



# Legal Protection of Consumers in Making Buying and Selling Transactions Electronically

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## Abstract

Advances in technology increase people's intention to conduct transactions electronically. One of these transactions is to purchase goods for the needs of the community through electronic transactions, namely cellphones. Furthermore, the Government enacted Law Number 11 of 2008 concerning Electronic Transactions and Law Number 8 of 1999 concerning Consumer Protection. However, these transactions are not always good, but can also be detrimental to society. Formulation of the problem: 1. Why do problems occur in conducting electronic transactions. 2. How is the implementation of legal protection for consumers in conducting electronic transactions? The methodology used is normative and sociological juridical by conducting interviews with consumers and consumer institutions that accept purchases of goods that are not in accordance with orders. In analyzing the problems, the rule of law theory, agreement theory and justice theory, authority theory and effectiveness theory are used.

Research results: 1. Problems occur in conducting electronic transactions because the seller does not have good intentions and this violates Article 7 letter a, and the buyer is not careful, this violates Article 5 letter a of Law Number 8 of 1999 concerning Consumer Protection. 2. The implementation of legal protection for consumers in conducting transactions electronically is regulated in Law Number 8 of 1999 concerning Consumer Protection, but this has not been implemented effectively. Suggestion; 1. It is recommended that the government and consumer protection institutions provide socialization to all parties regarding the obligations of the parties regulated in Law Number 8 of 1999 concerning Consumer Protection.

**Keywords:** Consumer Protection, Buying and Selling Transactions Electronically, Legal Implementation and Effectiveness

## 1 Background

The development of technology allows people to develop themselves and their knowledge for the advancement of the nation and state. Furthermore, it was formulated in Article 28 C paragraph (1) of the 1945 Constitution that: "Every individual possesses the inherent entitlement to enhance their personal growth by fulfilling their fundamental necessities. This includes the right to receive education and avail them-

selves of advancements in science, technology, arts, and culture, with the ultimate aim of enhancing their overall well-being and contributing to the betterment of humanity” Technological advances create new developments for people to gain knowledge and to receive information and news quickly. News received via WhatsApp, Vidio call, Television, internet and many others. The news can be received in a short time and can be obtained by people all over the world. In the past, the public only received very limited news via radio and television.

Technological advances are currently being used by everyone not only in conveying news, but these technological advances are also used for transportation. Everyone who needs transportation to deliver to a place can order transportation via electronics, namely cellphones, with not too long the ordered vehicle has arrived at the customer's place and it is known how much the price must be paid to arrive at the destination and how long the journey can be reached through transportation the. The current condition is that transactions are carried out by the public from all lines electronically (online), especially with the Covid 19 case, people are not allowed to meet in person. So that meetings are conducted electronically (online), such as education conducted without face-to-face but through zoom, students and lecturers, teachers and students ranging from kindergarten to tertiary level, meetings are held electronically (online). So that parents must provide mobile equipment for their children in studying. This need is not only a cellphone but also an internet network so that communication can run well and smoothly.

Taking into account these technological advances, the government enacts Law Number 11 of 2008 concerning Electronic Transactions, the enactment of the law is meant by considering that:

- The development and implementation of Information Technology must be prioritized to ensure the preservation, sustenance, and reinforcement of national unity and integrity in accordance with legal frameworks and national interests [1].
- The utilization of Information Technology (IT) plays a significant role in facilitating trade and fostering national economic progress, ultimately leading to the enhancement of people's welfare [2].

In Article 1 number 2 of Law Number 11 of 2008 concerning Electronic Transactions it is formulated that:

Electronic transactions refer to legally binding activities that are conducted through the utilization of computers, computer networks, and/or other electronic mediums.

The use of technology is not only for education but also for transportation and shopping to meet the needs of everyone and their families. Owners of goods can sell the goods they produce through technology electronically or what is known as E-Commerce.

E-Commerce is all activities related to online transactions carried out via the internet or other electronic networks, such as online banking, buying and selling processes, to offering services [3].

The e-commerce industry in Indonesia is exhibiting a growing potential. Amidst the ongoing epidemic, it is estimated that this digital-based trading business will experience a growth of 33.2 percent from its 2020 value of IDR 253 trillion to IDR 337 trillion in the current year. The prediction of an e-commerce business of this size was stated by the Governor of Bank Indonesia Perry Warjiyo in a virtual discussion, Friday (22/1/2021). "That online e-commerce trade, marketplace, is extraordinary, it can even grow 33.2 percent," he said [4]. Marketplace is a platform in the form of an application or website as a place for buying and selling transactions easily and quickly and there is no need to meet in person. The marketplace owner is not responsible for the products or services that are traded [5].

