

Analysis of The Limits of Criminal Acts of Gambling in The System of Acquiring Virtual Assets Through Loot Crates in Virtual Games

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ABSTRACT

The development of globalization and technological advances influences the progress of the creative industry, particularly in the virtual gaming sector, commonly known as online games. As time progresses, the online gaming industry is rapidly evolving, both in terms of its audience and the entrepreneurs involved. This sector enables easy selling of various items related to online games. With the increasing number of enthusiasts due to the changing times, gaming companies are introducing innovations to captivate players' interest. One such innovation is the introduction of a new category of virtual assets in online games, commonly referred to as Loot Crates. These are virtual assets in online games that can be purchased using real currency or other payment methods, such as in-game currency. The Loot Crate system involves a mechanism that provides virtual assets randomly, incorporating an element of luck to obtain desired assets. However, the random nature of Loot Crates raises concerns about meeting the elements of gambling offenses. The Loot Crate system, implemented by various producers, operates as an electronic transaction and is subject to the Electronic Information and Transactions Law No. 11 of 2008, in conjunction with Law No. 19 of 2016. According to these laws, one of the prohibited actions, as stated in Article 27, Paragraph 2, is "Any person intentionally and without right distributes and/or transmits and/or makes electronically stored information and/or electronic documents that contain gambling content." Please note that the translation may not capture the full legal nuances, and legal advice may be necessary for a precise interpretation.

Keywords:

Criminal Acts of Gambling, Virtual Assets, Virtual Loot Crates (Online Game)

INTRODUCTION

technology is occurring. This, in turn, has an impact on the ease of accessing various forms of information in the digital world. One of these impacts is the progress made to facilitate access to information related to electronic and digital transactions, accessible through various digital platforms. (Wirawan, 2022) Due to the ease in this matter, it also has an impact on the creative industry, such as in the virtual gaming sector, commonly known as online games, which is showing rapid development over time. This is evident in both the growing interest and the businesses involved in this field. These businesses can easily sell various items related to online games through electronic media such as social media and, of course, online buying and selling platforms commonly referred to as e-commerce. (Omahgame, 2021) The development in information accessibility, especially, has an impact on the online gaming community. Currently, the gaming industry in Indonesia, which initially provided free online games, has evolved over time to introduce new features such as cosmetics or asset options in online games that can alter the appearance of the entire game or specific characters. In these respective online games, obtaining virtual assets can be done in various ways, either for free through in-game events or by purchasing them through in-app payments within the relevant gaming application. (Pradhipta, 2021)

Some online gaming companies also provide a feature called a market community, which is an official forum provided by the respective gaming company. In this forum, players can engage in the buying and selling of various in-game assets through the platform. Besides using the official platform of the game company, businesses often sell these online game assets through online marketplace applications or e-commerce platforms. This is because these platforms facilitate promotion, as the algorithms in e-commerce allow almost everyone,

including those who are not players of the specific online game, to view advertisements for the products.

Due to the increasing development of technology, there is a growing number of enthusiasts and players in online games. Consequently, some online gaming companies have begun to innovate to attract more players by introducing new categories of virtual assets in online games. This innovation first appeared in 2012 by one of the virtual gaming companies from Japan. They introduced a new mechanism for obtaining these assets called "Comp-Gacha." (CS Agent, 2018) Subsequently, in the online gaming world, it is more commonly known as "Loot Crate."

Loot Crate itself is a virtual asset in an online game that consists of a box or a collection of several assets combined into one. In this system, consumers can purchase a virtual asset within the application using money or other forms of payment, such as in-game currency. In-game currency itself is a term commonly used to refer to a specific asset or item within the respective game, which is privately owned by a particular individual and usually has a monetary value. (Citroen, n.d.)

