



INTERNATIONAL JOURNAL OF LAW,
GOVERNMENT AND COMMUNICATION
(IJLGC)

www.ijlgc.com



LEGAL PROTECTION FOR E-COMMERCE TRANSACTION
BUSINESS ACTORS IN THE ERA OF DIGITAL
TRANSFORMATION IN INDONESIA

Nandha Surya Pamungkas^{1*}, Novia Indriana²

¹ Department of Law, Universiti Muria Kudus, Indonesia

Email: nandha.surya@umk.ac.id

² Department of Law, Universiti Muria Kudus, Indonesia

Email: 202120024@std.umk.ac.id

* Corresponding Author

Article Info:

Article history:

Received date: 20.04.2024

Revised date: 19.05.2024

Accepted date: 15.06.2024

Published date: 30.06.2024

To cite this document:

Pamingkas, N. S., & Indirana, N. (2024). Legal Protection For E-Commerce Transaction Business Actors In The Era Of Digital Transformation In Indonesia. *International Journal of Law, Government and Communication*, 9 (36), 385-391.

DOI: 10.35631/IJLGC.936029

This work is licensed under [CC BY 4.0](https://creativecommons.org/licenses/by/4.0/)



Abstract:

Digital transformation contributes to the growth of trade through electronic media (E-Commerce). This provides a great opportunity for business actors to develop their business and increases the chances of consumer default. One possible cause of payment failure is the transaction method that uses the Cash on Delivery method. This research aims to determine legal protection for business actors in buying and selling transactions via E-Commerce. The research method used is normative juridical with descriptive research specifications, data collection is carried out through documentary studies and literature studies, and data analysis is carried out qualitatively through deductive logical thinking. Legal protection for business actors against acts of default committed by consumers is generally regulated in the Civil Code and specifically regulated in the Electronic Transaction Information Law and Consumer Protection Law. The Civil Code explains that business actors have the right to receive payment if their goods reach consumers. If the consumer commits an act of default, the business actor can ask for compensation for losses caused by non-fulfillment of the agreement. Technically, the Consumer Protection Law does not fully protect the rights of business actors as parties to buying and selling transactions via E-Commerce. Because, since the publication of the Consumer Protection Law in 1999, the era of digitalization has not changed, so the existence of the Electronic Transaction Information Law complements this deficiency. There needs to be an update to the Consumer Protection Law to protect the rights of business actors. Without adequate regulations, it will cause new disruptions to the development of the Indonesian economy.

Keywords:

Legal Protection, Business Actors, Consumer Default

Introduction

The development of information technology has resulted in changes to social behavior patterns in people's lives. With the development of information technology, the world has no boundaries, and people can receive all information quickly and easily. Current information technology, apart from contributing to improving people's lives, also increases progress and civilization. One of the results of technological developments is the existence of an online buying and selling system (Alfis Setyawan, 2017).

Online buying and selling via the Internet can be interpreted as e-commerce, namely commercial activities related to consumers, producers, service providers, and consumer intermediaries (Riswandi, 2003). The world economy is increasingly developing with the presence of e-commerce in Indonesia, with online buying and selling transactions carried out through the marketplace. Marketplace is an internet-based online platform that functions as a business and transaction forum for business actors and consumers (Dosen Ekonomi, 2023). The existence of a marketplace makes it easier for people to carry out buying and selling transactions without having to meet in person.

Basically, buying and selling transactions are regulated by the provisions of Article 1457 of the Civil Code. Buying and selling is an agreement where one party undertakes to hand over the goods and the other party must pay according to a mutually agreed price (Abdulkadir, 2000). The essence of the agreed sale and purchase can be seen in Article 1458 of the Civil Code, which states that the sale and purchase are deemed to occur between two parties as soon as both parties reach an agreement regarding the issue and price, even though the goods already exist. has not been sent, or the price has not been paid (Tumbel et al., 2020).

