

Implementation of the Electronic Information and Transaction Law on the Culture of Online Buying and Selling Transactions in Protecting Consumers

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Abstract

Technological developments bring changes to human life, especially social and cultural aspects. Technological developments give rise to new discoveries. One of them is the ease of buying products which were originally done conventionally to digital. However, technological developments have given rise to cyber crimes, namely in the form of fraudulent crimes in buying and selling transactions through electronic media. The method used is qualitative research, which aims to describe and analyze changes in behavior in the community regarding buying and selling activities that were originally carried out conventionally to digital. In online buying and selling transactions, its application requires protection in the UUPK and the ITE Law, but in the ITE Law article 28 paragraph (1) when it is implemented the article makes various assumptions about who is a legal subject which is found in the interpretation of differences of opinion which states that the subject must be a producer while the elements clearly state everyone, it creates confusion as to what kind of standard defines a person as a consumer. In its application, the ITE Law is felt to be lacking in absolute terms in fulfilling legal certainty because it does not have a broad meaning regarding who a consumer is, so that this phrase should be given a detailed explanation in order to create legal certainty for potential violations in online buying and selling transactions, of course, with the hope that this regulation can successfully answer public concerns. guarantees and a sense of security when shopping online.

Keywords: Culture, Transaction, Conventional, Digital, Consumer



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INTRODUCTION

In the current era of digitalization, changes in the cultural and social aspects that have emerged in Indonesian society at this time can occur due to technological developments. Developments in this technology led to various new discoveries. Technology makes it easy for its users, one of which is to do work. Technological developments are currently making changes, one of which is buying and selling transactions carried out through electronic media, this makes it easier to buy and sell without having to leave the house. In particular, the Covid-19 pandemic has made a cultural change carried out by the Indonesian people, that is, those who previously traded face-to-face by sellers and buyers are now buying and selling transactions carried out via electronic media.

Society has changed a lot, especially in the last 2 years, with the COVID-19 pandemic having an impact on Indonesian people in aspects of daily life. Society experiences changes both culturally and socially. Cultural changes in Indonesian society occur so quickly. The emergence of this pandemic in March 2020 led to a policy carried out by the government to urge the Indonesian people to reduce activities outside the home and carry out activities in their respective homes, be it worship, work, school, or what are known as large-scale social restrictions.

During the Covid-19 pandemic, the number of online shop transactions increased by 400 percent and is predicted to continue in the new normal, the marketplace platform will face competition from large retailers to minimarkets which also open online services to delivery. Therefore, technological developments coupled with the pandemic have made changes in behavior in Indonesian society, from buying and selling conventionally to buying through electronic media.

Table 1. E-Commerce Map of Indonesia for the Second Quarter

No.	Toko Online	Visitor per Bulan	Peringkat Appstore	Peringkat Playstore
1	Tokopedia	158,246,667	2	5
2	Shopee	131,296,667	1	1
3	Lazada	26,640,000	3	2
4	Bukalapak	21,303,333	7	6
5	Blibli	19,736,667	5	3

Source: www.iPrice.co.id (2023)

In buying and selling transactions online, consumers have the right to choose goods and services and obtain goods or services in accordance with the exchange rate and conditions and guarantees that have been promised, and the right to information that is correct, clear, honest in accordance with the conditions and guarantees of goods or services. , and the right to have their opinions and complaints heard about the goods or services used, and if the goods or services are not in accordance with the agreement or not as they should be, the consumer has the right to receive compensation, compensation or replacement. As regulated in article 4 of the Consumer Protection Act No. 8 of 1999. However, online purchases do not guarantee that the goods we buy are in accordance with the product description provided by the seller, and in accordance with our expectations. Many people are taking advantage of current technological developments. Individuals who act as sellers often sell products that do not match the information they provide to their buyers. This happens a lot in the field. Many feel disadvantaged by the presence of individuals like this. Not only is the item received a product defect, but it can be very far away or different from what the desired product is.

As in the case of buying and selling online, which is located in Sidrap Regency, South Sulawesi Province, in 2016 there was a group of online fraud and was successfully arrested by the Sub Directorate of Cybercrime Dit Special Criminal Investigation of Polda Metro Jaya. Where in this case the perpetrators created fake accounts in several well-known online shops in Indonesia, including Bukalapak.com, Tokopedia.com, Bukalapak.com and many others, in a press statement from Polda Metro Jaya, Director of Criminal Investigation at Polda Metro Jaya along with the ranks through the Chief Commissioner as the leader gave information that there was a group of fraudsters who committed crimes by offering motorbikes, agates, watches, vehicles in the form of cars and cellphones through various fake accounts in online shops and were finally arrested by the Police. The mode used by the group to commit fraud is that after the victim transfers money, the perpetrators immediately take the money and also the goods that have been ordered by the victim are not delivered, because the goods purchased basically do not exist. There were 5 suspects who were arrested. Not only the perpetrators, the police also managed to secure a number of pieces of evidence including 14 mobile phones, a Yamaha motorcycle, a Honda Freed car, a Honda CRV car, 32 bank accounts, and a laptop.

