

Legal Protection For Victims Of Fraud In Buying And Selling Through Social Media According To Law Number 8 Of 1999 Concerning Consumer Protection And Law Number 19 Of 2016 Concerning Information And Electronic Transactions

Hariyanto¹, Hasdiana Juwita Bintang²

Law Study Program, Universitas Pembangunan Panca Budi

e-mail : hariyanto.unpab23@gmail.com

Abstract

The rapid development of e-commerce has transformed buying and selling activities into a seamless online process, offering convenience for both sellers and buyers. However, this shift has also increased the risk of fraud in online transactions, particularly through social media platforms such as Instagram, Facebook, and Twitter. Common issues include non-delivery of goods, receipt of defective or incorrect items, and fraudulent schemes exploiting buyers' trust. This study examines the legal framework governing fraud in online transactions in Indonesia, focusing on Law Number 8 of 1999 concerning Consumer Protection and Law Number 19 of 2016 concerning Information and Electronic Transactions. It explores the challenges in law enforcement and evaluates the legal protections available for victims of online fraud. The findings highlight gaps in legal implementation and suggest measures to enhance the effectiveness of legal protection for consumers in the digital marketplace.

Keywords :

Online fraud, social media transactions, consumer protection, e-commerce law, legal enforcement

I. Introduction

Sales are the most powerful transaction in the business world and in general are the most important part of business activities. And humans are social beings who need interaction, and with their infinite needs. This demands the fulfillment of needs that are increasing every day. Various ways are done to be able to meet the needs of life. One way to meet needs is by buying and selling activities.

With the internet, buyers can see directly the goods that are traded in cyberspace, pay for it with a bank transfer and only wait a few moments until the goods arrive. Online buying and selling is a trading business activity through the internet or another term is Electronic Commerce (*E-Commerce*). Article 1 number 2 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions mentions legal acts carried out using computers, computer networks, and/or other electronic media. Online fraud is the same as conventional fraud. The difference between online fraud and conventional fraud is in the means of action, namely using electronic systems through computers, the internet and telecommunication devices (Sumenge. 2013).

Online buying and selling can be well received by the public, because buyers can easily pick and choose goods and do not need to go to the seller's location to buy goods. It only remains to choose the desired item then the money is transferred to the seller and then the goods can be sent by the seller.

This convenience is what gave birth to many sellers in Indonesia. There are several types of online shopping sites, namely online stores (one seller), social networks, buying and selling forums (many sellers), websites, online communities, *messengers* and *mailing lists/milists* (Indonesian Internet Service Providers Association. 2015).

E-commerce is a trade transaction contact between sellers and buyers using internet media, where for orders, delivery to how the payment system is communicated via the internet. The existence of *e-commerce* is a promising business alternative to be applied at this time, because *e-commerce* provides a lot of convenience for both parties, namely the seller (*merchant*) and the buyer (*buyer*) in conducting trade transactions even though the parties are in two different worlds. With *e-commerce*, every transaction made by both parties involved (sellers and buyers) does not require a face-to-face meeting to negotiate (Damanik, 2012).

In online sales and purchase agreements, there is still a risk of fraud, legal problems that often occur in online sales and purchase agreement fraud, for example, the buyer has paid the price but the seller does not send the goods for a long time and even does not arrive, because the goods have never existed before, the goods that reach the buyer are damaged or not as they should be so that the buyer does not use them. Based on the legal issues mentioned above, it is prone to fraud because online sales and purchase agreements are not held in direct meetings and the parties sometimes do not know each other. So that the legal subjects in the online sale and purchase agreement do not meet and so do the objects agreed in the sale and purchase. So that this creates a vulnerability to fraud in online buying and selling (Kamran, 2021).

The presence of new media and various types of social media that we have known so far such as Instagram, Facebook, Twitter and others brings convenience for users to access all forms of information that suits their needs, as well as the practice of buying and selling which has now mushroomed on social media. In general, buying is included in business activities in trade with transaction activities in it carried out by humans to meet their living needs, this is considered because of the human nature of a person to be able to interact with each other. (Susiawati, 2017).

The mechanism of trade transactions through social media is commonly used is that the buyer transfers a certain amount of money in accordance with the agreement to the seller. After the buyer transfers money and has confirmed the payment to the seller, the seller is obliged to send the goods to the buyer. But some sellers on social media allow buyers to pay by using credit transfers for small transactions. In other cases, there is also a system where the seller sends the goods ordered by the buyer first, before the buyer sends a certain amount of money to the seller. One of the payment systems for buying and selling on social media is *Rekber* (joint account) which means an intermediary or third party that helps the security and convenience of buyers' online transactions (Tendean, 2014).