The method of payment in buying and selling transactions generally uses cash, where the money is paid by the consumer after receiving the goods according to the agreement with the seller. The existence of online buying and selling transactions, which are possible without bringing business actors and consumers together directly, has resulted in the emergence of payment methods that can accommodate online buying and selling transactions, one of which is the Cash on Delivery (COD) payment method. COD is a payment method that is paid directly on the spot by the consumer after the goods agreed to by the business actor delivered by the shipping service have been received by the consumer; in other words, the sending service acts as an intermediary for buying and selling transactions (Retnowati et al., 2022).

The development of information technology in buying and selling transaction systems not only provides convenience for the public, it also creates new problems. By not meeting directly with business actors and consumers when carrying out buying and selling transactions, this can create opportunities for acts of breach of promise (default) by one of the parties, either by the business actor or by the consumer. The consumer side has always been considered to be the most vulnerable party to misconduct committed by entrepreneurs. Such acts of non-performance are often in the form of fraudulent or inaccurate information related to the products offered by the entrepreneur, resulting in losses to the consumer. However, in practice today, with the development of transactions online, sales do not close the possibility of non-performance by the consumer. Actions by consumers can be in the form of fraud, fictitious orders, or actions by consumers that do not make payment for the product (Hit and Run) already sent without accompanying an obvious reason. This will result in losses for the entrepreneur, so not all products can be sold or bought back to another party, or the product does not have

long-term durability. The creation of the Consumer Protection Act (UUPK) is a form of government action that aims to provide legal protection to consumers and to give responsibility to entrepreneurs in conducting their businesses. The UUPK fully regulates the prohibited practices as well as the liability of the entrepreneur in providing damages to the consumer, but it has not fully regulated the prohibitions and liability to consumers (Dhian Novita & Santoso, 2021). With the development of the online sale transaction system, the possibility of losses as a result of the sale transactions can be experienced by consumers and entrepreneurs. According to the above description, legal protection is not only limited to consumer protection, but there must be guarantees of protection of the rights of entrepreneurs in carrying out their business activities.

Literature Review

Legal protection is the protection of every right that humans have as legal subjects based on legal provisions, from arbitrary actions. Legal protection provided to legal subjects can be realized in the form of preventive or repressive efforts, both verbal and written. In other words, it can be described that legal protection is a separate illustration of the function of the law itself, which has the concept that the law provides justice, reporting, certainty, usefulness and tranquility (Ranto, 2019).

Sale and purchase is a type of agreement regulated in the Civil Code, where one party commits himself to hand over an object and the other party pays the agreed price. In principle, the legal basis for making online sales and purchase agreements is not much different from agreements in general (Anggraeni & Rizal, 2019). Sale and purchase arrangements in Indonesia are based on the terms of the agreement regulated in Article 1320 of the Civil Code, namely the existence of an agreement between the two parties; Ability to carry out legal actions; The existence of a particular object or thing; There is a legitimate cause (Triantika et al., 2020). Legal protection of the rights between business actors and consumers in buying and selling transactions is specifically regulated in the UUPK. UUPK regulates the obligations and rights received by consumers and business actors. Article 6 UUPK gives business actors the right to legal protection against consumers who do not have good faith in buying and selling. Matters related to the regulation of online buying and selling transactions are also regulated in Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions.

Literature Review

The method used in this study uses a normative jurisprudential approach with a type of discretionary research, which will describe facts related to legal issues on the subject of this writing (Muhaimin, 2020). The collection of data or legal material is done through a library study. Primary legal materials are legislative regulations, secondary legal material books, and research journals related to legal protection for consumers and entrepreneurs against transactions of sale and purchase. The material collected is subsequently grouped into parts and then analyzed in depth by digging into the basis of the value as well as the basic norms that exist in the data, which are then compared with the regulations related to the problem in this research. Data analysis is performed qualitatively through logical reasoning or deductive thinking.

