

Business Actor Responsibilities in Electronic Commerce

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ABSTRACT

Trade through the electronic systems is more spreading throughout the world. Electronic commerce has changed the classic business paradigm by fostering an interaction model between parties virtually. This online business not only relies on product strength, but also the service satisfaction to customers. Organizational structure, access security, and attractive website design also affect consumer interest. Errors or misuse of electronic commerce cannot be avoided. Laws and regulations have not accommodated the responsibilities of each party that is involved in electronic commerce activities. The purpose of this study examined and analyzed the legal relationships of the parties involved in e-commerce activities. Form the responsibilities and mechanism of dispute resolution in e-commerce activities. The type of legal study used was normative juridical. This study used a conceptual approach because there were no legal rules governing e-commerce issues. A conceptual approach was conducted if there was no legal rule that answers the problem. The sources of primary legal materials were statutory regulations and judges' decisions. Secondary legal materials were books, legal dictionaries, theses, dissertations, and legal journals. The results showed that dispute resolution within the scope of e-commerce can be carried out outside the judiciary by means of consultation, negotiation, mediation, and conciliation or expert judgment as alternative dispute resolution as stated in Article 1 number 10 of the Law on Arbitration and Alternative Dispute Resolution.

Keywords: *Electronic Commerce, Business Actors, Responsibilities*

INTRODUCTION

The advances in information systems and technology make people innovate in utilizing electronic commerce or called as e-commerce. This technological sophistication attracts the interest of the public at home and abroad. Opportunities are also used by foreign companies to open businesses in Indonesia. The company connects retailer marketing to online channels (Astuti *et al.*, 2019). Gradually, the online trading system has entertained and has many competitors.

E-commerce is a solution to create economic independence in Indonesia. Trade system that based on sophisticated technology and business transactions that use e-commerce have reformed conventional trade in which there is interaction between parties or it can be called as the trade principle with the classic payment system. Classic payment system means a trade that requires sellers and customers to meet. The interaction changes that is directly performed become indirect interactions. Information technology including the internet is developing faster than legislative work. In reality, cases through the electronic media need to be resolved legally (Marzukia, 2018).

E-commerce has changed the classic business paradigm by growing models of interaction between parties through virtual. The concept has changed to the concept of e-commerce, namely long-distance trading using internet that no longer requires a meeting between sellers and customers. The trading system used in e-commerce is designed to be signed electronically. Electronic signing is conducted at the time of purchase, inspection, and delivery. The availability of true and accurate information about consumers and companies in e-commerce is an absolute prerequisite (Latifulhayat, 2002:23).

E-commerce business not only relies on product strength, but also the service satisfaction to customers, good organizational structure, network infrastructure, security of access, and attractive website design. Efforts to make the business can last a long time in the midst of increasingly fierce competition made business actors must also

provide competitive prices. They have to provide complete product and service, information, and innovation. For instance, they provide special offers for new customers and discounts (Khalid, Pahi & Ahmed, 2016).

E-commerce does not directly make business actor continue to get new customers because there is no limited marketing area for goods or services. Business actors can open the opportunities for the customer from domestic and foreign markets. Besides that, business actors can improve the quality of service by interacting more personally with consumers, thus providing information in accordance with what desired by consumers is. Customers can also make transactions and use the services of a company freely without having to be bound by the working hours of the company.

The benefits we can take include, (1) a new Revenue Stream which may be more promising and cannot be found in traditional transaction systems. (2) Increase market exposure. (3) Global reach. (4) Increase customer loyalty. (5) Improve supplier management. (6) Shorten the time of production. (7) Increase the income chain (Barkatullah and Prasetyo, 2005:3).

Behind the benefits of e-commerce, there is also a risk of misuse and system failure. (1) Direct financial loss due to cheating. Cheaters who come from certain parties make a transfer of money from one account to another or by replacing all personal data of parties in e-commerce activities. (2) Theft of valuable confidential information that is relating to the ownership of technology and consumer information that can result in large losses for the consumer as a victim. (3) Users access to sources by unauthorized parties, then misused for personal interests. For instance, a hacker who managed to break into a banking system. (4) Loss of trust from consumers. Consumer trust in companies can be lost due to the various factors (Purbo and Wahyudi, 2001:2).

