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IMPLEMENTATION OF THE PROVISIONS OF ARTICLE 7 LETTER A OF LAW NUMBER 8 OF 1999 CONCERNING CONSUMER PROTECTION RELATED TO CONSUMER LOSSES DUE TO FRAUD IN BUYING AND SELLING *MOBILE PHONES THROUGH E-COMMERCE*

Putu Yasa Adidana¹, Si Ngurah Ardhya³, Ni Ketut Sari Adnyani³

Faculty of Law and Social Sciences, Ganesha University of Education, Email: putuyasa179@gmail.com

Faculty of Law and Social Sciences, Ganesha University of Education, Email: ngurah.ardhya@undiksha.ac.id

Faculty of Law and Social Sciences, Ganesha University of Education, Email: sari.adnyani@undiksha.ac.id

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Corresponding Author: Putu Yasa Adidana, email: Putuyasa179@gmail.com

Abstract

This study aims to find out (1) how the implementation of the provisions of Article 7 letter a of Law No. 8 of 1999 concerning Consumer Protection related to consumer losses due to fraud in buying and selling mobile phones through e-commerce and (2) what are the legal consequences for business actors that harm consumers in terms of buying and selling mobile phones through e-commerce. This type of research is empirical legal research research. The nature of this study is descriptive research analysis. The data and data sources used in this study are (1) premier data, namely data obtained directly from the source by observation and interviews with subjects. (2) secondary data, namely data obtained through literature studies as a complement to premier data. Data collection techniques used by researchers; (1) observation techniques (2) interviews (3) literature studies. Based on the results of the research conducted, it was found that (1) Article 7 Letter A of the Law has not been implemented properly because of the unfulfilled elements of the legal structure, legal substance, and legal culture (2) legal consequences for business actors who harm consumers in terms of buying and selling mobile phones through e-commerce in the form of store closures, compensation, and prison confinement (criminal).

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Introduction

The development of mobile phone technology is very rapid, it is seen from every year that many mobile phone series with various brands release the latest products by highlighting features that support human life activities including multimedia, games, e-mail and other internet services. The development of mobile phone technology has brought a considerable impact on the way we communicate, play, work, and interact with the world around us. With the use of this technology, of course, it has been a lot in providing smoothness for humans to carry out daily work/activities. For example, in the business world, e-commerce refers to the practice of conducting business transactions solely through electronic media connected online, rather than requiring consumers and business actors to meet face-to-face as they do in traditional markets. E-commerce is a form of goods and/or services trading system that uses the internet as an intermediary medium. With online media, consumers and business actors no longer need to meet directly in the market instead, consumers can choose the goods they want directly from the internet and send them to the consumer's location.

With the increasing interest of the public to have a mobile phone, many manufacturers have increased the number of mobile phone production. So it's not surprising that this is also used by business actors, especially mobile phone sellers, to make a profit. One of them is by selling cellphones which are carried out through electronic media and are known as electronic sales contracts. Electronic contracts for consumers and the sale of mobile phones must be enforceable under the same laws as traditional contracts. They will do various ways to make a profit, including deceiving their consumers. The existence of cases of fraud committed by business actors against consumers, this illustrates the inequality between business actors who do not have good faith in running their business which is not in accordance with Article 7 letter a of Law Number 8 of 1999 concerning Consumer Protection (hereinafter referred to as UUPK).

With the rules that are the legal umbrella regarding consumer protection, business actors should have fulfilled their obligations so as not to harm their consumers. However, in reality there are still sellers who commit fraudulent acts in selling cellphones to reap profits, including ignoring consumer rights. Based on this reality, where business actors cheat and know about their obligations listed in Article 7 of the UUPK but choose not to comply with them will result in the seller being exposed to problems or even sanctions. So it can be said that there has been a gap between the sullen watershed and the sewage watershed where the regulations regarding the good faith of business actors have been regulated in Article 7 letter a of the UUPK but in reality there are business actors who still do not carry out these obligations so that it is very detrimental to consumers.

Problem Formulation

Based on the background that has been explained above, the formulation of the problem that can be taken is as follows:

1. How is the implementation of the provisions of Article 7 letter a of Law No. 8 of 1999 concerning Consumer Protection related to consumer losses due to fraud in buying and selling *mobile phones* through *e-commerce*?
2. What are the legal consequences for business actors who harm consumers in terms of buying and selling

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Mobile phones through e-commerce?

