

LEGAL PROTECTION FOR THE CUSTOMER E-COMMERCE IN INDONESIA

Andriyanto Adhi Nugroho
Dwi Aryanti Ramadhani
Yuliana Yuli W
(Lecture in UPN "Veteran" Jakarta)
Abstract

A Profitable law that can provide protection to consumers have already been accommodated in Indonesia by Act on Consumer Protection. But for e-commerce transactions, consumer protection has not yet been accommodated by the Act on Consumer Protection. This was mainly due to the fact that e-commerce transaction has a particular characteristic that sometimes occur beyond country limitation

Key words : e-commerce, legal protection, consumers

1. Introduction

Internet development causes the formation of a new world that is often called virtual world. In this virtual world each individual has the right and the ability to interact with another individual without any limitation. So globalization actually has been going on in virtual world which connect all digital communities. From all aspects of human life affected by the internet presense, business sector is the most affected by the impact of development of information technology and telecommunications and the most fast-growth. Through development of information technology and telecommunication, for the first time all the peoples of the earth has an opportunity to be able to compete and successfully doing business in the cyber world.

Definition of "E-Commerce" itself is very different from the perspective, it depends on perspective of the person that utilize it. Association for Electronic Commerce in a simple definition also define protocol E-Commerce as "mechanism business electronically". CommerceNet, an industrial consortium, a more complete definition, use links computers (a computer that is connected to each other) as a means of creation business partner. Not satisfied with the definition, commerce-net added the definition of E-Commerce as the process of purchasing and sales services or products between the two sides via the internet or exchange information and distribution between the two sides in one company by using intranet.

E-commerce is a type of business mechanism that focuses on electronic business transaction based by using the internet (technology based digital network) as an exchange medium goods or services between two institutions (business to business) and consumers directly (business to consumer). At tight competition on globalization today, the competition is located on how a company can use e-commerce to improve its performance and existence in core business. With e-commerce application, the relationship between the company with other

external entity (suppliers, distributors, partner, the consumer) can be done in a more quickly, more intensive and cheaper than conventional application management principles (door-to-door, one-to-one relationship): So e-commerce is not just a mechanism goods or services through internet, but also to the development of a business transformation which changed perspective way on their business activities. To develop and implement an e-commerce system is not an instant process but also to transform a strategy and a system-growing in line with the company and technology.

E-commerce has advantages which are a diverse and detail information could be delivered to consumers than the conventional trade do. For example, Through the internet customers can get various information on goods and services from various site that is advertising by different variations of brand completed with the specification, price, payment method, delivery service facilities, even *track and trace* that the consumer enable to track down goods that been ordered. This condition gives benefits to consumers because their needs of goods and services that can be fulfilled, in addition, the consumers have a chance in a very short period of time to choose various kinds of and quality of goods and services depending on his desire and financial capabilities. But *e-commerce* also have its weaknesses, that is the method electronic transaction that would not meet between the perpetrators business with the consumer directly and consumers are unable to see directly the booking. Moreover, it can cause problems which are adverse circumstances to consumers.

One of the example problems in *e-commerce* is discrepancy on the type and quality of goods that promised, inexactitude delivery time of goods or insecurity of the payment transaction. Security factor on the transaction such as security method of payment is one of the things that can be an emergency situations to consumers. this problem is critical because many cases on *e-commerce* security related to transaction, ranging from piracy credit card, *stock exchange fraud*, *banking fraud*, illegal access to information system (*hacking*) destruction *web site* to theft data.

Cases related transaction e-commerce is very damaging to consumers, A guarantee of e-commerce transaction security is needed in order to increase consumer confidence as its users. The neglect to this can cause a shift toward efficiency of the transaction e-commerce toward pointed toward uncertainty, so that it could be a hamper efforts to develop e-commerce. Legal problem was, in fact, is intended as the effort to provide protection for the customer doing transaction e-commerce.

A company domicile has been become an important issues that guarantee an e-commerce transaction security. If there was a dispute, it can be known for certain the legal domicile status for company that offers its products through electronic media. The establishment of the company, and the registration company with companies in general, subject to the law in a place in which companies were registered.

