

Legal Protection Of Consumer Data Of E-Commerce

Dedi Hermawanto¹, Bachrul Amiq², Subekti³
Fakultas Hukum, Universitas Dr. Soetomo Surabaya^{1,2,3}

Received: November 08 2024

Revised: November 28 2024

Accepted: December 18 2024

Published: December 27 2024

Corresponding Author:

Author Name*: Bachrul

Amiq

Email*:

aba_amiq@unitomo.ac.id

Abstrak: *This research will explore the use of technology so that it can strengthen the legal system in Indonesia and examine best legal practices in various countries to improve consumer data protection in e-commerce. Consumer protection legal research is increasingly urgent given the risks that continue to evolve and have a significant impact on consumers. The formulation of this research problem is: 1) How is the protection of business civil law in providing protection for consumers related to the misuse of consumer personal data in e-commerce transactions? 2) What are the legal actions against the misuse of consumer data in e-commerce? This thesis research uses normative legal types on consumer protection and misuse of personal data while also researching legal aspects that regulate consumer rights and the protection of unauthorized users. The results of the study show that the protection of consumers' personal data in e-commerce transactions in Indonesia is regulated by various laws and regulations, which are relevant to the civil law aspects of business. Cases of misuse of consumer data in e-commerce have encouraged increased awareness of the importance of protecting consumer rights in civil relations between consumers and business actors.*

Keywords : *Consumer Protection; E-Commerce; Personal Data,*

INTRODUCTION

Digitalization happening around the world threatens consumer protection and data security.¹ Technological developments bring various conveniences and innovations in daily life while presenting new challenges. The problem that often arises is the rampant incidents of data leakage and misuse of personal information by companies and third parties.² This personal data is collected, stored and processed without consent or without a clear understanding of the data owner as to how the information is used. This incident has occurred in well-known companies and raises serious concerns in storing data protection in the digital age.

Various countries in the world implement various regulations, the European Union implements the *General Data Protection Regulation* (GDPR) which provides strong protection

¹ Anugerah, F., & Tantimin, T. (2022). Pencurian Data Pribadi di Internet dalam Perspektif Kriminologi. *Jurnal Komunikasi Hukum (JKH)*, 8(1), 419–435.

² Putri, Y. E., Ginting, E., Nisya, C., & Febriyanti, S. (2023). Kesadaran Keamanan Informasi Data Pribadi Terhadap Pengguna Media Sosial. *Unes Journal of Information System*, 8(1), 1–8.



for the personal data of EU citizens.³ This protection concept sets a high standard for the management of personal data including requirements for explicit consent, access rights and the right to delete personal data. In the United States, various data protection laws are enacted at the federal and state levels, such as *the California Consumer Privacy Act (CCPA)*.⁴ Despite the implementation of regulations, there are still many challenges that must be faced, including the implementation and enforcement of data protection laws. Differing regulatory approaches in different jurisdictions create its own complexities for companies operating globally.

Consumer awareness and education are also very important in the protection of personal data.⁵ Consumers need to understand more deeply the rights and how to protect personal information in the digital world. Awareness and transparency campaigns from companies on how consumer data is collected and used are important steps to build trust and security.⁶ An in-depth exploration of the relevant regulations will further demonstrate the effectiveness of any laws governing the security of consumer data.

The researcher's initial analysis found that illegal acts in the context of e-commerce consumer protection can occur, namely: 1) Sellers who offer goods/services that are not in accordance with the promised description or quality or even do not deliver the goods at all after payment is made; 2) Failure to provide correct, clear and complete information about the products or services offered so that consumers cannot make the right decision; 3) Resulting in the rights of consumers to obtain goods/services in accordance with the promised standards, the right to obtain correct information and the right to file complaints to obtain compensation.

Forms of unlawful acts in the context of misuse of consumer data include the act of collecting, storing, using and disseminating personal data without consent or violating the law.⁷ Some forms of unlawful acts are: 1) Incidents where consumers' personal data is leaked and falls into unauthorized hands which can lead to identity theft, fraud and various other cybercrimes; 2) Use of consumer personal data for marketing, analysis, or sale to third parties without the explicit consent of the data consumer; 3) Excessive supervision and data collection without adequate transparency or notification to consumers.

Conflicts between norms can occur when the ITE Law stipulates that electronic system operators are obliged to protect electronic information and electronic documents that they manage. Meanwhile, the potential conflict that can occur is that e-commerce companies need to implement

³ Sinaga, E. M. C., & Putri, M. C. (2020). Formulasi Legislasi Perlindungan Data Pribadi dalam Revolusi Industri 4.0. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 9(2), 237.