Purchasing goods through E-Commerce can be known by everyone through social media by looking at the pictures/catalogs of the items they are going to sell, the catalogs make design drawings of the items offered, the types of materials, how to care for them and the sizes of these items. Furthermore, after the prospective buyer selects the desired item, also makes payment via online or what is called M-Banking, then the item will be sent to the address written by the prospective buyer. To protect sellers and buyers, the Government subsequently enacted Law Number 8 of 1999 concerning Consumer Protection. The enactment of the law is meant by considering that:

- The objective of national development is to achieve a society that is both fair and wealthy, with equitable distribution of material and spiritual resources, within the framework of economic democracy as outlined in Pancasila and the 1945 Constitution [6].
- The ongoing progress of economic globalization necessitates the continued assurance of enhanced wellbeing for individuals, together with the provision of certainty regarding the quality, quantity, and safety of goods and services acquired from the national market [7].

Purchasing everyone's necessities of life online is easy, but there are also disadvantages or difficulties. The convenience of the public while sitting relaxed at home can order what they want through digital/on-line transactions via mobile phones. However, there are weaknesses in digital or electronic transactions that do not satisfy consumers with the quality of goods purchased and harm consumers if the goods that arrive do not match the expected expectations, so that prospective buyers are disappointed. If the non-conformity of the goods received. To exchange goods, there are many processes that must be carried out and most people are lazy to carry out processes that are convoluted and time-consuming. This incident came from people who were lazy to process it and surrendered to the reality that happened.

Problems in shopping electronically (online), the most important consumer complaints are:

- Goods not received (57 percent), then Goods are not suitable (15 percent), refunds (15 percent), delivery (7 percent), Break-in (4 percent) Inappropriate advertising (4 percent) and others (4 percent ).<sup>23</sup> November 2021.

In addition to the above problems, the virtual world has recently been stirred up by the case of buying roof tiles on the Tokopedia platform, which did not reach

consumers after payment. The incident began when a Tokopedia consumer, Anita Feng, purchased roof tiles worth IDR 28.7 million on Tuesday (14/2/2023). For delivery of goods, Anita chooses same day delivery by motorbike available at Tokopedia. Even if the item still hasn't arrived, the order is completed automatically [8].

Based on the aforementioned description, the authors express their interest in undertaking a research endeavor under the proposed title: "Legal Protection of consumers in making buying and selling transactions electronically"

## **2 Problem Formulation:**

1. Why do problems occur in conducting transactions electronically.
2. How is the implementation of legal protection for consumers in making online buying and selling transactions?

## **3 The Methodology Used is Normative and Sociological**

Juridical by conducting interviews with consumers who make transactions electronically and consumer institutions that accept purchases of goods that are not in accordance with orders. In analyzing the problems, the rule of law theory, agreement theory and justice theory, authority theory and effectiveness theory are used. Data sources are secondary data and primary data.

## **4 Discussion:**

### **4.1 1. Why do problems occur in conducting transactions electronically**

The State of Indonesia is a constitutional state, this is formulated in Article 1 paragraph (3) of the 1945 Constitution. Taking into account the formulation of Article 1 paragraph (3) it means that everything that will be done by everyone must be based on law. According to Bintan R. Saragih, a rule of law state is: " As a nation, the governance and conduct of its citizens are grounded in legal principles, serving as a safeguard against arbitrary governmental actions and ensuring that individual behaviors are guided by personal volition." [9] Another element of the rule of law theory presented by F.J. Sthall, namely government organized based on law. Government that is run based on laws is a government that is run based on laws stipulated by the competent authority. The state administrative court in charge of handling cases of unlawful acts by the government (*onrechtmatige overheidsdaad*) [10].

According to Jimly Asshiddiqie, the concept of an Indonesian legal state founded on Pancasila entails an inseparable connection between the notion of statehood and the principle of Belief in One Almighty God, which serves as the primary and fundamental tenet of Pancasila [11]. Sudargo Gautama asserts that within a legal framework, limitations exist on the exercise of state authority over individuals. The

state does not possess omnipotent authority and does not engage in arbitrary actions. The actions undertaken by the state in relation to its citizens are subject to legal constraints [12].

