



Research Paper

## Reformulation of Consumer Protection Law Regulations as an Effort to Enforce Justice in e-Commerce Transactions in Indonesia

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### ABSTRACT

The development of business is currently increasingly rapid, in addition to the development of technology is also increasingly rapid, so the development of law must also follow the times. Currently in Indonesia there have been various kinds of transactions from face-to-face transactions to online transactions. This does not deny that there will be legal problems that occur. To anticipate this from happening, the government has issued Law Number 8 of 1999 (UUPK) concerning consumer protection. On the other hand, e-commerce transactions make it easier for consumers to meet their needs without having to go far, all needs can be met just by sitting back at home. Therefore, interest in e-commerce is increasing, but it is undeniable that there is also a lot of fraud committed by the parties. The research uses a comparative method with a qualitative approach. Data was collected through interviews with 12 respondents (customers and e-commerce business actors) as well as analysis of customer protection regulatory documents. The research result showed a significant gap between theory and practice, especially in terms of customer and business awareness, as well as a lack of effective regulation. The research concludes that it is necessary to improve regulations, increase consumer and business awareness, and develop human resources. The implications of this research can be used as a reference for developing e-commerce consumer protection policies that are more effective and protect consumer rights. This research contributes to the development of consumer protection theory in the context of e-commerce.

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## **Introduction**

Buying and selling is a very common practice, a very prevalent activity in modern human society, every day there are several people who do such activities. Buying and selling is a type of transaction carried out by two parties, namely between the seller and the buyer, the seller acts as a business actor, and the buyer acts as a consumer. Today, the internet has become an integral part of people's lives around the world, including in Indonesia. Of the total population of around 284.44 million people, around 212 million of them are recorded as internet users. This is due to the fact that modern society today can carry out various life activities through internet technology, even becoming highly dependent on internet access. (Ambar Wariati, 2014)

Along with the advancement of society and technology, the use of digital tools is increasing, including in interactions between individuals. Almost all economic activities in the world, especially in Indonesia, utilize internet media and electronic systems. One aspect of this economic activity is transactions made over the internet, known as e-commerce (anugrah, 2024). Initially, the trading system in Indonesia was conventional with interaction between consumers and business actors, with the existence of e-commerce there was no direct or virtual interaction with buying and selling based on advanced technology. The main consequence of the lack of cooperation with both parties is that there will be conditions or mistakes that are urgent problems and require immediate action. The downside of online shopping is that it gradually angers customers. The reason is, there are many cases of products that do not match the original product or vice versa. (Aulia cindy khotimah, 2022)

The digital era has brought significant changes in consumer preferences and behavior, including many people moving to e-commerce platforms, the main features of these platforms are convenience for its users, competitive prices, and easy access to desired products. However, these changes also pose challenges in terms of data security, privacy, product quality standards, and peace-making mechanisms. Product quality and price adjustment are important factors that affect customer satisfaction. Transaction security is essential, requiring the collection of high-quality data through clear documentation and secure computer protocols. In this regard, consumer protection as a legal discipline requires the establishment and enforcement of provocative principles and the provision of directions on consumer protection. According to the legal definition contained in Law number 8 of 1999 concerning consumer protection in Indonesia, consumer protection is a type of business that functions to provide legal protection for consumers, so the discussion of consumer protection refers to guarantees and consumer rights in the context of ongoing legal proceedings. (prayuti, 2024)

Consumer protection in e-commerce is an important issue that combines theory and practice, especially in the context of the rapid development of digital technology. In Indonesia, consumer protection is regulated in Law No. 8 of 1999 concerning Consumer Protection, which covers consumer rights, business actors' obligations, and dispute resolution mechanisms. However, in practice, many consumers are unaware of their rights, which often results in losses, as in the case of online scams involving large e-commerce platforms, where consumers lose money without getting the promised goods. In contrast, in Germany, consumer protection is regulated in a more structured way through the BGB (Bürgerliches Gesetzbuch) and EU law, which gives the right to withdraw from contracts and product quality assurance. A real-life example in Germany shows that consumers managed to get compensation through mediation after having problems with products purchased online. Although consumer protection theory in both countries is already in place, practice on the ground is often not in line. The higher legal

awareness in Germany compared to Indonesia is one of the factors that affect the effectiveness of consumer protection. Therefore, consumer protection in e-commerce requires more attention from governments and business actors, with a focus on consumer education and improving legal infrastructure to reduce disputes. Recommendations that can be provided include strengthening regulations, increasing legal awareness, and providing more effective dispute resolution channels to create a safer and more reliable e-commerce environment.

