

Consumer Protection in Digital Transactions: Analysis of Potential Legal Voids

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Abstract

Consumer protection is a crucial aspect of economic dynamics because it is related to guaranteeing the rights and interests of consumers as users of products and services. The goal is to ensure that consumers are not disadvantaged in transactions with businesses in the digital world. Consumer protection is not only a normative interest but also a strategic element in maintaining consumer trust in a rapidly evolving market. This is due to the continuous advancement of digital technology. The purpose of this study was to determine the existing regulations related to consumer protection and their practices in Indonesia in this digital technology era. Using normative research methods, this study can provide input to stakeholders regarding the revision of consumer protection laws. The study identified potential legal gaps in digital transactions, including attribution of responsibility, consumer data, standard clauses, and dispute resolution.

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1. INTRODUCTION

The development of the information technology revolution and globalization has fundamentally changed the world's economic landscape. Digital developments have impacted not only communication patterns and social interactions but also trading systems and the legal relationships formed within them. Economic digitalization has introduced new transaction models based on electronic systems (*electronic commerce*), where meetings between business actors and consumers are no longer conducted physically, but through digital platforms connected by the internet network.

Changes in digital technology have fundamentally altered Indonesia's trade landscape dramatically. According to data from the Indonesian E-commerce Association, the value of national e-commerce transactions will reach IDR 394.9 trillion in 2023, with an average annual growth rate of 20%. Marketplace platforms dominate the digital ecosystem, accounting for over 75% of total domestic e-commerce transactions. This phenomenon is driven by internet penetration, which has reached 78.2% of Indonesia's population, and the acceleration of digitalization during the COVID-19 pandemic. However, this exponential growth has not been matched by the development of an adequate regulatory framework to protect consumer interests in digital transactions.

Transaction patterns in society have changed significantly due to developments in information and communication technology. Digital transactions, such as purchasing goods and services through e-commerce, mobile applications, and social media, have become an integral part of the daily lives of consumers in Indonesia. According to the Indonesian

Consumer Protection Association (APJII) report (2023), internet user penetration in Indonesia reached 215 million people, with more than 80% of them regularly conducting digital transactions. This phenomenon demonstrates a major transformation in how consumers interact with businesses, which also brings new challenges in terms of legal protection of consumer rights.

Consumer protection is a crucial aspect of economic dynamics, particularly in digital transactions, as it relates to guaranteeing the rights and interests of consumers as users of products and services. The goal is to ensure that consumers are not disadvantaged in transactions with businesses in the digital world. Consumer protection is not merely a normative concern but also a strategic element in maintaining consumer trust in the rapidly evolving market. This is due to the continuous advancement of digital technology. Crucial complementary strategies for protecting consumers are prevention and law enforcement. Education, clear labeling, accurate product information, and market surveillance are all part of the prevention strategy to prevent violations of consumer rights. When consumer rights violations occur, law enforcement is implemented through legal action, mediation, and complaints. The National Consumer Protection Agency (BPKN) was established by the government to handle complaints and resolve disputes, but public ignorance and limited access to information limit its effectiveness. Consumer ignorance about the BPKN and the complaints process, along with the lack of complaint channels and consumer protection agencies, are key obstacles.

Furthermore, the dynamics of technological developments demand more relevant regulatory updates. Existing regulations often fail to accommodate the ever-growing complexity of e-commerce transactions. This leaves consumers vulnerable to various risks, such as fraud, data privacy breaches, and uncertain dispute resolution mechanisms.

In Indonesia, dynamic and complex market developments present unique challenges in ensuring consumer protection, not only in theoretical regulations but also in their effective implementation in the field. In the modern era, increasingly sophisticated technology has resulted in transactions also being conducted through e-commerce on *digital platforms*. Conditions like these require a strong and adequate legal framework for oversight and enforcement to ensure consumer rights are truly protected.

