

Contract Law in E-Commerce Perspective and Its Implications for Consumers

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ABSTRACT

This research investigates contract law in the perspective of e-commerce and its impact on consumers. Facing digital transformation in the business world, particularly in the context of e-commerce, the contractual relationship between businesses and consumers becomes increasingly complex. The focus of this research involves exploring the legal implications arising from digital business transactions related to contract law in the e-commerce environment. The aim of this research is to provide insights into how contract law in e-commerce can affect the rights, obligations, and protection of consumers. The implementation of contracts in e-commerce, unlike conventional agreements, requires clear regulations regarding the validity and legal strength of these electronic contracts. In this research, a qualitative approach is employed using literature review and legal document analysis. Data is gathered from legal sources related to e-commerce and relevant previous research. The practical implications of this study are expected to provide a foundation for regulatory improvements and consumer protection in digital business transactions.

Keywords:

Contract Law; E-Commerce; Consumer Protection

INTRODUCTION

While the growth of e-commerce has opened new opportunities, the legal challenges that arise in this environment are also increasingly complex. This research is motivated by the need to dig deeper into the legal implications of contracts in digital business transactions, especially in the context of e-commerce. The focus of the research on the consumer perspective is expected to provide a richer understanding of consumer rights, obligations, and protection in the context of online transactions.

Every legal subject, both individuals and legal entities, always carry out various activities to meet their needs. The relationship between legal subjects in carrying out these activities is regulated by law. The relationship contains the rights and obligations of the parties based on the agreement. Activities or behavior to meet the needs of the legal subject's life are called business transactions. Business activities are growing rapidly, including goods and services.

Business contracts are generally made in writing and agreed upon by the parties who make them. The digital era has had a transformational impact on the way business is done, e-commerce being one of the main driving forces of this change. Along with the development of electronic trading platforms, there has been a complex evolution in contractual relationships between business actors and consumers. A deep understanding of contract law in an e-commerce perspective is becoming increasingly important to understand the dynamics of fast and innovative digital business transactions (Nasution et al., 2020).

The term business contract is also called contract law or business law because it contains promises in carrying out various business transactions. According to Rudyanti Dorotea Tobing in her book entitled: "Aspects of Business Law" says that other terms for business law are trade law (as a translation of trade law), business

law (as a translation of Commercial Law) and economic law (as a translation of economic law) (Tobing, 2015) .

Contract law refers to the provisions of Article 1320 of the Civil Code which consists of:

1. Agreement of the parties

This agreement of the parties means that what one party wants is agreed to by the other party. Based on Article 1321 of the Civil Code, it states that an agreement or agreement has no power if it is done due to mistake, coercion and fraud.

2. Capable of carrying out legal actions

Meaning that it is authorized to make agreements or business transactions, unless declared incompetent to make agreements. Article 1330 of the Civil Code states that those who are incompetent to make agreements are: minors, people who are placed under guardianship and married women in cases determined by law.

3. Certain objects can be interpreted as only goods that can be traded which can be the subject of an agreement.

4. A lawful cause. Based on article 1335 it is stated that an agreement without a cause, or made based on a false or prohibited cause, has no force.

If the parties in carrying out the transaction violate the provisions of Article 1320 of the Civil Code, it will result in losses for the other party. These losses can befall consumers as parties related to business transactions. The legal consequences of a valid contract can be seen from Article 1338 of the Civil Code which states that all agreements made by the parties apply as laws for the parties who make them, agreements cannot be withdrawn unilaterally and are carried out with good etiquette.

This has implications for consumers who enjoy or have rights due to the contract that is executed, if they experience losses they can claim their rights through litigation or non-litigation channels.

The proportional principle is one of the principles that strengthens every contract, in addition to the principle of freedom of contract, the principle of consensualism and other principles. The proportional principle can be analyzed implicitly, that a legally made agreement, the condition is an agreement that is rooted in consensus, the achievements exchanged so that the parties agree, it can be ascertained that the proportion of obligations borne by the parties is comparable, not the same, and as a result the benefits in the form of rights will also be parallel to the weight of the obligations carried out by each party according to the appropriate proportion. (Hernoko & SH, 2019).

