CONSUMER PROTECTION LEGAL REVIEW OF CONSUMER RIGHTS IN E-COMMERCE BUSINESS

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Abstract

Advances in technology, especially the development of the internet, have had an impact on various sectors. Among the impacts are in the economic sector, especially in the trade sector. Trade which was previously known as manual transactions which usually bring together the seller and the buyer, with this development this does not happen, transactions are carried out without presenting the relevant parties. This phenomenon is currently known as E-Commerce, which is transacting business online. E-Commerce transactions in addition to having a positive impact, but not infrequently also have a negative impact. The thing that most often arises is the consumer who is harmed. which aims to guarantee consumer rights when transacting and is also strengthened by the ITE Law in terms of consumer protection. Although it has been around for a long time, the existence of this Consumer Protection Law has not been widely realized by consumers. Many consumers think that this law is really needed when they have been involved in criminal or civil cases. This study aims to further review the Consumer Protection Act against E-Commerce transactions as well as forms of legal remedies if there are consumers who are harmed in the transaction. This research method uses a normative juridical legal research method, which refers to legal norms. This research is descriptive. The results of this study indicate that based on positive law the form of consumer rights protection most of the rules are in accordance with Law no. 8 of 1999 concerning Consumer Protection and subsequently accommodated by the issuance of PP No. 80 of 2019 concerning Trading Through Electronic Systems. The implication of this research is that it is hoped that consumer awareness will be smarter in buying and selling transactions, especially online buying and selling by first reading the terms of service and information about the goods to be purchased. Consumers need to get legal protection efforts, both preventive legal protection and repressive legal protection efforts to maintain or defend their rights if they are harmed by the business actor.

Keyword: Consumer Protection Law, Consumer Rights, E-Commerce

The development of technology, especially the use of the internet, has a significant influence on the world economy. Currently, the use of internet media is not limited to the use of information but is also used as a means to conduct transactions and several companies have started to use it, namely electronic trading or what we know as electronic commerce (e- commerce) (Anjani & Santoso, 2018)

Advances in technology, especially the digital economy, have also had an impact on the Indonesian state, making it a promising business area marked by the number of online buying and selling sites (Hafni et al., 2020)

Currently, electronic commerce (e-commerce) has become a trending phenomenon in Indonesia. The e-commerce business is divided into two segments, namely business to business e-commerce (trade between business actors) and business to consumer e-commerce (trade between business actors and consumers). The existence of electronic commerce provides convenience for the public in conducting trade transactions (Muttaqin, 2010)

The presence of e-commerce as a new trend in society provides convenience, especially to consumers, including not having to leave the house to look for various desired needs at relatively cheaper prices. This phenomenon provides two different sides, namely being a positive and negative challenge. From the positive side, these conditions can provide benefits for consumers to freely choose the goods/services they want. Consumers have the freedom to determine the type and quality of goods/services according to their needs. From the negative side, this condition causes the consumer's position to be weaker than the position of business actors which can lead to disappointment and losses. (Pradnyaswari, Ida Ayu, Westra, 2020)

The weakness of this online transaction is that it does not bring together those who have online businesses and direct buyers and where consumers cannot see the desired goods in real (in actual form and condition) this can cause problems that harm buyers in conducting online transactions, including is the incompatibility of the promised goods, the inaccuracy of the delivery time of the goods and the security factors of online transactions such as payment security which is one of the problems for people who buy goods online (Erick et al., 2019)

E-commerce business activity in Indonesia can be said to be relatively new. So there are still many shortcomings encountered in its implementation. These shortcomings range from infrastructure and information technology as well as inadequate internet networks, regulations/regulations that still do not reach comprehensively, to the problem of collecting taxes on e-commerce transactions (Firmansyah, 2018).

Of the several weaknesses that exist in the E-commerce business, especially those related to consumer rights, it is necessary to have regulations and laws that regulate this, because things that harm consumers are not only the result of unlawful actions by business actors, nor are they always due to the intentional or Negligence of the business actor. To get their rights, consumers must get mutual attention, namely by getting the right information, and not staying silent when there is a violation of their rights. On the other hand, as an entrepreneur, in fulfilling consumer rights, he does not carry out business practices that can harm consumers (Hamsinar, 2019)

Regulations on consumer protection to obtain their rights have basically been listed or set forth in the form of a law, namely the Consumer Protection Act (UUPK). These rights have been recognized for their existence and have legal certainty that has been regulated in the law. If consumers feel aggrieved, they can take legal action using the articles contained in the Consumer Protection Act