⁴ Zulkifli, S. E., Al Asy Ari Adnan Hakim, S. E., Ramadhaniyati, R., Wau, L., Ali, I. H., Dhiana

⁵ Prayuti, Y. (2024). Dinamika Perlindungan Hukum Konsumen di Era Digital: Analisis Hukum Terhadap Praktik E-Commerce dan Perlindungan Data Konsumen di Indonesia. *Jurnal Interpretasi Hukum*, 5(1), 903–913.

⁶ Toruan, R. L. (2024). Keamanan Dan Privasi Data Dalam Sistem Internet Of Things (Iot). *Tugas Mahasiswa Program Studi Informatika*, 1(2).

⁷ Najwan, G. A., & Sudarwanto, A. S. (2024). Perlindungan Hukum terhadap Data Pribadi Peminjam yang Disalahgunakan oleh Layanan Pinjaman Online Ilegal. *Jurnal Pendidikan Tambusai*, 8(2), 17115–17132.

rare security measures to protect consumers' personal data from leakage and unauthorized access. Consumers have the right to request the correction or deletion of their personal data. The implementation of these rights requires access to highly secure systems that can become vulnerable if not strictly regulated. The contradiction is that consumers request the deletion of their personal data while the company must ensure that this process does not compromise the security of the system as a whole. However, the delay or rejection of consumer requests can be considered a violation of consumer rights.

Consumer protection in the digital era requires a comprehensive and dynamic approach.⁸ Consumers must be protected not only from products and services that do not comply with standards but also from criminal threats related to the misuse of personal data. The urgency of this research is to review existing regulations so that they can provide adequate protection against the criminal threat of data misuse. Identify legal loopholes that need to be filled to improve consumer protection so that they can develop policy recommendations that can be implemented by the government and industry actors to strengthen the protection of consumer personal data. This research will explore the use of technology so that it can strengthen the legal system in Indonesia and examine best legal practices in various countries to improve consumer data protection in e-commerce. Consumer protection legal research is increasingly urgent given the risks that continue to evolve and have a significant impact on consumers. This research is expected to contribute to creating a safer digital environment, increasing consumer trust, and encouraging sustainable e-commerce growth in Indonesia. The formulation of the research problem consists of: 1) How is the protection of business civil law in providing protection for consumers related to the misuse of consumer personal data in e-commerce transactions? 2) What are the legal actions against the misuse of consumer data in e-commerce?

METHODOLOGY

This research is a normative legal research that examines consumer protection and the misuse of personal data through a *statute approach*, by analyzing laws such as the 1945 Constitution, the Personal Data Protection Law, the ITE Law, and the Consumer Protection Law. The legal materials used include primary materials in the form of authoritative legal documents and secondary materials such as legal analysis and commentary. Data is collected through library catalogs, online databases, and official websites of government and judicial institutions. The analysis is carried out systematically, including the identification of legal problems, the collection of legal materials, the evaluation of effectiveness, and the drawing of conclusions, to produce applicable law-based recommendations.

RESULTS AND DISCUSSION

⁸ Rahman, I., Mayasari, R. E., & Nurapriyanti, T. (2023). Hukum Perlindungan Konsumen di Era E-Commerce: Menavigasi Tantangan Perlindungan Konsumen dalam Lingkungan Perdagangan Digital. *Jurnal Hukum Dan HAM Wara Sains*, 2(08), 683–691.

a Tokopedia and other e-commerce companies are being encouraged to improve their security systems to prevent similar incidents from happening in the future. This includes improved data encryption, periodic security audits, and the implementation of stricter security protocols. This incident also prompted the Indonesian government to accelerate the discussion and ratification of the Personal Data Protection Bill (PDP Bill), which aims to provide a stronger legal framework in protecting people's personal data. Based on Law Number 8 of 1999 concerning Consumer Protection, Tokopedia has an obligation to protect the personal data of consumers who use their services. This data leak can be considered a violation of consumers' right to have their personal data protected.

ITE Law Number 11 of 2008 which has been amended by Law Number 19 of 2016 requires electronic system operators to protect users' personal data. If proven to be negligent, Tokopedia may be subject to sanctions based on this provision. Government Regulation Number 71 of 2019 regulates the responsibility of electronic system operators in protecting the confidentiality, integrity, and availability of personal data. This data leak shows a potential violation of the regulation. Although at the time of this incident, the PDP Bill had not yet been passed, this incident is one of the strong reasons for the government and the House of Representatives to accelerate the passage of this bill. The PDP Bill is expected to provide stronger legal protection and tougher sanctions for companies that are negligent in protecting personal data.

Misuse of consumer data, criminals who deliberately access or use personal data without consumer permission or violations of the provisions governing the use of data can be criminally charged.⁹ Actions that violate consumer data privacy in e-commerce may be subject to sanctions that are appropriate to the level of harm caused by the breach.¹⁰ For example, criminal law sanctions can be applied against hackers who steal consumers' personal data with the aim of defrauding or harming. Strict penalty arrangements can provide incentives for e-commerce businesses to strengthen their data security systems and implement better practices in consumer data management.