In the Loot Crate system, there is an element of luck in obtaining a virtual asset in a specific online game because players essentially purchase a box containing randomly selected virtual assets. Each type of virtual asset inside the box has a chance of being obtained, and the selection is diverse. For example, in the game Dota 2, Loot Crates are commonly known as treasure boxes, with a percentage chance to obtain various types of virtual assets referred to as items. In the acquisition system of virtual assets in the game, the smaller the chance of obtaining the item, the higher its selling price in both the market community and online buying and selling sites or e-commerce platforms. (*Dota 2 Wiki, Treasure*, n.d.) Even in some types of online games, these assets can be sold through online buying and selling sites by entrepreneurs, especially for online games produced by Valve (a game development company, particularly Dota 2). This allows the resale of both Loot Crates and the items obtained from these Loot Crates through transactions outside the first-party platform provided by the developer. Entrepreneurs in the online buying and selling industry in this field typically create a new community through specific social media channels. In this community, the prices are determined by offers, and the availability of an item is based on its exclusivity level, which is determined by the lower percentage chance of obtaining it through the existing Loot Crates. (Steam Support, n.d.) Loot Crate itself in forums like this can experience an increase in selling prices depending on the release year in the game and its availability. The longer the year, the less the availability of existing items in the Loot Crate, and automatically, it will increase the selling price. The issues that arise in this regard are twofold.

The element of chance in obtaining assets in a Loot Crate acquired randomly raises concerns about the element of gambling. The Loot Crate system implemented by some producers itself constitutes an electronic transaction and is subject to Law Number 11 of 2008 concerning Electronic Information and Transactions, in conjunction with Law Number 19 of 2016. In this law, one of the prohibited acts as stated in Article 27 paragraph 2 is "Any person intentionally and without right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain gambling content." (*Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik*, n.d.) The term "gambling" referred to in Article 27 Paragraph 2 of Law Number 11 of 2008 concerning Electronic Information and Transactions refers to the definition of gambling regulated by previous regulations. (*Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik*, n.d.) The definition of gambling in Indonesia is regulated in the Criminal Code. Quoting from the definition in the Criminal Code, Article 303 paragraph (3) states: "What is called gambling is any game, where generally the possibility of profit depends solely on luck, also because the players are more skilled or more proficient." "In that context, it includes all bets on the outcome of races or other games that are not held between those who participate

in the race or game, as well as all other bets." (Pasal 303," n.d.) "In this case, research needs to be conducted to find the differences and similarities regarding the element of gambling according to the Indonesian Criminal Code (KUHP) compared to the system of acquiring virtual assets through online game Loot Crates. Broadly speaking, one element is not fulfilled as gambling in the system of acquiring virtual assets in Loot Crates, namely the absence of betting."

"Secondly, the issue is related to the numerous legally registered online game applications in Indonesia that contain Loot Crate mechanisms for acquiring specific assets or for trading. This then affects the definition of gambling itself. According to the Indonesian Criminal Code (KUHP), something is considered gambling if there is an element of luck in a game. However, there is a difference with the Loot Crate mechanism where, in conventional gambling as known in the KUHP and as we understand it, a game does not have economic value before a result occurs from a series of such games. Unlike Loot Crates that have economic value even before being opened to obtain various assets inside. From this illustration, research is needed to explore the extent to which the definition of gambling in the KUHP applies to the Loot Crate mechanism."

METHOD

This research uses the normative juridical research method, also known as doctrinal research, which employs legislative and conceptual approaches. The primary legal materials used consist of primary legal sources, including norms, legal principles, and regulations that relate to the crime of gambling and the Electronic Information and Transactions Law referring to the definition of gambling as regulated by laws and regulations. Secondary legal materials consist of various law publications contained in official documents, including textbooks, legal journals, and opinions of legal experts relevant to the legal issues discussed. Tertiary legal materials consist of books, journals, theses, and non-legal websites related to the research topic.(Nurcholis et al., 2022)

RESULTS AND DISCUSSION

The system in Loot Crate, where there is a form of luck involved in obtaining a particular item, can be likened to a lottery. In this system, individuals are driven to continuously make purchases and try their luck, as there is no guarantee that they will receive the desired items. (Manalu, 2019). Gambling itself is regulated in the Criminal Code, specifically in Article 303 paragraph (3). Quoting the wording of this article, it is explained that: "What is referred to as gambling is any game, where generally the possibility of profit depends solely on luck, also because the players are more trained or more skilled. This includes all bets on the outcome of races or other games not held between those who participate in the race or game, as well as all other bets." (Pasal 303, KUHP)(KUHP, n.d.).

Then, for its punishment, it is regulated in Article 303 bis. Quoting from this article in the Criminal Code, the wording is as follows (Isnaini, 2017) "Threatened with imprisonment for a maximum of four years or a fine of up to ten million rupiahs: 1. anyone who takes the opportunity to gamble, which is held by violating the provisions of Article 303." In the system of Loot Crate, there is an element similar to that in Article 303 paragraph (3) of the Indonesian Criminal Code, namely the presence of a possibility dependent on luck. This aligns with the mechanism in Loot Crate for obtaining a particular item or virtual asset within it. Therefore, in this case, it can be equated with gambling practices.