The regulation of electronic buying and selling transactions is governed by Law Number 11 of 2008, which pertains to Electronic Transactions. Electronic transactions refer to legally binding actions that are conducted through the use of computers, computer networks, and/or other electronic media [13]. The execution of this procedure is undertaken by the collective as a result of technological advancements, enabling seamless transmission and reception of information across many locations, both domestically and internationally. Information Technology (IT) refers to a methodology employed for the purpose of gathering, organizing, retaining, manipulating, transmitting, evaluating, and/or distributing information [14].

Article 3 of Law Number 11 of 2008 concerning Electronic Transactions formulates:

The utilization of Information Technology and Electronic Transactions is conducted in accordance with the principles of legal certainty, utility, caution, good faith, and the flexibility to choose technology or remain technology-neutral.

According to Article 4 of Law Number 11 of 2008 pertaining to Electronic Transactions, the utilization of information technology and electronic transactions is conducted with the objective of:

- a. The objective is to provide education to the citizens of the nation within the context of the global information society;
- b. Enhance the growth of domestic trade and economy within the context of augmenting the overall well-being of the populace.;
- c. Enhance the efficacy and efficiency of governmental services;
- d. Facilitate an inclusive environment that maximizes individuals' potential for intellectual and skill development in the realm of Information Technology, while ensuring responsible and efficient utilization of its resources; And
- e. The provision of a sense of security, fairness, and legal certainty is crucial for both users and operators of Information Technology.

These technological advances open up opportunities for everyone to sell and buy goods electronically or online and which are very popular as E-Commerce. E-Commerce is all activities related to online transactions carried out via the internet or other electronic networks, such as online banking, buying and selling processes, to offering services [15]. In electronic commerce, there is what is called a marketplace, which is a place that sells various products and consists of various shops and sellers [16].

In providing protection to the public who conduct transactions electronically, the Government then enacts Law Number 8 of 1999 concerning Consumer Protection. The government enacts the said law by considering that:

- The objective of national development is to achieve an equitable and successful society that is characterized by both material and spiritual well-being, while adhering to the principles of economic democracy as outlined in Pancasila and the 1945 Constitution [17].

- In order to enhance the dignity of customers, it is imperative to augment consumer awareness, knowledge, concern, capacity, and independence, so enabling them to safeguard their interests and foster a sense of responsibility among commercial entities [18].

Article 1 point 2 of Law Number 8 of 1999 concerning Consumer Protection formulates:

Consumers encompass those who utilize commodities and/or services within a given community, with the intention of benefiting themselves, their families, other individuals, and other living entities, rather than engaging in commercial transactions.

Article 1 point 1 formulates:

Consumer protection refers to a comprehensive range of initiatives aimed at ensuring legal assurance and safeguarding the rights and interests of consumers.

Transaction procedures electronically or online are carried out by the owner of the goods/seller by offering the goods through the media by including pictures of the goods/shapes, sizes and materials and how to care for them.

Principles and Objectives of Consumer Protection

According to Article 2 of Law Number 8 of 1999 on Consumer Protection, the principles behind consumer protection include the promotion of consumer benefits, the establishment of fairness and balance, the assurance of consumer security and safety, and the provision of legal clarity.

Article 3 of Law Number 8 of 1999 on Consumer Protection outlines the objectives of consumer protection. The first objective, as stated in point a, is to enhance consumer awareness, capability, and autonomy in safeguarding their interests. Additionally, point d emphasizes the establishment of a consumer protection system that encompasses elements of legal certainty, information disclosure, and access to information.

According to Philipus M. Hadjon, there exist two distinct forms of legal protection afforded to individuals.

#### 1. Preventive Legal Protection

Within the context of preventative legal protection, individuals are afforded the option to express objections or provide opinions prior to the finalization of a governmental decision. Preventive legal protection is designed with the objective of averting the occurrence of disputes. The presence of preventative legal protection holds great importance in relation to government activities that are grounded on the principle of freedom of action. This is because such protection serves as an incentive for the government to exercise caution when making discretionary judgments.

#### 2. Repressive Legal Protection

The objective of repressive legal protection is to address and settle conflicts. The kind of legal protection provided by the General Courts in Indonesia might be characterized as restrictive in nature [19].