The statement of the proportional principle means that business transactions are based on a proportional balance in relation to the rights and obligations of the parties. A proportional balance between the obligations that must be fulfilled and the rights obtained is a reflection of the proportional principle. Such contract law applies to all business transactions including business transactions conducted online.

Facing the era of globalization, the development of the digital world is increasingly widespread and global, as well as contract law, along with the development of the times, people carry out agreements via the internet. Electronic contracts are contracts that arise due to the development of technology and information. (Putri & Budiana, 2018) . E.Commerce is a business transaction

conducted online through an electronic agreement or electronic contract which is implemented if the agreement is conducted via a computer, computer network or other electronic media, for example, online loans which must use a funding agreement in the form of an electronic document and an online sales and purchase agreement (Hassanah, 2015) .

Several previous studies related to this research include studies related to the validity of e-commerce agreements when viewed from Article 1320 of the Civil Code concerning the requirements for valid agreements. (Syamsiah, 2021) and the influence of the development of information technology on the validity of agreements in electronic commerce (e-commerce) in the era of globalization (Hanim, 2011) .

This study aims to provide insight into how contract law in e-commerce can affect consumer rights, obligations and protection. The scope of this research will focus on contracts that occur on e - commerce platforms , with a particular emphasis on the contractual relationship between business actors and consumers , also including an analysis of changes and legal challenges faced by consumers in the context of digital business transactions. General provisions in Article 1330 of the Civil Code certainly also apply to every electronic transaction. The issue that develops in business transactions, losses are always on the consumer, for example, the desired goods do not match expectations and are prone to fraud. Events like this are the background or the author's desire to conduct research with the title: " Contract Law in the Perspective of E-Commerce and Its Implications for Consumers" to find answers to the problems in this study, namely: 1) how is the legal force of electronic contracts that can affect the rights and obligations of the parties? 2) How is the implementation of electronic contracts to protect consumers?

METHOD

Research is conducted to obtain objective information about issues that are trending in society. Legal research is a research that has a legal object, either law as a science or dogmatic rule or law related to the behavior and life of society, based on a certain method, systematics and thinking that aims to study one or several specific legal phenomena by analyzing them (Efendi & Ibrahim, 2018).

This study uses a qualitative approach to explore and analyze Contract Law in the Perspective of e-commerce and its implications for consumers. The qualitative approach was chosen because it can provide an in-depth understanding of the dynamics of contractual relationships in the context of digital business transactions. Using secondary data in the form of primary legal materials, secondary legal materials and tertiary legal materials. Primary legal materials are in the form of various regulations relating to contract law and regulations relating to business transactions conducted online (e.commerce). Secondary legal materials are in the form of previous research, journals and literature relating to the object of research, while tertiary legal materials are in the form of legal dictionaries, economic dictionaries and encyclopedias. Data collection techniques are in the form of literature studies by conducting library searches in the form of laws and regulations, books and other documents regarding the object of research.

The collected data is then checked (*editing*) to determine the legal regulations related to contract law in *the perspective of e-commerce* in answering the problems in the study, then data examination or data classification is carried out, so that each

problem will be objectively true and data compilation (data systematization), so as to get a clear picture related to the legal force of business contracts and the implementation of electronic contracts in the world of trade. The last step taken is to analyze qualitatively, namely providing an explanation of the conclusion in the form of a narrative.

RESULTS AND DISCUSSION

1. Legal Power of Electronic Contracts that Can Affect the Rights and Obligations of the Parties

The legal force of electronic contracts can be analyzed from the legal principles of contracts, the conditions for the validity of contracts, regulations that relate to business transactions conducted online and legal regulations relating to consumer protection. The legal principle is the heart of legal regulations and becomes a guideline and basis in designing positive law. Understanding the legal principle is very much needed as an ethical demand in studying the applicable laws and regulations (Atmadja, 2018) . The legal principle is the heart of legal science. We call it that because first, it is the broadest basis for the birth of a legal regulation (Rahardjo, 2009)

Good faith has become a very important principle in law. This principle has been accepted in various legal systems. This principle has a very important function in contract law. The implementation of legal traffic is expected so that society always acts based on good faith, so that it can support efforts to realize a just and prosperous society. The principle of law functions as a foundation that provides direction, goals and fundamental assessments, contains ethical values and demands. (Arifin, 2020).

