEARCH METHODS

This study uses the normative juridical approach. Secondary data were obtained from academic journals, legal texts, and online publications. This normative approach is

<sup>6</sup> HABIB RABANI, 'LEGALITAS BISNIS PENYALURAN BAHAN BAKAR MINYAK POM MINI DAN DAMPAKNYA TERHADAP HAK HAK KONSUMEN (Studi Kasus Pengusaha Pom Mini Di Kecamatan Kalidawir Kabupaten Tulungagung)', 2021 <<http://repo.uinsatu.ac.id/id/eprint/19619>> [accessed 21 June 2024].

<sup>7</sup> Toruan.

carried out by analyzing consumer protection regulations. The analysis focuses on identifying legal provisions and evaluating their effectiveness in protecting consumers in online transactions. The results of this analysis will then be discussed and given conclusion.

### 3. RESULTS AND DISCUSSION

#### 3.1 Legal Protection of Digital Transaction Consumers

Legal protection is an effort to fulfill rights and provide assistance so that victims feel safe. This legal protection is carried out as a form of providing protection to the community which can be provided from various forms such as restitution, medical services, and legal assistance. Legal protection is addressed to legal subjects in the form of both preventive and repressive devices, both oral and written. Consumer protection is a term used to describe a form of consumer protection from things that threaten consumers such as losses or "defective" products. The scope of consumer protection is divided into two aspects, namely as follows.<sup>8</sup>

- a. Protection provided because of the opportunity for goods that do not match what was described from the beginning.
- b. Protection provided due to conditions that burden consumers or are one-sided.

It is proven in Law No. 8 of 1999 that criminal sanctions related to consumer protection are given by providing a sense of security in fulfilling the needs of life. It states that:

*"In short, all efforts intended in consumer protection are not only preventive measures, but also repressive measures in all areas of protection provided to consumers."*

In people's lives, especially the scope of digital business, people live in the midst of individuals with different habits and interests so that it is possible to face disputes with each other. Given the digital transaction that this trading activity is carried out without physical contact and it is known that consumers and business actors do not know each other so that it is vulnerable for consumers to lose their rights. This vulnerability is due to the vulnerability of information provided by business actors to consumers. (Ranto, 2019)

Dealing with true and false information that is directly related to consumer rights has been regulated in the UUPK. In Article 4 Letter c of the UUPK, namely,

*"Consumers have the right to obtain true, clear, and honest information about the conditions and guarantees of goods and/or services."*

E-commerce itself has been regulated in Law No. 7 of 2014 concerning Trade which is a Trade Law and a form of manifestation of the desire for a trade sector to continue to advance by prioritizing national interests. This is stated in Article 2 Letter (a) which states that: *"Trade policy is prepared based on the principle of national interest"* the intended national interest is such as increasing economic growth, encouraging trade competitiveness, protection of domestic products, expanding the labor market, and consumer protection. The Trade Law itself has triggered protection for consumers who carry out digital transaction activities listed in Article 65, namely:

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<sup>8</sup> Ranto.

- a. *"Every business actor who trades goods and/or services using an electronic system must provide complete and correct data and/or information;*
- b. *Every business actor is prohibited from trading goods and/or services using electronic systems that are not in accordance with the data and/or information as referred to in paragraph (1);*
- c. *The use of electronic systems as referred to in paragraph (1) must comply with the provisions stipulated in the electronic law;*
- d. *Information and data transactions and/or information as referred to in paragraph (1) at least contain: a. Identity and legality of producer or distribution actors; b. technical requirements of the goods offered; c. As a technical requirement or qualification of the services offered; d. Prices and payment methods for goods and/or services; and e. How to deliver the goods.*
- e. *In the event of a dispute related to trade transactions through electronic systems, the person or business entity experiencing the dispute can resolve the dispute through the court or through other dispute resolution mechanisms;*
- f. *Every business actor who trades goods and/or services using an electronic system that does not provide complete and correct data and/or information as referred to in paragraph (1) is subject to administrative sanctions in the form of license revocation."*

Based on Article 65 of the Trade Law, it is mandatory for business actors to provide complete and correct information. In Law No. 11 of 2008 concerning Information and Electronic Transactions which was later amended by Law No. 19 of 2016 concerning "Amendments to Law No. 11 of 2008" hereinafter referred to as the ITE Law. In the ITE Law, the provision of consumer protection in digital transactions gives important meaning, namely:

- "1) Recognition of transactions, information, documents and electronic signatures within the framework of engagement law and evidentiary law, so that legal certainty of electronic transactions can be guaranteed.*
- 2) Classification of acts that include qualifying violations of law related to misuse of information technology accompanied by criminal sanctions.*
- 3) The ITE Law applies to everyone who commits legal acts, both in the territory of Indonesia and outside the territory of Indonesia. So that the reach of this ITE Law is not only local but also international."*

### **3.2 The concept of legal protection**

Legal protection for consumers is divided into two aspects, namely preventive law and repressive law. The discussion related to these two aspects is as follows.