In line with the above, the development of e-commerce is also regulated in Law no. 11 of 2008 concerning Information and Electronic Transactions, abbreviated as UU ITE. The implications of this regulation provide two important things, namely, first, the recognition of electronic transactions and electronic documents within the framework of the law of engagement and the law of evidence, so that the legal certainty of electronic transactions can be guaranteed, and secondly, the classification of actions that include qualifications of legal violations related to misuse of IT (technology). information) accompanied by criminal sanctions (Humaemah Ratu, 2016)

In reality, although regulations regarding consumer protection and electronic transactions are available, their implementation is still not fully achieved, this is due to cases that are not optimally resolved, sometimes tend to ignore consumer rights, as well as many cases that have no resolution, this is because consumers prefer not to worry about it

Seeing the existing phenomenon, the presence of the Consumer Protection Law, efforts must be made to increase consumer awareness, knowledge, care, ability and independence to protect themselves and develop responsible business actors' attitudes. As a law that is oriented to protecting the interests of consumers, which is based on justice, balance, consumer security and safety, as well as legal certainty, the thing to pay attention to is realizing a balance of protecting the interests of consumers and business actors, so that a healthy economy can be created (Pradnyaswari, Ida Ayu, Westra, 2020)

Literature Review

E-Commerce

Laudon and Laudon (1998) define electronic commerce as: "The process of buying and selling goods electronically by consumers and from company to company through computerized business transactions". From this definition, there are three main points in electronic commerce, namely first, there is a process of both selling and buying electronically. Second, there are consumers or companies. Finally, the network uses computers on-line to conduct business transactions (Achjari, 2000).

The use of the term Electronic Commerce does not yet have a standard term. There are several commonly known terms such as E-Commerce, WEB Contract, and Electronic Trade Contract. E-commerce is part of Electronic Bussines (business conducted through electronic media). The definition of e-commerce among businesses is all forms of commerce/trading of goods or services using electronic media (Susanti, 2014)

E-Commerce as a form of electronic commerce has its own charm, namely on the efficient and effective side. When viewed in terms of efficiency, E -Commerce has advantages, namely in terms of marketing, labor, and overhead costs that benefit the company. One example is that companies do not need to print every new catalog and send it (fax) to each consumer because consumers can see it directly. on the website regarding changes in the type and price of goods from second to second. (Achjari, 2000)

Consumer Rights And Obligations

Based on Law no. 8 of 1999 concerning Consumer Protection, one of the basic rights of consumers that must be protected is legal certainty. Problems in e-commerce legal certainty, for example regarding the legitimacy of business transactions from the aspect of civil law. Other problems that arise, for example, relate to the guarantee of data authenticity, document confidentiality, obligations related to taxes, the law appointed in the event of a breach of agreement or contract, legal jurisdiction issues and also which legal issues should be applied in the event of a dispute. Security guarantees for e-commerce transactions are very much needed to protect consumers in order to further foster consumer confidence, and in the end it is hoped that there will be an increase in the volume of transactions through e-commerce (BPKN Team, n.d.)

In article 4 of the Consumer Protection Act in detail, it is stated that there are several consumer 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 have their opinions and complaints heard on the goods and/or services used;
5) The right to get advocacy, protection, and efforts to settle consumer protection disputes properly;
6) The right to receive consumer guidance and education;
7) The right to be treated or served correctly and honestly and not discriminatory;
8) The right to obtain compensation, compensation and/or replacement, if the goods and/or services received are not in accordance with the agreement or not properly; Rights regulated in the provisions of other laws and regulations. (article 4) (Law, 1999)

The obligations of consumers are stated in Article 5 of Law Number 8 of 1999 as follows:

1) Read or follow information instructions and procedures for the use or utilization of goods and/or services for security and safety;
2) Good faith in conducting transactions in defense of goods and/or services;
3) Pay according to the agreed exchange rate;
4) Follow the legal settlement of consumer protection disputes. The existence of the consumer's obligation to read or follow instructions for information and procedures for the use or utilization of goods and/or services for security and safety is an important matter in obtaining regulation (Law, 1999).

Consumer Protection Law

Law NO. 8 Year 1999

Consumer protection is related to legal protection, so consumer protection must contain legal aspects. The material that gets protection is not just physical but also abstract rights. So consumer protection is very synonymous with the protection provided by law on consumer rights (Harahap, 2017).

Efforts that can be made by the consumer protection law are to answer the problems and phenomena that occur and aim to provide legal protection to consumers (Wulandari, 2018). According to the provisions of the Consumer Protection Law article 1 paragraph 1 of Law No.