Online transaction requires customers to provide a number of personal information that is required by business actors. This requirement can create insecurity about personal data. In addition to technical obstacles, non-technical issues also become obstacles in the use of e-commerce. There are also customers who don't trust the online system and find the difficulty to change the conventional habits to the modern ones (Fati, Ahmed, Ali Umrani & Zaman, 2019).

As time flies, e-commerce is more entertained, delivery service became crowded because the delivery of goods from individuals and business entities increased significantly. The opinion expressed by Andry, as Managing Director of a courier service provider named RPX, that the company has been operating for 26 years and began to enter the e-commerce shipping business since 2011. RPX claimed that it already has 100 e-commerce partners in various categories. He revealed that currently out of 1,000 volumes of goods shipments that occurred in one day and around 10% come from the e-commerce segment (Rao, Nurfaiz and Hashim, 2013).

Bank Indonesia recorded that the value of e-commerce transactions in Indonesia reached USD 3.5 billion, equivalent to IDR 45.50 trillion (assuming IDR 13,000 per USD) throughout 2015. Deputy Governor of Bank Indonesia also added that the amount had increased from the previous year namely USD 2.6 billion and continued to increase from year to year (Swastika and Supriyatna, 2016). The Indonesian government should work together by encouraging people to compete in the global market and not to rely on foreign investment. However, the government should use the existing technological advancements.

The new facility offered in e-commerce is Cash On Delivery (COD). COD is one of the payment methods made in online trading transactions. The use of COD method is more interested by the public because the method can be considered safer than the payment method via bank. Another advantage is consumers allowed not to buy goods if the goods that are delivered is not in line with the expectations or damage occurs. COD also has the disadvantage that e-commerce companies incur additional costs due to the risk of buying goods by consumers. E-commerce companies also have not been able to reach all regions in Indonesia. These facilities can only be reached in major cities of Indonesia, except where the residence between the seller and customer is not far away.

Most of them will prefer to use transactions by visiting bank tellers, sending money via ATMs or Mobile Banking, and credit card. When compared to the COD payment system, the payment system through this account can be said to be risky because there are still many cases that the customer is hit by a carding or burglary on a credit card. In addition, the customer must also confirm payment to the seller and if the customer does not receive the goods in accordance with the ordered or there is a defect in the goods, a refund system will be performed from the customer to the seller and the seller returns the money paid by the customer. E-commerce companies generally will provide a time limit for customers to submit complaints a maximum of 3 days after the item is received.

Based on the background above, the issues that will be examined in this study are how the legal responsibilities of business actors (online shopping platform providers and courier services) in handling cases of misuse of e-commerce, what forms the accountability of the parties related to e-commerce, and the mechanism of dispute resolution that occurs. The objective of this study examined, analyzed, and produced a systematic explanation of the legal relations of the parties involved in e-commerce activities and the responsibility forms of the relevant parties and the mechanism for resolving e-commerce disputes.

RESEARCH METHODS

The type of legal research used in this study was normative jurisdiction, namely legal research by examining and analyzing applicable laws, explaining difficult areas, and predicting future developments. Through normative juridical types, it will produce a systematic explanation of the legal rules governing a particular legal category that has legal issues in it.

Legal research used more than one problem approach to get information on various aspects of the issue and try to find answers (Marzuki, 2010:93). The problem approach used in this study was the statute approach and conceptual approach. Statute approach was an approach that performed by examining the laws and regulations that will produce an argument to solve the issues (Marzuki, 2010:93).

Statue approach also studies the presence or absence of conformity between applicable laws and regulations by first understanding the hierarchy (Marzuki, 2010:94). Conceptual approach was conducted if there were no legal rules that answer the problem. This study departed from opinions, doctrines and principles in the science of law (Marzuki, 2010:95). This study used a conceptual approach because there were no legal rules governing e-commerce issues.

The sources of primary legal materials were statutory regulations, statutory regulations and judges' decisions (Marzuki, 2010:141). Based on Article 1 number 2 of Law Number 12 of 2011 concerning Formation of Legislation, what is meant by legislation is a written regulation that contains generally binding legal norms and formed or established by state institutions or authorized officials through the procedures stipulated in statutory regulations. One thing that can be used as primary legal material according to Article 7 paragraph (1) of Law Number 12 of 2011 concerning Formation of Regulations is in the form of legislation and regulations.