The legal principles in business contracts also apply to business transactions conducted online, also known as e-commerce . The legal principles of contracts are a defense for business actors in carrying out business transactions with various interpretations in their implementation. The hope that is to be achieved in online transactions is that every business actor can carry out contracts freely based on agreement, balance, mutual cooperation, transparency, fairness, law-abiding, careful so that legal certainty is achieved regarding the promises in the contract.

The legal force of electronic contracts can also be analyzed from the valid conditions of the agreement contained in Article 1320 of the Civil Code which is the *lex generalis* of a legal rule that is specific to electronic contracts. There will be no society without law or vice versa there will be no law if there is no society is the true meaning of an adage *Ubi societas ibi ius* . This shows that humans need a legal framework in building relationships with others to meet their needs. The general requirements for the validity of a contract or agreement, whether face-to-face or through electronic media, are contained in Article 1320 of the Civil Code as described in the description above in the introduction.

The legal force of electronic contracts in addition to the provisions of Article 1320 of the Civil Code is also in e-commerce , which is a business transaction carried out online. Electronic commerce transactions are trade transactions between sellers and buyers to provide goods, services or take over rights. This contract is through electronic media, where the parties are not physically present and are in a network with an open system, namely the internet or world wide web. This transaction occurs regardless of territorial boundaries or national requirements (Amajihono, 2022) . E.Commerce is a multidisciplinary field, covering technical fields, such as networks and telecommunications, security, storage and retrieval of data from multimedia.

Business fields such as marketing, purchasing and selling, billing and payment and distribution network management and legal aspects such as intellectual property rights, taxation, making agreements and other legal settlements (Adam et al., 1998) .

E-commerce transactions raise various legal questions or problems, including those concerning:

- a. Domain name usage
- b. Evidence
- c. Email notification acknowledgement
- d. Internet piracy related to IPR
- e. Protection for consumers in e-commerce transactions
- f. Protection of the right to privacy
- g. The choice of which country's law will be applied if the e-commerce transaction is an inter-country transaction
- h. Jurisdiction of the court regarding which court has the authority to resolve disputes between parties conducting e-commerce transactions (Pradnyamitha & Darmadi, 2018)

In relation to the above, it can be said that the legal force of an electronic contract virtually follows the elements and conditions contained in civil law article 1320 of the Civil Code and the legal consequences contained in article 1338 of the Civil Code which have been explained above.

The use of domain names in e-commerce transactions can be interpreted as parties who agree to carry out a contract, either in the form of individuals or legal entities. Domain names are the determination of the address of the company name of the trademark sold in cyberspace. Based on the provisions of Article 1320 of the Civil Code, it is explained that the subjective requirements for the validity of an agreement are agreement and competence, of course these requirements also apply to online business contracts, the difference is only in the media, where if the online business contract is through various applications available online.

The legal force of electronic contracts as evidence of an agreement can be seen from digital documents. E-commerce transactions are paperless transactions , the documents used are not paper documents but digital documents that can be printed in hardcopy . Evidence in the computer is easily lost and easily changed and cannot be traced back, is intangible and difficult to read. This is the reason why consumers have difficulty suing other parties in online contracts (Rusli, 2019) .

The objective requirements in online agreements or contracts also refer to Article 1320 of the Civil Code concerning the object of the agreement and the lawful cause. The object of the agreement in the form of goods and services must be clear, measurable in terms of both quality and quantity. If the contact has been carried out properly, then the provisions of Article 1338 of the Civil Code also apply to e-commerce transactions , which states that all agreements between the parties apply as laws for the parties who make them, agreements cannot be obeyed unilaterally and agreements are carried out with good etiquette.