Regarding regulations governing consumer protection, Indonesia has Law No. 8 of 1999, which provides a legal basis for businesses and consumers to exercise their respective rights and obligations. Despite these written regulations, cases of consumer rights violations remain common. This inevitably results in losses for consumers, both financial and non-financial. These violations reflect a gap between established regulations and their practice in society. Examples include product misuse, non-transparent information, and services that do not comply with standard operating procedures.

Due to a lack of knowledge, awareness of their rights, and lack of bargaining power in negotiating with companies, consumers are often in a weak position during sales transactions. In this situation, the state has an obligation to provide legal protection to consumers. Every consumer has the right to comfort, security, and safety when using products and/or services, as stipulated in Article 4 of the Consumer Protection Law.

This situation demonstrates that the implementation of consumer protection regulations requires more in-depth attention and comprehensive evaluation. Furthermore, the rapid advancement of technology and innovation in the business world can also be a driving factor in the emergence of new challenges in consumer protection, typically related to the protection of consumers' personal data and digital products, as well as transparency in electronic transactions. Therefore, an in-depth analysis of the effectiveness of existing

regulations and the actual consumer protection practices implemented by companies in Indonesia is necessary.

Based on this, a study is needed to determine how legal regulations protect consumers in transactions with businesses in the digital world. This raises concerns about a legal vacuum in consumer protection in digital transactions. Therefore, this study aims to determine how regulations related to digital transactions are defined in consumer protection law.

2. DISCUSSION

CONSUMER PROTECTION IN DIGITAL TRANSACTIONS: ANALYSIS OF POTENTIAL LEGAL VOIDS

Legal Protection for Consumers in Digital Transactions

The implementation of Law No. 8 of 1999 concerning Consumer Protection in the context of digital transactions in marketplaces faces significant effectiveness challenges, particularly in terms of the suitability of legal instruments to the characteristics of modern digital transactions. Article 4 of the Consumer Protection Law guarantees consumers' right to receive correct, clear, and honest information regarding the condition and guarantees of goods or services. However, in marketplace transactions, the implementation of these provisions is hampered by more complex information asymmetries compared to conventional transactions. Consumers often rely solely on product photos, text descriptions, and review systems that can be manipulated, while being unable to physically inspect the goods directly. The phenomenon of "product catfishing," where product photos and descriptions do not match the goods received by consumers, is a common problem that demonstrates the weaknesses in the implementation of consumers' right to information in the digital environment. Marketplace platforms have limitations in verifying the accuracy of information uploaded by thousands of sellers, so information quality control mechanisms cannot function optimally as mandated by the Consumer Protection Law.

In Indonesia, e-commerce has grown rapidly and become one of the largest digital economic factors in Southeast Asia. The Indonesian e-commerce market is estimated to reach around USD 46.6 billion in 2025 and is projected to grow further to reach USD 94.48 billion in 2025 and USD 194.20 billion in 2030 with a Compound Annual Growth Rate (CAGR) of around 15.5% - 22.3%. This growth is driven by increasing internet penetration and smartphone usage, a growing middle class, the adoption of digital wallets (ewallets) such as GoPay and DANA, as well as major online shopping events such as Harbolnas (National Online Shopping Day). Indonesian consumers are increasingly accustomed to mobile-first shopping using smartphones with a preference for secure and fast digital payments. In addition, social commerce and influencer marketing trends are also increasingly popular as sales channels. The Indonesian government actively supports the development of digital infrastructure and regulations to increase consumer trust and reduce fraud, for example, by banning unofficial social media-based e-commerce since 2023. Despite its rapid growth, Indonesian e-commerce faces challenges such as slowing transaction growth due to rising tax rates, rising platform costs, and data security issues and cyber-attacks that can reduce consumer trust.

