

## The Legal Aspect of Digital Business Domination During Post Pandemic

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### Abstract

*Covid-19 pandemic changes the ways of business run, including in Indonesia. Therefore, the government must swiftly make laws and regulations to regulate business digital implementation in order companies can run their digital business well. This research aims to analyse the legal aspect of digital business domination in postpandemic era. The method used in this research is normative law research using normative case studies and collected through library research from materials related and explaining the problems of primary legal materials consisting of books and literature, such as draft laws, research results, works from legal circles, etc. The results show that the legal protection and responsibility faced by consumers in conducting electronic business transactions, namely, legal protection lies in the extent to which the parties comply with the principle of freedom of contract, consisting of written evidence, evidence of witnesses, presumptions, confessions and evidence of oaths as well as the responsibility of the online buying and selling businesses for errors that result in losses to consumers who use online transaction systems are responsible for providing correct information, in the form of product or goods information displayed or sold in online buying and selling media. This research can be the legal foundation for companies to run their digital business*

Keywords: Legal Aspect, Digital Business Domination, Post Pandemic

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## I. INTRODUCTION

The world has been shocked by the Covid-19 virus pandemic since the beginning of 2020. On March 11, 2020, WHO declared Covid-19 a pandemic. For more than 2 years, society has lived in the midst of a pandemic with limitations. In the early days of the spread of this virus in Indonesia, several restrictions were appeared, such as shops and supermarkets that were not operating optimally, people could not go out freely and do their activities or shop to meet their daily needs. This is due to the PSBB (Large-Scale Social Restrictions) policy. The goal of the PSBB is to break the chain of transmission of Covid-19, such as lockdowns and social distancing. However, this PSBB also has an impact on the economy, not only for Indonesia but for the whole world (Nurhayati & Halal Shah Aji, 2020).

The economic impact on the world was that in the first quarter of 2020 economic growth in a number of Indonesia's trading partner countries grew negatively: Singapore -2.2, Hongkong -8.9, European Union - 2.7 and China decreased to minus 6.8. Several countries are still growing positively but declining when compared to the previous quarter. The United States fell from 2.3 to 0.3, South Korea from 2.3 to 1.3 and Vietnam from 6.8 to 3.8. Whereas in Indonesia it was far from the estimate in the 1st quarter (Q1) in April 2020, only 2.97%. Then dropped drastically to 4.5% (Abdurrahman, 2020).

Efforts made by the government in the context of economic recovery are the implementation of Work From Home (WFH) (Hadi & Supardi, 2020). Thus, the culture of online shopping is rife when the pandemic conditions are accompanied by the implementation of WFH. Changes in customer behaviour during a pandemic by shopping online have resulted in various new habits that require the implementation of restrictions on outdoor activities, mass gathering, distance restrictions, so that customers also tend to fulfil various basic daily needs online. (Komalasari, 2020).

Therefore, at this time, many business platforms have sprung up that offer goods and services that are sold or ordered online, almost all people feel the benefits of online shops that are presented or what is widely known to the public as online shopping (Artaya & Purworusmiardi, 2019). People do not need to leave the house to just buy food or household needs, even online shopping can be done without having to get out of bed, just by pressing the button on the cell phone, the desired item will be delivered to the house.

At present, digital business dominates and penetrates all aspects of human life, the convenience of online shopping is greatly benefited by the wider community, besides that health is better maintained because it minimizes direct interaction with other people who can pose a risk of exposure to the covid-19 virus which has a very massive distribution (Firdaus et al., 2022).

Apart from that, this situation opens up new jobs for the public to sell online or just to become an online courier (Go-jek, Go-food, etc.). The existence of online shopping can help improve the economy because people can have a business without having to have a large initial capital by renting a place of business or recruiting excessive employees, because with a digital business, everything can be done alone at home. As well as the possibility that something similar exists, if virtual humans like that have appeared, they will not consider it necessary, whether in cyberspace there are laws and need to enforce them if they are violated along with legal actions. it does not reach or have a detrimental impact on humans in the real world.

From the explanation of the background and problems described above, the authors are interested in analyzing papers regarding phenomena that are currently happening in the midst of modern society regarding the dominance of post-pandemic digital business which is still ongoing today and the protection and legal responsibility of parties who transact in digital business.

