

Legal Basis for the Use of Electronic Media as a Means of Transaction in Indonesia

Ade Sultan Muhammad¹, Febrihadi Suparidho²
Universitas Mataram

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Abstract

As a developing country, particularly in the fields of science and technology, it is undeniable that the existence of information technology, in this case various electronic media, has become the basis for people to conduct various transactions in order to fulfill all basic needs and certain desires, such as purchasing equipment and even vehicles. In Indonesia, there are various regulations governing transactions carried out electronically, although some of them do not directly regulate the implementation of electronic transactions.

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Corresponding Author:

Ade Sultan Muhammad

FHISIP Universitas Mataram

Email: adesultan@staff.unram.ac.id

1. INTRODUCTION

In Indonesia in this modern era, electronic media has become a common thing used to obtain needs, in line with the increasing number of internet users. Currently, everyone, even children, is familiar with the internet. Before the enactment of Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE), buying and selling activities via electronics were regulated by several regulations such as Law Number 12 of 2002 concerning Copyright, Law Number 14 of 2001 concerning Patents, Law Number 15 of 2001 concerning Trademarks, Telecommunications Law Number 36 of 1999, and Law Number 8 of 1999 concerning Consumer Protection.

The use of electronic media as a means of conducting transactions has grown rapidly in line with technological advancements in Indonesia. Economic activities are no longer limited to face-to-face interactions, but have shifted toward digital platforms such as e-commerce, mobile banking, and other digital services. This transformation demands legal certainty so that all parties involved in transactions receive adequate protection. Therefore, a clear legal foundation is essential to support a safe, reliable, and sustainable electronic transaction ecosystem.

In addition to providing convenience and speed, the use of electronic media also brings various risks, such as misuse of personal data, digital fraud, and vulnerability to cyberattacks. These challenges make comprehensive regulation increasingly necessary to ensure that electronic transactions are conducted in accordance with principles of security and legal validity. The Indonesian government has responded to these issues by issuing various regulations governing electronic systems and digital transaction activities.

In the legal context, a legal basis serves as the main foundation that determines the validity of an action or transaction, including those carried out electronically. In Indonesia,

several laws and technical regulations have been established to ensure that transactions conducted through electronic devices hold the same legal force as conventional transactions. These regulations cover aspects such as authenticity, information integrity, the identities of the parties, and provisions related to electronic signatures.

With a strong legal foundation in place, it is expected that the public will increasingly trust electronic media as a means of conducting transactions. Moreover, well-structured regulations also encourage businesses to develop digital innovations without neglecting security and legal compliance. Therefore, analyzing the legal basis for the use of electronic media in transactions in Indonesia is crucial to understanding how the state ensures legal protection in an increasingly dynamic digital economy.

2. RESEARCH METHODS

In this research, the author uses a normative research method, where the author searches for and examines which regulations contain rules related to electronic transactions in Indonesia.

3. RESEARCH RESULTS AND DISCUSSION (12 Pt)

3.1. Research result

In this study, the author describes at least 5 regulations related to electronic transactions in Indonesia, namely: Civil Code, Law Number 7 of 2014 concerning Trade, Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions (ITE Law), Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions, Government Regulation (PP) Number 80 of 2019 concerning Trade Through Electronic Systems (PMSE).

3.2. Discussion

Specifically, it is only in the last few years that there have been regulations regarding electronic buying and selling. Because, if there is a gap in the rules governing electronic transactions, it will give rise to various problems such as: The competence status of the person making the transaction, The validity period of the agreement that has legally binding force, Goods / Objects of the transaction, Procedures for the transfer of rights, Legal relationships and responsibilities of each party involved, Validity / Legality of electronic documents and digital signatures as evidence, Procedures for resolving problems/disputes, Choice of law and authorized judicial institutions in resolving problems/disputes, and Issues of consumer protection.

The enactment of Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law) provides two important aspects: first, the recognition of electronic transactions and electronic documents within the framework of contract law and evidence law, thereby ensuring legal certainty in electronic transactions. Second, the classification of actions that qualify as legal violations related to the misuse of information technology, along with the associated criminal sanctions.

With the recognition of electronic transactions and electronic documents, activities related to electronic buying and selling have a legal basis. The rules governing electronic buying and selling are as follows:

1. Civil Code.

Electronic transactions are part of a contract, which means they are declared valid if they fulfill the four conditions contained in Article 1320 of the Civil Code, namely:

- 1) There is an agreement between each party.

- 2) The existence of the parties' capabilities.
- 3) There is something that is promised.
- 4) There is a legitimate reason.