In article 1 paragraph (2) of the Information and Electronic Transactions Law (ITE Law) of 2008 it is stated that "electronic transactions are legal acts carried out using computers, computer networks, and/or other electronic media" in addition to providing a definition of trade. In article 1 of Law number 7 of 2014 defines E-Commerce, E-Commerce (Trade through electronic systems) is a trade whose transactions go through a series of opinions and electronic procedures. Some examples of problems that often occur in conducting e-commerce transactions are goods that are sent not according to what was ordered, goods received in damaged condition. This is certainly very detrimental to consumers, the lack of knowledge about law number 8 of 1999 concerning consumer protection is one of the factors that cause consumers not to process this further because consumers do not know and are confused about who to be accountable to whom and how the process must be taken. (alfis setyawan, 2017)

Consumer protection in e-commerce is regulated in the Consumer Protection Law (UUPK) Number 8 of 1999, but in practice there are still a lot of people who do not understand this. Behind that, there are still many cases that often occur in e-commerce transactions where consumers are made to lose by business actors, seeing that there should be strict supervision of e-commerce transactions that are rampant in the current era of digitalization. This e-commerce transaction has been researched a lot by other researchers, some researchers focus on consumer protection according to the UUPK, as well as consumer protection based on state law and Islamic law, therefore the researcher focuses on the comparison between existing theories and ongoing practices in society.

Journal by Herlina Basri with the title "Legal Protection of Consumers in Conducting E-Commerce Transactions Reviewed from the Consumer Protection Law Number 8 of 1999 (Case Study of Kerudungbyramana Bandung)", The purpose of this research is to find out about the aspects of legal regulation for e-commerce implementers and users in Indonesia and about the regulation of e-commerce that is expected to be applied in Indonesia. The research method used is normative juridical. The result of the study is that the export marketing strategy of veils through e-commerce is part of e-business, which includes more than just business, including business partner collaboration, negotiations, customer service, and job vacancies. E-commerce not only functions as an online marketing medium, but also as a means of interaction to facilitate national trade transactions. (Basri, 2019). The purpose of this study is to find out how to apply consumer protection in e-commerce (a comparative study between theory and practice).

## **Metode**

This study compares literature and the field, starting with a review of literature and literature. The goal is to collect information directly from the public and e-commerce business actors through data collection, analysis, and interpretation. The method used is qualitative with a descriptive approach, emphasizing the communication process between the researcher and the subject. The research objects include users and e-commerce business actors, with the sample taken considered representative of the population. Data is collected from primary and secondary sources through interviews, which are face-to-face activities to exchange information. Data analysis uses an interactive analysis model developed by Miles and Huberman, through three stages: data reduction, data presentation, and drawing conclusions

or verification during the data collection process. (wahyudin ahmad, 2023)

## Discussion and Result

### Perlindungan Konsumen Dalam E-Commerce

Legal concepts that concern consumer rights and interests or principles or principles are known as consumer protection laws. This is one of the few aspects of consumer law that can create a sense of security and convenience in buying and selling. With the existence of consumer protection laws, consumers can prevent losses. Therefore, consumer protection laws are indispensable in buying and selling transactions. With the existence of consumer protection laws, consumers can obtain goods according to the decision of business owners. (apandy, 2021)

The Consumer Protection Law (UUPK) or known as law number 8 of 1999 states that a consumer is a person who uses a good or service for the needs of himself, family, friends, or others. The customer does not use such goods or services for the purpose of making a purchase. It can be interpreted that consumers are the end users of products that are carefully crafted by business owners. Meanwhile, business actors are any individual or business entity that carries out business activities within the territory of the Republic of Indonesia. Entrepreneurs can be individuals or groups, depending on the type of legal entity they establish.