For transaction security, *public key infrastructure* is operated by many institutions (for example in the United States) to support *digital signature* and *encryption*. One way to implement *public key infrastructure* is to do antardomain certification antardomain (*interdomain certification*) or, in other words certificates issuing by a *Certification Authority*. A General inter domain certification reflects the recognition by the law on cross-domain of all important component *public key infrastructure*, including *certification authority*, *certificate*, digital signatures and supporting record transaction that took place. So to guarantee and ensure the original document and make sure that a digital signature is authentic, a *Certification Authority* is the one who has authority to do it. It is very important as a non authentic certificate, digital signatures and supporting record transaction that took place are harmful to consumers.

Nationally, A Regulation that regulates protection for the customer is UU No. 8/1999 (Consumer Protection Act). But, consumer protection in the UU No 8/1999 has not anticipated the development of information technology. In The international level, there has been an agreement that made internationally that could be used to provide special protection to consumers in *e-commerce* transaction.

2. Regulations and Law Protection for the Customer in Transaction *E-Commerce* in National level

Although Indonesia has ratified the legalization of creating a World Trade Organization (WTO) but until now the equipment that needed to accommodate it is not adequate. After ratify the formation to The legalization World Trade Organization (WTO) there are seem to be significant improvements in regulation as a supporter and equipment toward era of free trade.

Indonesia has regulation which provides protection against all rights of intellectual property rights such as copyrights, patent rights and brand rights, including to legalize of Consumer Protection Act.

In one of the points revealed that business protection against consumers will be done because of a business expansion worldwide. Considering that as a result of the economic globalisation, the more national market open, people's welfare must increase and the guarantees of assurance quality, quantity, and security goods and/or services that consumers got in the market must exist.

Moreover, the Act iss explained that the phenomena globalization and free-trade was supported by the progress of telecommunication technology and informatics. Moreover it's extended the movement cash transaction goods and/or services across the country's borders or state, so that goods and/or services thatis offered often show varying both production abroad or domestic production.

Such condition in one side has given benefit to consumers because consumer demand on goods and/or services can be fulfilled according to what they want and consumer have more freedom to choose various kinds and quality of goods and/or services in accordance with consumers' willingness and ability. On the other hand, the condition and the phenomena may

lead to a position that both players and business customers are not balanced and consumers are in the weak position. Consumers are the object of business activities by to make huge profits by sales and promotion tools, also the provisions of the standard agreement which put consumer in weak position.

The consumer protection as stated in Article 2 customer protection Act aim 1) to raise awareness and self-reliance, the ability to customers to protect themselves; 2) to raise the consumers dignity in a way that it hinders him from negative excesses for applying the goods and/or services; 3) to increase the empowerment of consumers in choosing, determine, and demanding their right as consumers; 4) To create a consumer protection law certainty that contains elements and information openness and access to information; 5) awareness business players on the importance consumer protection and grow the attitude that is honest and responsible; and 6). To improve the quality products and/or services that will guarantee business continuity with goods production and/or services, health, comfort, safety, and consumer safety.

It also Should be asserted that the main weakness of the current situation is the low level of awareness about consumer rights within the customer himself. It is mainly due to lack of education customers. Thus protection consumer Act (Consumers are intended to become the basis of law to make effort to empower consumers through the consumers' construction and education.

Protection consumer Act has stated the rights and obligation the producers and also the prohibition list that aims to provide protection for the customer. Moreover it has also set up on the consumers' rights and obligation. But for the cases of e-commerce transaction, the consumer protection is still vulnerable. Although the current law Consumer Protection has stated the rights and duties for producers and consumers, but it isn't appropriate to be applied in *e-commerce transaction*. The Advances in science and technology in the process of production goods and services apparently has not been followed by the progress devices of existing law.

Some of the consumers rights that stated in the Consumer protection Act: 1) the right to have comfort, safety, and the safety in consume goods or services; 2) the right to choose and get goods or services according to the stated value, the condition and the promised guarantee; 3) the right of the correct, clear, and honest information; 4) the right of opinions and complain to be heard; 5) the right to get advocation, protection, settlement establishment of disputes; 6) the right to get the consumers' construction and education; 7) the right to be properly treated without any discriminatory; 8) the right to get compensation and/or replacement, when work and/or services that received not in accordance with the agreement or not as it should be.