One of the consumer obligations is formulated in Article 5 letter a of Law Number 8 of 1999 concerning Consumer Protection namely:

" It is advisable to peruse or adhere to the provided guidelines pertaining to information and protocols concerning the utilization of commodities and/or services, with the primary objective of ensuring security and safety".

Article 7 letter a Law Number 8 of 1999 concerning Consumer Protection regulates one of the obligations of business actors, namely:

"good faith in carrying out its business activities".

Paying attention to the problems in shopping electronically (online), the most important consumer complaints are:

- Goods not received (57 percent), then Goods are not suitable (15 percent), refunds (15 percent), delivery (7 percent), Break-in (4 percent) Inappropriate advertising (4 percent) and others (4 percent ).<sup>23</sup> November 2021.
- Furthermore, the problem recently caused a stir with the case of buying roof tiles on the Tokopedia platform, which did not reach consumers after payment. The incident began when a Tokopedia consumer, Anita Feng, purchased roof tiles worth IDR 28.7 million on Tuesday (14/2/2023). For delivery of goods, Anita chooses same day delivery by motorbike available at Tokopedia. Even if the item still hasn't arrived, the order is completed automatically [20].

Based on the formulation of Article 7 letter a Law Number 8 of 1999 concerning Consumer Protection regulates one of the obligations of business actors, namely "good faith in carrying out their business activities". Paying attention to the problems that occur in buying and selling online as described above which states that the goods are not received, plus the purchase of tiles, goods that are not suitable, delivery problems, advertisements that are not suitable are the fault of the seller who does not have good faith in carrying out his obligations as defined in Article 7 letter a Law Number 8 of 1999. However, if the goods do not comply, it could be the fault of the buyer who is not careful enough as defined in Article 5 letter a, namely "reading or following the information instructions and procedures for using or utilizing goods and/or services, for the sake of security and safety". Purchase of goods that are not in accordance with the expectations of the buyer experienced by the author himself. One day the writer saw the shape of a wallet and a handbag that was capable, but the writer did not pay attention to the size and material shown in the picture. So that the wallet is too big, as well as the bag is far from expectations. The picture is capable, it turns out that after being purchased, it is far from the expectations of the material and shape. However, taking into account the problem that there is an error, it could also be the fault of the buyer and seller who do not carry out their obligations as defined in Article 7 of Law Number 8 of 1999 concerning Consumer Protection.

The issue of justice, as articulated by Thomas Aquinas (1225-1274), has not been adequately addressed for consumers. Aquinas discusses his ideas and perspectives on justice in relation to the State and law in his work titled *De Regimine Principum*, often known as *The Government of Kings*. Similarly, the *Summa Theologica* encompasses teachings pertaining to the divine. According to Thomas Aquinas, justice can be defined as the moral virtue that entails the disposition to grant each individual their rightful entitlements. In addition to this, it is imperative to pursue proprie-

ty, as espoused by the philosopher Aristotle. The concept of written law can be regarded as a manifestation of law and justice, deriving its authority from the principles of natural law.

The aforementioned issues can be attributed to the seller's failure to fulfill their responsibilities as stipulated in Article 7, letter an of Law Number 8 of 1999 on Consumer Protection. The central inquiry pertains to the extent of the Government's obligation in executing the guidance outlined in Article 29 of Law Number 8 of 1999 on Consumer Protection. This article states that "the government bears the responsibility of promoting the enforcement of consumer protection, ensuring the realization of consumer and business actors' rights, as well as facilitating the fulfillment of consumers' and business actors' obligations."

Paying attention to the problems that occur in the community, shows that the government has not carried out its obligations to sellers and buyers. When this was the author asked the officers of the consumer organization, they admitted it was because of the limited funds available to carry out activities.

## **2. Implementation of legal protection for consumers in conducting electronic buying and selling transactions.**

In Article 1 point 1 Law Number 8 of 1999 concerning Consumer Protection formulates:

Consumer protection encompasses a range of endeavors aimed at ensuring the provision of legal certainty and safeguarding the interests of consumers.

Furthermore, Article 1 point 2 of Law Number 8 of 1999 concerning Consumer Protection formulates:

Consumers encompass individuals who utilize commodities and/or services within a given community, with the intention of deriving personal, familial, communal, and ecological benefits, rather of engaging in commercial transactions.