The average mode carried out in online buying and selling today is that the buyer is asked to send money first and is promised that the ordered goods will be delivered immediately, besides that there are also those who use the mode by providing a very cheap price and promoted through social media applications but when the goods are received by the buyer, the goods are far from what is promoted through social media (Ilmi, 2022).

With the emergence of electronic agreements or contracts, which were originally face-to-face (conventional) purchase and sale agreements, online sale and purchase agreements in this case without being carried out directly but through online media without a face-to-face meeting, then by switching the process of buying and selling transactions, the risk of legal problems is increasing, For example, it is prone to fraud, default, negligence or misdirection in online buying and selling transactions.

The legal arrangements that have regulated the issue of fraud in online sales and purchase agreements in Indonesia's positive law are both regulations on electronic transactions regulated in Law No. 11 of 2008 concerning Information and Electronic Transactions and Law No. 19 of 2016

concerning Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions as the main basis for regulating online buying and selling, Government Regulation of the Republic of Indonesia Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions. However, with the existence of these legal arrangements, the facts in the community are still found to be prone to fraud in online buying and selling. This is because law enforcement has not been able to properly implement these legal arrangements to anticipate, optimize or suppress the occurrence of legal problems that often occur in online buying and selling, namely mainly the problem of fraud in online buying and selling which is still prone to fraud.

Based on the above background, the author raised the title of this research, namely: **"Legal Protection for Victims of Fraud in Buying and Selling Through Social Media According to Law Number 8 of 1999 concerning Consumer Protection and Law Number 19 of 2016 concerning Information and Electronic Transactions"**.

II. Problem Formulation

The main problems in this study are:

1. How is law enforcement against fraud in buying and selling through social media?
2. What is the legal protection for victims of fraud in buying and selling through social media?

III. Research Objectives

The objectives of this research are:

1. To find out law enforcement against fraud in buying and selling through social media
2. To find out the legal protection for victims of fraud in buying and selling through social media

IV. LITERATURE REVIEW

a. Definition of Fraud

Etymologically, deception comes from the word deception or an act or word that is dishonest, in other words, it can also be interpreted as an act or word containing lies or falsehoods with the aim of misleading, outsmarting, or seeking benefits for oneself or a certain party (Moestadjab, 2009).

In the general Indonesian dictionary, it is stated that deception means deception, trickery, deeds, or dishonest words (lies, falsehoods, and so on) with the intention of misleading, outsmarting, or making a profit. Fraud means a process, deed, way of deceiving, a case of deception (deceit). Thus, it means that those involved in fraud are 2 (two) parties, namely the person who deceives is called the fraudster and the person who is deceived. So, fraud can be interpreted as an act or making, the words of a person who is dishonest or lying with the intention of misleading or outsmarting others for the benefit of himself or the group (Tendean, 2014)

Fraud is a form of crime that is grouped into crimes against people's property. Fraud is a trick or a series of lies so that a person feels deceived by a statement that seems to be true. Usually a person who commits fraud is explaining something that seems to be true or happened, but in fact his words are not in accordance with reality, because the purpose is only to convince the target person to admit his wishes, while using a false name so that the identity of the person concerned is not known, as well as using a false position so that people are convinced of his words (Gosita, 2013).

The crime of online fraud is included in the category of illegal content crime in the review of computer related fraud (misappropriation of information technology) in this case it is clear that this act of fraud is a fraud or crime that can cause losses to others (Sumenge, 2013).

The crime of fraud is a crime for an act with the intention of benefiting oneself or others unlawfully by using a false name, false dignity, deception or lies that can cause other people to be influenced to easily hand over their property or wealth. (Lubis, 2017).



The activity of deceiving others with all tricks to take advantage of oneself can be said to be a criminal act of fraud if the act has fulfilled the existing elements. The elements of fraud include:

- 1) With the aim of taking advantage of oneself or a specific person;
- 2) Unlawful;
- 3) Using a false name, position, position or identity using a series of lies;
- 4) Moving others;
- 5) Outwitting others;
- 6) To hand over an item to him or to give a debt or write off a receivable. (Hamzah, 2010).