Secondary legal material was in the form of non-official documents about the law which includes books, legal dictionaries, theses, dissertations, legal journals, and comments on judicial decisions (Marzuki, 2010:141). The procedure of collecting legal material was conducted by the study of literature to find out the basic theories and legal rules on the problems that have been formulated. Sources of legal material that have been collected were selected and classified based on existing problems. Analysis of legal materials used descriptive analysis method, thus legal materials which were considered sufficient were collected, arranged and grouped, and analyzed based on these approaches.

RESULTS AND DISCUSSION

Rights and Obligations of Business Actors

The understanding of business actors is contained in Article 1 number 3 of Law Number 8 of 1999 concerning Consumer Protection stated that "Business actors are every individual or business entity, whether in the form of a legal entity or not and domiciled or conducted activities in the jurisdiction of the Republic of Indonesia, either alone or jointly through agreements to conduct the business activities in various economic fields."

Law No. 8/1999 concerning Consumer Protection requires producers and consumers in good faith. The definition of good faith in law subjectively is someone's honesty in carrying out an act of law. The objectively definition of good faith is the implementation of an agreement that must be based on norms of compliance or what felt in accordance with what appropriate in society is (Meliala, 2007:38).

Good faith is also contained in Article 530 of the Civil Code which regulates the position of power (*beziit*) which implies honest attitudes or behaviors in conducting every action and deed in society. Good faith is subjectively formulated in Article 1338 paragraph (3) of the Civil Code which stated that "An agreement must be implemented in good faith". Based on the provisions of Article 1338 paragraph (3) of the Civil Code it can be said that honesty (good faith) in the objective sense does not lie in the state of humanity, but lies in the actions taken by both parties in carrying out the promises agreed in the agreement (Jenie, 2009:23).

The rights of business actors are listed in Article 6 of Law Number 8 of 1999 concerning Consumer Protection, among others, (a) the right to receive payments in accordance with the agreement regarding the conditions and exchange rates of traded goods and / or services. (b) The right to obtain legal protection from consumer actions in bad faith. (c) The right to self-defense is appropriate in the settlement of consumer dispute law. (d) The right to good reputation if legally proven that consumer losses are not caused by the goods and / or services traded. (e) The right to provide the provisions of other laws and regulations.

Obligations of business actors are contained in Article 7 of Law Number 8 of 1999 concerning Consumer Protection such as (a) having good faith in carrying out its business activities, (b) providing the true, clear, and honest information about the conditions and guarantees of goods and / or services as well as providing an explanation of the use, repairing, and maintenance, (c) treating or serving consumers properly and honestly and not discriminatory, (d) ensuring the quality of goods and / or services produced and / or traded based on the provisions of the applicable quality standards of goods and / or services, (e) giving consumers the opportunity to test and / or try certain goods and / or services and providing guarantees and / or guarantees for goods manufactured and / or traded, (f) providing compensation and / or compensation for losses resulting from the use and utilization of traded goods and / or services, (g) providing compensation and / or replacement if the goods and / or services received or utilized are not in accordance with the agreement.

Legal Relations of the Parties in E-Commerce

Legal relationship between online shopping platform providers and consumers. Providers of online shopping platforms have the right to deny the access rights for users if they see an indication that those who request are not eligible users in accordance with the provisions in Article 1 Number 3 and Article 39 letters c and d of Government Regulation Number 82 Year 2012. Law Number 8 of 1999 regulates that consumers follow the instructions for information and procedures for the use of safety in conducting transactions as in Article 39 paragraph (2) of Law Number 8 of 1999.

Legal Relationship between Online Shopping Platform Providers and Courier Services. In distributing goods ordered by consumers, online shopping platform providers work closely with the companies that provide courier services. Consumers make payments for the cost of shipping goods or commonly referred to the shipping costs through the online shopping platform providers which will later be submitted to the logistics service. In addition, online shopping platform providers also provide tracking services for goods that will be received by consumers through the website. After the courier service provider receives the goods to be sent, the courier service

company notifies the e-consignment note (receipt number as proof of delivery) of the goods to the online shopping platform provider and the online shopping platform provider can automatically provide notification to consumers.