But besides right that mentioned above, the consumer also have some obligation. In this case so that the consumers did not loose anything because of the consumer's ignorance are: 1) to read or follow the instructions and procedures to apply or use the goods and/or services, especially for the security and safety; 2) show good faith among others is in the way they are doing transaction of good and/or services; 3) pay with the exchange rate which has been agreed before; 4) follow the appropriate way to resolved the dispute according to consumer protection act.

In addition to the consumers' rights and obligation in the verses above, producers also have some rights and obligations. In addition to having rights and obligations, there are some prohibition to producers that if violated can lead to producer to be fined or to be charged by administrative sanctions penalty, or compensation that need to paid to consumer. Briefly, the prohibition are:

1. Manufacturing and/or trading goods and/or the service that is not according to the standard; not in accordance with a netto, the content, and/or the quantity is not in accordance with the conditions, guarantees privileges or potency as stated in the label or n'tgood etiquette; not including the expiry date, not including information and/or instructions on using.
2. Offering , promoting, or informing goods and/or services is not true, and/or seems not meet the standard but sold as a good/service with special discounts, special price, a certain quality standard, or certain characteristics, certain mode, good history, good condition and/or the new.
3. Producing advertisements that conned consumer with false or incorrect information.
4. Define an definite agreement that there are right transfer of good/service; stated that producer can decline the goods/service/payment return from consumer;stated that the producer has consumer permission to directly or indirectly to do one side action related to the good/service that's been transact; set subject vindication over the loss functionality goods or services that been use/bought by consumers; stated that the consumer's approval to the addendum rules, instruction, agreement; define clause materials that the layout or shape is difficult to be seen or cannot be accessed clearly, or the meaning is difficult to understand.

For transaction *e-commerce*, advertisement posting that was done by *vendors* on the Internet for example must be considered very seriously by consumers both about offers, promotion, ads as well as a goods and/or services. So the ad that deceive consumers like for example to load information that are wrong, or is not right. This was because it was not possible consumer products directly see goods or services that offer. Consumer Protection has actually anticipate that. But to practice e-commerce, protection was not able to immediately put into effect because its unique characteristics.

In a bid to help protect against consumers, it can be seen that Consumer Protection Act as well as providing administrative sanctions against business executors when doing certain acts as regulated in Act, also did the criminalization toward some works as regulated in Consumer Protection Act. Based on crimes that can be given is imprisonment and fined up to maximum number of Rp 2,000,000,000,(two billion Rupiah).

All the settings that has been mentioned above is right to provide special protection to consumers. But as the law was aimed to protect consumer in the national scale, in transacting consumer protection and electronic has not been accommodated in these terms.

Setting in the Act In addition Consumer Protection, in fact, in a certain level to protect consumer also can be used crimes in this case of KUHP (criminal act), that is in the article 378 of a criminal act up to 395 on "deceitful actions". But in this era of free trade wasn't enough to protect consumers, it should have been stated in terms new Advanced a more comprehensive. on this matter Romli Atmasasmita Artmasasmita proposed that:

Criminal sanctions in the context world trade and business is only is one of the efforts to strengthen initiated a relationship between the parties involved, not legal tools that can improve the relationship between the parties that has been disrupted. The use of and hope that it is too much criminal sanction in the power in the context world trade and business will only put the future of the world business into the abyss destruction, and not strengthen segment all life of the world business and trade.

In fact there is yet another regulations that would protect consumer in *e-commerce transaction* with the insurance, But has been very clear that by using insurance, and cost burden that must be given by the consumer in buying or using a product to more than because of charges premium payment, because usually customers who will suffer from burden to pay the premium. However, regulations can be used as one of the efforts to giving protection to consumers.

From what has been described above, it has been very clear that in order to protection needs consumers resulted from consumers that doing business transaction by using electronic technology (*e-commerce*), then the urgency to make legislation that set up on this matter has been very high. This is because rules and regulation as well as there are mainly act regulating about consumer protection was not accommodate needs.

Different characteristics in trade system through electronic technology not *any contingents's needs which are* in the Act on Consumer Protection For that we need to. rule of law on *cyberlaw made* includes about *e-commerce* customer rights so that users as electronic technology in the trade especially in the way they are doing transaction *e-commerce* can be guaranteed.

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