

ANALYSIS OF LEGAL PROTECTION FOR ONLINE SHOPPING CONSUMERS

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Abstract

The study aimed to examine the legal safeguards provided to consumers engaged in online shopping. This study utilized a normative juridical approach with a descriptive qualitative method. Secondary data was collected through a literature review, encompassing various sources such as journals, books, laws, and regulations. The analysis was descriptive in nature, leading to a generalization of the research problem. The findings revealed that consumer protection is regulated by Law no. 8 of 1999 on Consumer Protection, with the ITE Law, specifically Law no. 19 of 2016 on Information and Electronic Transactions, also being applicable to online shopping transactions. Disputes arising from online shopping can be resolved through instant claims (negotiation, mediation, etc.), seeking assistance from the Consumer Dispute Settlement Agency, or resorting to legal action. Furthermore, the study highlighted the importance of consumer awareness and education in understanding their rights and responsibilities when engaging in online shopping. It also emphasized the need for e-commerce platforms to implement transparent and fair practices to protect consumers from fraudulent activities.

Keywords: Consumer Protection, Online Shopping, Criminal Law

1. INTRODUCTION

Human activities are shifting to the digital realm and shopping is no exception as technology is progressing more and more rapidly. Nowadays, many people prefer to shop online instead of coming directly to the store. This is because most consumers feel that shopping online can save time and money. Indonesia is one of the countries with citizens who are starting to switch to online shopping activities. Data released by Databooks (2021), shows that Indonesians spend up to 5.56 billion hours accessing e-commerce applications or websites for the purpose of online shopping in 2021. This figure is very high and has increased from the previous year.

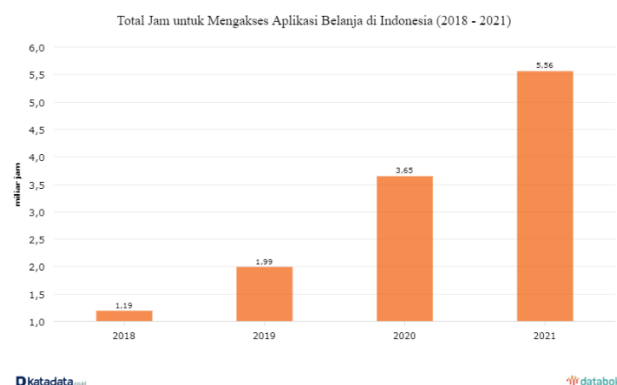


Figure 1. Chart of Total Access Time of E-Commerce Consumers in Indonesia

Based on the graph above, it can be said that there is a significant increase every year, so it can be interpreted that consumers are increasingly accessing online shopping applications from year to year. In 2018, the total access time was only 1.19 billion hours. Furthermore, it increased by almost 50% in 2019 with a total of 1.99 billion hours. The increase was even higher in 2020 with data on the total hours of access to online shopping applications amounting to 3.65 billion hours. However, the most significant increase can be seen from 2020 to 2021 by 52% to 5.56 billion hours. This figure is greater than other countries. For example, Singapore experienced an increase of 46% and Brazil of 45%, in contrast to Indonesia which increased by 52%. Data released by Databoks also shows that in 2021 US citizens accessed shopping applications for 2.96 billion hours, which is only 50% of the total time of Indonesians, which reached 5.56 billion hours (Databooks, 2021).

Although online shopping application users are increasing every year, it does not mean that all consumers have the same satisfaction. There are several obstacles and complaints when making online shopping transactions. Databooks (2020) released data on the number of consumer complaints to the Consumer Protection Agency.

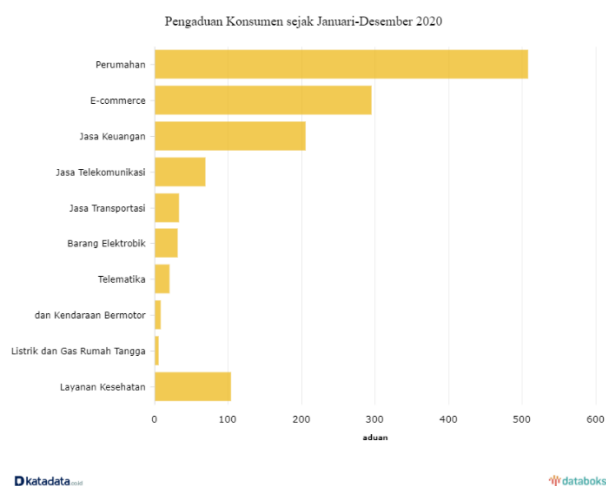


Figure 2. Number of consumer complaints in January-December 2020

Data shows that in 2020, the Consumer Protection Agency received 295 complaints related to e-commerce and this number is the second largest complaint after complaints related to housing. The number is quite high and it can be interpreted that complaints related to e-commerce are received almost every day (Databooks, 2020). From these data, it is necessary to have regulations governing consumer protection, especially e-commerce users, if unexpected things happen in the future. The law that has regulated consumer protection in Indonesia is contained in Law No. 8 of 1999. The law explains that consumer protection in Indonesia basically adheres to the principles of justice and balance. Both principles are intended to be applied in the interests of buyers, sellers and other related parties.