8 of 1999 the definition of consumer protection includes all efforts to ensure legal certainty in order to provide protection to consumers (Law, 1999).

There are five principles adopted in the provisions of the Consumer Protection Law No. 8 of 1999 article 2, namely benefits, justice, balance, consumer safety and security, and legal certainty. As reported from this protection includes protection so that consumers do not get goods and or services that are not in accordance with the agreement or violate the provisions of the law, as well as protection against unfair terms for consumers.

The consumer protection aims to:

1. Increase consumer awareness, ability and independence to protect themselves;
2. To raise the dignity of consumers by preventing them from the negative excesses of using goods and/or services;
3. Increase the empowerment of consumers in choosing, determining, and demanding their rights as consumers;
4. Create a consumer protection system that contains elements of legal certainty and information disclosure as well as access to information;
5. Growing awareness of business actors regarding the importance of consumer protection so that an honest and responsible attitude grows in doing business;

improve the quality of goods and/or services that ensure the continuity of the business of producing goods and/or services, health, comfort, security, and safety of consumers

In order to develop consumer protection efforts, the National Consumer Protection Agency was formed. consumers (articles 31-33)) The National Consumer Protection Agency is domiciled in the State Capital of the Republic of Indonesia and is responsible to the President. Article 33 The National Consumer Protection Agency has the function of providing advice and considerations to the government in efforts to develop consumer protection in Indonesia (UU, 1999)

In the event of a loss to the consumer in (article 3) Article 23 UUPK states that if the manufacturer business actor and/or distributor business actor refuses and/or does not respond and/or does not fulfill the compensation for the consumer's demands, the consumer is given the right to sue. business actors and resolve disputes that arise through the Consumer Dispute Settlement Agency (BPSK) or by filing a lawsuit to the court at the consumer's domicile This is in line with Article 45 of the UUPK which states:

1) Every consumer who is harmed can sue a business actor through an institution tasked with resolving disputes between consumers and business actors or through the courts in their environment.
2) Settlement of consumer disputes can be reached through the courts or out of court based on the voluntary choice of the disputing parties.
3) Settlement of disputes out of court as referred to in number (2) does not eliminate criminal responsibility as stipulated in the law.

If a consumer dispute effort has been chosen outside the court, a lawsuit through the court can only be taken if the effort is declared unsuccessful by one of the parties or by the disputing parties. So in an effort to resolve consumer disputes according to the UUPK there are two options, namely: through an institution in charge of resolving disputes between consumers and business actors (in this case BPSK), or through a court within the general court environment (UU, 1999).

Electronic Information And Transaction Act

The emergence of Law Number 11 of 2008 concerning Information and Electronic Transactions, which was subsequently revised through Law Number 19 of 2016, known as the ITE Law, is a guarantee of legal certainty in the field of electronic transactions. This is important to be regulated, considering the development of communication, information and multimedia technology has resulted in various changes in the social and economic fields (Sitorus, 2020)

Before the birth of Law no. 11 of 2008 concerning ITE, all activities related to and related to E-Commerce are regulated in various relevant laws and regulations such as Law no. 12 of 2002 concerning Copyright, Law no. 14 of 2001 concerning Patents, Law No. 15 of 2001 concerning Trademarks, Telecommunications Law no. 36 of 1999, Law no. 8 of 1999, and others (Siregar, 2016)

Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE) is the first law that specifically regulates cybercrimes in Indonesia. Based on the letter of the President of the Republic of Indonesia. No.R. /70/Pres/9/2005 dated September 5, 2005, the text of the UU ITE was officially submitted to the DPR RI and then ratified on April 21, 2008 (Setiawan & Arista, 2013)

Based on the provisions of Article 1 number 10 of the Law on Information and Electronic Transactions (UU ITE), it is stated that electronic transactions are legal acts carried out using computers, computer networks or other electronic media (Muttaqin, 2010)

Article 1 point 2 of the ITE Law defines electronic transactions as legal acts carried out using computers, computer networks, and/or other electronic media. Furthermore, Article 9 of the ITE Law regulates the obligations of business actors to provide complete and correct information related to contract terms, producers and products offered (Rongiyati, 2019).