Analysis And Discussion

Legal Protection of Entrepreneurs in E-commerce Transactions

Purchasing transactions include activities that are inherent in the everyday life of the community. People are selling for the purpose of meeting their needs, either conventionally, online, or through so-called e-commerce. Online shopping through e-commerce carries the foundation of freedom, as the parties are given freedom in determining the media where online shopping transactions are carried out and are given the freedom to determine the form of the agreement from payment to delivery of goods. Pre-contracts in online sales begin with an offer made by the entrepreneur by offering his goods through the marketplace he has on the e-commerce platform and the acceptance made by consumers if they are interested in buying them (Azizah & Aswad, 2022). The occurrence of an online buying and selling agreement as a result of an offer and acceptance via an e-commerce platform gives rise to an agreement.

A treaty is an act of law concerning property between two parties in which one party promises to do something or not to do something, while the other party has the right to demand the fulfillment of the promise (Tcefortin & Budhisulistyawati, 2020). In the creation of an agreement, the parties are obliged to comply with the terms of the agreement set out in Article 1320 of the Covenant, namely: There is an agreement between the parties; Capacity to perform a legal act; there is an object or a certain thing; there is a legitimate cause. The agreement results in a legal relationship between the consumer and the entrepreneur, which leads to rights and obligations to be fulfilled by the parties (Prawira Buana et al., 2020). Indonesia is a state of law that guarantees the recognition and protection of fundamental rights for all its citizens, without exception, in conducting trading relationships both conventionally and online.

In the implementation of the sale agreement, consumers tend to be seen as the weaker party in terms of the fulfillment of their rights because they have a lower bidding position than the entrepreneur. The Indonesian government issued UUPK to protect consumers who are often injured. The development of information technology, as well as the development of payment methods in online sales transactions, opens up the possibility of losses that are not only experienced by consumers but can also be experienced by entrepreneurs. Losses in law can be divided into two categories, namely: first, material losses are losses that can be calculated on the basis of nominal amounts; these losses usually occur in the case of non-performance. Second, an intangible loss is a loss that cannot be estimated on a nominal basis. This loss usually occurs in cases of acts against the law (PMH) (Ardhya, 2020).

The regulation of online sales transactions is based on the relationship of good faith, as seen in the UUPK and the Law No. 1 Year 2024 on the Second Amendment of the Act No. 11 Year 2008 on Electronic Information and Transactions (ITE Act). Based on the explanation of Article 17 of the ITE Act, the parties conducting electronic transactions are obliged to either interact and/or exchange electronic information and/or electronic documents during the transaction.

Protection of the rights of consumers and entrepreneurs can basically be realized when both parties in the sale and sale activities prevail on the principle of good faith relations (Desiani et al., 2018). The businessman has the right to receive payment on the agreement concerning the conditions and exchange rate of the goods or services traded. The right to obtain legal protection from the wrongdoing of the businessman can be seen in the provisions of Article 6

UUPK. The businessmen have the right to the rehabilitation of their good name when there is legal proof that the losses as well as the rights are regulated by the regulations of other laws. If the consumer is not in favor of the entrepreneur in the online sale transaction, by using fictitious order fraud and performing an act of failure to make a payment (hit and run) in a tangible way, causing losses to the entrepreneur, then the consumers have violated the rights of entrepreneurs contained in Article 6 UUPK concerning the right to payment of a good or service and Article 5 concerning consumer obligations, as well as contrary to Article 17 ITE Act, which states that in conducting an electronic transaction, it must be based on good faith. Consumers who cause losses to the entrepreneur by the presence of fulfilled elements of data falsification or fraud through a fictitious order can be threatened with criminal punishment as provided for in Article 45A paragraph (1) of the ITE Act, that is, any person who deliberately and without the right to spread false and misleading news that results in consumer losses in electronic transactions, as referred to in Article 28 paragraph (1), is punished with a criminal sentence of imprisonment for a maximum of six (six) years and/or a fine of up to Rs 1,000,000,000.00 (one billion rupees). Sanctions against consumers if they result in losses for business actors are not explicitly regulated in the UUPK. The sanctions regulations in the UUPK can be seen in Chapter 13 of the UUPK regarding sanctions. Any party who violates the provisions in the UUPK will, of course, be subject to sanctions in accordance with the article violated. Business actors who violate the provisions of UUPK will refer to Chapter 13, while consumers who commit violations are not regulated in Chapter 13.