## **II. LITERATURE REVIEW**

### **Legal Aspect and Humans' Activities**

The development of legal science is inseparable from human life to talk about the development of legal theory cannot be separated from human life (Prasetyo, 2020). Every human being has interests or rights and obligations which are individual or social group demands that are expected to be fulfilled. This is based on the fact that since birth humans have needed food, clothing, shelter or housing, education, and work. When humans reach the level of maturity, the number and types of interests to be fulfilled, among others, for school, work, recreation, marriage, self-actualization. Thus, its importance continues to grow until the time when a human dies which requires inheritance arrangements (Doz, 2020).

Given the many interests, it is not impossible that there will be conflicts or clashes between human beings, because their interests conflict with each other. A conflict of interest occurs when in carrying out or

fulfilling one's interests to the detriment of another person. In living together or in society, conflict cannot be avoided. Disruption of interests or conflicts must be prevented or not allowed to continue, because it will disrupt the balance of the order of people's lives. Meanwhile, humans want a balanced social order that can create an orderly, peaceful and secure atmosphere which is a guarantee of survival (Jakovljevic et al., 2020).

If humans in society need protection of their interests, this can be achieved by creating guidelines or rules of life that determine how humans should behave in society so as not to harm others and themselves. These guidelines, benchmarks or standards for behaving or behaving in life together are called social norms or rules (McKee & Stuckler, 2020).

The content of the rule of law is addressed to the outward attitude of man. In essence, it does not matter what people think, as long as the outward way of humans does not violate the rule of law. However, there are times when after an external act that is relevant to law has taken place, the law interferes with the human mind as well, for example, whether intentionality or not, planning, good or bad intentions, etc. Understanding the notion of intentionality, good faith is related to the human mind and will not appear from the outside. Examples are murder, theft (Hartanto, 2020).

In general, the rule of law is accompanied by sanctions, but not all violations of the rule of law are subject to sanctions. Those who can give or impose sanctions on violations of the rule of law are the rulers, because law enforcers in the event of violations are the monopoly of the authorities. The authorities have the power to impose sanctions on violators of the rule of law. Because law is power, where the power seeks order (Koskonniemi, 2019).

### **Digital Business Definition**

Since the early 2000s, information technology has entered mainstream markets and developed further into what is referred to as new wave technology. New wave technology is the technology that enables connectivity and interactivity between individuals and groups. The new wave includes three major strengths, such as inexpensive computers and mobile phones, inexpensive internet, and open source (Peukert, 2019).

In doing digital business, this is not far from implementing digital marketing or e-marketing. Emarketing in digital business describes the management and implementation of marketing using electronic media, digital marketing is the application of digital technology that forms online channels (online channels) to the market (websites, email, databases, digital TV and through various other recent innovations including blogs), feeds, podcasts and social networks) that contribute to marketing activities aimed at making a profit and building and developing customer relationships (Kumar & Sekhar, 2019). In addition, to develop a planned approach to increase consumer knowledge (towards the company, behaviour, value and level of loyalty to its product brands), then integrates targeted communications with online services according to the needs of each individual or specific customer. In short, digital marketing is achieving marketing goals through the application of technology and digital media (Bala & Verma, 2018).

Digital technology has changed the way humans speak, communicate, act, and make decisions. Every day we are always in contact with a variety of technologies ranging from the internet to mobile phones. This proves that the digital world has become our world. The concept that needs to be of particular concern to

marketers in carrying out marketing, branding and selling activities in the digital world today is to pay attention to the content presented by marketers so as to form irrational thoughts that aim to influence consumers' purchasing decisions (Nardo et al., 2020).

### **III. METHODOLOGY**

#### **Research Design**

This type of research is normative law research using normative case studies. The main subject of the study is law which is conceptualized as a norm or rule that applies in society and becomes a reference for everyone's behaviour. Therefore, normative legal research focuses on positive law inventory, legal principles and doctrine, legal discovery in concrete cases, legal systematics, level of synchronization, comparative law and legal history (Karo & Sebastian, 2019). The approach method in this research is the statutory approach. Normative research must certainly use a statutory approach, because what will be examined are various legal regulations which are the focus as well as the central theme of a research (Crawford & Meagher, 2020). Data Resources

The data in this study are secondary data, namely library materials which include official documents, library books, laws and regulations, scientific papers, articles, and documents related to research material. In addition, primary legal materials, namely all legal materials/materials that have a legally binding position. Primary legal materials consist of laws and regulations related to research and secondary legal materials, namely in the form of materials related and explaining the problems of primary legal materials consisting of books and literature. These secondary legal materials provide an explanation of primary legal materials, such as draft laws, research results, works from legal circles, etc (Sari & Asmendri, 2020).

