

# Review the Aspects of Legal Protection for Consumers in E-Commerce Transactions in Indonesia

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**Abstract:** *The development of virtual business systems, such as virtual stores and virtual companies where businesspeople run their business and commerce through the internet and no longer rely on conventional real company business. Various problems that arise as a result of information technology and must be faced by the law should have been quite clear and predictable. So how is the legal challenge of e-commerce development and how is the role of government in encouraging the emergence of startups (startup) in the e-commerce field. The research method used uses a qualitative and descriptive approach, with data analysis techniques using an interactive model. The results of the study stated that the challenges of novice business players must be able to see the potential and opportunities of business opportunities as a result of the development of information technology by utilizing e-commerce. It is important to understand and understand by them various issues related to legal challenges in building electronic commerce businesses such as business contracts as an effort to minimize legal issues that can occur in the future and the government prepares various e-commerce regulations namely the Ministry of Communication and Information, the Ministry of Trade, the Ministry of Finance and the Financial Services Authority as material for policy making and the formation of e-commerce regulations.*

**Keywords:** *e-commerce, business law, e-contract.*

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## I. INTRODUCTION

The development of the world economy has become a current of globalization which has led to a new trend in the trading system followed by advances in technology, information and telecommunications that create a new world for sellers and buyers in transacting through the internet world. Even buying and selling transactions on the media are increasingly prevalent in Indonesia. The development of virtual business systems, such as virtual stores and virtual companies where businesspeople run their business and commerce through the internet and no longer rely on conventional real company business. The advancement of science and technology is the driving force for the productivity and efficiency of producers of the goods or services they produce in order to achieve business goals. In order to pursue productivity and efficiency, in the end either directly or indirectly, it is consumers who bear the impact. For this reason, legal protection for consumers is considered very important.

Based on the results of a survey conducted by APJII (Indonesian Internet Service Providers Association) and published on statistical data of internet users in Indonesia in 2017, around 143.26 million people in Indonesia as internet service users or around 54.68% of the entire population Indonesia. Can be seen in the image below:

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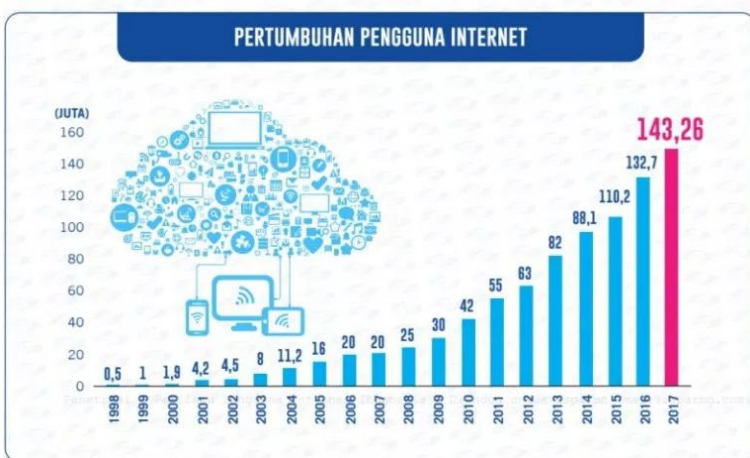
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Source: 2017 APJII survey results

Figure.1 Penetration of Internet Users

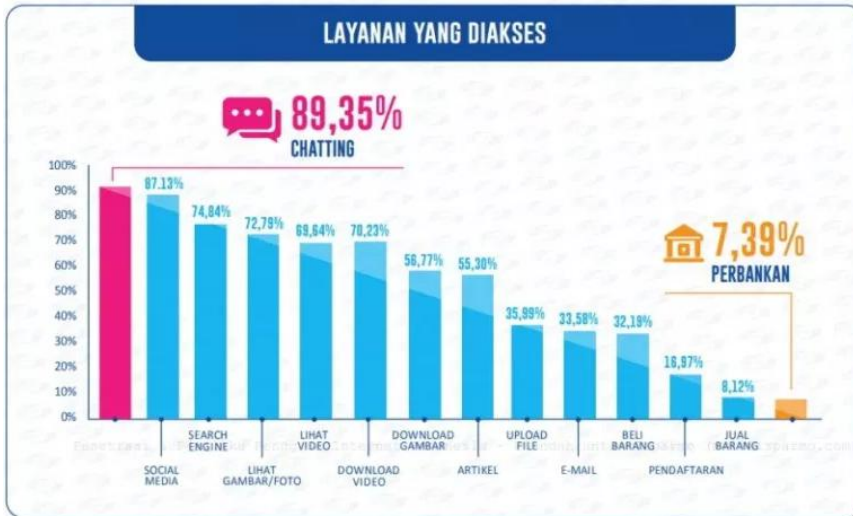
Based on Figure 1, it appears that Indonesian people have seen internet facilities as a form of need that can help and facilitate daily activities. This penetration provides a conclusion with the increasingly strong development of the internet in Indonesia that will directly have an impact on the acceleration of the movement of internet users' activities. In this case, it can be seen from Figure 2 the growth of internet users below.