The law has regulated the importance of consumer protection, but the shift in people's behavior, especially in online shopping, makes it necessary to examine the regulations further. In this digital era, where online shopping is getting higher, research is conducted to analyze the legal protection of online shopping consumers. The formulation of the problem includes questions about legislation, criminal law aspects, and

dispute resolution mechanisms. The purpose of writing involves understanding the legislation, analyzing aspects of criminal law, and analyzing dispute resolution mechanisms related to online shopping consumers.

2. RESEARCH METHODS

This research uses a method that includes a type of research that is normative legal research. Normative legal research is basically defined as a type of juridical research that examines aspects in this case aiming to solve legal problems. In line with the type of research, the method used is a normative juridical method (Benuf & Azhar, 2020). The type and method of research used are considered suitable because this research will examine the law related to protection for online shopping consumers. In this research, the data sources obtained come from secondary data in the form of literature, regulations on legislation and other reading sources that are related to the research topic. Research sources of journal articles that assist in this research are obtained from Google Scholar sources with the keywords Consumer Protection and Online Shopping. Furthermore, the technique used in analyzing data is literature review, namely reviewing existing literature in order to answer the formulation of research problems to form a generalization or research conclusion. The approach used is a descriptive qualitative approach. Thus, researchers look for data sources, analyze them and make descriptive explanations related to the findings of the literature study.

3. RESULTS AND DISCUSSION

3.1. Legal Protection to Online Shopping Consumers

- a. Law No. 8 of 1999 on Consumer Protection In this law, the term consumer protection is defined as a form of activity that secures parties who conduct legal buying and selling transactions and is recognized by the government as a shield or protector. Article 1 also explains that there is an institution that directly guarantees consumer protection, namely the National Consumer Protection Agency. Furthermore, it also explains the principles applied to regulations related to consumer protection, namely legal certainty, fairness, balance, safety and benefits. In the law, especially Article 3, the objectives of consumer protection are regulated in detail, including (1) as a basis for consumers to protect themselves and be able to increase awareness and prudence in transactions, (2) being able to become the basis for avoiding consumers from the negative excesses of a buying and selling transaction, (3) it can empower consumers and uphold their rights to demand, choose and determine, (4) a means for consumers to obtain information and also access in seeking a protection system, (5) able to make sellers more careful and apply an honest attitude because of the legal certainty system in transactions, (6) able to guarantee the ongoing process of buying and selling goods and services.
- b. Law No. 19/2016 on Electronic Information and Transactions
- c. This ITE-related law can be a legal protection for consumers, especially in relation to online shopping transactions. In the Law, especially Article 1, the definition of online shopping or electronic transactions is explained, namely every activity that utilizes networks, computers and electronic media in any form. Furthermore, Article 40 also emphasizes that the government supports by providing facilities in the

implementation of safe online transactions in the form of laws and regulations. This is one of the government's efforts so that its citizens can be protected from the misuse of digital information and uphold the interests and public order.

3.2. Criminal Law Aspects of Consumer Protection

Consumer protection is basically something that requires legislation so that consumers can protect themselves with the help of trusted parties. In fact, the law governing protection and also the law on consumers are very closely related. Protection law has a certain form that shows that the law can be a shield and ensure security for parties who need protection in any case. Furthermore, consumer law has a special form as well whose rules are more inclined to the economy, goods, services and their relationship between one another. Both are inseparable and become a whole unit where economic actors have their own rules in carrying out economic activities and still feel safe because of the protection law (Soleh, 2020).

Criminal law in consumer protection is needed to provide a deterrent effect on the perpetrators of online transaction crimes. Basically, criminal law enforcement is an effort to uphold justice in relation to realizing social benefits. The main function in law enforcement, especially in consumer protection, is to actualize rules to direct or framing human behavior due to threats in the form of law (legislation) (Rahmanto et al., 2019). In consumer protection law, the most important aspect is that consumers are guaranteed comfort. This guarantee must be directly able to avoid legal risks or even increase the awareness of economic actors in transactions. With the existence of laws and regulations that contain protection for consumers, it is hoped that in doing business they will be more careful and maintain the responsibility and quality of their business. The criminal law that is applied if the business actor violates consists of legal sanctions so that the perpetrator is deterred and becomes a protection for the injured party.

3.3. Online Shopping Dispute Resolution Mechanism

Online shopping disputes can occur as a result of violations related to transaction agreements between consumers and sellers in terms of obligations, prohibitions and so on. According to Susanti (2017), disputes that occur between sellers and buyers are caused by two main factors, namely: (1) violation of legal obligations by the seller based on laws and regulations, (2) violation of the contents of the agreement by the seller or buyer (Susanti, 2017). Based on Law Number 8 Year 1999, there are three ways that consumer disputes can be resolved, namely:

- a. Consumer disputes resolved with immediate demands (mediation, conciliation, negotiation, etc.)
- b. Consumer disputes resolved with the help of the Consumer Dispute Resolution Agency
- c. Consumer disputes resolved through the courts (UU No. 8 Tahun 1999)

Furthermore, for online shopping cases where transactions do not occur directly but digitally, the ITE Law also applies. Basically, Law No. 8/1999 has very clearly controlled consumer protection when conducting transactions with sellers but has not been able to explain digital transactions whose activities are more complex. If examined further, Article 18 of the ITE Law explains that in online buying and selling transactions, both parties have the same right to determine and choose the applicable law and the type of

settlement either through the court or other settlements. This is because digital transactions are not limited by region. Consumers can buy goods without any regional restrictions and even across countries. Thus, the applicable law overlaps between one country and another. Therefore, the ITE Law gives freedom to the perpetrators of online shopping transactions to determine the applicable law when a dispute occurs (UU No. 19 Tahun 2016).