Further regulations regarding forms of gambling can be found in Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions. The element of gambling in the system of Loot Crate in online games is regulated in Article 27 paragraph (2) of Law Number 11 of 2008 concerning Electronic Information and Transactions, as written in Chapter VII on prohibited actions (Sulistyo & Ardjayeng, 2018).

It states, "Any person intentionally and without authority distributes and/or transmits and/or makes accessible electronic information and/or electronic documents that contain gambling content" (ITE Law, 2008). Then, in Article 45 paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions, the sanctions are mentioned, which state: "Any person who meets the elements as referred to in Article 27 paragraph (1), paragraph (2), paragraph (3), or paragraph (4) shall be punished with imprisonment for a maximum of 6 (six) years and/or a fine of up to IDR 1,000,000,000.00 (one billion rupiahs)" (UU ITE, 2008)

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Transactions, there is actually no explicit provision that clearly mentions virtual assets or the like. However, considering the definition of virtual assets itself, which is a composition of code and data arranged digitally into a form or content that can be seen and enjoyed for its utility through computerization, it means that it requires a specific device and platform or application to experience it. (FATF, 2020) Therefore, in this law, there is an article that can serve as a basis. Namely, in Article 1 number 1, which states: Electronic Information is one or a set of electronic data, including but not limited to writing, sound, images, maps, designs, photos, electronic data interchange (EDI), electronic mail, telegrams, telex, facsimile or similar, letters, signs, numbers, Access Codes, symbols, or perforations that have been processed and have meaning or can be understood by those who are able to understand it. (*Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik*, n.d.) Looking at the wording of that article, there is a similarity in language, namely something that is electronic data, and is not limited to a specific form. This means that the article can be said to regulate virtual assets, including Loot Crate, even though indirectly, and it requires grammatical interpretation to prove it.

In this case, the definition of gambling can be seen in another law, namely the Criminal Code. Specifically, it is in Article 303 which explains that gambling is any game where the possibility of gaining a profit depends on the luck or skill of the players and involves betting in it. (Imam Hadi, 2012) Broadly speaking, there are elements that must be present for an action to be considered as gambling and gacha. First, the action is generally carried out in the form of a game. The second element is that the action or game involves an element of chance. The last element is that the game also includes a bet. Anything can be used as a bet, whether it's money or other valuable items, and it is a crucial element in determining whether an action can be considered gambling or not.

In this research, the theory of legal protection will be used as an analytical tool to understand the forms of legal protection for consumers in conducting electronic transactions. Satjipto Raharjo explains that legal protection is the safeguarding of human rights violated by others, and this protection is provided to the public so that they can enjoy all the rights granted by the law. The concept of legal protection is considered an effort to regulate various societal interests, thus preventing conflicts between interests and ensuring the enjoyment of all rights granted by the law." (Satjipto Raharjo, 2012) "The inspiration for the concept of legal protection by Satjipto Raharjo is based on the ideas put forth by Fitzgerald regarding the goals of the law, including coordinating and integrating various interests in society through efforts to limit and preserve these diverse interests." (Tedi Sudrajat & Endra Wijaya, 2020)

The first element is "game," where the form of the game is carried out solely for fun, as a pastime to fill time, or for entertainment purposes. So, the game is recreational. Loot Crate

itself, in this case, is part of or an asset in virtual games or online games. The second element is luck. Luck means that winning this game or competition relies more on speculative or chance factors. (Kris Demirto Faot, 2013) Then, the last element is the existence of a bet. To open a Loot Crate, players are indeed required to pay using money or certain in-game items. However, this does not solely make it a form of betting. In Article 303 of the Indonesian Penal Code (KUHP), betting involves valuable assets, such as money or other valuable items. Koeder explains that "Gacha is paid using virtual currency in the game, either with virtual currency or real money." (Koeder & Tanaka, 2017) To do this, players will engage in Real Money Trade to convert their real currency into virtual currency in the game. However, this cannot be considered a form of gambling.