The important relationship between consumers and business owners is known as a business partnership. Basically, to guarantee and supervise inequality between consumers and business owners, there needs to be regulations that can provide legal protection to consumers, because consumers are the most valuable party in relation to producers (business owners). Provisions regarding consumer protection are regulated in the UUPK. According to the UUPK article (1) paragraph (1), it is stated that consumer protection is any act that guarantees compliance with legal requirements in order to provide protection to consumers of their own rights, which are stipulated through special laws, in order to provide a guarantee that business owners will not engage in any unethical behavior that can violate the rights of their customers. (Indonesia, 1999)

The protection of consumer rights in the context of e-commerce transactions is of very important importance. The consumer has the right to demand compensation, compensation, or reimbursement if the goods or services received do not match the information submitted by the seller. On the other hand, the seller has an obligation to provide compensation, compensation, or reimbursement if the goods or services offered do not meet the agreed agreement. Furthermore, if business actors violate provisions that prohibit the marketing of products or services that are not in accordance with the promises contained in labels, etiquette, information, advertisements, or sales promotions, they may face legal action in accordance with the provisions of Article 62 Paragraph (1) of the Consumer Protection Law. This article stipulates that business actors who violate these provisions can be subject to criminal sanctions, which are in the form of a maximum prison sentence of 5 years or a fine of up to Rp 2 billion. (Maulana, 2024)

Technological developments, especially in the field of internet commerce, have given rise to the notion that sales transactions can only be done through physical stores . But with increasingly sophisticated technological advancements, sales transactions can now be completed online, a practice known as *e-commerce*. *E-commerce* can be broadly defined as electronic transactions. Electronic commerce transactions are transactions between buyers and sellers to provide goods, services, and money transfers. Electronic transaction channels without requiring authentication from both parties transacting, the channel is the internet with an open system. (Yanci Libria Fista, 2023). Legal protection for consumers in the context of e-commerce transactions can be found in the Consumer Protection Law (UUPK) and the Electronic

Information and Transaction Law (ITE Law). The UUPK serves as the main legal basis for consumer protection in Indonesia, while the ITE Law is the legal basis that regulates e-commerce transactions carried out by consumers. (Rohendi, 2015)

### **Teori Perlindungan Konsumen dalam E-Commerce**

There are several theories about consumer protection, including: first, the theory of *let the buyer beware (caveat emptor)*. The theory of buyer vigilance or known as the caveat emptor theory is based on several theories, the first is the theory that was triggered which was based on the beginning of a consumer transaction, according to this theory consumers and business owners have equal or similar needs, meaning that consumers do not need protection. This principle can be summarized as follows: according to the evolution of this theory, consumers do not obtain enough information to make decisions about the goods they will ultimately consume. This is due to the lack of awareness of business owners towards the products they sell. Therefore, customers experience losses, business owners do not need to worry about the fact that losses are caused by consumer negligence.

The next theory is *the due care theory (Caveat Venditor)*. This theory explains that business owners have a responsibility to be careful when selling their products. It also includes the idea that business owners should have good judgment when selling their products to customers in the form of goods or services. It is essential for business owners to ensure that their customers are protected, especially through accurate product information. When business owners are careful in selling their products then they cannot be underestimated. In this theory, there is proof that every object that is revealed will also reveal the source, this is in line with the principle of private law enforcement in Indonesia which is based on article 1865 of the BW which expressly states that "whoever postulates has a right or to affirm his rights or to deny the rights of others, or refers to an event, then it is required to prove the existence of these rights or events."

The *Caveat Venditor* theory emerged emphasizing the need to increase legal protection to protect consumers, this led to government decree number 8 of 1999 concerning consumer protection. In this regard, business owners are encouraged to provide quality goods. The provisions of the consumer protection law state that business owners have the obligation to ensure that the goods or services produced or sold comply with the standards of goods or services that have been set. Business owners are prohibited from producing or selling goods or services that are substandard or do not meet the set standards. The last theory is *the privity of contract theory*. This theory states that business actors have an obligation to protect consumers, but this can only be done if a contractual relationship has been established between business actors and consumers. Business actors cannot be blamed outside of the things in the agreed agreement. In this way, consumers can only sue if there is a default. This is in accordance with the provisions in article 1340 of the BW which states that the scope of the agreement is only for the parties who made the agreement. (shidarta, 2004)

### **Consumer Protection Practices in E-Commerce**

E-commerce platforms as a means of transactions have various drawbacks, especially in terms of privacy, trust and data security. An important component of e-commerce transactions is security. Consumers and business actors must be able to ensure that the transaction is only known by both parties and that no third party can commit data theft, intervention, or information manipulation. Consumer protection in e-commerce requires special attention. So that laws and regulations have emerged that provide peace of mind for consumers and business actors, minimize if there is a loss or other problems so that if there is a fraud, the regulations

and sanctions that have been set can be carried out.