Article 1 point 12 Law Number 8 of 1999 concerning Consumer Protection formulates:

The National Consumer Protection Agency is an established entity that aims to support endeavors in the advancement of consumer protection.

Article 1 point 3 of Law Number 8 of 1999 concerning Consumer Protection formulates

A business actor refers to any individual or business entity, regardless of its legal status, that is established and operates within the jurisdiction of the Republic of Indonesia. These actors may engage in business activities independently or in collaboration with others through agreements, encompassing a wide range of economic sectors.

Consumer protection aims:

- a. Enhance consumer consciousness, capacity, and autonomy in safeguarding their interests;
- b. The objective is to enhance the dignity of customers by implementing measures that discourage excessive and detrimental utilization of goods and/or services;



- c. Enhance consumer empowerment in the process of selecting, assessing, and asserting their consumer rights;
- d. The establishment of a consumer protection framework incorporating components of legal certainty, information disclosure, and information accessibility;
- e. There is an increasing recognition among commercial entities regarding the significance of consumer protection, which in turn fosters the development of honest and responsible business practices;
- f. Enhance the caliber of products and/or services to ensure the sustained operation of the firm in manufacturing items and/or delivering services, while prioritizing aspects such as health, comfort, security, and customer safety.

Technological developments and advances make it easier for everyone to carry out their duties and obligations in meeting the needs of life. Indonesia, being a constitutional state as stipulated in Article 1 paragraph (3) of the 1945 Constitution, necessitates individuals to adhere to the relevant legal regulations when fulfilling their commitments. Every activity carried out by everyone must be in accordance with applicable laws. Violation of the rule of law is subject to both administrative and criminal sanctions. Ni'atul Huda's opinion as to the characteristics of rechtsstaat are as follows [21]:

- a. The presence of a Constitution, or a constitutional document, which has explicit provisions pertaining to the interplay between governing bodies and the citizenry;
- b. The concept of state authority is characterized by its division;
- c. Recognizing and protecting the rights of people's freedoms.

The regulation governing consumer protection in electronic transactions is stipulated in Law Number 8 of 1999. The aforementioned legislation governs the entitlements and duties of customers, as well as the entitlements and duties of merchants, and the responsibilities of the government. According to Article 34, letter b, subsection 1. The National Consumer Protection Agency is entrusted with the responsibility, as stated in Article 33, to perform the functions outlined in letter b, which include conducting research and analysis of the relevant laws and regulations pertaining to consumer protection. The subsequent letter, "C," entails the undertaking of study pertaining to items and/or services that are associated with the safeguarding of consumers. Nevertheless, customers have not experienced this phenomenon.

According to Rusdi Kantraprawira, the exercise of power necessitates the presence of rulers or governing bodies, which conceptualizes the state as a collection of positions known as a "ambten complex." These positions are occupied by officials who uphold specific rights and obligations, established through a framework of subject-obligation construction. Power can be understood as comprising two distinct dimensions: the political dimension and the legal dimension. In contrast, authority is limited to the legal dimension alone. This implies that power can be derived from the constitution, as well as from sources external to the constitution (unconstitutional), such as through a coup or war, whereas authority is unequivocally derived from the constitution.

## 5 Conclusions and suggestions

1. A challenge arises in conducting electronic purchasing and selling transactions due to the failure of the seller to fulfill their commitments, namely in demonstrating good faith in conducting their commercial operations, as stipulated in Article 7, letter a. Furthermore, purchasers have failed to fulfill their responsibilities, specifically in terms of comprehending and adhering to informational guidelines and protocols for the utilization of goods and/or services, with the objective of ensuring security and safety as outlined in Article 5 of Law Number 8 of 1999 pertaining to Consumer Protection.
2. The proper implementation of consumer protection has been lacking due to the failure of various parties, including buyers, sellers, and the government, to fulfill their respective obligations. Specifically, the government has not adequately fulfilled its responsibility of promoting the enforcement of consumer protection measures, which are designed to safeguard the rights of consumers and business entities. These obligations are clearly outlined in Article 29 letter an of Law Number 8 of 1999, which pertains to Consumer Protection.

Suggestion:

1. to provide socialization to the public about the rights and obligations of consumers, sellers and the government.
2. In order to take into account costs for consumer institutions to carry out their obligations

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