#### **Data Collections**

The data collection method in this study was carried out by literature study, which is a way of collecting data by searching and studying library materials (literature, research results, scientific magazines, scientific bulletins, scientific journals, etc.). Legal materials are collected through inventory procedures and identification of laws and regulations, as well as classification and systematization of legal materials according to research problems. Therefore, the data collection technique used in this study was a literature study (Asbari et al., 2020). Literature study is carried out by reading, studying, taking notes, making reviews of library materials that are related to the legal aspect of business digital.

### **IV. RESULT AND DISCUSSION**

#### **Digital Business Domination in Post-Pandemic Era**

The digital era brings various transformations in life, especially in the economic aspect. Various areas in the economic world are starting to be touched by digitalization, such as payments, sales, promotions, and so on. Changes in today's digital world are included in accidental transformation or changes that occur because of something that was not expected before. One of the factors causing this technological leap is the Covid-19 pandemic (Dwivedi et al., 2020).

When the pandemic hit Indonesia, digital transformation developed and disrupted the business sector and the economy. The development of the digital economy that has been around us, for example, includes various types of e-commerce and financial technology (fintech) services which are increasingly prevalent among the public. Therefore, it can be said that the digital economy is developing and the pandemic has accelerated the development of the digital economy (Hai et al., 2021).

Furthermore, there are several points on how the Covid-19 pandemic crisis can accelerate digital transformation. First, the push to reduce direct interaction during the Covid-19 pandemic has prioritized digitalization and automation. Second, since the very beginning of the pandemic, digitization and automation have been sought to accelerate in part because their adoption helps reduce the need for physical contact. In addition, even in a crisis that hit a global scale, the pandemic has caused a further acceleration of digital transformation globally (Acosta, 2020). There has been an increase in micro-enterprises and companies in the manufacturing sector that have adopted the use of digital platforms by 59% since October 2020. This is because Covid-19 has driven changes in consumer and business behaviour, many of which will survive to varying degrees in the long term (Ruslina et al., 2022). There are 4 sectors that are estimated to be in great demand in the post-pandemic era, one of which is the fintech sector where digital lending and online investment are increasingly popular, and the e-commerce sector where the number of online buyers has skyrocketed in this pandemic era. It means that online lifestyles will still exist, some will be carried out in a hybrid manner (online and offline) after the pandemic era. Within a decade or two, the digital economy will develop more broadly, all economic sectors across the region will be digitized (Gigauri, 2021).

In addition, social media and digital platforms are the basis for developing economic businesses so that small businesses can develop, empower human resources (human resources) evenly and well. This is known by the existence of several online motorcycle taxi driver partners who have limitations such as persons with disabilities. There is also a significant impact on Indonesia's development in the digital economy according to Oxford Economics in 2016 stating that the existence of ICT makes a significant contribution to a gross domestic product or GDP and also the number of jobs (Azimovna & Shokhrukhovich, 2022). However, the use of existing digital businesses causes challenges in developing including cyber security where Indonesia has an online transaction flow that continues to increase every year. This causes many gaps in attacks against the cyber world, Indonesia has received 1,225 billion cyber-attacks every day, ransomware that attacks most frequently in the digital economy sector and can also break into banks (Fahlevi et al., 2019).

Furthermore, the increasingly fierce competition makes foreign products enter Indonesia, which results in local products that do not develop. However, it is hoped that with this digital economy, Indonesia will not only do business domestically but can also do business internationally. and enter the international market. With this in mind, the government must educate the public to prepare an education system that is in line with the times so that they have superior human resources in dealing with the digital economy in the current era. Availability of qualified internet access where Indonesia has uneven internet access and only focuses on big cities (Ellitan, 2020).

Finally, regulations that have not kept up with the times where there are regulations and legal basis that need to be designed to keep up with the times. In this regard, the government must swiftly make laws and regulations to regulate the course of the digital economy in Indonesia. The aim is to protect the rights of

consumers and digital business actors so that the use of the digital economy can run well (Farida et al., 2020).

