

Juridical Review of Legal Protection Against E-Commerce Consumers on The Marketplace

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ABSTRACT

This study aims to find out and analyze how Law No. 8 can provide legal protection for E-Commers consumers on the Marketplace and to find out and analyze how the legal protection for E-Commers consumers on the Marketplace in the future. The type of research used is normative legal research. So that it focuses on an inventory of positive law, legal principles and doctrines, legal findings in cases in concerto, legal systematics, levels of legal synchronization, legal comparisons, and legal history. This study uses the type of qualitative analysis, which is a study that aims to describe the nature of a particular individual, condition, symptom or group, or to determine the frequency of a symptom, describing the problems that occur related to research. The results show that (1) Legal protection for E-commerce consumers in e-commerce transaction activities on the marketplace is basically an electronic contract engagement activity carried out by two or more parties between business actors and consumers in buying and selling goods and/or services as well as in the form of payment transactions. So that in the process the agreement made is a standard agreement that has a tendency of great risk to consumers.

ABSTRAK

Penelitian ini bertujuan untuk mengetahui dan menganalisis bagaimana UU No 8 dapat memberikan perlindungan hukum bagi konsumen E-Commers di Marketplace dan untuk mengetahui dan menganalisis bagaimana perlindungan hukum bagi konsumen E-Commers di Marketplace di masa yang akan datang. Jenis penelitian yang digunakan adalah penelitian hukum normatif. Sehingga menitikberatkan pada inventarisasi hukum positif, asas dan doktrin hukum, temuan hukum dalam kasus in concerto, sistematika hukum, tingkat sinkronisasi hukum, perbandingan hukum, dan sejarah hukum. Penelitian ini menggunakan jenis analisis kualitatif, yaitu penelitian yang bertujuan untuk menggambarkan sifat individu, kondisi, gejala atau kelompok tertentu, atau untuk menentukan frekuensi suatu gejala, menggambarkan masalah yang terjadi terkait dengan penelitian. Hasil penelitian menunjukkan bahwa (1) Perlindungan hukum bagi konsumen E-commerce dalam kegiatan transaksi e-commerce di marketplace pada dasarnya merupakan kegiatan perikatan kontrak elektronik yang dilakukan oleh dua pihak atau lebih antara pelaku usaha dengan konsumen dalam melakukan jual beli barang dan/atau jasa maupun dalam bentuk transaksi pembayaran. Sehingga dalam prosesnya perjanjian yang dibuat merupakan perjanjian baku yang memiliki kecenderungan resiko yang besar bagi konsumen.

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I. INTRODUCTION

In this era of globalization, many community activities can be carried out freely in all aspects, including economic activities. One of these activities is in the field of buying and selling goods or services. The form of community business at this time is found in many unique forms of business, this is a demand from the very rapid development of the times so that people are required to be able to adapt them to meet their life needs. One of these developments is in the field of technology where everything can be done with technology, including business. At this time we encounter many kinds of businesses that use technology, namely online businesses, which we can no longer deny that they have entered the phase of high-based technology development or also known as E-Commerce.

According to David Baum (1999) E-Commerce is a dynamic set of technologies, applications, and business processes to connect companies, consumers, and society through electronic transactions and the exchange of goods, services, and information electronically (bpptki.kominfo, 2022). The use of e-commerce media in the world of commerce today has an impact on our society. For people in Indonesia, this is related to a very important legal issue, namely the issue of legal protection in the field of e-commerce in transaction activities via the internet. Online trading transactions (e-commerce) in Indonesia itself has a promising future. This is because online transactions have increased from year to year through the marketplace that provides various conveniences in offering merchandise.

Marketplace is a website or online application that facilitates the buying and selling process of various stores (Ilham Mubarak, 2018). The concept of a marketplace is actually almost similar to a traditional market, which is a place where someone can sell various merchandise by grouping the types of goods being marketed. However, what makes the difference in the marketplace is that sellers and buyers do not meet face-to-face, but only through the media. Basically, the marketplace is not responsible for the goods sold on the marketplace, because their job is only to provide a place to connect with customers online and make transactions more simple and easy.

Discussing about e-commerce which is closely related to the marketplace, is now very familiar among the public, e-commerce is another name for buying and selling online through the marketplace, in which transactions there are several things that are interrelated with one another. Among other things, namely the existence of legal subjects, which are legal subjects here are business actors and consumers. The two legal subjects made transactions using information technology media which then gave birth to a sale and purchase agreement. Along with the rapid development of communication and information technology, buying and selling transactions between people no longer recognize regional boundaries. This activity involves business actors and consumers who both must have protection in the eyes of the law. In every business activity, of course, producers or business actors expect a large profit by reducing costs in each of their production or marketing. Producers or business actors will seek the highest profit according to economic principles. This can lead to actions that are born as a result of unhealthy business practices, including increasing prices, lowering quality, dumping and counterfeiting products even in a more severe level, namely to deceive consumers.