If the first and second elements are not met, the contract can be canceled. If the third and fourth elements are not met, the contract is null and void. Regarding goods that can be the object of an agreement, Article 1332 of the Civil Code states that the goods must be something that is traded, and Article 1333 of the Civil Code states that the goods must be able to be determined or calculated.

A sale and purchase is deemed to have occurred between the two parties immediately after they reach an agreement on the goods and price, even if the goods have not been delivered or paid for. In electronic transactions, there is no bargaining process like in direct market transactions. The goods provided and the prices offered are limited and determined by the seller. If the buyer disagrees or disagrees, they are free to discontinue the transaction. Generally, an agreement in electronic transactions occurs when the buyer agrees to the goods and price set by the seller.

2. Law Number 7 of 2014 concerning Trade.

Indonesia has become a member of the World Trade Organization (WTO) through its ratification of the Agreement Establishing the World Trade Organization (WTO). Initially, it adopted Law No. 7 of 1994 to implement all agreements contained in the WTO. In 2014, amendments were made, and Law No. 7 of 2014 concerning Trade came into effect.

Law of the Republic of Indonesia Number 7 of 2014 concerning Trade is a safeguard for national development in the economic sector, and is implemented to advance public welfare through the implementation of economic democracy with the principles of togetherness, fair efficiency, sustainability, environmental awareness, independence, and by maintaining the balance of progress and national economic unity as mandated by the 1945 Constitution of the Republic of Indonesia. Trade activities are the main drivers of national economic development that provide support in increasing production, creating jobs, increasing exports and foreign exchange, equalizing income, and strengthening the competitiveness of domestic products for the national interest. Since Indonesia's independence on August 17, 1945, there has been no law that regulates Trade comprehensively.

In fact, Law of the Republic of Indonesia Number 7 of 2014 concerning Trade does not specifically and comprehensively regulate electronic buying and selling or the use of digital media as a means of buying and selling, but in addition to Law No. 11 of 2008 concerning Electronic Information and Transactions, Law No. 7 of 2014 contains Chapter VIII which specifically regulates trading through electronic systems. Thus, electronic buying and selling in Indonesia has a clear legal basis, although there may still be many shortcomings.

According to Law Number 7 of 2014 concerning Trade, Business Actors in electronic commerce are required to provide accurate data or information regarding goods or services and regarding matters such as ordering or payment procedures. This is stated in Article 65 (1) of this law:

"Every Business Actor who trades Goods and/or Services using an electronic system is required to provide complete and correct data and/or information."

Regarding the data or information referred to, this is explained in Article 65 (4) of the law:

"The data and/or information as referred to in paragraph (1) must contain at least:

- a. identity and legality of the Business Actor as a producer or Distribution Business Actor;
- b. Technical requirements for the goods offered;
- c. Technical requirements or qualifications of the services offered;
- d. Price and method of payment for goods and/or services; and
- e. Method of delivery of goods."

So, at least up to here, there is a legal basis that regulates buying and selling via electronics, especially the rules regarding the requirements and prohibitions for sellers or service providers marketed via electronic media.

3. **Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law).**

We have Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE), which was enacted on April 21, 2008, and which was subsequently amended and supplemented in 2016. In Indonesia, almost everything related to information and electronics is influenced by the ever-evolving modern technology. This has changed the mindset and lifestyle of Indonesian society. What was previously done through conventional methods can now be done more easily and quickly with technological advancements.

Electronic buying and selling as a form of agreement under the Indonesian Civil Code (KUH Perdata) remains a matter of doubt, or a lack of clarity and normative emptiness. Article 1313 of the Civil Code concerning the definition of an agreement does not stipulate that an agreement must be made in writing. Article 1313 of the Civil Code only states that an agreement is an act by which one or more people bind themselves to one or more other people. If referring to this definition, an electronic contract can be considered 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 that is written down (paper-based), directly, if necessary, in the form of a notarial deed or in electronic form.

Electronic sales and purchase agreements are one of the most popular online contracts because internet usage is currently very extensive and global, with very low costs and efficient time. In Law Number 11 of 2008 concerning Electronic Information and Transactions, hereinafter referred to as the ITE Law, it provides recognition of Electronic Contracts, one of which is electronic sales and purchases, in Article 1 number 17 of the ITE Law it is stated that an Electronic Contract is "an agreement between parties made through an electronic system", then regarding the electronic system it is stated that a series of electronic devices and procedures that function to prepare, collect, process, analyze, store, display, announce, send, and/or disseminate Electronic Information (Article 1 number 5 of the ITE Law).

In essence, an electronic agreement is an agreement agreed upon by the parties who make it; only the means are very different, using an electronic system. This is explained in the ITE Law in Article 5 paragraph (3) of the ITE Law by requiring the validity of the contract (electronic document) when using an Electronic System as regulated in Articles 13 to 16 of the ITE Law, regarding the requirements for using electronic system means that have been certified.