Source: 2017 APJII survey results

Figure.2 Growth of Internet Users

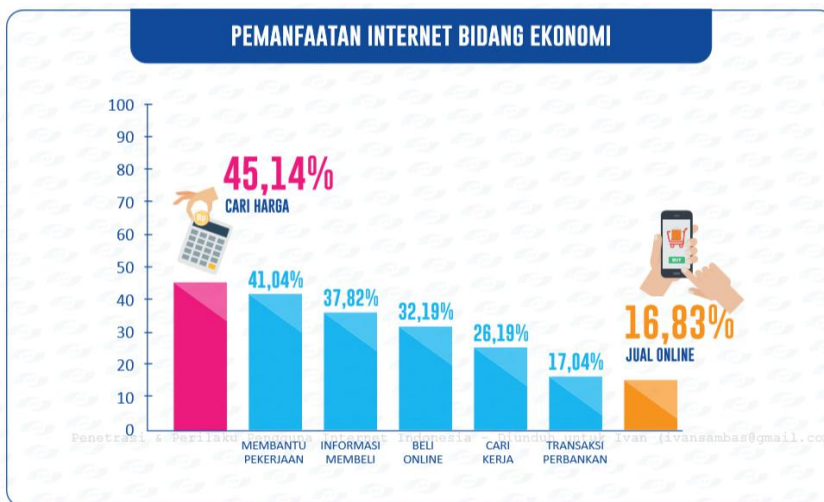
When viewed from the data of internet users from previous years there was a steady increase, during the 7 years from 2010 to 2017 there was a threefold increase in 7 years to reach 143.26. While the services accessed can be seen in Figure 3.



Source: 2017 APJII survey results

Figure 3 Services accessed

Chatting is the most accessed service by 89.35% after that social media services are ranked second compared to other services such as search engines, view images, view videos, download images, articles, upload files, E-mail, buy goods, registration and selling goods. Social media has benefits that are not only a means to actualize themselves but can also develop into the business world into a marketing tool and a means of review for companies who want to inform the products and services they market, so that customer responses occur in deciding the purchase transaction. Based on the survey results above, in Indonesia chatting is the most interested access service, this is in line with the results of research conducted by comScore, stating that the most popular mobile application with the most users in Indonesia is WhatsApp chat application which has 35.8 million users. While social media has excellent potential to increase sales of products or services being marketed.



Source: 2017 APJII survey results

Figure.4 Utilization of the economy

In its application social media becomes a business strategy providing so many conveniences both in terms of cost and time. Providing information on a product or service can easily be done by itself consumers will be more selective in choosing a product and service. There is no compulsion in providing this information. It can be seen in Figure 4 that the highest percentage of Indonesian people are looking for prices of 45.14% as a basis for information that can help in the process of selecting products or services. Likewise with the chat service, consumers will more easily communicate about the things they want to ask. It will be very important for consumers if every business person has the idea that business is not only about how a product, both goods and services fall into the hands of consumers but also about before and after sales. By providing new experiences to consumers through customer service, consumers can see and know the process of delivering goods in accordance with the schedule that has been informed to the place of consumers to provide ratings on goods that have been purchased.

In the future it is hoped that the world will become a global village, so that national boundaries become borderless. Meanwhile, the global economy follows its own logic. In the process, the world is utilized as well as an intensification of awareness of the world as a whole. However, the process of globalization that enables the free flow of information through the internet, increased traffic flow of goods and people internationally as well as membership in various world organizations, potentially raises legal issues that impact on society, which inevitably must be addressed by legal experts (**EKM Masinambow: 2000**). Various problems that arise as a result of information technology and must be faced by the law should have been quite clear and predictable (**David Bainbridge:2000**).

In e-commerce transactions, more practical paperless business transactions are created and the parties can not meet face to face in conducting e-commerce transactions, so it can be said that e-commerce is a new economic driver in the field of technology . However, in addition to these advantages, the negative aspect of this development is related to security issues in the transaction using e-commerce media. Nowadays there have been many forms of fraud that tend to harm consumers and cause various legal problems in conducting e-commerce transactions (**Atip Latifulhayat:2002**).