Electronic transaction activities (E-commerce) do provide many conveniences and advantages both from the business actor's side or from the consumer's side, but sometimes many do not realize that directly the principle of buying and selling should not be fulfilled. It is safe to say that in every sale and purchase agreement between the two parties, they must be able to give their rights and obligations to each of them. Among these rights are related to the rights that must be obtained by a consumer in a transaction, either directly (online) or online. This electronic buying and selling activity certainly involves the media, in this case the marketplace. This marketplace is very diverse and offers many advantages.

Some of the popular electronic trading platforms in Indonesia are Shopee, Bli-bli.com, Akulaku, Lazada and others. They offer various benefits when shopping on their app, one of which they offer is discounts, free shipping, and on-time delivery. If the customer does not get the goods, the buyer's

money will automatically return to the buyer's account. However, from some of the advantages offered by the marketplace, there are still many rights that should be obtained by consumers but in practice these are actually not fully fulfilled and are still not accommodated by law, so that in this case a consumer will be very prone to getting violations. law.

Because the results of the analysis of researchers in the field, this often happens to online shoppers, starting from the marked up price, the quality of the goods is not good but the price is high, the price is cheap but the quality is low even when the goods ordered and the goods that come are not the same. Therefore, legal protection for consumers is very important. Talking about legal protection, we must first know the extent to which the transactions carried out by these two parties can have legal standing, so that when there are things that can cause harm to both parties, they can be resolved legally and have legality.

In the discussion of legal protection several regulates related to legal protection for consumers. This is due to one of the factors, namely where the position of consumers will be very vulnerable to being victims of law violations in online transaction activities, because in purchasing goods online the bargaining power of consumers is still low. Therefore, in online transactions, the buyer and seller must both be based on good faith.

In Indonesia, consumer legal protection is regulated in Law Number 8 of 1999 concerning Consumer Protection (hereinafter referred to as the Consumer Protection Law), Article 4 of Law Number 8 of 1999 concerning Consumer Protection, consumers have the rights, namely:

1. The right to comfort, security and safety in consuming goods and/or services.
2. The right to choose goods and/or services and to obtain such goods and/or services in accordance with the exchange rate and the promised conditions and guarantees.
3. The right to correct, clear and honest information regarding the condition and guarantee of goods and/or services.
4. The right to be heard of opinions and complaints on the goods and/or services used.
5. The right to obtain protection advocacy, and efforts to resolve consumer protection disputes properly.
6. The right to receive consumer guidance and education.
7. The right to be treated and served properly and honestly and not to be discriminated against.
8. The right to receive compensation, compensation and/or replacement, if the goods and/or services are not as they should be.
9. Rights regulated in the provisions of other laws and regulations.

These rights must be fulfilled by every consumer in conducting electronic transactions. In electronic transactions, the legal impact is very much, therefore several laws can be discussed in analyzing and reviewing related to buying and selling activities electronically.

Through several legal studies and studies of Law no. 8 of 1999 concerning Consumer Protection and Law no. 19 of 2016 amendments to Law no. 11 of 2008 concerning Information and Electronic Transactions, is it sufficient to be the basis for transactions that have legal protection and have legal standing for the parties concerned. Therefore, the researcher aims to examine the Juridical Review of Legal Protection Against E-Commerce Consumers on the Marketplace.

II. METHOD

In this research, the type of research used is normative legal research. According to Abdulkadir Muhammad, normative law research uses normative law case studies in the form of products of legal behavior, for example reviewing draft laws. The subject of the study is the law which is conceptualized as a norm or rule that applies in society and becomes a reference for everyone's behavior. So that normative legal research focuses on an inventory of positive law, legal principles and doctrines, legal findings in cases in concerto, legal systematics, levels of legal synchronization, legal comparisons, and legal history.

In this study, the type of qualitative analysis is used, which is a study that aims to describe the nature of a particular individual, condition, symptom or group, or to determine the frequency of a symptom, describing the problems that occur related to this research. This qualitative analysis emphasizes the analysis more on the process of deductive and inductive inference as well as on the analysis of the dynamics of the relationship between the observed phenomena, and scientific logic (Subekti, 2020; 243).