Some electronic contracts that are commonly used in business agreements are as follows: a) Electronic mail contract is a contract that is legally formed through email communication. Offers and acceptances can be exchanged via email or a combination of other electronic communications, written documents or faxes, b) A contract can also be formed through a website and other online services, namely a website offers the

sale of goods and services, then consumers can accept the offer by filling out a form displayed on the monitor screen and transmitting it. c) Contracts that include direct online transfer of information and services. The website is used as a medium of communication and at the same time as a medium of exchange. d) Contracts containing Electronic Data Interchange (EDI), an exchange of business electronically through computers owned by trading partners. e) Contracts “via the internet accompanied by click wrap and shrink wrap software licenses downloaded via the internet are usually sold with a click wrap license. The license appears on the buyer's monitor when the software is first installed, and the prospective buyer is asked about their willingness to accept the terms of the license. Users are given the alternatives “I accept” or “I don't accept”. While shrink wrap is usually a license that is sent in a package such as a diskette or compact disc (Biondi, 2016) .

The legal force of electronic contracts, in addition to the provisions of Article 1320 and Article 1338 of the Civil Code, is also contained in Law Number 19 of 2016 amending Law Number 11 of 2008 concerning electronic information and transactions. The legal relationship of the parties to the electronic business is required to provide complete and correct information regarding the terms of the contract and products. The elements of an online business contract (E.Commerce) are the existence of a trade contract carried out using electronic media, the physical presence of the parties is not required, the contract is in a public network and in an unlimited area. In 2019, the Government issued PP number 80 of 2019 concerning trade through electronic systems (PMSE). PMSE is trade whose transactions are carried out through a series of electronic devices and procedures. The scope of e-commerce is about business actors, licensing both domestically and abroad. Trade through electronic systems states that every business actor who trades goods and/or services using electronic systems is required to provide complete and correct data and information about the object of the agreement. Business actors must provide digital contracts containing product and payment details.

There are several things related to the provisions of regulations on e-commerce , 1) The agreement contained in Book III of the Civil Code and Article 1338 in conjunction with Article 1339 of the Civil Code states that an agreement is considered valid by law and is binding on the parties entering into the agreement . (2) Contracts made electronically in Law Number 19 of 2016 concerning Electronic Transaction Information are referred to as Electronic Contracts, namely agreements contained in Electronic Documents or other electronic media. 3. Government Regulation Number 80 of 2019 concerning Trading Through Electronic Systems including delivery mechanisms, payments, advertising, electronic contracts, etc.

2. Implementation of Electronic Contract in Protecting Consumers

Protection for consumers in electronic transactions is in Law Number 8 of 1999 concerning Consumer Protection (UUPK) article 4 , namely in the form of Consumer Rights . Consumers have the right to choose goods and/or services and to obtain goods and/or services in accordance with the exchange rate and conditions and guarantees promised. and consumers have the right to receive compensation, damages and/or replacement, if the goods and/or services received do not comply with the agreement or are not as they should be.

Consumer protection is also contained in Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE Law), namely Article 5 paragraph (1)

which states that electronic information and/or electronic documents and/or printouts are valid legal evidence. Article 18 paragraph (1) electronic transactions that are stated in electronic contracts bind the parties. Article 28 paragraph (1) which states that anyone who intentionally and without the right spreads false and misleading news that results in consumer losses in electronic transactions. Acts as explained in Article 28 paragraph (1) of the ITE Law are subject to a maximum prison sentence of 6 (six) years and/or a maximum fine of IDR 1 billion (Article 45 paragraph (2) of the ITE Law).

