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TECHNOLOGY**
**LEGAL PROTECTION AGAINST CONSUMER ELECTRONIC TRANSACTIONS
IN INDONESIA**

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ABSTRACT

The qualitative research through the phenomenological approach, the results of the study showed that: protection of the parties in e-commerce transactions and specifically giving the customer a coverage in e-commerce transactions, Need to make legal regulations regarding cyber law including so that the provisions on e-commerce transactions can be displayed. With these arrangements, the rights of consumers as electronic technology users in the trading process, especially in conducting e-commerce transactions, can be more secure. For consumer protection in e-commerce transactions are not yet accommodation in the consumer protection ACT. This is because of the characteristic of special e-commerce transactions, especially the transnational Transkei that crosses the boundaries of applicable national law.

They must address legal arrangements about electronic transactions in Indonesia from the rules of legal certainty so that society believes in conducting electronic transactions. And they involve the government in the handling of criminal cases in cyberspace in electronic transactions in particular.

KEYWORD: Legal, protection, consumer, transaction, regulation.

1. INTRODUCTION

The development of technology in various fields, especially the field of informatics, makes it easy for one to interact with others, especially in the legal relationship between the parties. The rapid development of science and technology has spawned a variety of impacts both positive and negative impacts. One result of the development of science and technology is a cyber technology known as the Internet.

The Internet and information technology is an innovation in this last decade that affects human life. Some human activities transform by taking advantage of efficiency, effectiveness and mobility. Unfortunately, the technological advances also introduce new problems when used improperly or violate them. Cyber crime (Cybercrime) is a form of new threats that has never existed before in the world's society. For that, it takes a rule that can provide the legal certainty of cyberspace in Indonesia. So at issuing law No. 11 of 2008 on information and electronic transactions commonly known as the term "LAW ITE".

Along with the development of information and communication technology in Indonesia today trade business activities through the internet known as Electronic Commerce or often we know the sale and purchase of online is an activity that many Done by everyone, because these electronic buying and selling transactions can be effective and efficient time so that one can make buy and sell transactions with each person anywhere and anytime. I do the legal relationship using informatics means in the form of electronic transactions stipulated in Law No. 11 of 2008 on electronic information and transactions.

Electronic transactions under article 1 Figure 2 of the ACT ITE are "legal acts conducted using computers, computer networks, and/or other electronic media". Transactions which means a legal relationship is a legal relationship between two or more parties that is done using computer facilities, computer networks and or other electronic media. These transactions use computers, computer networks and or electronic media. The computer is a tool for processing electronic, magnetic, optical, or system data that performs the functions of logic, arithmetic, and storage. "they interpret Transaction as buying and selling agreement using electronic means in the computer's form connected to cyberspace, because as article 17 paragraph (1) UUIITE, that "electronic



transaction organization can be done in scope public or private.. “I know the activity or transaction of trading through Internet media as electronic commerce (e-commerce). The E-commerce is divided into two segments i.e. business-to-business e-commerce and trade between business and consumer (business to consumer e-commerce). Business to business e-commerce segment is more dominating the market today because of its high transaction value, but the level of business to consumer e-commerce also has its own potential market share. Self-purchase is found in the book III of chapter V Burgelijk Whitebook (BW) of Indonesia where in article 1457 BW “buy and sell is a treaty, with which one has to bind itself to surrender a material, and the other to pay the price A predefined one. In BW responsible, they list the seller in article 1473-1512 BW, while they contain the obligations of the buyer in article 1513-1518 BW.

The emergence of online buying and selling transactions will certainly need to get a regulation that contains signs to create safe traffic transactions that can accommodate the interests of the stakeholders. As for buying and selling between the seller and the consumer has the same rights and obligations and therefore the interests of the Parties shall be protected by law and get the same equation as in article 2 of Law No. 8 year 1999 on consumer protection that consumer protection is based on the benefits, fairness, balance, security and safety of consumers, and legal certainty. Although there is law number 8 year 1999 about consumer protection and also law number 11 year 2008 about electronic transaction information, but I think they do not list many rules that are less able to cover Transactions online.

Under article 3 of Law No. 11 of 2008 on electronic information and transactions that the utilization of information technology and electronic transactions is implemented because of legal certainty, benefits, prudence, goodwill, and Freedom of choosing technologies neutral technologies. However, at the overall norm in ITE law there are no rules governing the procedure in online buying and selling transactions.