An agreement made electronically, hereinafter referred to as an electronic contract, is a form of private agreement made by the parties using an electronic system as its medium. Therefore, in this case, electronic buying and selling is a manifestation of Article 1338 of the Civil Code, which enforces the "Principle of Freedom of Contract." Therefore, regarding the validity of an electronic contract when reviewed from the Civil Code, it must be clearly seen whether it complies with Article 1320 of the Civil Code concerning the requirements for a valid agreement.

Law Number 11 of 2008 concerning Electronic Information and Transactions defines electronic transactions. Article 1, number 2 explains that electronic transactions are legal acts carried out using computers, computer networks, and/or other electronic media. These electronic transactions are then known as e-commerce. Different from agreements in general, this e-commerce agreement is made without having to bring the parties together, because this e-commerce agreement is made only using electronic media. Agreements generally occur when there is an agreement between the two parties. Agreement is also one of the subjective requirements for the validity of an agreement according to the Civil Code. By agreement, it is meant that between the parties concerned, there is a conformity of will, meaning: what is desired by one is also what is desired by the other. Therefore, to be bound by an agreement, the parties must first reach an agreement.

4. Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions.

Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions is an affirmation of the Civil Code regarding the ITE Law, which in this case is contained in Article 47 paragraph (2), which states that an electronic contract is considered valid if:

1. Subjective conditions that, if not fulfilled, the agreement can be cancelled by one of the parties (as long as there is no cancellation, the agreement remains valid), namely:
 - a. There is an agreement between the parties regarding the price and product, without any coercion, error, or fraud;
 - b. The capacity of the capacity. Generally, a person who is an adult, of sound mind, and not prohibited by law (such as not being declared bankrupt by a court) is legally competent. Meanwhile, "Adult," according to Article 330 of the Civil Code, is someone who is 21 years old or is/was married.
2. Objective conditions which, if not fulfilled, will render the agreement null and void by law, deemed to have never existed and therefore have no legally binding force, namely:
 - a. The product that is the object of the agreement must be definite and possible.
 - b. Because it is lawful, the contents and objectives of the sales and purchase agreement do not conflict with statutory regulations, morality, and public order. For example, the sale and purchase are not carried out for goods that are prohibited by statutory regulations (for example, not illegal goods). The Electronic Contract itself, according to Article 48 paragraph (3) of the PP PSTE, must at least contain the following:
 - i. Identity data of the parties;
 - ii. Objects and specifications;
 - iii. Electronic Transaction requirements;

Generally, a contract is created upon acceptance of an offer, which results in an agreement between the two parties. Similarly, electronic contracts are essentially the same as conventional contracts.

5. Government Regulation (PP) Number 80 of 2019 concerning Trading Through Electronic Systems (PMSE)

The latest and most up-to-date legal basis and regulations for electronic transactions are Government Regulation (PP) Number 80 of 2019 concerning Electronic Trading (PMSE). This regulation aims to provide legal certainty, protect consumers, and create a fair business ecosystem for electronic transactions. Some of the key points covered in this PP are:

- 1) Covers trade whose transactions are carried out through a series of electronic devices and procedures, involving Business Actors, Consumers, Individuals, and state institutions.
- 2) Defining Business Actors as domestic and foreign, and determining their obligations.
- 3) Requires Business Actors to have a business permit to carry out PMSE activities, including for Electronic System Trading Providers (PPMSE) in the country and abroad.
- 4) Regulates the provisions and obligations for Business Actors located abroad who make offers to consumers in Indonesia.
- 5) Regulates the obligations of Business Actors regarding the provision of information, complaint procedures, and the resolution of consumer problems or disputes.
- 6) Includes provisions related to the identity of the parties, use of PMSE facilities, creation of electronic contracts, proof of transactions, electronic advertising, and protection of consumer personal data.
- 7) Affirming that PMSE business activities are subject to applicable tax provisions and mechanisms.

In general, Government Regulation (PP) Number 80 of 2019 concerning Trading Through Electronic Systems (PMSE) is a complex legal basis for regulating all elements contained in Electronic Transactions in Indonesia.

4. CONCLUSION

So, in the steps towards progress, where currently Indonesia is rapidly developing in the technology sector, especially information technology, which brings changes to various community activities, especially in transaction activities carried out through electronic media, in order to fulfill needs and desires.

In this case, there are at least 5 basic rules that regulate electronic transactions in Indonesia, namely: Civil Code, Law Number 7 of 2014 concerning Trade, Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions (ITE Law), Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions, Government Regulation (PP) Number 80 of 2019 concerning Trade Through Electronic Systems (PMSE).

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