Qualitative research according to Syaodih Sukamdinata "is a study aimed at describing and analyzing phenomena, events, social activities, attitudes, beliefs, perceptions, thoughts of people individually or in groups (Nana Syaodih, 2012; 53). The form of this research is using qualitative descriptive which is a method to describe, explain, describe the results of observations made by researchers, also the author's view based on several theories of experts or other people who have conducted research with the same object or theory that can be used as a reference for this research. In this study, the author uses qualitative data, while the source is secondary data, where the data used to answer the problems in this study uses a collection method that is focused on library studies.

III. RESULT AND DISCUSSION

1. Overview of Electronic Transactions (E-commerce)

Shopping or making transactions through cyberspace or the internet or using electronics, is very different from making transactions through the real world. This fact raises doubts about the law or juridical law that binds the parties to the transaction. Understanding e-commerce transactions in general is a transaction of buying and selling a product of goods, services or information either individuals, groups of people or business entities or businesses using the internet. Related to online buying and selling, there are also those who use the term online contract to describe buying and selling carried out through a network of information systems. In online transactions or electronic transactions, the parties involved enter into legal relations as outlined in a form of agreement or contract which is also carried out electronically and in accordance with the provisions of Article 1 paragraph (17) of the Law on Information and Electronic Transactions (UU ITE). Electronic contracts are agreements that are contained in electronic documents or other electronic media. From this understanding, it can be concluded that an electronic agreement is an agreement between the two parties which is carried out electronically, where the parties in carrying out the agreement do not require direct face-to-face or through the media/marketplace.

The issue of electronic transactions (E-commerce) is closely related to agreements, this is related to the number of standard agreements used in the business world. Although it has been regulated in such a way as to protect consumer rights, users of standard agreements in electronic transactions still have the greatest risk of loss in the hands of consumers. According to Kelik Wardiono, a standard agreement is an agreement whose contents have been unilaterally determined by a party who generally has a stronger economic position, which is intended for everyone who is involved in such an agreement, regardless of the difference in conditions between one person and another. Wardono, 2005; 7).

From the above understanding, we can see that the use of standard agreements in an electronic transaction results in narrowing the bargaining space of consumers. The standard agreement also provides a requirement that is formulated unilaterally by a stronger party or a party with high bargaining power, where this party is usually a business actor.

E-commerce is the impact of technological developments, as for several ways that can be done in e-commerce transactions, namely:

- a. First, through buying and selling offers and buying and selling online through websites or marketplaces, such as sites on the internet, posting on Instagram (IG), Whaatsap, shopee marketplace, Tokopedia, and others.

- b. Second, through transactions using email, in this case both the buyer and seller must both have email addresses in order to facilitate the process of purchasing goods or services and in determining the payment method that the parties want to use.
- c. Third, through chat or video conferencing, namely by offering something using a dialogue model of interaction via the internet, such as through mobile phones, video conferences are all electronic, they can meet face-to-face with pictures and hear voices between sellers and buyers.
- d. Fourth, through the web or the merchant method that provides a catalog of goods that is equipped with a description of the products sold by the product seller, the term is an order form and a shopping cart.

2. Consumers and Consumer Legal Protection

The era of free trade sponsored by the WTO makes it very possible for the traffic of goods and services to be free not only within the country but also traffic from one country to another (Andi Sri, 2018; 1). State borders are no longer a barrier, all are united when viewed from the point of view of this economic activity. Thus, there is an interaction between economic actors in different countries and their legal systems. One of the economic actors in question is consumers.

Before we discuss consumer legal protection, we first recognize the term consumer, consumer comes from and translates the word consumer (English/American), or consumer/consumer (Dutch). Literally the meaning of the word consumer is (opposite and producer) everyone who uses goods. The purpose of using goods or services will determine which group of consumers the user belongs to. Likewise, the English-Indonesian Dictionary gives the meaning of the word consumer as a user or consumer. Likewise, when talking about the concept, the concept of "Consumer" has been introduced several decades ago in various countries and until now dozens of countries have had special laws or regulations that provide protection to consumers including providing judicial facilities.

Understanding Consumers according to Law Number 8 of 1999 concerning Consumer Protection Law in article 1 paragraph (2), namely: "Consumers are every person who uses goods and/or services available in the community, both for the benefit of themselves, their families, others, as well as other living things and are not to be traded." From the description it can be said that in this case the so-called consumer is the last user of a product, whether it is obtained from commercial or non-commercial.