In the perspective of *the ius constituendum*, in order to provide legal protection for consumers and maintain a balance between consumers and business actors, legal certainty can be realized through the substance of normative laws and regulations. The implementation of consumer protection in e-commerce in Indonesia has made significant progress in line with the rapid progress of the industry. The foundation of consumer protection in e-commerce is regulated in law number 8 of 1999 concerning the protection of consumer rights in electronic transactions. Consumer rights are regulated in article 4 of Law Number 8 of 1999.

In addition to consumers, the law also regulates the obligations of business actors in providing clear information and being responsible for losses experienced by consumers as a result of goods/services produced and traded. However, the reality is that there are still many people who do not know about the existence of the UUPK and do not understand their rights as consumers. With the existence of the UUPK, it is hoped that it will be a legal basis to protect consumer rights, including when conducting electronic transactions. (Rosianna Evanessa Sihombing, 2024)

As a result of interviews between consumers and business actors regarding consumer protection practices, there were 12 respondents interviewed by researchers with different age ranges. Here are the results of the researcher's interviews with e-commerce consumers:

*"I once experienced an incident where when buying goods on an online platform between the goods advertised and the goods that came inappropriately, at that time I bought a suit of adult women's clothes, but what came was a t-shirt for men, when I reported to the seller for the return process, but it was complicated and I was not responded to by the seller and my account was blocked by the seller"* (N, 28 years old)

*"At that time I bought cocoa clothes for men, I had made sure for the size and fabric of the shirt, but the goods that came were not suitable, namely the size of the shirt was twice the size I ordered, I was very disappointed with the seller who did not be careful about my order"* (S, 40 years old)

*"In my opinion, I feel less safe when shopping online because I am worried that my personal data will be misused, consumer protection should be tightened, it is very necessary"* (R, 21 years old)

*"I have experienced fraud while shopping online, so that the same thing does not happen like me then effective consumer protection can help prevent this"* (I, 19 yrs)

*"The quality of products purchased online often does not match the description described by business actors on the platform, consumer protection must ensure the accuracy of product information"* (W, 22 Yrs)

*"I want there to be an easier refund mechanism, if the product is not suitable, sometimes business actors make it difficult so that consumers rethink buying goods online"* (H, 23 yrs)

*"transparency of prices and shipping costs should be clearer, to avoid fraud"* (A, 20 yrs)

In addition to consumers, the researcher also conducted interviews with several business actors, the results of the interviews were as follows:

*"We are committed to protecting consumer data and ensuring the security of transactions, but clear regulation is urgently needed."* (R, 25 yrs)

*"Good product quality and service are the key to building consumer trust, we strive to meet those standards."* (N, 24 yrs)

*"Effective consumer protection can increase consumer confidence, and reduce the risk of fraud"* (B, 30 years)

*"We need clear guidelines on consumer protection standards, to ensure adjustments so that things don't happen that could harm both parties"* (C, 35 yrs)

*"Collaboration between business actors, the government, and consumers is very important to improve consumer protection in accordance with the laws that have been set by the government"* (D, 28

yrs)

Consumer protection in e-commerce in Indonesia is regulated by several laws, namely: Law number 8 of 1999 concerning consumer protection (UUPK), Law number 11 of 2008 concerning information and electronic transactions (UU ITE). Although there is a clear legal framework, consumer protection practices are often not in line with the expected theory. Consumer protection theory has a legal basis in the UUPK which provides a strong legal basis to protect the rights to clear information, the right to vote, and the right to security and safety in transactions. The main goal of consumer protection is to increase consumer awareness and independence, as well as create a transparent and fair protection system. This theory emphasizes the importance of legal certainty for consumers and business actors, so that each party can carry out their rights and obligations properly.

In practice, consumer protection has the weakness of law enforcement even though there are laws that govern it, many consumers still face difficulties in filing complaints and getting dispute resolution. Law enforcement is often considered weak, especially in the context of e-commerce. Indonesia does not yet have specific regulations that directly regulate e-commerce transactions comprehensively. This causes uncertainty for consumers when facing problems in online transactions. A comparative study of the theory and practice of consumer protection in e-commerce in Indonesia can be carried out by analyzing the existing legal framework and how it is implemented in the field. However, in practice, the implementation of consumer protection in e-commerce in Indonesia often faces various challenges. One of the main problems is the lack of legal awareness among consumers. Many consumers are unaware of their rights, so they are unable to take appropriate action when they encounter problems, such as fraud or inappropriate goods. For example, in the case of online fraud, consumers often have difficulty obtaining compensation or resolving disputes with sellers.

