

ASPECTS OF LEGAL PROTECTION FOR CONSUMERS'

ONLINE BUSINESS

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Abstract

There are some Laws that regulated the legal protection for consumer of online business, there are Law of Consumer Protection no. 8 Year 1999, Law of Electronic Information and Transaction No. 11 Year 2008 and Government Regulation of Operation System and Electronic Transaction No. 82 Year 2012 abds action listed in that law is already clearly stated. To arrest the online business fraud perpetrators is not only because of the loss of material, a material can be searched for later in another day. The most important thing is the existence of a regretful feeling caused by an arrest to the perpetrators of online business fraud. Then hopefully there will be no more online business fraud because the perpetrators afraid of the sanction in the Law. Besides that, the victim will get the sense of satisfaction when the police managed to find a person who cheated him. Although if the case is complete and ready to be relegated to the prosecutor and transferred to the district court, in criminal case, there would be no compensation obtained by the victim unless the victim reported the perpetrators in the form of civil violation.

Ada beberapa UU yang mengatur perlindungan hukum bagi konsumen bisnis online, ada UU Perlindungan Konsumen tidak ada. 8 Tahun 1999, Undang-Undang Informasi dan Transaksi Elektronik Nomor 11 Tahun 2008 dan Peraturan Pemerintah Sistem Operasi dan Transaksi Elektronik Nomor 82 Tahun 2012 aksi abs tercantum dalam hukum yang sudah jelas dinyatakan. Untuk menangkap pelaku penipuan bisnis online tidak hanya karena kerugian materi, bahan dapat dicari di kemudian hari lain. Yang paling penting adalah adanya perasaan menyesal disebabkan oleh penangkapan terhadap pelaku penipuan bisnis online. Maka mudah-mudahan tidak akan ada penipuan bisnis online lebih karena pelaku takut sanksi dalam UU. Selain itu, korban akan mendapatkan rasa kepuasan ketika polisi berhasil menemukan orang yang menipunya. Meskipun jika kasus ini selesai dan siap untuk diturunkan ke jaksa dan ditransfer ke pengadilan distrik, dalam kasus pidana, tidak akan ada kompensasi yang diperoleh korban kecuali korban melaporkan pelaku dalam bentuk pelanggaran sipil.

Keyword: On Line business, Electronic Transaction

1. Introduction

Developments of the times that bring the average of society in big cities in Indonesia are already accustomed to using the computer and internet for their activity. Start from searching for information, work and shop. With the number of people who become customers of online businesses, need to be equipped with the knowledge of legal protection for consumers of online business.

Based on the background above, the problem in this research can be formulated.

- a. How is the legal protection for consumer of online business in Law No. 8 Year 1999 on Consumer Protection and Law No. 11 Year 2008 on Electronic Information and Transaction?
- b. How is the sanction that given to perperators of online business scams in

Law No. 8 Year 1999 on Consumer Protection and Law No. 11 Year 2008 on Electronic Information and Transaction?

- c. How does the effectiveness of handling the cases of online business scams by the law enforcement in Palembang, South Sumatra?

2. Consumer Protection

a. Legal Protection for Consumer of Online Business

Legal protection for consumer of online business on Consumer Protection Law No. 8 Year 1999.

Actually, in Consumer Protection Law, almost all of the articles regulated the legal protection for consumer. Both consumer of online business and consumer in conventional

market. There are some articles that related to be regulated to consumer of online business:

- 1) Article 4 about rights of consumer.
- 2) Article 7 about obligation of business agent.
- 3) Article 7 letter a, b, d, f and g is the obligation that the most crucial effort that must be done in every online-business transactions.
- 4) Article 8 of the goods and/or services that fulfill established standards.
- 5) Article 9 and Article 10 concerning the right information.
- 6) Article 12 deals with the special rate.
- 7) Article 15 regarding the supply of goods by force.
- 8) Article 16 concerning the offer through the booking
- 9) Article 17 of the ads that contain information that is not in accordance with reality and misleading.

To support the legal protection for consumer, there are NGO that working in field of consumer protection named Indonesian Consumers Foundation (YLKI). YLKI handle the case in civil field.

Legal Protection for Consumer of Online Business According to Electronic Information and Transaction Law No. 11 Year 2008.

Article 28 paragraph (1) which is a prohibition which reads:

“Any person intentionally and without right to disseminate false and misleading news which resulted in a loss of consumer electronic transactions.”

Legal Protection for Consumer of Online Business According to Government Regulation No. 82 Year 2012 on Operation System and Electronic Transaction.

The things that attentioned of the parties to conduct electronic transactions referred on Article 46 paragraph (2), there are: good intention, the prudential principle, transparency, accountability and fairness.

Article 49 paragraph (1) reads:

“Business agents that offer products through the Electronic System shall provide complete and correct information related to contract terms, manufacturers, and products offered.”

- 1) **Sanction for the Online Business Scams**
Sanctions against violations of Law of Consumer Protection.
 - i. Administrative Sanction.