The Electronic Contract itself according to Article 48 paragraph (3) of PP PSTE must at least contain the following matters; identity data of the parties; objects and specifications; Electronic Transaction requirements; prices and fees; procedures in the event of cancellation by the parties; provisions that give the injured party the right to be able to return the goods and/or request a replacement of the product if there is a hidden defect; and the choice of law for the settlement of Electronic Transactions (Khotimah & Chairunnisa, 2005)

Legal protection for consumers in electronic trading transactions is contained in Article 28 paragraph (1) of the ITE Law, namely: "Everyone intentionally and without rights spreads false and misleading news that results in consumer losses in electronic transactions". Regarding the criminal sanctions applied for violations committed in Article 28 paragraph (1) the provisions are contained in Article 45 a paragraph (1) of the ITE Law, namely: "Everyone who intentionally and without rights spreads false and misleading news that results in consumer losses in transactions. electronic devices as referred to in Article 28 paragraph (1) shall be punished with imprisonment for a maximum of 6 (six) years and/or a fine of a maximum of Rp. 1,000,000,000.00 (one billion rupiah) (Ranto, 2019).

In relation to consumer protection, Article 49 Paragraph (1) PSTE emphasizes that business actors who offer products through an electronic system are required to provide complete and correct information relating to contract terms, producers, and products offered. If the goods received are not in accordance with the agreement, the business actor is obliged to give the consumer a time limit to return it according to the agreement or there are hidden defects, and if the goods do not match the photos in the online advertisement. Consumers can sue business actors (online sellers) in a civil manner under the pretext of default on buying and selling transactions that you do with the seller (State et al., 2016)

The ITE Law provides legal protection for consumers as stated in Article 9 of the ITE Law, namely "Business actors who offer products through electronic systems must provide complete and correct information regarding contact terms, producers and products offered". In offering the transaction, at least the telemarketer provides "complete and correct information" including a. Information containing the identity and status of legal subjects and their competencies, both as insurers and insured. b. Other information that explains certain things that are conditions for the validity of the agreement and explains the goods and/or services offered (Robby Yanuareksa*, Suradi, Rinitami Njatrijani, 2016)

The legal protection efforts for consumers provided by the ITE Law are stated in Article 9 of the ITE Law, namely "Business actors who offer products through electronic systems must provide complete and correct information relating to contact terms, producers and products offered". In offering the transaction, at least the telemarketer provides "complete and correct information" including: 1. Information containing the identity and status of legal subjects and competencies, both as insurers and insured. 2. Other information that explains certain things that are conditions for the validity of the agreement and explains the goods and/or services offered (Pradnyaswari, Ida Ayu, Westra, 2020)

Method

This research is a type of normative legal research, which collects materials from various laws and regulations and uses some written literature. Document study research focuses more on analysis and some literature on materials from these data which are secondary, namely the absolute nature that must be fulfilled and what is written in the document study.

Findings and Discussion

The development of buying and selling transactions through E-Commerce is currently also having an impact on the Indonesian state and has even become a trend for business development in Indonesia. It is undeniable that the development of E-commerce transactions has had many positive impacts and made it easy for consumers to transition online. The presence of e– commerce as a new trend in society provides convenience, especially to consumers, including not needing to leave the house to look for various desired needs. At a relatively cheaper price.

Besides having a positive impact on transactions, e-commerce on the other hand also has a negative impact that is sometimes unavoidable. The negative impact that often occurs is in terms of consumer rights which are neglected or detrimental to consumers. Legal cases that often occur include default, incompatibility of goods according to the agreement, goods not arriving and other things that are detrimental to consumers, which in this case needs legal rules that protect consumers.

Indonesia as a legal state already has a legal basis regarding consumer protection, namely Law Number 8 of 1999 concerning Consumer Protection in addition to other laws and regulations governing the same thing. Consumers in this case must be given various special protections which are very vulnerable with various possibilities that will harm the consumers themselves from business actors who do not have good intentions in conducting online buying and selling transactions. Online transactions for both business actors and consumers must have good faith from the start. If there are problems between consumers and business actors in buying and selling transactions, they can use the UUPK as a guide for consumers, especially to fight for their rights to protect their interests. It is possible for business actors if they get a buyer who does not have good faith, they can resolve things through a similar process. In essence, it is not enough for regulations related to consumer protection to become a legal forum or means for consumers and business actors. There are still some improvements and additional regulatory substances that need to be added to protect various parties.

The regulation on e-commerce is also regulated in Law no. 11 of 2008 concerning Information and Electronic Transactions, which is abbreviated as UU ITE. The implications of this regulation provide two important things, namely, first, the recognition of electronic transactions and electronic documents within the framework of the law of engagement and the law of evidence, so that the legal certainty of electronic transactions can be guaranteed, and secondly, the classification of actions that include qualifications of legal violations related to misuse of IT (technology). Information) accompanied by criminal sanctions.