The presence of consumer protection laws has essentially become a new spirit in the protection of consumer rights. But in this case we must know about the buying and selling procedures online different from the buying and selling done in meeting Direct. Because of the increasingly evil crime through the Internet in the form of fraud, then it was born law number 11 year 2008 about electronic transactions. However, the legislation on electronic transaction information is more to the rules on prohibition of electronic media abuse, in which case there are no specific regulations governing online buying and selling.

Problem formulation

1. How is the basis of legal rules regarding current electronic transactions?
2. How is legal protection against consumer electronic transactions in Indonesia?

2. LITERATURE REVIEW

A. Electronic transaction Law arrangements

As mentioned in article 1 Figure 2 UUIITE that electronic transactions are "legal deeds conducted using computer, computer network, and/or other electronic media". The presence of LAW No. 11 year 2008 on information and electronic transaction (ITE) will provide benefits, some of which are:

- Ensure the legal certainty of the community conducting electronic transactions
- Encouraging Indonesia's economic growth;
- As an attempt to prevent the occurrence of crime-based information technology;
- Protecting the service user community by utilizing information technology.

Transactions using electronic means can be done in public or private sphere in accordance with Article 17 paragraph (1) UUIITE. On the next discussion the material is limited to electronic transactions within the scope of private law. In electronic transactions between the parties relying solely on good faith, because the electronic transactions are known in cyberspace that does not bring together between the parties who transact in accordance with Article 17 paragraph (2) UUIITE Determines that the parties conducting electronic transactions must be in good faith in the interaction and/or exchange of electronic information and/or electronic documents during the transaction.

Buying and selling is a treaty which means the agreement referred to by article 1313 of the civil service is “an act by which one or more persons bind themselves to one or more other persons”. Subekti defines a treaty as “an event in which one promises to another or where the two people promise each other to perform something. I must make the purchase agreement to have a binding power on both parties to fulfill the terms of the agreement. The agreement if made to qualify the agreement, then the Covenant binding both parties since the achievement of the word agreed on the subject , so with the purchase agreement under article 1458 KUH Civil.

Online scams on the principles are the same as conventional scams. The difference is only in the means of action using an electronic system (computer, Internet, telecommunication devices). So legally, fraud online can be treated the same as conventional delicts that are regulated in the Criminal Code (“KUHP”). The legal basis used to ensnare the current perpetrators is Article 378 CRIMINAL code, which reads:

“Whosoever is intending to benefit oneself or others by resisting the law, by the use of false names or false dignity, by stratagem or with a series of lies moving others to submit objects or to make debts or to abolish receivables, is threatened by prison fraud for a maximum of 4 years. “

Whereas, if the di meshed using LAW No. 11 year 2008 on information and Electronic transactions (“ACT ITE”), then the article imposed is article 28 paragraph (1), which reads:

(1) Any person intentionally and without the right to spread the news of lying and misleading resulting in the loss of consumer in electronic transactions.

The criminal threat of the article is a prison of 6 (six) years and/or a maximum of RP1 billion fine (article 45 paragraph [2] UU ITE). Refer to the article to ensnare scammers in buying and selling online. For the proofs, APH may use electronic evidence and/or its print results as an extension of evidence as per article 5 paragraph (2) ITE LAW, besides other conventional evidence under the Code of Criminal Event Law (KUHAP). Sound Article 5 ACT ITE:

(1) Electronic information and/or electronic documents and/or their printed results are legitimate legal proof tools.

(2) Electronic information and/or electronic documents and/or printed results as referred to in paragraph (1) shall make up an extension of the valid proof instrument in accordance with the applicable law in Indonesia.

For the record, some developed countries categorize separately delict fraud that is done online (computer related fraud) in the special provisions of cyber-crime. While in Indonesia, existing ITE law has not yet contained a special/explicit article on proceeding “fraud”. Article 28 paragraph (1) of current ITE LAW is General/general with a heavy point of action “spread of lying and misleading news” and on the “loss” resulting from the deed.

The purpose of the formulation of Article 28 paragraph (1) of the ITE LAW is to provide protection against the rights and interests of consumers. The difference in principle with relics of fraud on the criminal CODE is the element of “self-benefit” in article 378 the CRIMINAL code is not listed again in article 28 paragraph (1) ITE LAW, with the consequences of the law that benefitting or not the perpetrator of fraud, does not remove The criminal element of the deed with the deed proved to cause harm to others.