Research Methods

The type of research that the author uses is empirical juridical research, which is a type of sociological legal research that investigates useful regulations and what happens in reality in society. The nature of the research used by the author is Descriptive Analytical Research. The purpose of analytical descriptive research is to present symptoms, facts, or events in an appropriate and methodical manner. This research is in accordance with the facts that exist in the community regarding how the implementation of Article 7 letter a of the UUPK is related to consumer losses due to the occurrence of fraud in buying and selling *mobile phones through e-commerce*.

The data and data sources used in this study are primary data, which is data obtained directly from the source by means of observation and interviews with subjects. Secondary data is data obtained through literature studies as a complement to the premier data. The data collection techniques used by the researcher are observation, interview, and literature study techniques. The technique of determining the research sample uses a *non-probability sampling technique*. The form of *non-probability sampling* technique used in this empirical legal research is *Purposive Sampling*. The data obtained for this study is analyzed and processed qualitatively, then the data will be presented in a descriptive analysis. The data processing carried out is that the data is worked on so that it succeeds in obtaining the truths to find answers related to existing problems in order to get conclusions as the end of the research. The collection of legal materials is a perfect research result. After the presentation of legal materials, the next step is to draw conclusions.

Results and Discussion

Implementation of the provisions of Article 7 letter a of Law No. 8 of 1999 concerning Consumer Protection related to consumer losses due to fraud in buying and selling *mobile phones through e-commerce*

Consumer protection established by the government in laws and regulations as a joint venture between consumers and business actors has been clearly regulated in Law Number 8 of 1999 concerning Consumer Protection where in Article 1 Paragraph 1 states that "Consumer protection is all efforts that ensure legal certainty to provide protection to consumers". In policies formulated with clear objectives, it is usually known as implementation. Implementation is a series of activities in order to deliver policies to the community so that the policies can bring the expected results (Nurfadilah, 2020: 2).

The UUPK itself has regulated the purpose of consumer protection which is regulated in Article 3 of the UUPK, among others (Tampubolo, 2016:60):

- a. Increasing consumer knowledge, skills, and self-defense independence;
- b. Maintain positive excesses in the use of products and/or services while upholding consumer dignity;
- c. Increase the power of consumers to decide for themselves what rights to seek;
- d. Building a consumer protection system that includes information disclosure, legal certainty, and access to information;
- e. Increasing understanding among business actors about the value of consumer protection in order to foster a more ethical and responsible business environment;

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- f. Improve the quality of products and/or services to ensure the safety, security, comfort, and health of consumers as well as the continuity of business operations that produce products and/or services.

In order for a rule to be implemented properly, law enforcement is needed. In Article 45 of the UUPK, it is explained that consumers can sue business actors through institutions tasked with resolving disputes between consumers and business actors. When you want to know the effectiveness of the law, you must measure the extent to which the law is obeyed by the majority of the community, so that later it can be said that the rule of law can be said to be effective.

According to Lawrence M. Friedman, the effectiveness of law enforcement can be determined by 3 (three) elements of the system, namely:

Legal structure, is the parties that form and apply the law which is expected to provide certainty, justice, and use the law in proportion. In terms of the good faith of business actors due to the occurrence of fraud in buying and selling *mobile phones* through *e-commerce*, there has been no further action in realizing the UUPK by the Department of Trade, Industry, Cooperatives, and UKM of Buleleng Regency (hereinafter referred to as DAGPERINKOPUKM). That DAGPERINKOPUKM has not conducted socialization regarding consumer protection laws and the use of *e-commerce* among the public because of its electronic nature. Although there is no authority regarding the losses experienced by consumers due to the fraud of buying and selling *mobile phones* through *e-commerce*, the DAGPERINKOPUKM allows the consumer to report to DAGPERINKOPUKM after that, the incoming report will be submitted to the BPSK of Bali Province, this is done because from the DAGPERINKOPUKM does not have PPNS (Civil Servant Investigator), this is what causes there has been no action regarding online buying and selling scams. In the event of reporting fraudulent acts committed by business actors to the *e-commerce* party, the *e-commerce* party will take action in accordance with applicable regulations, but if the fraud occurs on social media (not *e-commerce*) it can be reported to the authorities or the police by bringing complete evidence.