#### **a. Preventive legal protection**

Legal protection provided by the government to achieve the goal of preventing violations that may occur. This is in the laws and regulations intended so that violations can be prevented and given limits on a liability. To reduce the occurrence of this loss, preventive forms such as: <sup>9</sup>

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<sup>9</sup> Dhea Aulia M Purba, 'UPAYA PERLINDUNGAN HUKUM TERHADAP KORBAN TINDAK PIDANA PERDAGANGAN MANUSIA DITINJAU DARI UU NO.: 21 TAHUN 2007 TENTANG PEMBERANTASAN TINDAK PIDANA PERDAGANGAN ORANG' (unpublished Skripsi, Universitas Quality, 2019) <<http://portaluniversitasquality.ac.id:55555/id/eprint/143>> [accessed 21 June 2024].

- 1) Fostering consumers. This guidance framework has been determined based on Article 29 Paragraph (1) of the UUPK, namely: "*The government is responsible for fostering consumer protection providers who ensure the obtaining of consumer and business actors' rights and the implementation of consumer and business actors' obligations*".
- 2) Keep an eye on consumers. Protection by supervising consumers is carried out by the relevant ministers and technical ministers. This is stated in Article 30 Paragraph (1) of the UUPK, namely: "*Supervision of the implementation of consumer protection and the application of the provisions of laws and regulations is carried out by the government, the community, and non-governmental consumer protection institutions.*"

b. Repressive Legal Protection

This legal protection is the most recent form of protection such as fines, additional penalties, and imprisonment to be given in case of disputes. This repressive protection effort can be done through litigation and non-litigation efforts.<sup>10</sup>

1) Litigation Efforts

This effort is a court remedy in Article 48 of the Law, namely: "*Settlement of consumer disputes through the courts refers to the provisions on the applicable general courts by taking into account the provisions in Article 45.*" Article 45 reads: "*(1) Every aggrieved consumer may sue business actors through institutions in charge of resolving disputes between consumers and business actors or through courts located in the general judicial environment. (2) Resolution of consumer disputes may be pursued through the courts or outside the court based on the voluntary choice of the parties to the dispute. (3) Settlement of disputes outside the court as referred to in paragraph (2) does not eliminate criminal responsibility as stipulated in the Law. (4) If an out-of-court consumer dispute resolution has been chosen, a lawsuit through the court can only be pursued if the effort is declared unsuccessful by either party or by the parties to the dispute.*"

2) Non-Litigation Efforts

The following is the settlement of digital transaction lawsuits can be done by non-litigation means.

- a) Adaptation of agreements between parties in the sale and purchase agreement
- b) Negotiations conducted by several related parties
- c) Mediation as a way of resolving disputes by utilizing mediators as facilitators
- d) Conciliation that resolves disputes outside the court/moot judge
- e) Arbitration which is a non-litigation dispute resolution with the help of arbitrators who have been selected by parties with relevant fields.

### 3.3 Legal Protection Regulations

Several regulations become legal provisions explaining consumer protection in conducting digital transactions, namely:

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<sup>10</sup> Purba.

- 1) Law No. 8 of 1999 on Consumer Protection ("UUPK"), stipulates that consumers are safeguarded from any activities conducted by producers, distributors, or sellers;
- 2) Government Regulation No. 71 of 2019, on the Implementation of Electronic Systems and Transactions, elucidates the protection of consumers, encompassing online product purchases and the establishment of transaction procedures.
- 3) Law No. 19 of 2016 on Electronic Information and Transactions ("ITE Law"), The ITE Law provides consumer protection including electronic commerce transactions.

Minister of Trade Regulation No. 50/M-DAG/PER/8/2012" on Guidelines for Consumer Protection in Electronic Commerce.

#### 4. CONCLUSION

Legal protection for consumers in digital transactions involves both preventive and repressive measures. Preventive measures include consumer education and supervision by relevant authorities. Repressive measures involve litigation and non-litigation processes to resolve disputes. Indonesian law, particularly the Consumer Protection Law (UUPK) and the ITE Law, provides a framework for these protections. However, challenges remain, such as ensuring accurate information and fair terms in online transactions. Case studies highlight common issues like product defects and delayed refunds, emphasizing the need for stronger enforcement and clearer regulations.

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