Sociologically, the crime of fraud that occurs is caused by the increasing standard of living, so that some people take an unlawful path by taking advantage of others to gain profits, besides that different levels of economy and education can cause social gaps between one community and another, where this difference is what triggers some people to think efficiently and practically in order to meet Life Needs

If there is a purpose to take advantage of oneself or a certain party, which means that there is an *ogbrand* or intentionality. The act is carried out in an unlawful way, it means that the perpetrator should not have the right to enjoy the benefit. Using a fake name, for example claiming a name that is well known by the target of the scam or using the name of another person who is already famous (Lamintang, 2010).

Article 28 of the ITE Law itself does not clearly regulate the crime of fraud but is related to the occurrence of consumer losses, the ITE Law mentions a person who without the right to spread a hoax news (lie) that is misleading and results in consumer losses in electronic transactions. Although this article does not mention fraud by using trickery, it can be concluded that Article 28 of the ITE Law is an extension of Article 378 of the Criminal Code which regulates the crime of fraud using social media or electronic media (Aswan, 2019).

b. Online Buying and Selling Review

According to the Great Dictionary of the Indonesian Language, buying and selling is a mutually binding agreement between the seller, namely the party who delivers the goods, and the buyer as the party who pays the price of the goods sold (Ministry of National Education, 2008)

Online buying and selling is also called *e-commerce*. *E-commerce* is a set of dynamic technologies, applications, and business processes that enable companies, consumers, and certain communities through electronic transactions in the form of trade in services and information carried out through electronic media (Purbo, 2010)

Online buying and selling (e-commerce transactions) is a business activity that concerns consumers, manufacturers, service providers, and *intermediaries* using computer networks, namely the internet. So in online buying and selling activities, there are parties and objects contained in it such as:

1. Sellers who offer their merchandise over the internet
2. Buyers who act as consumers
3. Banks as a channel of funds from a buyer to a seller
4. Provider as an internet service provider (Sjahdeini, 2009).

According to Julian Ding, an *e-commerce* transaction is a trade transaction between a seller and a buyer to provide goods, services or take over rights. This contract is carried out with electronic media (digital medium) where the parties are not physically present and this medium is found in a public network with an open system, namely the internet or *the World Wide Web*. This transaction occurs regardless of regional boundaries and national requirements (Badrulzaman, 2011)

This new form of buying and selling activities certainly has many positive values, many advantages of online business compared to traditional businesses. Among them is the ease of making

transactions (because sellers and buyers do not need to bother meeting to make transactions). Online shops usually offer their goods by mentioning the specifications of the goods, price, and pictures. The buyer selects and then orders the item which will usually be delivered after the buyer transfers the money. One of the advantages and disadvantages of undergoing online buying and selling activities is related to providing diverse and detailed information on the goods sold, so that prospective buyers do not have to bother to come directly to similar stores. But behind these advantages, there are shortcomings of the actual condition of the goods to be sold. Because there was no direct meeting between the two parties, the prospective buyer could not be completely sure of the condition of the goods, whether there was damage or hidden defects.

c. Social Media

Social media is a new set of communication and collaboration tools that allow for different types of interactions that were previously unavailable to the general public

Social media is an online medium, with users can easily participate, share, and create content including blogs, social networks, wikis, forums and virtual worlds. Blogs, social networks and wikis are the most common forms of social media used by people around the world. Another opinion says that social media is

Online media that supports social interaction and social media uses web-based technology that transforms communication into interactive dialogue. (Liedfray, 2022).

Social media is the process of interaction between individuals by creating, sharing, exchanging and modifying ideas or ideas in the form of virtual or network communication (Thaib, 2021). Social media is something that can create various forms of communication and information for all who use it. Social media always provides various conveniences that make it comfortable to linger on social media (Alifah, 2020).

From year to year, many social media have developed significantly and emerged with their own characteristics and uniqueness. Making communication easier and getting information is the purpose of using social media. Almost all levels of society today are connected to social media.

Types of Social Media include:

1. Social media applications for video sharing (Video Sharing) such as youtube, Vimeo and Daily Motion.
2. Microblogging social media apps like Facebook. Twitter and Tumblr.
3. Social media apps share social networks, such as acebook, Google Plus, and Path.
4. Professional networking apps such as LinkedIn, Scribd and Slideshare.
5. Photo and video sharing apps such as Pinterest, Picasa, Flickr and Instagram (Liedfray, 2022).