- a. Legal substance, where the rules made can be obeyed by the community. In terms of the good faith of business actors in the case of fraudulent buying and selling of *mobile phones* through *e-commerce* media, Law Number 8 of 1999 concerning Consumer Protection and the terms and conditions of *e-commerce* are able to regulate and direct people's lives. In the substance of the law, there is actually no problem with this because, Article 7 letter a of the UUPK does not contradict the norm (*conflick normen*), does not experience ambiguity of norms, and does not have multiple interpretations. However, in reality, there are still business actors who do not want to take responsibility as a result of their mistakes that result in losses for consumers. As well as the lack of socialization from the government related to the UUPK, many people do not know that they have rights protected by law.
- b. Legal culture, which is the relationship between social attitudes and their relationship

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with the law. Culture plays an important role in society and for people, serving as a regulatory framework that helps people understand how to behave, act, and think about others. Data from UNESCO in 2022 shows that only 0.001% of Indonesians are interested in reading, which is quite worrying. This means that only one Indonesian out of every 1,000 people is a loyal reader. So it can be said that consumers still have a low interest in reading, where the terms and conditions contain consumer rights. Due to the low interest in reading from the public, the legal culture makes people vulnerable to becoming victims of fraud in *e-commerce*, this is because consumers are lazy to read the detailed descriptions provided by business actors. The *mobile phone* business actor deliberately took advantage of the public's lack of interest in reading by providing incorrect information about their products. Where this is included in the things that are prohibited by business actors. As a result of business actors who take advantage of the low interest in reading the public by providing false information, the legal culture makes business actors as fraudsters because they only want to benefit themselves. This has resulted in many consumers experiencing losses due to fraudulent actions from business actors who are dishonest in running their businesses.

Based on this, it can be said that the effectiveness of law enforcement is still not running well, it is because there are still obstacles in the legal structure, legal substance, and legal culture that cannot be realized optimally considering that there is still a need for things that must be prioritized and realized. This can be seen from the legal structure that there is still no socialization carried out by DAGPERINKOPUKM and follow-up actions to realize the existing rules, so that many people do not know that their rights and obligations are protected by the Law, so it is hoped that the relevant law enforcement officials will socialize to the public about the UUPK so that the public knows about what to do if they want to do business and become a consumer. If the public already knows about the UUPK, of course this regulation will be able to run effectively, so that the elements of the legal structure and legal substance can be fulfilled. Meanwhile, in terms of legal substance which in its implementation has not gone well because there are still people who commit fraud in doing business. This kind of thing can be understood because most people do not know and understand the UUPK. Then in terms of legal culture is also not effective, this is because there are still fraudulent acts carried out by business actors in *e-commerce* by taking advantage of people's low interest in reading to provide false information. So for business actors are expected to have good faith if they feel detrimental to their consumers so as not to conflict with Article 7 letter a of the UUPK and the terms & conditions that apply in *e-commerce*, then business actors are obliged to provide the clearest information about the products sold/ offered, this is in accordance with Article 8 paragraph 1 letter (d) of the UUPK while for the public it is expected to read the products to be purchased carefully to ensure that The product has met the desired criteria because it is carefully read, including the obligations of consumers as stated in Article 5 letter (a) of the UUPK regarding consumer obligations. So that the elements of legal culture can be fulfilled in order to realize the effectiveness of law enforcement so that it can be applied properly.

Legal Consequences for Business Actors Who Harm Consumers in Buying and Selling Mobile Phones Through E-Commerce

From DAGPERINKOPUKM has actually carried out its duties well, only focusing more on

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the food business. In addition, DAGPERINKOPUKM also does not have a consumer protection field, so if there is a report of a case of fraud in buying and selling *mobile phones* through *e-commerce*, DAGPERINKOPUKM will follow up and will coordinate with BPSK to further provide guidance in accordance with the UUPK. If the case occurs in Buleleng Regency, the DAGPERINKOPUKM and a special team from BPSK will close the store that is proven to have committed fraud in running its business. Later, DAGPERINKOPUKM and BPSK will provide guidance based on Article 4 of the UUPK to these business actors. The use of the UUPK as a reference from the Buleleng Regency DAGPERINKOPUKM and the Bali Province BPSK in providing guidance to *e-commerce* business actors who commit fraud. So the DAGPERINKOPUKM and the BPSK prioritize coaching based on the content of Article 7 letter (g) and Article 19 paragraph (1) of the UUPK, the point is that Article 7 letter (g) and Article 19 paragraph (1) regulate business actors who are obliged to provide compensation to consumers if consumers feel that they have suffered a loss (Windari, 2015:112). The Buleleng Police often even get many reports about fraud in buying and selling *cellphones* through *e-commerce*, but until now the Buleleng Police have not been able to uncover the case due to obstacles that must be overcome. All reports regarding cellphone buying and selling fraud through *e-commerce* are very difficult to investigate, because there are obstacles in the form of:

- a. It is difficult to detect the number,
- b. Scammers are more likely to use fake banking accounts, and
- c. The location of the scammer is very far away.
- d. So if the business actor does not fulfill his obligations, his actions are included in the criminal act threatened with Article 378 of the Criminal Code (KUHP)

So if the business actor does not fulfill his obligations, his actions are included in the criminal act that is threatened with Article 378 of the Criminal Code (KUHP) In addition, there are also criminal law consequences for business actors who commit fraud in buying and selling *mobile phones* through *e-commerce* as referred to in Article 45A paragraph (1) of Law Number 19 of 2019 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions. As a result of this law, it is hoped that it can provide a deterrent effect to business actors who commit fraud in buying and selling *mobile phones* through *e-commerce*, this is done so that business actors want to follow the applicable rules in order to make the economy in Indonesia run smoothly and their business also runs smoothly.

In the case of fraud in buying and selling *cellphones* through *e-commerce* where the fraud is carried out without the consumer's knowledge, it is a form of agreement that is defective in the will, this is because consumers should get a *cellphone* that is in accordance with the price of the goods purchased but from the business actor providing *the cellphone* that are not appropriate and without prior confirmation. This is included in the act of fraud because the business actor gives *the mobile phone* in a completely dead state, and the business actor never gives any notice related to the *mobile phone* sold before the transaction. This means that business actors only think about their own profits, because after the goods are received, the business actors block the victim's *e-commerce* account. This can also be said to be misleading because consumers never know about the exchange of *cellphones* and business actors have never told them. While it is said to be coercion because consumers have never been asked about their willingness or agreed to the exchange of *mobile phones*

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by the business actor so that the giver of the used *mobile phone* is given involuntarily, so it can be said that it is included in the category of coercion.

Conclusion

Based on the results of the discussion above, 2 (two) conclusions can be formulated, namely as follows:

1. Provisions of Article 7 Letter A of Law Number 8 of 1999 concerning Consumer Protection Related to the good faith of business actors in running their business which in the case of fraudulent buying and selling of *mobile phones* through *e-commerce* has not been properly implemented, this occurs because it is not optimal in terms of legal structure, in terms of legal substance has also not been properly implemented, Meanwhile, the legal culture has also not been effective.
2. The legal consequences for business actors in the case based on DAGPERINKOPUKM as a trade supervisory team in Buleleng Regency, will be subject to Article 7 letter (g) and Article 19 paragraph (1) of the UUPK. Meanwhile, from the Buleleng Police, the SATRESKRIM section for business actors will be subject to Article 378 of the Criminal Code and Article 45A paragraph (1) of Law Number 19 of 2019 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions. The legal consequences obtained by business actors are in the form of closing shops, making compensation, and imprisonment (criminal).

Recommendation

Based on the discussion above, the researcher can formulate 3 (three) suggestions, which are as follows:

1. For DAGPERINKOPUKM as a trade supervisory team in Buleleng Regency, it must re-establish the consumer protection section so that it can handle more cases and be more observant in supervising business actors, and must be more decisive in providing sanctions for business actors who are proven to have committed fraud. As well as conducting socialization and education to the public as consumers and business actors regarding Law Number 8 of 1999 concerning Consumer Protection, so that if there is another case, the community can take appropriate steps/actions.
2. For the Buleleng Police to further improve facilities and facilities, especially in the *cyber* section, so that they can overcome the obstacles that have been obstacles in resolving the case. However, if there is a report and the Buleleng Police are unable to do so, then it would be better for the case to be transferred to the Bali Police.
3. For the public, it is hoped that in buying goods in *e-commerce*, they will pay more attention to the information listed so that there will be no more confusion or misunderstanding and become a victim of fraud. It would be better if consumers bought electronics or expensive goods directly to the store rather than buying online

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, this could reduce the risk of becoming a victim of fraud. In addition, consumers who have been victims of fraud should not be afraid to report to the police in order to increase police trust in the eyes of the public.

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