Legal Consequences for Consumers Who Do Not Make Good Decisions In E-Commerce Transactions

Legal consequences are the result of actions carried out to obtain the consequences expected by the perpetrator of the law. The consequences in question are the consequences regulated by law, while the actions carried out are legal actions, namely actions that are in accordance with applicable laws and regulations (Erik Krismeina Legawantara et al., 2020). Agreements in online buying and selling transactions give rise to legal consequences between the parties. The legal consequences that arise in online buying and selling transactions are in the form of rights and obligations. The rights and obligations of consumers and business actors are clearly regulated in the UUPK. UUPK was basically created to protect parties when carrying out transactions.

Fulfillment of rights and obligations in online buying and selling can basically be realized if consumers and business actors apply the principle of good faith. If a transaction is carried out based on the good faith of consumers and business actors, of course, fictitious orders and non-payment (hit-and-run) in an online buying and selling transaction will not occur. In online buying and selling transactions, payment methods using the COD system have the opportunity for default by consumers, with the consumer not receiving the product ordered and not making payment to the delivery service. These consumer actions will certainly result in losses for business actors.

Losses received by business actors due to consumers' acts of default give rise to absolute responsibility (Zulham, 2013). Absolute liability is a concept in law that states that a person can be held responsible for an action or loss without requiring proof of negligence or fault on the part of that party. Business actors who feel aggrieved by the actions of consumers who are not responsible for the goods they have ordered can ask for compensation without having to question whether or not there is an element of fault on the part of the consumer. If consumers

do not provide compensation for actions that cause losses to business actors, then business actors can file a claim for compensation against consumers.

Conclusion

Legal protection for business actors can be seen in Article 6 UUPK concerning the rights of business actors. The UUPK does not yet specifically regulate the legal protection of business actors in online buying and selling transactions, such as regulations regarding consumers who do not have good intentions in carrying out agreements so that defaults arise, which cause losses to business actors. Article 17 of the ITE Law provides protection for business actors for online buying and selling transactions that are based on good faith. If consumers do not apply good faith in online buying and selling transactions, this will result in strict liability and claims for compensation based on breach of contract based on the provisions of articles 1243, 1313, 1320, 1338, 1458, and 1866 of the Civil Code and Article 5 of the ITE Law.

Acknowledgment

The author would like to express his deepest gratitude to the Faculty of Law, Muria Kudus University, Global Academic Excellence(M) Sdn Bhd, editors, and reviewers who have approved the publication of this article.

References

- Abdulkadir, M. (2000). *Hukum Perdata Indonesia*. Citra Aditya Bakti.
- Alfis Setyawan, B. W. (2017). Perlindungan Konsumen Dalam Transaksi E-Commerce Ditinjau Dari Undang-Undang Perlindungan Konsumen. *Journal of Judicial Review*, XIX(2), 46–69. <https://ojs.digitalartisan.co.id/index.php/jjr/article/view/290/284>
- Anggraeni, R. D., & Rizal, A. H. (2019). Pelaksanaan Perjanjian Jual Beli Melalui Internet (E-Commerce) Ditinjau Dari Aspek Hukum Perdataan. *SALAM: Jurnal Sosial Dan Budaya Syar-i*, 6(3), 223–238. <https://doi.org/10.15408/sjsbs.v6i3.11531>
- Ardhya, S. N. (2020). Tinjauan Yuridis Bentuk Ganti Kerugian Terhadap Konsumen Perusahaan Listrik Negara (Pt. Pln Indonesia) (Studi Kasus Pemadaman Serentak Pada Beberapa Daerah di Indonesia). *Jurnal Pendidikan Kewarganegaraan Undiksha*, 8(2), 186–195. <https://doi.org/https://doi.org/10.23887/jpku.v8i2.25962>
- Azizah, M., & Aswad, M. (2022). Pengaruh Belanja Online Pada E-Commerce Shopee Terhadap Perilaku Konsumtif Generasi Millennial di Blitar. *Jurnal Cendekia Ilmiah*, 1(4), 430–437. <http://journal-nusantara.com/index.php/J-CEKI/article/download/550/460>
- Desiani, A., Amirulloh, M., Suwandono, A., & Penulis, K. (2018). Implementasi Asas Itikad Baik Dalam Perlindungan Konsumen Atas Pembatalan Transaksi Yang Dilakukan Oleh Situs Belanja Elektronik. *Jurnal Hukum Kenotariatan Dan Ke-PPAT-An*, 2(1), 57–68. <http://jurnal.fh.unpad.ac.id/index.php/acta/article/view/187/138>
- Dhian Novita, Y., & Santoso, B. (2021). Urgensi Pembaharuan Regulasi Perlindungan Konsumen di Era Bisnis Digital. *Jurnal Pembangunan Hukum Indonesia Program Studi Magister Ilmu Hukum*, 3(1), 46–57. <https://doi.org/https://doi.org/10.14710/jphi.v3i1.46-58>
- Dosen Ekonomi. (2023). *Marketplace _ Pengertian, Jenis, Manfaat & Contohnya Lengkap*. <https://sarjanaekonomi.co.id/marketplace/>
- Erik Krismeina Legawantara, M., Gde Dwi Arini, D., & Putu Suryani, L. (2020). Akibat Hukum Perjanjian Jual Beli Hak Atas Tanah. *Jurnal Interpretasi Hukum*, 1(1), 113–117. <https://doi.org/https://doi.org/10.22225/juinhum.1.1.2196.112-117>