The Consumer Protection Act provides a strong foundation for a fair and mutually beneficial relationship between consumers and sellers, providing consumers with rights. Consumer rights are regulated in Article 4 of the Consumer Protection Act. Consumers have rights that must be fulfilled in sales transactions, including:

1. The fundamental right to feel comfortable, safe, and protected when consuming goods and/or services;
2. The right to choose goods and/or services and receive them at the promised exchange rate, conditions, and guarantees;
3. The right to accurate, transparent, and honest information about the conditions and guarantees of goods and/or services;
4. The right to express opinions and complaints regarding goods and/or services used;
5. The right to receive support, protection, and fair resolution of consumer protection disputes;
6. The right to receive consumer guidance and education;
7. The right to be treated fairly, honestly, and non-discriminarily;
8. The right to receive compensation, damages, and/or replacement if the goods and/or services received do not comply with the agreement or do not meet the expected standards;
9. Rights regulated in other laws and regulations.

In the Indonesian legal system, the legal basis for contracts is regulated by Articles 1233 and 1320 of the Civil Code. Consumer protection is regulated by Law No. 8 of 1999 concerning Consumer Protection and Law No. 11 of 2008 concerning Electronic Information and Transactions. The Consumer Protection Law grants consumers the right to information, compensation, and legal protection. The Electronic Information and Transactions Law regulate the use of personal data, the legality of electronic contracts, certification authorities, and the prohibition of misleading advertising. Consumers can resolve disputes through the Consumer Protection and Assurance Agency (BPSK) or the district court. Aspects of consumer protection in e-commerce include;

1. Consumers have the right to clear and accurate information. Businesses are required to provide transparent, clear, and honest information regarding the products or services offered, including prices, specifications, and transaction terms and conditions. This aims to enable consumers to make informed purchasing decisions.
2. If the product matches the information, consumers have the right to receive goods or services as advertised and promised. If the goods received are not as advertised, consumers have the right to compensation, damages, or replacement of the goods in accordance with the provisions of the Consumer Protection Law.
3. Protection from counterfeit and dangerous products: E-commerce is vulnerable to the sale of counterfeit or hazardous goods, such as illegal cosmetics or refurbished cell phones sold as new. Businesses that violate these provisions may be subject to criminal sanctions of up to

Potential Legal Vapors in Consumer Protection in Digital Transactions

The literal meaning of legal vacuum or emptiness can be interpreted as follows: Law or rect, according to the legal dictionary, rect objectively means statute or law. Grotius, in his book *De Jure Belli ac Pacis* (1625), stated that law is a regulation regarding moral actions that guarantees justice.

Meanwhile, Van Vollenhoven in "*Het Adatrecht van Ned Indie*" stated that "law is a symptom in social life that is constantly in turmoil in a state of clashing and colliding without stopping with other symptoms." According to the opinion of Surojo Wignjodipuro, S.H., in the Introduction to Legal Science in his book *Dr. Muhammad Syukri Albani Nasution, M.A. et al. Law in a Philosophical Approach* provides an understanding of law, namely "Law is a collection of rules of life that are coercive, containing an order,

prohibition or permission to do or not do something and with the intention of regulating order in community life." With regulations written in laws and regulations, or unwritten (customs or habits). Emptiness or vacuum, according to the Big Indonesian Dictionary, "emptiness is a matter (condition, nature, and so on) empty or void," which in the legal dictionary is defined as a vacuum, which is translated or interpreted the same as "empty or vacant".

One of the main issues in the development of digital transactions is the ongoing legal vacuum, which has left various aspects of e-commerce unregulated. This situation is evident in the suboptimal regulations regarding consumer rights in online purchases and platform responsibilities in *e-commerce*. In ensuring transaction security and certainty, there are also still no regulations on how couriers can be held accountable for their duties in delivering goods to consumers. Therefore, regulatory updates are needed through revisions or additions to provisions in the Consumer Protection Law and other related regulations to address the increasingly complex developments in digital commerce. The government needs to consider establishing more specific regulations regarding electronic transactions, particularly those related to the obligations of businesses and digital platform providers to provide legal protection to consumers, including dispute resolution mechanisms and the imposition of strict sanctions for legal violations committed by businesses.