Therefore, because we have been living in the midst of the spread of the digitalization era where the majority of human activities have been carried out with electronic devices, including buying and selling transactions, doing so should be protected by using the right legal umbrella instruments, then after the birth of legal provisions as time goes by Time also needs to see how far the implementation has been successful in guaranteeing and protecting consumer rights.

Legal protection for consumers in online buying and selling transactions is in the ITE Law article 28 paragraph 1 which reads that everyone intentionally and unintentionally spreads false and misleading news which results in consumer losses in electronic transactions. Therefore the author wants to conduct a survey of the ITE Law in article 28 paragraph (1). How far is the implementation of the ITE Law in article 28 paragraph (1) in protecting consumers.

Problem Formulation: How is the implementation of the applicable ITE Law in protecting consumers in online buying and selling transactions? What are the factors causing socio-cultural changes in consumer behavior that tend to switch to using electronic media in buying goods? What efforts can be made by consumers if they experience discrepancies in the description information on the products being sold?

RESEARCH METHODS

The method used in this study uses sociological empirical by taking a qualitative and descriptive approach emphasizing existing phenomena and researching more in depth how legal protection is in online buying and selling transactions. The data collection technique used is primary data by collecting empirical facts from events that occur in society based on the results of interviews addressed to respondents. The research was conducted using inductive logic through the stages of describing the applicable regulations and looking at how the implementation of related regulations protects online buying and selling transactions.

RESEARCH RESULTS AND DISCUSSION

Based on the holding of discussions in the field of law initiated by the Research Center of the Secretary General of Research and the Expertise Body of the People's Legislative Assembly of the Republic of Indonesia, in its application, if it is examined as a whole with a mirror as to the facts, in fact it is explained that article 28 paragraph 1 of the ITE Law contains various assumptions that can be seen together. questions regarding who is a legal subject in criminal acts that have the potential to occur in transactions through electronic media. This is found in interpretations as to whether article 28 paragraph 1 covers fraud via SMS messages, other media or is it only limited to online buying and selling transactions on digital platforms using application-based technology (E-commerce).

If you trace it, you can find different opinions which state that article 28 paragraph 1 must be a seller or producer as a subject, while each person is stated clearly. Then besides that the victim who is the object of the sufferer is declared a consumer, which means that the person in question must first become a consumer. Provisions of this kind also invite the public to wonder, how or what size a person is categorized as a consumer. In online buying and selling transactions, the cause that causes consumers to experience losses is due to the dissemination of inappropriate (deceptive) news or information that is carried out intentionally, where this is a very personal/subjective element which is then used to determine whether a person can or not be asked for and held accountable for criminal acts in the context of spreading fake news aimed at consumers. In general, a criminal form of punishment can be given to someone if the legal subject commits an act intentionally. Normatively, what is meant by "intentional" is said to have to fulfill three elements of a criminal act, including actions that are prohibited, the consequences of which are the main reasons for the prohibition, and if the act violates the law.

As referred to in Article 28 paragraph (1) of the ITE Law, consumers in the enactment of this rule do not have an explanation to interpret what kind of and who belongs to a group so that they can be called consumers. So said consumers will systematically bring legal officials to have perceptions and interpretations according to the narrative that is guided by the Protection Law. Based on the provisions of the Consumer Protection Act, precisely in Article 1 number 2, it

is stated in a nutshell that consumers are every individual / every person who uses goods or services available in people's lives to be used to meet their needs. When viewed in practice the ITE Law in guaranteeing online buying and selling transactions is still felt to be less absolute in fulfilling legal certainty because the meaning of the consumer does not have a broader meaning than the UUPK. Consumers according to the ITE Law are all people who receive the consequences of legal actions carried out with media, computer networks and or other online media, so that the phrase consumer in Article 28 paragraph 1 is required to be given an explanation regarding what is meant by the consumer in detail who is which. the awareness and constructive thinking of stakeholders is of course based on authority so that it can accurately and precisely achieve clear standards for the relevant officials who are authorized to implement solutive sanctions in accordance with Article 28 paragraph 1 of the ITE Law, good cases in fraud cases, discrepancies, defects and other things that are detrimental to consumers after online purchase transactions, in addition to the growing development of the digitalization era, the hope is that the successful implementation of the above regulations will be able to guarantee and provide a sense of security for the wider community.

Cultural changes in buying and selling transactions that were previously dominated by transactions carried out conventionally, now in the era of digitization online buying and selling transactions are increasing. This is a positive impact of technological developments. Especially technological developments in the purchase of goods or products that can be purchased wherever we are, we don't need to look for or come to the store directly. There are several factors that make buying and selling transactions online more attractive. And the author summarizes the results of the survey conducted regarding what are the causal factors, namely the ease of finding the desired item. It only remains to write down what items we want to buy, all available on electronic media. Unlike when making purchases made in person, we must know in advance the products and goods at the store we want to look for.