Then there are rights and obligations attached to these consumers, according to Article 4 of Law Number 8 of 1999 concerning Consumer Protection, consumers have rights, namely:

1. The right to comfort, security and safety in consuming goods and/or services.
2. The right to choose goods and/or services and to obtain such goods and/or services in accordance with the exchange rate and the promised conditions and guarantees.
3. The right to correct, clear and honest information regarding the condition and guarantee of goods and/or services.
4. The right to be heard of opinions and complaints on the goods and/or services used.
5. The right to obtain protection advocacy, and efforts to resolve consumer protection disputes properly.
6. The right to receive consumer guidance and education.
7. The right to be treated and served properly and honestly and not to be discriminated against.
8. The right to receive compensation, compensation and/or replacement, if the goods and/or services are not as they should be.
9. Rights regulated in the provisions of other laws and regulations.

Consumer protection law as one of the legal instruments in which then gets enough attention because it involves rules for the welfare of the community, be it consumers or business actors. In this case due to the weak position of consumers, it must be protected by law. one of the characteristics, as well as the purpose of the law is to provide protection (protection) to the community.

3. How can Law No. 8/1999 provide legal protection to e-commerce consumers on the marketplace.

E-commerce consumer legal protection in e-commerce transaction activities on the marketplace is basically an electronic contract engagement activity carried out by two or more parties between business actors and consumers in buying and selling goods and/or services at once in the form of payment transactions that they do. . As explained in the description above where in the process the agreement made is a standard agreement that has a tendency to have a large risk to consumers. Because buying and selling activities through e-commerce still have drawbacks, namely from technological features which basically cannot fully imitate the real state of the market in fact.

So that the Consumer Protection Act (UUPK) in E-commerce transactions has not been able to fully protect consumers, because the provisions contained in the UUPK have not fully accommodated the rights of consumers in E-commerce transactions. This is because electronic transactions have their own characteristics compared to conventional transactions. Among these characteristics, namely, there is no direct meeting between sellers and buyers, the media used is the internet, transactions can cross the juridical boundaries of a country, the most important thing is that the goods traded can be in the form of goods/services or digital products such as software.

The rights of consumers in Indonesia that are accommodated in Article 4 of the UUPH are:

1. The right to comfort, security and safety in consuming goods and/or services.
2. The right to choose goods and/or services and to obtain such goods and/or services in accordance with the exchange rate and the promised conditions and guarantees.
3. The right to correct, clear and honest information regarding the condition and guarantee of goods and/or services.
4. The right to be heard of opinions and complaints on the goods and/or services used.
5. The right to obtain protection advocacy, and efforts to resolve consumer protection disputes properly.
6. The right to receive consumer guidance and education.
7. The right to be treated and served properly and honestly and not to be discriminated against.
8. The right to receive compensation, compensation and/or replacement, if the goods and/or services are not as they should be.
9. Rights regulated in the provisions of other laws and regulations.

Based on the results of the research study on the protection of e-commerce consumers, the point of what is a form of protection is in terms of protecting consumer rights which are fully obtained by the consumer, in this case the results of the research study show that these rights are very vulnerable to be violated in e-commerce transactions. commerce. Among them are related to the following rights:

1. The right to comfort, security and safety in consuming goods and/or services.
The reason is because consumers do not directly identify, see and touch clearly the goods to be ordered via the internet, in this case the marketplace, as can happen in face-to-face transactions in the market. Then in terms of getting security in e-commerce transactions, it is very lacking, there is no guarantee of data security, such as credit/debit card numbers, account data, virtual account numbers, adequate passwords provided by merchants, then differences in ordered goods that occur in the field when ordering. with item A but item B arrives and the seller is not responsible. so that convenience, consumer safety in transactions is not fully guaranteed.
2. The right to correct, clear and honest information regarding the conditions and guarantees of goods and/or services.

This often happens because the seller and the customer do not meet in person and communication occurs when the consumer is actively asking the seller. So that information related to products is very lacking and ranges from misunderstanding because in making their offers merchants display images and product descriptions with limited and only on the marketplace. Karen, in selling goods, there are some items that cannot be asked by using only descriptions and simple pictures, for example Farfum which must be tried first, clothes by matching sizes and confirming the model.

3. The right to be heard of opinions and complaints on the goods and/or services used.

This is also because sellers and buyers do not meet in person, so communication only occurs via e-mail, chat, telephone and/or only through online stores, which are rare and even no one has listed the address in the real world clearly so that it is very difficult for consumers to communicate. submit a complaint. Although there are online stores that provide a way of communicating through the features provided, it is still difficult because of the limited time and sometimes low response. In addition, it is also very difficult for consumers to sue business actors in cyberspace.