The dispute resolution process in Indonesia through the consumer dispute resolution agency (BPSK) is often ineffective. Many consumers feel that the decisions taken are not fair enough or not legally binding. A comparison between theory and practice in *e-commerce* consumer protection shows a specific gap. Although theory provides an ideal legal framework for protecting consumers, practice in the field often does not live up to expectations. Therefore, regulatory reform and strengthening of law enforcement are needed to ensure that consumer protection can be effectively implemented in today's digital era. (Christiana, 2024)

Consumer protection in e-commerce is an increasingly relevant issue along with the rapid growth of the digital sector in Indonesia. Although the legal framework governing consumer protection has been established through Law No. 8 of 1999, its implementation in the field is often not in line with existing theory. This discussion will discuss several important aspects related to consumer protection in e-commerce, including the challenges faced, the role of business actors, and the steps that need to be taken to improve consumer protection.

One of the main challenges in consumer protection in e-commerce is the lack of legal awareness among consumers. Many consumers are unaware of their rights, such as the right to obtain clear information about the product, the right to return the goods, and the right to compensation. This causes consumers to often become victims of fraud or suffer losses due to goods that do not match the description. In this context, consumer education is very important. Businesses and governments need to work together to raise legal awareness through information campaigns and training that explain consumer rights and how to protect themselves in online transactions. In addition, the infrastructure to resolve disputes is also a concern. While some e-commerce platforms already provide return features and customer service, the process is often non-transparent and time-consuming. Many consumers feel

frustrated when it comes to dealing with returns or claims for damages. Therefore, there needs to be efforts to improve the dispute resolution system, including providing more efficient and transparent channels for consumers to file complaints and get solutions.

The role of business actors in consumer protection cannot be ignored either. Business actors must be committed to implementing ethical and transparent business practices. They need to ensure that the information provided to consumers is accurate and not misleading. In addition, business actors must provide responsive customer service and be ready to assist consumers in resolving problems that may arise. Thus, consumer confidence in e-commerce could increase, which in turn would support the growth of the sector.

The results of this study show that there is a gap between consumer protection theory and practice which lies in the lack of awareness of consumers and business actors and the lack of effective regulation. The gap shows that the need for improvement and awareness must be made, business actors must prioritize consumer safety and privacy, while the government must increase supervision and law enforcement. In addition, as a consumer, they must also increase awareness and must understand their rights. In conclusion, consumer protection in e-commerce in Indonesia requires greater attention from all relevant parties. Although the legal framework is in place, challenges in implementation and awareness of the law are still an obstacle. Consumer education, improvements to dispute resolution infrastructure, and the commitment of business actors to implement ethical business practices are important steps that need to be taken to improve consumer protection. With joint efforts, it is hoped that consumers can feel safer and more protected in transacting online, thereby encouraging the sustainable growth of e-commerce in Indonesia.

## Conclusion

The purpose of conducting this study is to find out the comparison between theory and practice about consumer protection in e-commerce, using qualitative research methods. Consumer protection in e-commerce is regulated in law number 8 of 1999 concerning consumer protection (UUPK), with several theories used in consumer protection, practices in e-commerce consumer protection are still very limited, the comparison between theory and practice in e-commerce is still very specific gap. Although in theory there is a very ideal legal framework to protect consumers, in practice in the field it is very not as expected. There are still many people (consumers) who do not know what consumer protection and their rights are. To improve consumer protection in e-commerce in Indonesia, greater efforts are needed from the government and actors to strengthen regulations, increase legal awareness, and provide more effective dispute resolution channels. Educating consumers about their rights and how to protect themselves in online transactions is also very important. Thus, consumers can feel safer and more secure in transacting online, which in turn will increase trust in e-commerce in Indonesia. The researcher has limitations in the number of respondents and focuses on e-commerce in Indonesia only. For the next researcher, it is hoped that they can analyze the impact of consumer protection on the growth of e-commerce and be able to develop a model for the implementation of consumer protection in e-commerce effectively.

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