Legal issues concerning consumer law protection are more complicated when consumers conduct e-commerce transactions with merchants from different countries (across the border). In buying and selling through the internet, fraud often occurs. The fraud may involve the existence of business actors, goods purchased, prices of goods, and ways of payment by consumers. Fraud involving a business actor, for example a business actor (virtual store) concerned is a fictitious shop. Fraud relating to goods sent by business actors, for example the goods are not sent to consumers or there is a prolonged delay in delivery, damage to goods sent or goods that are sent defective, and so forth (**Abdul Halim: 2003**). Another fraud involves payment by consumers who are denied the truth by business actors. For example, a business actor only recognizes that the amount of goods ordered is less than what is stated in the purchase sent electronically or the price per unit of goods ordered by consumers is said to be higher than the price stated in the purchase. It can also happen that business actors claim not to have received payment from consumers, when in fact consumers have sent payments for the entire price of goods (Mariam Darus: 2003). With e-commerce characteristics like that the rights of consumers need to be protected. Based on the background above, the author wants to discuss the legal challenges of e-commerce development and how the role of government in encouraging the emergence of startups in the field of e-commerce.

## II. IDENTIFICATION OF PROBLEMS

The identification of the problem in this study can be formulated as follows:

1. What are the legal challenges in building an e-commerce business?
2. What is the role of government in supporting the development of e-commerce businesses?

### **III. RESEARCH PURPOSES**

The research objectives in this study are:

1. To know the legal challenges of building an e-commerce business.
2. To find out the role of government in supporting the development of business people.

### **IV. LITERATURE REVIEW**

#### **Understanding Electronic Commerce (E-commerce)**

Understanding Electronic Commerce (E-commerce) There are many definitions for e-commerce, e-commerce refers to all forms of commercial transactions involving organizations and individuals that are based on processing and transmitting digitized data, including text, sound, and images. According to international experts, such as ECEG-Australia (Electronic Commerce Expert Group), e-commerce is: "is a broad concept that covers any commercial transactions that are effected via electronic means and would include such means as facsimile, telex, EDI, internet, and the telephone". Based on the understanding given by ECEG-Australia, e-commerce includes trade transactions through electronic media, in the sense that not only internet media is intended, but also includes all trade transactions through other electronic media such as: Fax, EDI, telex, and telephone. RE Van Esch states that e-commerce can be defined as all material actions carried out in a better, more efficient and effective way about marketing the marketing processes of a company's production. National experts, such as Onno W. Purbo and Aang Wahyudi quoting David Baum's opinion states that the definition of e-commerce is: "E-Commerce is a dynamic set of technologies, applications, and business processes that link enterprises, consumers, and communities through electronic transactions and the electronic exchange of goods, services, and information". E-Commerce is a dynamic set of technology, applications and business processes that connect certain companies, consumers and communities through electronic transactions and the electronic, trade in goods, services and information.

Electronic commerce (e-commerce) has a legal basis for conventional trading, it is necessary to study the provisions contained in conventional trading. An example of this is the conventional sale and purchase regulated in Article 1457 of the Civil Code up to Article 1540 of the Civil Code. Based on these provisions it can be seen that:

- 1) Buying and selling through electronic (e-commerce) is an agreement so that the terms of the engagement in Book III of the Civil Code apply.
- 2) Buying and selling through electronic (e-commerce) is a consensual agreement, which has been formed since there was an agreement on goods and prices.
- 3) The rights and obligations of the parties have occurred since the agreement though the price has not been paid and the goods have not been delivered. Thus, the e-commerce provisions use the provisions of the third book and the provisions on buying and selling in the Civil Code with modification that e-commerce has special nature because of the very dominant role of media and electronic devices.

#### **E-Commerce Payment Mechanisms**

The principle of e-commerce payment is actually not much different from the real world, it's just that the internet functions as a POS (Point of Sale) which can be easily accessed via a computer and everything is digital and designed all-electronic. The most common way of making payments against the product or service it purchases is paying directly with a valid payment instrument (money) in cash.

### **Agreement and Electronic Agreement**

E-commerce conducted between businesses and consumers is based on an agreement where this agreement is binding on the parties concerned.

#### **a. Agreement**

General Understanding of the Agreement Article 1313 of the Civil Code (Civil Code) states that: "An agreement is an act by which one or more people commit themselves to one or more people."