Delik Special “fraud” in the ITE ACT will only be included in the draft law on the revision of the ITE ACT is in the phase of inter-ministerial discussion.

3. MAINTENANCE METHODS

Types of qualitative research through the phenomenological approach

4. DISCUSSION

One advantage or advantages in e-commerce is the diverse and detailed information that consumers can gain compared to conventional trades without having to struggle to go to many places. Through Internet, for example, consumers can get a variety of goods and services information from various sites that advertise in a wide variety of brands complete with pricing specifications, payment method, shipping way, and even track and trace service facilities That allows the consumer to track the delivery stage of the item it is in.



The condition provides many benefits for consumers because they can fulfil the need for the desired goods and services. It also opens the opportunity to choose various types and qualities of goods and services under the wishes and financial capabilities of consumers in a relatively efficient time.

E-commerce also has weaknesses. Electronic transaction method that does not bring business actors and consumers directly and not the consumers can see directly the goods that are ordered potentially pose problems that harm consumers.

One example is the type mismatch and the quality of the goods promised, the inaccuracy of the delivery time of the goods, or the insecurities of transactions. The security factor of transactions, such as security of payment methods, is one thing urgent for consumers. The problem is important once noted as they prove it to pop cases in ecommerce related to security transactions, ranging from credit card piracy, stock exchange fraud, banking fraud, illegal access to information systems (Hacking) Web site destruction until data theft.

Various cases that arise related to the execution of transactions, especially security factors in e-commerce, are very detrimental to consumers. However, the security assurance of e-commerce transactions is indispensable to foster consumer confidence. A waiver of this will cause a shift in the philosophy of efficiency in e-commerce transactions towards uncertainty that will eventually impede the efforts of ecommerce pre-nup development.

The legal issues and the solutions described above are actually not intended as an effort to protect consumers in e-commerce transactions. Although biology is specifically mentioned to protect consumers, but given the problem faced is a problem that is generally faced by consumers and resolving both substantially and procedurally, then the solutions that have been disclosed above can provide protection against consumers.

In his writings, Asril stated that the security problem was an important issue in using electronic media, especially the Internet. Without security guarantees, the business actors will be reluctant to use this media. For this security guarantee, the thing that needs attention is the problem of corporate domicile, so that if there is a legal dispute, we can identify it with the legal position of the company that offers its products through electronic media. In principle, the licensing issue, establishment and registration of the company equals the company in general, subject to the law in a place where the company is registered.

For security guarantees, public key infrastructure is currently operated by many institutions (at international level, such as the United States for example) to support both digital signature and encryption (digitization). One way to implement public key infrastructure is by conducting inter-domain certification or issuing certificates by and between a Certification Authority. The certification between these domains reflects the cross-domain legal recognition of all important components of the public key infrastructure, including certification authority, certificates, digital signatures and supporting records of transactions Last. So guaranteeing the authenticity of a document and ensuring the digital signature belongs to someone who is entitled to this Certification Authority institution that guarantees authenticity. This is very important, considering the lack of certification authority, certificates, digital signatures and the recording of supporting transactions that take place potentially harm the consumer.

Nationally, the social regulation to provide protection against consumers is LAW No. 8 year 1999 on consumer Protection, but the consumer protection LAW has specifically not expected the development of information technology in its settings. In the international level, international agreements conceived protection against consumers in e-commerce transactions.

What about the settings in Indonesia? To answer this question, it will show below some aspects of consumer protection in Indonesia. And legal protection of consumers in e-commerce transactions at the national level. Although Indonesia has ratified the legality of the establishment of the WTO, until now the device needed for, it has not been sufficiently adequate. After ratification they saw the endorsement of the WTO, there was considerable progress with legislation as a supporter and the device to the free trade era.



Indonesia has a LAW that provides protection against intellectual property rights such as copyrights, patents and brands, including legalizing LAW on consumer protection. In the national level of effort to provide protection against consumers is indeed stated by the enactment of law No. 8 year 1999 on consumer Protection.