From a financial transaction perspective, many online games allow players to purchase virtual items or upgrades through in-app transactions. However, players cannot exchange these items back into real money. "Online games may offer in-app purchases for cosmetic items, power-ups, or additional content, but these do not provide real financial benefits to the players," explained Yudi Prayudi. (Yudi Prayudi, n.d.) On the other hand, in online gambling, players deposit real money, bet with that money, and hope to win more money that can be withdrawn later. Online gambling allows users to place bets with real money and has the potential to win more money or other valuable prizes. Based on this explanation, we can understand that a game, or more specifically, the mechanism within Loot Crates, is different from the concept of online gambling.

An explanation regarding Consumer Protection found in various literatures and presented by legal experts or scholars. According to Mochtar Kusumaatmadja, the definition of Consumer Protection is the entirety of legal principles and rules that regulate the relationships and issues between various parties and are related to consumer goods or services in human social life. With a definite legal basis, protection of consumer rights can be carried out with full optimism. Regulations regarding consumer protection have been stipulated in Law No. 8 of 1999 concerning Consumer Protection. Based on Article 1, paragraph 1 of the Consumer Protection Law, it is mentioned that Consumer Protection is all efforts that ensure legal certainty to provide protection to consumers. Legal certainty to provide protection to consumers. (Atsar & Apriani, 2019)

Legal certainty to provide protection to consumers in the form of protection of consumer rights, reinforced through specific laws, provides hope that businesses will not arbitrarily act to the detriment of consumer rights. The mechanism in Loot Crates only fulfills the element of luck, where players are given a box containing various types of assets in a specific online game, which will be obtained randomly when opening the Loot Crate. (*Dota 2 Wiki, Treasure*, n.d.) Even if we don't get the desired asset in a Loot Crate, we will still obtain other assets from it. Some of these assets cannot be resold for money, while others can be resold through specific platforms, either within the respective game or through third parties. However, the price of an item is not static and can experience fluctuations depending on market trends at a specific time. As a result, there is no loss in this case, meaning that Loot Crate is not considered gambling.

From this, we can see a limitation related to whether an act can be classified as a criminal act of gambling or not. There are several factors that influence this. The first is related to the presence of betting. There is the presence of a bet or wager in an activity. This can be in the form of money, valuable items, or other values at stake. In the case of acquiring virtual assets in an online game, such as Loot Crate, which also contains a collection of assets, the first factor, namely betting, is not fulfilled. This is because, according to the Indonesian Dictionary (KBBI), betting is defined as the activity or act of betting, placing money or valuable items on the outcome of an event or game with the hope of gaining profit. (Indonesia, 2018). Meanwhile, in the system of obtaining a loot crate, it is similar to engaging in a buying and selling transaction where we can use a certain amount of money or other assets that can be converted into a certain amount of money through a specific method.

The second factor is the presence of Luck or Chance. Gambling actions often involve an element of luck or chance in determining the outcome. Skill can be an additional factor, but luck often dominates. In this context, luck can be defined as the comparison of opportunities or chances, where in gambling, an individual is faced with a situation where luck determines the final outcome. This is clearly different from the system in most loot crates. There is a mechanism called "increase chance," which is clearly stated in the descriptions of each respective game. This indirectly explains that in loot crates, consumers are informed about a specific quantity and price to obtain an asset with a high rarity.

The last element is the presence of a Prize or Payout. There is a promise or potential to receive a specific prize or payout as a result of the placed bet. This could be money, goods, or other benefits. This concept is different, considering that the concept in a loot crate transaction is similar to a regular asset purchase but in virtual form. There is no prize obtained from such a transaction. As previously explained, consumers can draw conclusions and make calculations about how much money needs to be spent more clearly, which in this case is different from the concept of gambling.

CONCLUSION

From the discussion and analysis, several conclusions can be drawn regarding legal protection for consumers in online shopping. Legal certainty is provided through legislation regulating online shopping, namely Law No. 11 of 2008 concerning Electronic Information and Transactions, in conjunction with Law No. 8 of 1999 concerning Consumer Protection. The existence of electronic contracts, as regulated in Article 18(1) of the ITE Law, is acknowledged and has the same standing as conventional sales and purchase contracts. Through electronic contracts, consumers can demand accountability from business entities if disputes arise due to electronic transactions in the purchase of goods in online games or virtual environments, provided it can be proven or demonstrably causes losses to the buyer. However, in the purchase of goods without coercion or external factors beyond the consumer's will, it can be fully demanded according to existing and applicable rules. Given the vast and often inaccessible nature of the virtual world, the appropriate mechanism for resolving disputes among parties is through Alternative Dispute Resolution (ADR) institutions.

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