The provisions of Article 1313 are actually not quite right because there are some weaknesses that need to be corrected, namely as follows:

1) Only involves one side only. This can be known from the formulation of the verb "to bind", its nature only comes from one party only, not from both parties. The formulation should be "mutually binding", so there is consensus between the two parties.

2) The word action includes also without consensus. In the sense of "deeds" also includes the act of organizing interests (zaakwaarneming), actions against the law (onrechtmatigedaad) which do not contain a consensus. The term "approval" should be used.

3) The understanding of the agreement is too broad. Understanding the agreement includes the marriage agreement regulated in the field of family law. Even though what is meant is the relationship between the debtor and the creditor regarding assets. The agreement stipulated in book III of the Civil Code actually only covers material, not personal (personal) agreements.

4) Without mentioning the destination. The formulation of the Article did not mention the purpose of entering into an agreement, so the parties to commit themselves were not clear for what. Based on the above reasons, Abdulkadir Muhammad formulated that the agreement was an agreement with which two or more people bound themselves to carry out a material thing that was located in the property field. Simply stated, an agreement is two parties who promise to do or give something that they promised (Suyanto: 2003).

### **V. RESEARCH METHODS**

This research uses a qualitative and descriptive approach as a strategy to collect and utilize all information related to the main issues related to supporting the development of e-commerce in the country as an effort to increase national economic growth in the digital economy era.

#### **Data Collection**

Using the desk study method. Secondary data obtained through literature search. The sources of data in this study are literature, articles, journals, scientific research, and internet pages related to the research conducted.

#### **Data Analysis Techniques**

The data analysis technique used in this study is an interactive model as stated by Miles and Huberman in (Sugiono: 2004) including data reduction, data presentation and conclusion drawing.

### **VI. RESULT AND DISCUSSION**

In general e-commerce is a trading system that uses electronic mechanisms on the internet network. E-commerce can involve electronic fund transfers, electronic data exchanges, automated inventory management systems, and automated data collection systems.

The usual classification of e-commerce people do is based on the nature of the transaction. The following types of e-commerce (Rebecca: 2017):

1. Business to business (B2B), covering all electronic transactions conducted between companies. Examples of e-commerce businesses that implement this model are bizzy.co.id and Ralali. Com.

2. Business to Consumer (B2C), where business actors directly involve the seller or the company with the final consumer (individual buyer). This type is developing very fast because of the support of the emergence of website platforms and the number of virtual shops and even malls on the internet that sell a variety of community needs. Examples of e-commerce businesses that apply this model are Berybenka, Bhinneka, Tiket.com and others.

3. Consumer to Consumer (C2C), covering all electronic transactions between consumers. Generally these transactions are carried out through third parties who provide online platforms to carry out these transactions. This type of concept is widely used in online auction sites or online auctions. Examples of e-commerce portals that apply the C2C concept are Tokopedia, Bukalapak, Elevania and others.

4. Consumer to Business (C2B), where individuals or individuals do business transactions or interactions with one or several companies. This type of e-commerce is very rarely done in Indonesia. An example of an e-commerce portal that applies a business model like this is priceline.com.

5. Business-to-Administration (B2A), covers all transactions made online between companies and public government administration. This type of e-commerce involves many services, especially in fields such as fiscal, social security, employment, legal documents and registers, and others. Examples of public administration websites that implement B2A are www. bpjs-online.com

6. Consumer-to-Administration (C2A), covering all electronic transactions carried out between individuals and public administration. Examples of areas that use this type of e-commerce are:

- a) Education - information dissemination, distance learning process, and others
- b) Social Security - dissemination of information, payments and more
- c) Taxes - filing taxes, paying taxes, and others
- d) Health - appointments, information about illness, payment for health services and others.

One area of law that has been touched by many transactions via e-commerce is the area of contract law. This is reasonable considering that most business deals, including business via e-commerce, are based on a business contract. Many activities of contract law must be studied carefully, when faced with this e-commerce transaction. The areas of contract law that come into contact with e-commerce business include the following:

1. Whether or not there is an offer
2. The presence or absence of acceptance (acceptance)
3. The presence or absence of an agreement
4. If there is agreement, since when did it start
5. Mandatory written contracts and written signatures
6. Problems of civil proof
7. How to know the parties and the ability to do the parties
8. Redefining the issue of default
9. The reformulation of the force majeure problem
10. What compensation is most suitable for e-commerce contracts

If referring to this definition, an electronic contract can be considered as a form of agreement that meets the provisions of Article 1313 of the Civil Code. However, in practice, an agreement is usually interpreted as an agreement which is stated in written form (paper-based) and if necessary it is stated in a notarial deed.