In one of his considerations is stated that the consumer protection business is done because of the expansion of a business world that is globalized. Mentioned in the consideration weighing item 3 that the opening of the national market because of the process of economic globalization must still ensure the improvement of public welfare and the certainty of the quality, quantity, and safety of goods and/or The services gained in the market. In the LAW's explanation explained that the phenomenon of globalization and free trade supported by the advancement of Telecommunication and informatics technology has expanded the current space of transaction of goods and/or services across The boundaries of a country's territory, so that the goods and/or services offered vary both overseas production and domestic production.

Such conditions on one party have the benefit for consumers because the needs of consumers will be goods and/or services desirable to be fulfilled and increasingly wide-open freedom to choose various types and qualities of goods and/or services under the wishes and capabilities of consumers, but these above conditions and phenomena can lead to the position of business actors and consumers become unbalanced and consumers are in a weak position. Consumers become the object of business activity by businesses to reap the most profit through promotional tips, how to sell, and implementing standard agreements that harm consumers.

The purpose of consumer protection as stated in article 2 of the Consumer Protection Act is to

- 1) Increase awareness, ability and independence of consumers to protect themselves;
- 2) lifting the harsh and dignity of consumers by avoiding the use of negative excesses of goods and/or services;
- 3) Improve consumer empowerment in selecting, determining, and demanding its rights as consumers;
- 4) Creating a consumer protection system that contains elements of legal certainty and disclosure of information and access to information;
- 5) To foster business awareness about the importance of consumer protection so that the attitude grows honest and responsible in trying
- 6) Improve the quality of goods and/or services that ensure the business continuity of the production of goods and/or services, health, comfort, safety, and safety of consumers.

They also note it that the main factors that become consumer weakness are the level of consumer awareness of the right is still low, which is mainly because of low consumer education. Therefore, the Consumer Protection Act is intended to be the legal basis for the efforts of consumer empowerment through consumer coaching and education.

The Consumer Protection Act has also governed the rights and obligations of business actors and prohibitions aimed at giving protection to consumers and has also set about the rights and obligations of consumers. But specifically for protecting consumer rights in e-commerce transactions are still vulnerable, because although the consumer protection law has set the rights and obligations for producers and consumers, but less appropriate to apply in transactions E-commerce. The advancement of science and technology in the production process of goods and services has not been followed by the progress of existing legal devices.

Some consumer rights set out in consumer protection LAWS are:

- 1) The right to comfort, safety, and safety in consuming goods and/or services;
- 2) The right to elect and get goods and/or services under the exchange rate and conditions and the promised warranties;
- 3) Right to True, clear, and honest information;
- 4) It to hear the right his opinion and complain;
- 5) The right to get advocacy, protection, and efforts to properly resolve consumer protection disputes;
- 6) The right to get coaching and consumer education;
- 7) The right to be properly treated or served and honest and not discriminatory;

8) The right to get compensation, indemnification and/or replacement if the goods and/or services received are not under the Agreement or not as appropriate.

But besides the rights mentioned above, consumers also have some obligations, in this case so that consumers do not get lost because of their own lack of care. These obligations include:

- 1) Read or follow the information and procedures for use or utilization of goods and/or services for safety and safety;
- 2) Good faith in conducting purchases of goods and/or services;
- 3) Pay according to the agreed exchange rate;
- 4) to follow the legal remedies of consumer protection disputes appropriately.

In addition to the rights and obligations of consumers, such as the above business actors have also some rights and obligations as fulfilling rights to the consumer. In addition to having the rights and obligations there are some restrictions on the business actors that if violated, can cause the business actors are subject to the sanctions of either administrative sanction, sanctions on Pidna and damages in a civil. Briefly, the prohibition is:

- 1) Produce and trade goods and/or services that: not under the standards; Not under net weight, net content, and amounts and does not conform to the conditions, warranties, privileges or efficacy as stated in the label or tag of the goods; does not list expiry dates; Does not include information and/or instructions for use of goods.
- 2) offer, promote, advertise any goods and/or services improperly, and : an item has fulfilled and/or has discounted price, special price, certain quality standards, the particular style or mode, characteristic Certain, historical or specific use; The goods in good and/or new condition; Contains no hidden defects.
- 3) producing advertisements that deceive consumers; Contain , incorrect or improper information.
- 4) Provide the default clause when stating the transfer of business responsibility; Stating that it entitles the business to refuse resubmission of both goods that have been purchased or money paid by consumers; expressed the power of the consumer either directly or indirectly to conduct any unilateral action relating to goods purchased by the consumer in installments; Regulating the evidence of the loss of use of goods or utilization of services purchased by consumers; Stating the customer's submission to regulations in the form of new rules, additions, sequels and/or modifications made unilaterally; Lists the policymakers or shapes difficult to see or cannot be read , or that the disclosure is difficult to understand.