### **Post-Pandemic Digital Business Domination and Types**

Currently, the economy is dominated by online businesses, because after the pandemic, many activities were carried out in their homes. Digital business which is commonly referred to as Ecommerce has many types, in Indonesia the types of E-commerce that are often found are as follows.

#### **1. Classifieds or List of Classified Ads**

Classifieds or classified ad lists are the simplest form of e-commerce business. This form of business is in the form of services provided by companies to bring together producers and consumers (Students, 2020). The company provides space for manufacturers to display or showcase their wares. consumers who are interested in the products offered are directly related to the manufacturer. Producers and consumers are free to make transactions anywhere according to their agreement. The e-commerce company is not responsible for the course of the transaction (Wahyudiyono, 2017). E-commerce companies benefit from premium advertisements posted on the website. Indonesian e-commerce companies that use this form of business including Berniaga, OLX, etc. These goods that are sold in this company are generally used goods.

#### **2. C2C Marketplace (Customer to Customer)**

This e-commerce company is a company that provides a place as a medium for promoting merchandise for sellers and e-commerce companies also provide payment method services from online transactions made (Rahmidani, 2005). This is the main feature of the C2C marketplace ecommerce business form. in general, e-commerce parties will provide Escrow services or thirdparty accounts. The function of the Escrow is as a bridge between sellers and buyers and ecommerce parties. If a purchase agreement has been made, the buyer must transfer funds to Escrow, the seller can send the goods to the buyer (Wahyudiyono, 2017). And after the consumer confirms the arrival of the goods, Escrow will give the money to the producer. Besides being safer, by using Escrow services if there is a problem with the goods, the funds will be returned to the buyer. E-commerce companies that adopt this form of business are Tokopedia, shoppee Lamido and so on.

#### **3. Shopping Malls**

The form of the e-commerce shopping mall business is an e-commerce company that provides services more or less the same as the C2C Marketplace business form, but the sellers in the ecommerce are only big brands that already have names in the local or international market. To enter into the service requires verification which is not easy for sales. In terms of profits, ecommerce parties can collect commissions from sellers who incidentally are big brands. That way the income can be greater. This form of business is implemented by Blibli (Wahyudiyono, 2017).

#### **4. B2C (Business to Customer) online shop**

Basically, this form of business focuses more on selling goods or products belonging to the ecommerce company itself. So that all profits from selling pure products are owned by e-commerce companies and

not shared with other parties. This type of business is one of the most developed forms in Indonesia, but the development of this form of business is certainly not easy. In addition to the need for very large capital, the availability of supply of goods and sales systems must all be handled by e-commerce (Noviarni, 2019). Some e-commerce companies that implement this form of business include Lazada, Bhineka, Berry Benka etc. However, the e-commerce company also has a system like the C2C Marketplace which can accept independent sellers who have quite a lot of goods and guaranteed availability.

## 5. Social Media Shop

This form of e-commerce business can develop along with the increasingly uphill development of social media. The potential of social media is now being used directly by e-commerce companies by building a business based on social media. At first Facebook provided a fan page that could be used to offer goods for sale. Fan page is a special page like a blog that provides various information according to the wishes of the owner, ranging from companies, education, services, physical products, artists, communities, etc. Currently, social media is the main area for business development, it is still dominated by Facebook, but with the shift in social media trends that are happening now, it has also opened up new competition, such as Instagram and Twitter. (Wahyudiyono, 2017).

### Protection and Legal Responsibility for Parties in Online Business Transactions

In this era of free trade, there are two things related to consumers. First, consumers benefit because with this free trade, the flow of goods in and out becomes smoother and is not hampered by regional or country boundaries. Therefore, consumers have more choices in determining various needs, whether in the form of goods or services, in terms of the type and type of goods, quality, brand and price.

Second, the position of consumers in developing countries is disadvantaged, this is due to weak supervision in the field of standardization of quality of goods, weak product legislation. In this case, E-Commerce has a different meaning for different people. It's like we define a lion, that is, depending on which part of the lion we see or hold, different definitions can be given. E-Commerce transactions raise several juridical problems, namely as follows.