Regulations on Electronic Contracts (e-contracts) are contained in Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions Article 47 and Article 48. In Article 47 paragraph (1) it is stated that Electronic Transactions can be carried out based on Electronic Contracts or contractual forms. others as a form of agreement made by the parties. Then in paragraph (2) it is explained that the Electronic Contract is considered valid if:

- a) there is an agreement of the parties;
- b) conducted by capable legal subjects or authorized representatives in accordance with statutory provisions;
- c) there are certain things; and
- d) the object of the transaction must not be in conflict with the laws and regulations, decency, and public order.

If we pay attention to the provisions of Article 47 paragraph (2) above in accordance with the provisions of the Civil Code Second Part About Requirements for the Legality of an Article 1320 Agreement that reads: For the validity of an agreement, four conditions are required:

1. agreed those who bound themselves;
2. the ability to make an engagement;
3. a certain thing;
4. a lawful cause.

Furthermore, still in Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions Article 48 paragraphs (1), (2) and (3) state that Electronic Contracts and other contractual forms as referred to in Article 47 paragraph (1) are intended to Indonesian citizens, it must be made in Indonesian language. Electronic contracts made with standard clauses must comply with the provisions regarding standard clauses as regulated in statutory regulations. Electronic Contracts contain at least:

- a. identity data of the parties;
- b. object and specifications;
- c. Electronic Transaction requirements;
- d. prices and fees;
- e. procedure in case there is a cancellation by the parties;
- f. provisions which give the right to the injured party to be able to return the goods and / or request return the goods and / or request a product replacement if there is a hidden defect; and legal choices for completing Electronic Transactions

In an electronic contract, an agreement is very important because the parties do not meet face to face so that arrangements are needed when the agreement is deemed to have occurred. In Indonesia, the following theories can be used to determine the agreement:

- a) Will theory that teaches that agreement occurs when the will of the recipient is stated.
- b) The theory of delivery which states an agreement occurs when the stated will is sent by the party receiving the offer.
- c) Knowledge theory which states that the offering party should already know that the offer has been accepted.
- d) The theory of trust teaches that an agreement occurs when a statement of will is deemed acceptable by the party offering (Cita: 2013).



Electronic contracts (e-contracts) are generally made in the form of standard contracts (standard contracts) by the seller so that the buyer is not entitled to change the contents of the standard contract. The buyer only needs to read the contents of the standard contract, and if they do not agree, there is no need to sign. Standard contracts (standard contracts) are commonly done in the business world because of consideration of needs and practicality. However, the standard contract must not be in conflict with the Civil Code and the Consumer Protection Act (Cita: 2013).

## **VII. CONCLUSION AND SUGGESTION**

### **Conclusion**

Electronic contract (e-contract), although having physical differences from conventional contracts, both must comply with the legal rules of the agreement, especially those relating to the legal terms of the agreement and the principles of the agreement.

The process of electronic trade transactions (e-commerce) and conventional trade transactions have in common. Both in electronic commerce transactions (e-commerce) and in conventional trade transactions there are bidding processes, acceptance of offers (purchases), payments, and delivery of goods. What distinguishes the two transactions is only that electronic commerce transactions (e-commerce) are carried out without face to face (meeting of traders and buyers) and the process occurs faster and easier. Because there is no concept difference between the two types of transactions, a contract that occurs in an electronic commerce transaction (e-commerce) is basically the same as a contract that occurs in a conventional trade transaction and thus the things that apply to conventional contracts can be enforced also for electronic contracts (e-contracts).

So that contracts that occur as a result of electronic trading transactions can be said to be valid according to Indonesian civil law, the contract must also fulfill the legal requirements of the agreement under Article 1320 of the Civil Code.

## **VIII. SUGGESTION**

1. For conventional trading businesses and novice business players must be able to see the potential and opportunities of business opportunities as a result of the development of information technology by utilizing electronic commerce (e-commerce). It is important to understand and understand by them various issues related to legal challenges in building electronic commerce businesses such as business contracts as an effort to minimize legal issues that can occur in the future.

2. The government needs to improve coordination between agencies / institutions that directly have a role in issuing e-commerce regulations, namely the Ministry of Communication and Information, the Ministry of Trade, the Ministry of Finance and the Financial Services Authority as material for policy making and the formation of e-commerce regulations.

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