On the other hand, platform providers and *e-commerce* digital platforms also have a crucial responsibility to ensure that trading activities within the platform are conducted fairly, safely, and transparently. As the party that connects sellers and consumers, digital platforms must ensure that every participating business meets established standards and requirements, such as providing goods that match their descriptions, maintaining product quality, and responsibly fulfilling their obligations to consumers.

In digital transactions, it is very difficult to monitor whether all parties are working in accordance with their duties, responsibilities, and statutory regulations. A crucial issue related to the performance of couriers delivering goods to consumers is the potential for legal loopholes. For example, couriers may confirm in their applications that they haven't, such as clicking "delivery" and "delivery" when the goods have actually arrived, or even falsely claiming the consumer cannot be contacted or is not present at the delivery location during COD (Cost-on-Delivery) when the courier has not attempted to contact the consumer. This needs to be regulated to guarantee consumer rights and prevent consumers from feeling disadvantaged.

The implementation of consumers' rights to choose and obtain goods according to the exchange rate provided, as stipulated in Article 4, letter b of the Consumer Protection Law, also faces challenges in the context of marketplace algorithms. The algorithmic systems used by platforms to display products, determine search rankings, and provide recommendations are not transparent to consumers and can influence purchasing decisions without consumers' awareness. These algorithms are often influenced by commercial factors such as seller commissions, advertising budgets, or strategic partnerships between marketplaces and specific brands. Consumers lack sufficient information regarding the criteria used by algorithms in displaying products, so the principle of freedom of choice guaranteed by the Consumer Protection Law cannot be optimally realized. The practice of "dark patterns" in marketplace interface design that directs consumers to certain choices also contradicts the principle of consumer protection, but is difficult to identify and prove within the existing legal framework.

The lack of regulatory clarity regarding the legal liability of e-commerce platforms for the circulation of illegal products sold by third parties (sellers) creates a significant regulatory gap in digital consumer protection. Law No. 8 of 1999 concerning Consumer Protection (UUPK) does guarantee consumers' rights to safe, high-quality products that comply with applicable legal standards. However, this regulation does not explicitly address the responsibilities of digital platforms as online transaction system providers that facilitate the sale of products by third parties.

Some potential legal gaps that could be detrimental to consumers are:

1. attribution of responsibility between the platform, reseller, seller, and courier
2. standard agreement related to existing standard clauses
3. consumer data protection
4. dispute resolution mechanism

Legal gaps that are not promptly addressed have real consequences. At the individual level, consumers face the risk of losing economic value due to damaged or non-conforming products, experiencing fraud without compensation, and suffering privacy violations that could potentially lead to financial fraud.¹⁸ Widespread negative consumer experiences will erode public trust in digital platforms; this decline in trust can limit digital adoption by certain population groups and hinder the growth of an inclusive digital economy. At the systemic level, markets that do not enforce consumer protection standards are prone to opportunistic practices that degrade the overall quality of services and undermine fair competition.

3. CONCLUSION

There is a potential legal vacuum (*rechtsvacuum*) surrounding multi-party liability attribution, standard clauses, data protection, and dispute mechanisms, which could potentially harm consumers individually (economic loss, privacy) and systemically (decreased trust, barriers to an inclusive digital economy). Overall, existing regulations do not comprehensively accommodate the dynamics of modern digital transactions. Furthermore, the lack of clear regulations regarding marketplace algorithm transparency, consumer data protection, and digital dispute resolution mechanisms demonstrates the urgent need for reforms to consumer protection laws in the digital era.

If left unaddressed, this legal gap could have far-reaching impacts, both on consumers and on the development of the national digital economy. Consumers could potentially experience economic losses, loss of personal data privacy, and uncertainty about obtaining legal protection. In the long term, this situation could undermine public trust in the digital trading system and hinder the creation of a healthy, safe, and equitable digital economic ecosystem.

4. SUGGESTION

Revise the UUPK and UU ITE: Add specific provisions on e-commerce platform liability for illegal products, seller information verification, and courier oversight (e.g., delivery confirmation must be verified in real-time).

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