- Muhaimin. (2020). *METODE PENELITIAN HUKUM*. Mataram University Press.
- Prawira Buana, A., Hasbi, H., Kamal, M., & Aswari, A. (2020). Implikasi Pelaksanaan Perjanjian Jual Beli Telepon Seluler Ilegal (Black Market). *Jurnal Cendikia Hukum*, 6(1), 124–132. <https://doi.org/10.3376/jch.v6i1.287>
- Ranto, R. (2019). Tinjauan Yuridis Perlindungan Hukum Terhadap Konsumen Dalam Transaksi Jual Beli Melalui Media Elektronik. *Jurnal Ilmu Hukum Alethea*, 2(2), 1–20. <https://doi.org/https://doi.org/10.24246/alethea.vol2.no2.p145-164>
- Retnowati, M. S., Rosalina, N. M., Frastiawan, D., Sup, A., Firdaus, M. I., Urrosyidin, M. S., Syariah, F., & Darussalam Gontor, U. (2022). Analisis Asas Itikad Baik Dalam Jual Beli Online Berbasis COD (Cash on Delivery) Analysis of The Good Faith in The Online Sell Based on COD (Cash on Delivery). *Jurnal Studi Islam*, 3(1), 10–18. <https://doi.org/10.30595/ajsi.v3i1.11867>
- Riswandi, B. (2003). *Hukum dan Internet Indonesia* (1st ed.). UII.Press.
- Tcefortin, & Budhisulistiyawati. (2020). Perlindungan Hukum Bagi Para Pihak Dalam Perjanjian Jual Beli Tanah Letter C Di Bawah Tangan. *Jurnal Privat Law*, 1(2020), 144–149. <https://doi.org/https://doi.org/10.20961/privat.v8i1.40388>
- Triantika, N., Marwenny, E., & Hasbi, M. (2020). Tinjauan Hukum Tentang Pelaksanaan Perjanjian Jual Beli Online Melalui E-Commerce Menurut Pasal 1320 KUHPerdata. *Jurnal Ensiklopedia Social Review*, 2(2), 119–128. <https://doi.org/https://doi.org/10.33559/esr.v2i2.488>
- Tumbel, T., Senewe, E. V. T., & Setiabudhi, D. O. (2020). Perlindungan Konsumen Jual Beli Online Dalam Era Digital 4.0. *Lex Et Societatis*, 8(3), 93–104. <https://doi.org/https://doi.org/10.35796/les.v8i3.29507>
- Zulham. (2013). *Hukum Perlindungan Konsumen*. Kencana.