The characteristics of social media according to the Public Relations Center Team of the Ministry of Trade of the Republic of Indonesia in the social media optimization guidebook are as follows:

- a. Social media can be easily accessed by anyone who has a device connected to the internet network.
- b. Social media content has a number of functional aspects, such as identity, interaction, relationships, sharing, reputation, group and presence.
- c. Content is shared with many people and is not limited to specific people.
- d. The content is delivered online and in person.
- e. Content can be received online in a short time and may also be delayed depending on the interaction time determined by the user.
- f. Social media makes its users as creators and actors who allow themselves to actualize. (Makhmudah, 2019).

V. RESEARCH METHODS

Type of Research

The essence of normative law or commonly known as doctrinal legal research, which is research conducted by researching literature or secondary data consisting of primary legal materials and secondary legal materials based on law as a norm. The nature of the research used by the author in this legal research is prescriptive and applied. So it is intended to provide an argument for the results of the research that has been carried out.

Problem Approach

The problem approach used in this study is the approach of laws and regulations. The statute *approach* is used, because what will be studied is the legal rules related to this research. This approach is carried out by reviewing all relevant laws and regulations

Source of Legal Materials

Primary legal materials consisting of laws and government regulations, court decisions that have permanent legal force and other related regulations such as the Criminal Code, Law Number 8 of 1999 concerning Consumer Protection, Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions. Secondary legal materials are materials that provide explanations about primary legal materials such as research, proceedings related to research. Tertiary legal materials, which are materials that provide instructions and explanations for primary and secondary legal materials such as dictionaries, encyclopedias (wikipedia) and tables related to the object of research

VI. DISCUSSION RESULTS

1. Law Enforcement Against Fraud in Buying and Selling Through Social Media

Law enforcement against fraud in buying and selling through social media in Indonesia is based on several legal instruments. First, the Criminal Code (KUHP) Article 378 which reads:

Whoever with the intention of unlawfully benefiting himself or others, by using a false name or false dignity, by deception, or a series of lies, inducing another person to hand over something to him, or to give a debt or write off a receivable, is threatened with fraud with a maximum prison sentence of four years.

This article is the main legal basis in handling conventional and online fraud cases. However, regarding online fraud, in addition to what is generally regulated in Article 378 of the Criminal Code, Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE) is also a more specific legal basis for cybercrime.

Article 28 paragraph (1) of the ITE Law states: "Every Person deliberately and without rights spreads false and misleading news that results in consumer losses in Electronic Transactions."

The criminal sanctions are regulated in Article 45A paragraph (1) of the ITE Law which reads:

Any Person who deliberately and without rights spreads false and misleading news that results in consumer losses in Electronic Transactions as referred to in Article 28 paragraph (1) shall be sentenced to imprisonment for a maximum of 6 (six) years and/or a maximum fine of Rp1,000,000,000.00 (one billion rupiah).

Law Number 8 of 1999 concerning Consumer Protection (UUPK) is one of the important legal foundations in law enforcement against online fraud cases, including those that occur through social media. The UUPK provides a strong legal framework to protect consumer rights, which also applies to electronic transactions.



Article 4 of the UUPK mentions consumer rights, which are very relevant in the context of online transactions. This includes "the right to true, clear and truthful information about the condition and guarantee of goods and/or services" and "the right to compensation, compensation and/or reimbursement, if the goods and/or services received are not in accordance with the agreement or are not as they should be." In cases of online fraud, these rights are often violated, providing a legal basis for consumers to demand protection and damages. Furthermore, Article 8 of the UUPK prohibits business actors from producing and/or trading goods and/or services that are not in accordance with the promises stated in the labels, etiquette, descriptions, advertisements or sales promotions of the goods and/or services. This is especially relevant in the context of online fraud, where perpetrators often provide false or misleading information about the products or services offered.

In its law enforcement, the UUPK provides several mechanisms that can be used. Article 45 paragraph (1) of the UUPK states that every aggrieved consumer can sue business actors through institutions tasked with resolving disputes between consumers and business actors or through the courts located in the general judicial environment. This provides an option for victims of online fraud to take legal action.

The National Consumer Protection Agency (BPKN), which was formed based on the UUPK, also has an important role in law enforcement. BPKN can receive complaints from consumers, conduct research and testing on goods and/or services, and provide recommendations to the government in an effort to protect consumers.

In the context of online fraud, the UUPK is also the basis for law enforcement to take action against business actors who violate the provisions of the law. Article 62 of the UUPK provides criminal sanctions for business actors who violate certain provisions in the UUPK, including fines and imprisonment. Although the UUPK does not specifically regulate online transactions, its interpretation and application have been expanded to include electronic transactions. In practice, the UUPK is often used in conjunction with the ITE Law in handling online fraud cases, providing more comprehensive protection for consumers.