Among the rights that are not properly accommodated above, there are rights that are no less important which in their realization are lacking when conducting e-commerce transactions, namely to guarantee the confidentiality of personal data belonging to consumers by business actors or sellers. This right has not been accommodated in the Consumer Protection Act. Because the guarantee of the confidentiality of taste data is very important to be maintained by business actors or sellers for the safety and convenience of consumers in transactions, if the business actor cheats, then the personal data can be traded to other parties who are not responsible and become important for promotion.

4. How is the Legal Protection for E-commerce Consumers on the Marketplace

Legal protection is basically the type and nature of preventive legal protection where protection is given to consumers when the consumer is going to buy or use or utilize a particular good or service, begins the process of selecting a series or number of goods and or services further to buy or use or utilize these goods and services with certain specifics and certain brands, and legal protection curative protection provided to consumers as a result of the use or utilization of certain goods or services by consumers. In this case, a person is said to be a consumer, it is enough if these people are users or beneficiaries or connoisseurs of an item and or service, regardless of whether he gets it through a buyer or gift.

Legal protection regarding e-commerce consumers is actually from Law Number 8 of 1999 concerning consumer protection, the explanation is more about how to accommodate when the transaction is carried out conventionally or directly. Where in detail it cannot be seen specifically how when the transaction uses e-commerce using information technology media.

However, the implementation of e-commerce transactions has indeed been regulated in Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE). This means that regulatory consumer protection in the use of e-commerce transactions has been regulated and directed in accordance with the contents of the existing articles, but perhaps more so in terms of fulfilling their rights which must be clarified and accommodated and the effects of the use of information technology in this case e-transactions. -commerce.

In relation to the legal protection of e-commerce on the marketplace in the future, there are several things that need to be regulated, including:

a. Legal protection from the side of business actors

1. In this case, business actors are obliged to include a clear identity in the marketplace or account they create. Of the few that were found in the marketplace account, business actors only included the name of the store and phone number which when contacted was very difficult, without including a clear address and the owner of the store. It is hoped that by including a clear identity it will make it easier for consumers to communicate with business actors.

2. The existence of institutions that supervise and legalize the legitimacy of online stores in Indonesia, such as banks that have LPS (Deposit Guarantee Agency). Thus keeping consumers communicating or transacting with fictitious online stores.

b. Consumer Legal Protection from the Product side

Every business actor in offering his products is obliged to provide clear and complete information, especially information of a basic nature, such as regarding the quality of the product, whether original or imitation, new or used, then the type of product and an explanation of the size.

Then product information must be provided using language that is easy to understand so as not to cause another interpretation.

c. Legal Protection for Consumers in terms of transactions

In buying and selling through e-commerce on the marketplace, not all consumers understand how to make transactions using the internet, so it is mandatory for business actors to have clear and concise explanations that are easy to understand regarding the conditions that must be met by every consumer in making transactions. transaction.

Regarding the price offered, does it include shipping costs and other service prices; then related to the system of returning goods and guarantees of goods or products; the payment mechanism, whether it is an inter-bank transfer, using a Virtual Account, or the Cash On Delivery (COD) system and other systems, and the payment period or payment limit.

IV. CONCLUSION

Based on the results of the study, it can be concluded that, firstly, legal protection for E-commerce consumers in e-commerce transaction activities on the marketplace is basically an electronic contract engagement activity carried out by two or more parties between business actors and consumers in buying and selling goods and/or services. or services at the same time in the form of payment transactions. So that in the process the agreement made is a standard agreement that has a tendency of great risk to consumers. Therefore, the Consumer Protection Law (UUPK) in E-commerce transactions has not been able to fully protect consumers, because the provisions contained in the UUPK have not fully accommodated the rights of consumers in E-commerce transactions. This is because electronic transactions have their own characteristics compared to conventional transactions. Among these characteristics, namely, there is no direct meeting between sellers and buyers, the media used is the internet, transactions can cross the juridical boundaries of a country, the most important thing is that the goods traded can be in the form of goods/services or digital products such as software.

Second, e-commerce transaction activities are very vulnerable to violations against consumers regarding the rights that consumers will get from the activities of transacting the purchase of goods and/or services carried out. Consumer rights which are normatively regulated by UUPK seem to be limited to conventional trading activities. So it is necessary to re-arrange some materials regarding rights that protect consumers. Then also protection is only focused on the consumer side and traded products, protection from the side of business actors such as information about company identity is very minimal, and the guarantee of confidentiality of consumer data has not been accommodated by UUPK, even though these rights are very important to be regulated for security. and consumer convenience.

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