The principle of justice in criminal law theory emphasizes the need for a fair and proportionate distribution of punishment to criminals. In the context of consumer data protection, this principle encourages that the penalties given to data breaches not only take into account the interests of affected individuals, but also reflect social justice more broadly. The principle of retribution emphasizes that criminals must get the punishment they deserve in return for their criminal acts. In the context of misuse of consumer data in e-commerce, the application of appropriate penalties can ensure that the perpetrator of the crime is held accountable for his actions that harm consumer privacy and security.¹¹

⁹ Handayani, Fajar Nugroho. *Penggunaan Klausula Baku Yang Dilarang Menurut Hukum Perlindungan Konsumen*. Uwais Inspirasi Indonesia, 2020.

¹⁰ Fithri, B. S., Munthe, R., & Lubis, A. A. (2021). Asas Ultimum Remedium/The Last Resort Principle Terhadap Pelaku Usaha dalam Hukum Perlindungan Konsumen. *Doktrina: Journal of Law*, 4(1), 68–83.

¹¹ Amisah, A., Yahuli, R., Oktavia, V., & Neltje, J. (2023). Tinjauan Yuridis Sistem Hukum Perlindungan Konsumen Di Indonesia Terhadap Korban Penipuan Tiket Konser. *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial*, 10(5), 2706–2711.

Misuse of consumer data can result in a loss of public trust in digital systems and e-commerce, which can ultimately affect social and economic interactions at large.¹² It can also lead to the marginalization of individuals whose data is misused, especially if the data is used for discrimination or exploitation. Economically, misuse of consumer data can result in financial losses for both individuals and companies. Consumers can experience identity theft or fraud, while companies can lose their reputation and experience a decline in customer trust. The misuse of consumer data is not only a legal issue but also a profound ethical and philosophical issue. It involves violations of human rights, ethics of belief, social responsibility, and the principles of justice.¹³ The philosophical approach emphasizes the importance of respecting individual privacy, maintaining trust in society, and ensuring fairness and well-being for all parties involved in the digital ecosystem.

This provision is created with the aim of distinguishing between the processing of personal data carried out by individuals in a personal capacity and the processing of data carried out by organizations or entities that have greater responsibility for the protection of personal data. The Supreme Court in decision Number 108/PUU-XX/2022 rejected the application, arguing that Article 2 paragraph (2) had been designed in accordance with the basic principles of personal data protection and reasonable limitations in its application. Exceptions for personal or household activities aim to maintain a balance between the protection of personal data and the freedom of individuals in their personal lives. The processing of data in a personal or household context generally does not pose the same risks as processing by an organization or commercial entity. Implementing strict rules for all forms of processing personal data, including those carried out in personal or household contexts, may be considered disproportionate and interfere with the privacy of individuals in their daily lives. Although there are exceptions in personal or household contexts, the basic principles of data security and confidentiality must still be respected by individuals in their personal capacity. Other laws related to the misuse of personal data and privacy also remain in force.

An important implication of the ruling that the processing of personal data in personal or household contexts is excluded from the scope of Law 27/2022, provides legal clarity for individuals regarding data protection limitations. Providing legal certainty that personal or household activities will not be burdened with strict regulation, allowing individuals to live their personal lives without excessive legal intervention.¹⁴ Recognize the importance of personal data protection that is balanced with individual freedom in the personal sphere, as well as avoid over-

¹² Mewu, M. Y. S., & Mahadewi, K. J. (2023). Perlindungan Konsumen Dalam Pembelian Produk Online: Analisis Perspektif Hukum Perlindungan Konsumen di Indonesia. *Jurnal Kewarganegaraan*, 7(1), 441–450.

¹³ Muhtadi, A. (2023). Analisis Efektivitas Peraturan Daerah dalam Mewujudkan Hak Asasi Manusia di Provinsi Jawa Barat. *Jurnal Hukum Dan HAM Wara Sains*, 2(06), 501–508.

¹⁴ Tumanggor, D. B., Saidin, O. K., Leviza, J., & Sukarja, D. (2022). Kepastian Hukum Perlindungan Merek Dagang Terkenal Dalam Persaingan Industri Consumer Goods (Study Kasus Gudang Garam VS Gudang Baru). *Engineering and Technology International Journal*, 4(03), 185–193.

regulation that can hinder personal freedom. While there are exceptions, this ruling reminds us of the importance of individual awareness of the privacy and security of personal data, even in personal or household contexts

CONCLUSION

The protection of consumer personal data in e-commerce transactions in Indonesia is regulated through several important regulations, including Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE), Law Number 27 of 2022 concerning Personal Data Protection (PDP Law), and Regulation of the Minister of Communication and Information Technology Number 20 of 2016 concerning Personal Data Protection in Electronic Systems. This regulation provides a legal framework that regulates the responsibilities of business actors in collecting, processing, storing, and securing consumer personal data to ensure the protection of consumer rights in the context of civil legal relationships. Cases of misuse of personal data in e-commerce have prompted greater awareness of the importance of consumer data protection, thus emphasizing the need for better compliance from business actors. Several court decisions show concrete steps in enforcing consumer rights in the realm of civil law, although on the other hand challenges in the implementation of regulations and compliance are still obstacles. More comprehensive efforts are needed to ensure that consumer rights are effectively protected, including stricter oversight of e-commerce operators.