Legal relationship between merchants and consumers. There is a sale and purchase agreement between the seller and the customer in a legal relationship. Article 1457 of the Civil Code stated that the sale and purchase is an agreement in which one party is bound to surrender an item and another to pay the price promised. The party that binds itself to deliver an item is the obligation of the seller, while the party who pays the price according to the agreement is the customer. If one party cannot fulfill its obligations, then one of the parties can be called a default.

Legal relationship between merchants and couriers. Couriers are required to maintain the confidentiality, security and safety of shipping according to Article 30 of Law Number 38 Year 2008. When the courier is aware of sending high-risk goods such as electronics, it must offer to add warranty to the product and provide appropriate packaging if safe during shipping.

Legal relationship between customers and couriers. Based on Article 31 paragraph (2) of Law Number 38 Year 2009 stated that the courier is obliged to provide compensation if there is a defect in the goods that occur due to negligence or error of the courier. It is also the consumer's rights as listed in Article 4 letter h of Law Number 8 of 1999.

Online Shopping Platform Provider Dispute Resolution Mechanism

According to Articles concerning the settlement of disputes or disputes in the Law on Information and Electronic Transactions can be settled by litigation and non-litigation as referred to in Articles 38 and 39 of the Law on Information and Electronic Transactions. Article 38 paragraph (1) stated that any person can sue against a party that organizes Electronic Systems and uses Information Technology that causes harm.

Article 38 paragraph (2) stated that the public may submit a claim in a representative manner against the party that organizes the Electronic System and / or uses Information Technology that has a detrimental effect on the community, in accordance with the provisions of the Laws and Regulations. Article 39 paragraph (1) in paragraph (1) stated that the parties can settle other alternative disputes in accordance with the provisions of the legislation.

Dispute resolution regarding information and electronic transactions generally applies. According to the principle of *Lex Specialis Derogat Legi Generali* implies that there are special legal rules, so the legal rules override general rules. *Lex generali* is still valid if there are some things that are not regulated in *lex speciali*. Government regulations regarding the implementation of systems and electronic transactions still do not regulate disputes that occur within the scope of the administration of systems and electronic transactions (Manan, 2004:58). If there is disputes in the operation of systems and electronic transactions, so the applicable regulation is the Law on Information and Electronic Transactions (Haseeb et al., 2020).

Settlement of civil cases through the judiciary is not enough just at the District Court. It happened that if one party feels disadvantaged, thus party can appeal to the High Court. If they still feel disadvantaged in the result of the appeal, so the party can submit an appeal to the Supreme Court and if they still feel the same, the party can submit a review to the Supreme Court. Sudargo Gautama argued that traders are generally afraid to wander for many years because they require a lot of costs that must be incurred before a decision is obtained by an enforceable force, means that it can be carried out through execution (Gautama, 1999:2-3).

Dispute resolution through non-litigation in the business world requires that an effective and efficient dispute resolution is created. Moreover, the business world demands dispute resolution that can lead to a step forward. Dispute resolution must be able to foster better relations between the parties so that business relationships can be mutually beneficial (Zein, 2009). Business dispute resolution is not intended to place the parties in opposite ends, but what desired solves the problem that gives satisfaction to the disputing parties.

Dispute resolution within the scope of e-commerce can be performed outside the court of law by means of consultation, negotiation, mediation, conciliation or expert judgment as alternative dispute resolution as stated in Article 1 number 10 of the Law on Arbitration and Alternative Dispute Resolution. Furthermore, there are also dispute resolution through the arbitration and the Consumer Dispute Resolution Agency (BPSK). The dispute resolution process at BPSK can be categorized as a simple process because the examination is only devoted to processing consumer disputes only (Nugroho, 2008:75).

CONCLUSION

According to the result and discussion, it can be concluded that the parties in e-commerce activities consisting of merchants, online shopping platform providers, courier services providers, and consumers have a legal relationship with one another and bound by the Law. If there is a default in e-commerce activities, so the party responsible is a business actor according to their respective capacities. The process of resolving disputes on e-commerce activities can be carried out if there are special clauses in the sale and purchase agreement that binds the parties.

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