- a. Use of domain names and proof of transactions
- b. Recognition of "e-mail notification" as a "written notice" (written notice)
- c. Internet piracy (Internet privacy) is related to intellectual property rights
- d. Protection for consumers in E-Commerce transactions
- e. Taxes on E-Commerce transactions carried out by the parties
- f. Legal relationship between parties conducting E-Commerce transactions and protection of the right to privacy
- g. Choice of law, namely the choice regarding which country's law will be applied in ECommerce transactions between countries
- h. Judicial jurisdiction (choice of forum), namely the choice regarding which court has the authority to resolve disputes between parties conducting E-Commerce transactions.

In the law Article 1, point 2 of Law Number 19 of 2016 Concerning Information and Electronic Transactions (hereinafter abbreviated as the ITE Law), it is stated that Electronic Transactions are: "Legal actions carried out using computers, computer networks or other electronic media, buying and selling transactions electronically is one of the embodiments of the provisions above. Business actors offering goods or services electronically are required to provide complete and correct information regarding contract terms, producers and products. In Article 17 of the ITE Law, paragraphs 1 and 2. Electronic contracts in electronic transactions must have the same legal force as conventional contracts. Therefore, electronic contracts must also bind the parties as Article 18 Paragraph (1) of the ITE Law states that "electronic transactions contained in electronic contracts bind the parties".

As with conventional contracts, the parties have the freedom to choose the law that applies to electronic transactions that are international in nature. In Article 18, Paragraph (2) of the ITE Law. Before carrying out electronic transactions, the parties agree on the electronic system that will be used to carry out transactions. Article 20 Paragraph (1) of the ITE Law. Article 20 Paragraph (2) In conducting electronic transactions, related parties often entrust third parties as electronic agents.

Responsibility for the consequences of carrying out electronic transactions must be seen from the authority given to agents by the parties to carry out transactions as stated in Article 21, Paragraph (1) Article 21, Paragraph (2) number 1 Article 21, Paragraph (2) number 2 UU ITE. If the transaction is carried out through an electronic agent, then the responsibility of the electronic agent operator regarding this matter is as stated in Article 21, Paragraph (2) number 3, Article 21 Paragraph (3), Article 21 Paragraph (4) of the ITE Law. Legal protection for parties in electronic business transactions, namely as follows.

- a. Legal protection for merchants is mainly emphasized in terms of payment, merchants require to make payment in full and then confirm payment, only then will delivery of the ordered goods be carried out.
- b. Legal protection for consumers lies in a guarantee in the form of returning or exchanging goods if the goods received are not as ordered.
- c. Privacy of personal data of electronic media users must be legally protected. Providing information must be accompanied by the consent of the owner of the personal data. This is a form of legal protection for parties conducting E-Commerce transactions, which is contained in Article 25 of the ITE Law "Electronic information and/or electronic documents compiled into intellectual works, internet sites, and the intellectual works contained therein are protected as property rights. intellectual property under the provisions of the applicable regulations.

Responsibility for losses suffered by consumers as a result of using online buying and selling transactions should be borne by the business actor. The responsibility in question is the responsibility for defaults by business actors, so that what should be the rights of consumers are not fulfilled in accordance with Article 4 of Law Number 8 of 1999 concerning Consumer Protection, namely the right to comfort, security and compensation. losses to consumers when using online buying and selling application services.

Business actors are responsible for losses suffered by consumers due to their negligence in carrying out online buying and selling services. Regarding the availability of goods with the details presented in an online buying and selling application, basically it is the responsibility of the seller of the goods. However, regarding the responsibility for any losses suffered by consumers, it should be borne by the online buying



and selling business actors, because during the transaction process, it is the online buying and selling business actors who are dealing directly digitally with consumers.

## V. CONCLUSION

Digital business or online business is a real business that uses internet media, using technology as an advantage in internal and external operations. Currently, the economy is dominated by online businesses, because after the pandemic, many activities were carried out in their homes. The legal protection and responsibility faced by consumers in conducting electronic business transactions, namely, legal protection lies in the extent to which the parties comply with the principle of freedom of contract, consisting of written evidence, evidence of witnesses, presumptions, confessions and evidence of oaths as well as the responsibility of the online buying and selling businesses for errors that result in losses to consumers who use online transaction systems are responsible for providing correct information, in the form of product or goods information displayed or sold in online buying and selling media.

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