REFERENCES

Journal

- Amisah, A., Yahuli, R., Oktavia, V., & Neltje, J. (2023). Tinjauan Yuridis Sistem Hukum Perlindungan Konsumen Di Indonesia Terhadap Korban Penipuan Tiket Konser. *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial*, 10(5), 2706–2711.
- Anugerah, F., & Tantimin, T. (2022). Pencurian Data Pribadi di Internet dalam Perspektif Kriminologi. *Jurnal Komunikasi Hukum (JKH)*, 8(1), 419–435.
- Fithri, B. S., Munthe, R., & Lubis, A. A. (2021). Asas Ultimum Remedium/The Last Resort Principle Terhadap Pelaku Usaha dalam Hukum Perlindungan Konsumen. *Doktrina: Journal of Law*, 4(1), 68–83.
- Handayani, Fajar Nugroho. *Penggunaan Klausula Baku Yang Dilarang Menurut Hukum Perlindungan Konsumen*. Uwais Inspirasi Indonesia, 2020.
- Mewu, M. Y. S., & Mahadewi, K. J. (2023). Perlindungan Konsumen Dalam Pembelian Produk Online: Analisis Perspektif Hukum Perlindungan Konsumen di Indonesia. *Jurnal Kewarganegaraan*, 7(1), 441–450
- Muhtadi, A. (2023). Analisis Efektivitas Peraturan Daerah dalam Mewujudkan Hak Asasi Manusia di Provinsi Jawa Barat. *Jurnal Hukum Dan HAM Wara Sains*, 2(06), 501–508.
- Najwan, G. A., & Sudarwanto, A. S. (2024). Perlindungan Hukum terhadap Data Pribadi Peminjam yang Disalahgunakan oleh Layanan Pinjaman Online Ilegal. *Jurnal Pendidikan Tambusai*, 8(2), 17115–17132.

- Prayuti, Y. (2024). Dinamika Perlindungan Hukum Konsumen di Era Digital: Analisis Hukum Terhadap Praktik E-Commerce dan Perlindungan Data Konsumen di Indonesia. *Jurnal Interpretasi Hukum*, 5(1), 903–913.
- Putri, Y. E., Ginting, E., Nisya, C., & Febriyanti, S. (2023). Kesadaraan Keamanan Informasi Data Pribadi Terhadap Pengguna Media Sosial. *Unes Journal of Information System*, 8(1), 1–8.
- Rahman, I., Mayasari, R. E., & Nurapriyanti, T. (2023). Hukum Perlindungan Konsumen di Era E-Commerce: Menavigasi Tantangan Perlindungan Konsumen dalam Lingkungan Perdagangan Digital. *Jurnal Hukum Dan HAM Wara Sains*, 2(08), 683–691.
- Sinaga, E. M. C., & Putri, M. C. (2020). Formulasi Legislasi Perlindungan Data Pribadi dalam Revolusi Industri 4.0. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 9(2), 237
- Toruan, R. L. (2024). Keamanan Dan Privasi Data Dalam Sistem Internet Of Things (Iot). *Tugas Mahasiswa Program Studi Informatika*, 1(2).
- Tumanggor, D. B., Saidin, O. K., Leviza, J., & Sukarja, D. (2022). Kepastian Hukum Perlindungan Merek Dagang Terkenal Dalam Persaingan Industri Consumer Goods (Study Kasus Gudang Garam VS Gudang Baru). *Engineering and Technology International Journal*, 4(03), 185–193.
- Zulkifli, S. E., Al Asy Ari Adnan Hakim, S. E., Ramadhaniyati, R., Wau, L., Ali, I. H., Dhiana

Laws and Regulations:

1. The Constitution of the Republic of Indonesia in 1945;
2. Law Number 27 of 2022 on Personal Data Protection
3. Law Number 11 of 2008 concerning Information and Electronic Transactions
4. Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions
5. Law Number 8 of 1999 concerning Consumer Protection
6. Regulation of the Minister of Communication and Information Technology Number 20 of 2016 concerning the protection of personal data in electronic systems
7. Criminal Procedure Code (KUHAP)