Legal protection for consumers in the UUPK is contained in several articles related to consumer protection The regulation on e-commerce is also regulated in Law no. 11 of 2008 concerning Information and Electronic Transactions, which is abbreviated as UU ITE. The implications of this regulation provide two important things, namely, first, the recognition of electronic transactions and electronic documents within the framework of the law of engagement and the law of evidence, so that the legal certainty of electronic transactions can be guaranteed, and secondly, the classification of actions that include qualifications of legal violations related to misuse of IT (technology). Information) accompanied by criminal sanctions.

Legal protection for consumers in the UUPK is contained in several articles related to consumer protection Regarding the dispute resolution process, there are two paths that can be taken, namely through litigation (courts) and non-litigation (not through courts). Non-litigation dispute resolution that is more profitable is by means of mediation, where the mediator helps the parties to compromise to find a way out of the dispute according to the agreement of the parties so that the parties can accept it well. However, this method has a drawback, namely the result of the agreement is not binding and is final because it is only in the form of an agreement between the parties, through these two channels, consumers and also business actors can resolve the dispute.16 Article 45 A paragraph (1) of Law Number 19 of 2016 states where business people who violate the laws and regulations in the E-commerce business will be subject to criminal, administrative and compensation sanctions so that it is hoped that this will reduce and prevent cases of fraud like this from happening again.

Legal efforts can also be made in E-commerce transactions to be able to provide protection for buyers or consumers. If at any time there is a dispute between the seller and the consumer, the parties can use legal remedies. In UUPK Article 45 paragraph (2) states “that the settlement of consumer disputes can be reached through the courts or out of court based on the voluntary choice of the disputing parties.

The parties in resolving civil lawsuit disputes in electronic transactions can use arbitration, or other institutions such as mediation, conciliation, and negotiation. Security is an interest in carrying out electronic-based transactions. There are 3 approaches in maintaining cyberspace security, the first is the technological approach, the socio-cultural-ethical approach, and the third is the legal approach.

The rules related to consumer protection in the ITE Law are contained in Article 49 Paragraph (1) PSTE emphasizes that business actors who offer products through an electronic system are required to provide complete and correct information relating to contract terms, producers, and products offered. If the goods received are not in accordance with the agreement, the business actor is obliged to give the consumer a time limit to return it according to the agreement or there are hidden defects, and if the goods do not match the photos in the online advertisement. Consumers can sue business actors (online sellers) in a civil manner under the pretext of default on buying and selling transactions that you do with the seller.

The legal protection efforts for consumers provided by the ITE Law are stated in Article 9 of the ITE Law, namely "Business actors who offer products through electronic systems must provide complete and correct information relating to contact terms, producers and products offered". In the transaction offer, at a minimum, it provides 'complete and correct information, namely information containing the identity and status of legal subjects and their competencies, both as insurers and the insured. And other information that explains certain things that are conditions for the validity of the agreement and explains the goods and/or services offered.

From several provisions and legal remedies taken, the Consumer Protection Law (UUPK) and the Electronic Information and Transactions Law (UUITE) have been able to provide adequate legal protection for consumers in conducting transactions through e-commerce, the

legal protection can be seen in the provisions of the UUPK and UUITE where the two regulations have regulated the use of consumer personal data, the legal requirements for an e- commerce transaction, the use of CA (Certification Authority), and regulates actions that are prohibited for business actors in marketing and producing goods and services that can be used as reference for objects in e-commerce transactions, although there are still shortcomings in their operations, and the lack of consumer knowledge of the existence of these two legal instruments.

Conclusions and Suggestions

E-commerce business transactions have two different sides, on the one hand it provides opportunities and convenience, but on the other hand it has a negative impact in the form of possible losses experienced by consumers. The results of the analysis show that the Government through policies in the field of trade and consumer protection has provided protection to consumers involved in trade transactions through electronic systems both preventively and repressively. Preventively, government programs and activities have been issued in the field of consumer protection, namely UUPK No. 18 of 1999 and UU ITE No. 11 of 2008 which aims to provide protection to consumers, especially in carrying out economic activities. . Although not yet maximized, the repressive legal protection provided to consumers who conduct trade transactions through electronic systems has been partially regulated in several related laws and regulations. This means that at the regulatory level, laws and regulations regarding electronic trade transactions in Indonesia have regulated the substance of consumer protection but have not comprehensively regulated consumer protection in trade transactions through electronic systems.

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