For ecommerce transactions, posting ads by vendors on the Internet for example should be unascertainable by consumers of both the offer, promotion, and advertising of an item and/or service. Similarly, about ads that deceive consumers such as containing erroneous, incorrect or incorrect information. This is because no consumers see directly products or services offered. Consumer Protection LAW has, in fact, expected it. However , for e-commerce Transaction , it cannot enforce this protection because of its characteristic characteristics.

To protect the consumer, I can see it that LAW No. 8 year 1999 on consumer Protection besides providing administrative sanctions against business actors when performing certain acts as stipulated in the LAW, Also criminalize some deeds as stipulated in the consumer protection LAW. The criminal provisions that can be given are imprisonment and fines up to the maximum amount of Rp 2,000,000,000.0-(two billion Rupiah).

All the above settings are appropriate to provide protection against consumers. But because this law aims to protect consumers on a national scale, consumer protection in electronic transactions is not yet in the accommodation in these provisions.

In addition to the arrangement in the consumer protection ACT, actually at a certain level to protect consumers can also be used criminal law in this case penal code. Notwithstanding the same, however, that the criminal form in the free trade era does not be anticipated with the provisions on criminal acts of ' fraudulent conduct ' as stipulated in article 378 to 395 of the criminal CODE, but should be governed by a more comprehensive new provision. Further on this is that:

Criminal sanctions in the trade and business world are only one effort to strengthen the harmonization of the relationship between the parties involved, not the legal means that can improve the relationship of the parties

that have been disrupted. Excessive use and hope in the power of criminal sanctions in the world's context of trade and business will only risk the future of the business world into the abyss of destruction and does not strengthen all segments of business world life and Trade.

There is still one more legal institution that can protect consumers in e-commerce transactions with insurance. But it is very clear that with the use of insurance, the burden of costs that should be given by consumers in buying or using a product becomes larger due to the premium payment fee, because the consumer will be exposed to the burden To pay for the premium. However, this institution can one effort to give protection to consumers.

From what it has displayed above, it has been very clear that for the need of protection against consumers, especially consumers who conduct business transactions using electronic technology (e-commerce), then urgency to make legislation That govern this is already very high. This is for the existing legislation, especially the legislation governing consumer protection has not accommodated such needs.

Different characteristics in the trading system through electronic technology are not covered in the consumer protection ACT. Therefore, it is necessary to make legal regulations regarding cyberlaw including about e-commerce so that the rights of consumers as electronic technology users in the process of trading, especially in conducting e-commerce transactions can be assured.

5. CONCLUSION

The legal arrangement of electronic transactions in Indonesia, especially in the private law, is based on the provisions in book III of civil disobedience about the alliance which adheres to the open principle or freedom of contract, meaning to provide freedom to Parties to make agreements as long as there is a word of agreement, capable of acting in law, a certain thing and a lawful cause. In the electronic transaction, I shall claim the goodwill of the Parties under article 1338 paragraph (3) of the civil agreement.

In particular, a legal arrangement that can provide protection against consumers is already accommodation in Indonesia in the Consumer Protection Act. But for consumer protection in e-commerce transactions is not yet accommodation in the consumer protection ACT. This is because of the characteristic of special e-commerce transactions, especially the transnational transaction that crosses the boundaries of applicable national law.

To protect the parties in e-commerce transactions and specifically giving the customer to the consumer in e-commerce transactions, it is necessary to make legal regulations regarding cyber law including the provisions E-commerce transactions can be displayed. With these arrangements, the rights of consumers as electronic technology users in the trading process, especially in conducting e-commerce transactions, can be more secure. They must address legal arrangements about electronic transactions in Indonesia from the rules of legal certainty so that society believes in conducting electronic transactions. It involves the government in the handling of criminal cases in cyberspace in electronic transactions in particular. To increase the confidence of the international community in electronic transactions with communities in Indonesia.

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