CONCLUSION

The legal force of electronic contracts can be analyzed from the valid conditions of the agreement contained in Article 1320 of the Civil Code which is the *lex generalis* of a legal rule that is specific to electronic contracts. There will be no society without law or on the contrary there will be no law if there is no society it is the true meaning of an adage *Ubi societas ibi ius*. This shows that humans need a legal framework in building relationships with others to meet their needs. The general requirements for the validity of a contract or agreement, either face-to-face or through electronic media, are stated in Article 1320 of the Civil Code which contains subjective requirements in the form of agreement and ability to carry out legal acts, and objective requirements in the form of certain objects and lawful causes in an agreement. Law Number 19 of 2016 amending Law Number 11 of 2008 concerning electronic information and transactions. The legal relationship of the parties to an electronic business is required to provide complete and correct information regarding the terms of the contract and products. The elements of an online business contract (*E.Commerce*) are the existence of a trade contract carried out with electronic media, the physical presence of the parties is not required, the contract is in a public network and in an unlimited area. In 2019, the Government issued PP number 80 of 2019 concerning trade through electronic systems (PMSE). PMSE is a trade whose transactions are carried out through a series of electronic devices and procedures. The scope of *e-commerce* is about business actors, licensing both domestically and abroad. Trading through electronic systems states that every business actor who trades goods and/or services using an electronic system is required to provide complete and correct data and information about the object of the agreement. Business actors must provide a digital contract containing product details and payments.

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Reference

- Adam, N. R., Dogramaci, O., Gangopadhyay, A., & Yesha, Y. (1998). *Electronic commerce: technical, business, and legal issues*. Prentice-Hall, Inc.
- Amajihono, K. D. (2022). Kekuatan Hukum Kontrak Elektronik. *Jurnal Panah Keadilan*, 1(2), 128–139.
- Arifin, M. (2020). Membangun Konsep Ideal Penerapan Asas Iktikad Baik Dalam Hukum Perjanjian. *Jurnal Ius Constituendum*, 5(1), 66–82.
- Atmadja, I. D. G. (2018). Asas-asas hukum dalam sistem hukum. *Kertha Wicaksana*, 12(2), 145–155.
- Biondi, G. (2016). Analisis Yuridis Keabsahan Kesepakatan Melalui Surat Elektronik (E-mail) Berdasarkan Hukum Indonesia. *Premise Law Journal*, 19, 164959.
- Efendi, J., & Ibrahim, J. (2018). *Metode Penelitian Hukum: Normatif dan Empiris*.
- Hanim, L. (2011). Pengaruh perkembangan teknologi informasi terhadap keabsahan perjanjian dalam perdagangan secara elektronik (e-commerce) di era globalisasi. *Jurnal Dinamika Hukum*, 11, 56–66.
- Hassanah, H. (2015). Analisis Hukum Tentang Perbuatan Melawan Hukum Dalam Transaksi Bisnis Secara Online (E-Commerce) Berdasarkan Burgerlijke Wetboek Dan Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik. *Jurnal Wawasan Yuridika*, 32(1), 38–51.
- Hernoko, A. Y., & SH, M. H. (2019). *Hukum Perjanjian*. Prenada Media.
- Nasution, E. Y., Hariani, P., Hasibuan, L. S., & Pradita, W. (2020). Perkembangan Transaksi Bisnis E-Commerce terhadap Pertumbuhan Ekonomi di Indonesia. *Jesya (Jurnal Ekonomi Dan Ekonomi Syariah)*, 3(2), 506–519.
- Putri, W. S., & Budiana, N. (2018). Keabsahan Kontrak Elektronik Dalam Transaksi E-commerce ditinjau dari hukum perikatan. *Jurnal Analisis Hukum*, 1(2), 300–309.
- Rahardjo, S. (2009). *Penegakan hukum: suatu tinjauan sosiologis*.
- Rusli, T. (2019). Pembuktian dalam Menentukan Kerugian Konsumen dalam Transaksi Elektronik. *Keadilan Progresif*, 10(1).
- Syamsiah, D. (2021). Kajian Terkait Keabsahan Perjanjian E-Commerce Bila Ditinjau Dari Pasal 1320 Kuhperdata Tentang Syarat Sah Perjanjian. *Jurnal Inovasi Penelitian*, 2(1), 327–332.
- Tobing, R. D. (2015). *Aspek-aspek hukum bisnis: pengertian, asas, teori dan praktik*. Aswaja Pressindo.