Freedom in determining the law for dispute resolution is also supported by international law. In Susanti's journal (2017), it is explained that there are three types of jurisdiction in international law, namely jurisdiction in the context of establishing laws, enforcing laws and making demands (Susanti, 2017). Jurisdiction in international law enforcement is also flexible when the dispute is trans-national or involves two or more parties with different nationalities. International law provides various methods to resolve disputes peacefully, and adheres to a system of equality which means that no one is favored over the other. The mechanisms are non-binding, meaning they do not continue to pressure either party. Settlements under international law include direct negotiations between the parties and the involvement of third parties through good offices, mediation, investigation, and conciliation. These international legal mechanisms have been approved by all countries in the world so they can be applied anywhere. One justification is that all states parties to the relevant treaty have effectively consented to the exercise of jurisdiction by the courts of other states parties in the event that offenses covered by the treaty are committed by their nationals or within their territory. However, when the court applies these provisions, there is an issue regarding the state party to the alleged offense. However, this is not a serious problem if both parties agree or are unanimous in determining the law to be used (Hovell, 2018).

4. CONCLUSION

Consumer protection law is basically made to provide protection and a sense of security to consumers in conducting economic transactions. In relation to criminal law, the laws and regulations made are expected to be able to avoid risks and make business actors aware of running a business honestly and not harming others. Law No. 8 of 1999 has regulated consumer protection law that can provide legal sanctions for criminals in buying and selling transactions in the context of consumer protection. Furthermore, Law No. 19 of 2016 concerning ITE also applies in relation to online shopping transactions that are carried out digitally. The most important aspect in the application of these two laws and regulations is to ensure consumer convenience. If there is an online shopping dispute, it can be resolved through consumer dispute mediation institutions, courts or even friendly negotiations. and so on.

Based on the findings, it is advisable to strengthen and enhance awareness of consumer protection laws, particularly in the context of online transactions. It is crucial to continuously educate and disseminate information to both consumers and business actors to ensure compliance with the existing regulations. Moreover, considering the ever-changing nature of the digital environment, it is important to regularly update and amend the laws to address emerging challenges and effectively safeguard consumers. Collaboration between government agencies, law enforcement, and online platforms is vital in establishing a strong framework for monitoring and enforcing consumer protection laws in the digital realm. Additionally, promoting the utilization of consumer dispute mediation institutions and alternative dispute resolution mechanisms can

contribute to faster and more efficient resolution of online shopping disputes, thereby fostering a reliable digital marketplace. In conclusion, a comprehensive approach that encompasses legal, educational, and collaborative efforts is recommended to uphold consumer rights in the evolving landscape of online commerce.

REFERENCES

- Benuf, K., & Azhar, M. (2020). Metodologi penelitian hukum sebagai instrumen mengurai permasalahan hukum kontemporer. *Gema Keadilan*, 7(1), 20–33.
- Databooks. (2020). *Badan Perlindungan Konsumen Terima 1.276 Pengaduan selama 2020*. <https://databoks.katadata.co.id/datapublish/2020/12/15/badan-perlindungan-konsumen-terima-1276-pengaduan-selama-2020> Diakses Pada 27 Januari 2022.
- Databooks. (2021). *Waktu Orang Indonesia Mengakses Aplikasi Belanja Online Meningkat Drastis di 2021*. (2021).
- Hovell, D. (2018). The authority of universal jurisdiction. *European Journal of International Law*, 29(2), 427–456.
- Rahmanto, T. Y., Kav, J., & Kuningan, J. S. (2019). Penegakan Hukum Terhadap Tindak Pidana Penipuan Berbasis Transaksi Elektronik. *Jurnal Penelitian Hukum De Jure*, 19(1), 31.
- Soleh, M. F. (2020). Penimbunan Alat Pelindung Diri pada Masa Pandemi Covid-19: Kajian Hukum Pidana Bidang Perlindungan Konsumen. *Undang: Jurnal Hukum*, 3(1), 1–31.
- Susanti, I. (2017). Tinjauan Yuridis Terhadap Perlindungan Konsumen Belanja Online Berdasarkan Uu No. 8 Tahun 1999 Tentang Perlindungan Konsumen Juncto Uu No. 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik. *Sigma-Mu*, 9(1), 19–32.
- UU No. 19 Tahun. (2016). *Tentang Informasi dan Transaksi Elektronik*.
- UU No. 8 Tahun. (1999). *Tentang Perlindungan Konsumen*.

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