Since the emergence of the Covid-19 pandemic, we know that the government has implemented a Large-Scale Social Restrictions (PSBB) policy which aims to break the chain of transmission of Covid-19 by doing activities without leaving the house. Until now, Covid-19 is still hitting Indonesia. Therefore, based on the results of a survey conducted by the author, the cultural change factor that exists in buying and selling transactions is due to minimizing the spread of Covid-19 which is still hitting Indonesia. The price of products in the online shop is more affordable than the price of products in the store. Indeed, this has become an attraction for the public, so that they make purchases of buying and selling transactions through electronic media. Saving time. Transactions in person (offline) as we know, will take time. In contrast to making purchases through online shops, we only wait for goods until we don't need to leave the house, and can do other things. And also save costs. Direct transactions require additional costs, one of which is saving on fuel costs for vehicles. Based on the survey results, it is what makes our society experience social and cultural changes. And this is what makes people attractive in buying and selling transactions carried out online.

Steps that need to be taken if there is a discrepancy in the product if it occurs in E-Commerce, the consumer will report it to the E-Commerce, because most E-Commerce parties have provided a report center if there is a discrepancy in the product, this method is considered by some consumers to be sufficient efficient because the consumer only needs to report and the provider will process it however, this method also has drawbacks such as reports not being responded to or the process requiring a relatively long time. The next step, if indeed the report is not followed up, the consumer will make a complaint directly against the product provider by contacting him directly through the contact listed in the ad or seller's description.

The next effort is if consumers want to follow up on legal channels, the intended effort is to refer to what consumers should get, this is in accordance with the principles contained in the ITE Law, especially those that regulate the protection of consumers, namely the principle of openness and transparency, namely (things which is his right), including the right to clear, correct, honest information about the condition of the goods and the right to receive compensation when the goods obtained are not in accordance with the agreement. It is also seen on the other hand that those who are obliged to make compensation are business actors where consumers are given protection & legal certainty because if business actors run away from their responsibilities, they will potentially be criminalized according to Article 62 paragraph (1) of Law No. 8/1999.

In another form, the consumer can sue the seller because there has been a default, according to R. Subekti, there are 4 types of default or negligence, namely, not doing what was agreed upon, not according to the agreement, doing what had been promised too late, doing something that according to the agreement he was not allowed to do. If one of these 4 kinds of conditions occurs, then in civil terms you can sue the online seller on the pretext of default because the product the consumer received does not match the specifications described or the product does not match the image in the advertisement section that is contained in the advertisement section. In addition, this event also enters the realm of general (universal) crime if it fulfills the elements of a criminal act, that is, in general, a person who gets a criminal penalty for his actions is a person who commits an act intentionally. The intention must fulfill three elements including the act that is prohibited, the consequences that are the main reasons for the prohibition, and that the act violates the law. If these conditions have been met, then in cases of losses in online buying and selling transactions all law enforcers can follow up with criminal instruments because based on the elements it actually covers the entire substance, it is subject to ITE Law Number 19 of 2016 article 28 paragraph (1) jo. Article 378 of the Criminal Code.

CONCLUSION

Social and cultural changes in the digitalization era are caused by developments in technology, which cause changes in behavior that exist in everyday life in today's society, including when making buying and selling transactions online. This is in accordance with the sociologist's statement from Auguste Comte's theory that cultural change occurs gradually and slowly, this is in accordance with the conditions of Indonesian society. Where as time goes by technological developments change cultural and social conditions which can be seen in the lives of Indonesian people today, especially when buying and selling transactions that were previously carried out in the conventional way, switch to buying and selling transactions carried out through electronic media or online shops. However, behind the development of this technology, especially in terms of online buying and selling transactions, it is finally used by certain individuals to commit cyber crimes such as fraud, spreading false and misleading news which causes harm to consumers with a new mode through online media where this is a violation of law which fulfills criminal elements, especially the formulation of the article as regulated in the Information and Electronic Transaction Law.

Based on this research, the authors conclude that in the implementation of Article 28 paragraph (1) of the ITE Law, meaning can be expanded or narrowed. This is due to the ambiguity of the meaning contained in the article. The interpretation made by law enforcement allows for differences with what is meant in the article, in order to create justice and equality before the law for all parties, as well as the effectiveness of law enforcement in handling cases or problems for consumers in online buying and selling transactions. It is necessary to re-examine the formulation of Article 28 paragraph (1) of the ITE Law to avoid misinterpretation.

A more complex explanation in this article needs to be made in order to create fast and efficient handling at the same time so that incidents of fraud and discrepancies in the products purchased can be prevented, which of course is strengthened by the vigilance of each consumer. In conducting transactions, consumers must be more careful and thorough when buying products through digital transactions. Before purchasing goods, consumers must first look at the descriptions provided by sellers and e-commerce, regarding what rights are contained in the agreement, and by choosing a trusted e-commerce and checking e-commerce verification, as well stores that provide the desired product based on the results of previous consumer assessments, then consumers can also be more careful when reading descriptions, promotions and images posted on product advertisements. This is part of the main preventive measures to narrow down the occurrence of criminal acts of fraud.

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