Law enforcement, including the police and prosecutor's office, can use the provisions of the Law as a basis to crack down on online fraudsters. This includes the process of investigation, investigation, and prosecution. The UUPK also provides a basis for judges to decide cases related to consumer fraud in online transactions. Thus, the UUPK has become an important legal instrument in law enforcement against online fraud cases, complementing the provisions in the Criminal Code and the ITE Law. The use of UUPK in this context emphasizes that consumer protection remains a priority, even in an ever-evolving digital environment.

2. Legal Protection for Victims of Fraud in Buying and Selling Through Social Media

Legal protection for victims of fraud in buying and selling through social media in Indonesia is regulated in several laws. Law Number 8 of 1999 concerning Consumer Protection is one of the main cornerstones. Article 4 of this Law mentions consumer rights, including "the right to true, clear, and truthful information regarding the condition and guarantee of goods and/or services" and "the right to compensation, compensation and/or replacement, if the goods and/or services received are not in accordance with the agreement or are not as they should be."

Law Number 19 of 2016 concerning Information and Electronic Transactions also provides special protection related to electronic transactions. Article 26 paragraph (1) states: "Unless otherwise



stipulated by laws and regulations, the use of any information through electronic media concerning a person's personal data must be done with the consent of the person concerned." It provides protection for consumers' personal data in online transactions. Furthermore, Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims provides a foundation for the protection of crime victims, including victims of online fraud. Article 5 paragraph (1) mentions the rights of witnesses and victims, including "obtaining protection for the safety of their persons, families, and property, and being free from threats in relation to testimony that they will, are, or have given" and "be informed of the development of the case."

In its implementation, victims of online fraud have the right to report their cases to the authorities and get legal assistance during the judicial process. The Witness and Victim Protection Institution (LPSK) can provide physical and psychological protection to victims in accordance with Article 12A of Law No. 31 of 2014 which states:

In carrying out the duties as referred to in Article 12, LPSK is authorized to:

- a. Requesting oral and/or written information from the applicant and other parties related to the application;
- b. Examining information, letters, and/or related documents to obtain the truth of the application;
- c. Request a copy or photocopy of the letter and/or related documents required from any agency to examine the applicant's report in accordance with the provisions of laws and regulations;
- d. Requesting information on case developments from law enforcement;
- e. Changing protected identities in accordance with the provisions of laws and regulations;
- f. Managing a safe home;
- g. Relocating or relocating a sheltered person to a safer place;
- h. Conducting security and escort;
- i. Assisting Witnesses and/or Victims in the judicial process; and
- j. Conduct compensation assessments in the provision of restitution and compensation.

Although the legal framework for victim protection already exists, its implementation still faces various challenges. The long and complicated legal process often makes victims reluctant to continue the case. In addition, recovering financial losses is not always easy to do, especially if the perpetrator does not have assets that can be confiscated. Therefore, continuous efforts are needed to improve the effectiveness of legal protection, including through increased coordination between related institutions, simplification of reporting and case handling procedures, and increasing people's digital literacy to prevent online fraud.

VII. CONCLUSION

Law enforcement against fraud in buying and selling through social media in Indonesia is based on several legal instruments, namely the Criminal Code Article 378, the ITE Law, and the UUPK. These three laws provide a strong legal basis to crack down on online fraudsters, with strict criminal sanctions. Meanwhile, legal protection for victims of fraud in buying and selling through social media is guaranteed by the Consumer Protection Law, the ITE Law, and the Witness and Victim Protection Law. Various protection mechanisms have been provided, including the right to report cases, obtain legal assistance, and obtain compensation. However, the implementation of this legal protection still faces challenges, especially in terms of long and complicated legal processes and difficulties in recovering financial losses.

To improve the effectiveness of law enforcement and victim protection in online fraud cases, several improvement steps are needed. First, there needs to be increased coordination between law enforcement agencies and consumer protection agencies to speed up the case handling process. Second, the procedure for reporting and handling cases needs to be simplified to make it easier for victims to seek justice. Third, increasing people's digital literacy must continue to be carried out to prevent online fraud. Fourth, there needs to be the development of a more effective system for the recovery of victims' financial losses, for example through the establishment of a special compensation fund. Finally, there needs to be a regulatory update that is more adaptive to technological developments and the evolving modus operandi of online crime.

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