Administrative sanctions regulated on Article 60 of Consumer Protection Law that contains the determination of maximum fine of Rp 200.000.000 (two hundred million rupiahs) to business agent that violate:

- a) Article 19 paragraph (2) and (3) the implementation of compensation by business agent to consumers in the form of refunds/replacement of goods and/or services similar.
- b) Article 20 if the there are losses as a result of ad production activities undertaken by business agent advertising.
- c) Article 25 if business agent that can not provide a guarantee after sales facility, either in the form of spare parts as well as its maintenance and the provision of a guarantee or warranty that has been set.
- d) Article 26 if the business agents who trade services do not meet the guarantee and/or warranty agreed and/or agreement.

ii. Principal Criminal Sanction

- 1) Article 62 paragraph (1) on Consumer Protection Law determine that the business agent and/or the management may be liable a maximum imprisonment of 5 (five) years and a maximum fine of Rp 2.000.000.000 (two billion rupiahs) if a foul on:
 - a) Article 8 of the goods and/or services that fulfill established standards.
 - b) Article 9 and Article 10 concerning the right information.
 - c) Article 13 paragraph (2) of the drug deals and matters relating to health.
 - d) Article 15 regarding the supply of goods by force.
 - e) Article 17 paragraph (1) letter a, b, c, and e of the advertisement that contains information that does not correspond to reality and misleading.
 - f) Article 18 concerning the inclusion of standard clauses.
- 2) Article 62 paragraph (2) on Consumer Protection Law determine that business agent may be liable to maximum imprisonment of 2 (two) years or a maximum fine of Rp 500.000.000 (five hundred million rupiahs) with following conditions that violate:
 - a) Article 11 of the trade as a sale or auction.
 - b) Article 12 deals with the special rate.

- c) Article 13 paragraph (1) of the prize giving for free of charge.
- d) Article 14 concerning the offer by giving prizes through lottery.
- e) Article 16 concerning the offer through the order.
- f) Article 17 paragraph (1) letter d and f the production advertisements conflicting ethics, morality and applicable law.

Sanction against violations of Law of Electronic Information and Transaction.

Article 45 paragraph (2) on Law of Electronic Information and Transaction regulated that any person who fulfill the elements as referred to in Article 28 paragraph (1) and (2) shall be punished with maximum imprisonment of 6 (six) years and/or maximum fine of Rp 1.000.000.000 (one billion rupiahs).

The content of Article 28 paragraph (1) is:

“ If any person intentionally and without right to disseminate false and misleading news which resulted in a loss of consumer electronic transactions.”

A word can be categorized as disseminate false and misleading if:

- a) The business agent says that they have business, but they intend to deceive consumers.
- b) Business agents do not provide correct and clear information about the goods and/or services it sells either intentionally or unintentionally.

b. Effectiveness of online business fraud case handling by the law enforcement.

Handling cases of online business scams done by Sub-Directorate II of cyber crime section which is included into the Special Crime section. Cyber Crime section in South Sumatra provincial police commands was formed in mid 2012. That means that in one and a half year cyber crime field work, there were 18 reported cases and is still in the process of Examiner.

From the information obtained from the Head of Sub-Directorate II AKBP. Herwansyah Saidi, SH., S.Ik., MH, to handling the electronic transaction fraud cases is quite difficult. There are several factors inhibiting the investigation, such as: the perpetrators of phone numbers that can not be

reached, fake websites, and bank accounts are not clear explanations. Besides that, the banks should also contribute in reducing the cases of fraud online business by providing strict requirements if people want to open a bank account, such as checking the address on the ID card and provide a clear photograph. So in case of violation of the law, the police can easily search for the perpetrator.

Based on research and analysis of the researcher, the handling of fraud cases of online business has not been an effective. With the state where there is the existing regulations that regulates it, the existing law enforcers who run it, but the result is still zero. From the 18 cases reported, no one complete and ready to be relegated to the prosecutor. Compared with ordinary criminal cases reported to the South Sumatra police, there are 34 (thirty four) cases and 2 (two) of them are complete and ready to be relegated to the prosecutor.

The important factors that inhibit the process of investigation of a case in South Sumatra Police is the lack of Human Resources (HR) within the agency. There is only one person in charge to handle the special criminal case of cyber crime, that related to online business and another fraud that done by electronic media. With the number of cases received, it is very difficult to solve these cases alone.

To arrest the online business fraud perpetrators is not only because of the loss of material, a material can be searched for later in another day. The most important thing is the existence of a regretful feeling caused by an arrest to the perpetrators of online business fraud. Then hopefully there will be no more online business fraud because the perpetrators afraid of the sanction in the Law. Besides that, the victim will get the sense of satisfaction when the police managed to find a person who cheated him. Although if the case is complete and ready to be relegated to the prosecutor and transferred to the district court, in criminal case, there would be no compensation obtained by the victim unless the victim reported the perpetrators in the form of civil violation.

If there has been a deterrent effect, the public as consumers may feel the legal certainty of transactions via online, because of this online business transactions can be the job by people in Indonesia. Business online also can drive the economy of this country by

decrease the jobless numbers. If there are an increase number for people who have the job, it means there will be the increase of people who will pay the tax. That is the indirect way how the online shop business can drive the economics of this country.

3. Conclusion .

- a. From this research, researcher know that there are some Laws that regulated the legal protection for consumer of online business, there are Law of Consumer Protection no. 8 Year 1999, Law of Electronic Information and Transaction No. 11 Year 2008 and Government Regulation of Operation System and Electronic Transaction No. 82 Year 2012.
- b. Sanction listed in that law is already clearly stated.
- c. The implementation of that Laws are not effective in South Sumatra because, from 18 online business cases that reported, no one be resolved by the police.

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