

Legal Protection of Business Actors from Payment Cancellation by E-Commerce Consumers Using a Cash-On-Delivery System

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ABSTRACT

The purpose of this research is to describe the factors that cause business actors to be disadvantaged due to the COD system and protection for business actors against unilateral cancellation in the COD payment system. This research is a type of normative legal research that is descriptive in nature with a qualitative approach. The type of data used is secondary data. Secondary data is obtained from library materials that are relevant to the problems studied. The data sources used are secondary data sources obtained from primary, secondary and tertiary legal materials. The data collection technique used is the study of documents or library materials.

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1. INTRODUCTION

E-commerce refers to trade over an online platform that is governed by Law Number 11 of 2008 on Electronic Transactions and Information. When using an online platform, buying and selling operations can save more money, time, and effort than when done manually. The way physical and internet businesses operate is mostly the same; the media that is used varies. While offline buying and selling takes place in locations like marketplaces, malls, and other establishments, online buying and selling only requires applications that are

synchronized on Android. Due to advancements in communication and information technology, a growing number of businesses in the trade sector are now offering online purchasing and selling services. These businesses do this by developing a website or application that offers a variety of marketplace options for conducting online purchases and sales.¹

As the area of information and communication technology continues to innovate, a growing number of businesses in the trade sector are offering online buying and selling through the creation of marketplace websites or applications. The public has a

¹ Sanjaya, U. H., & Arabella, R. (2023). Legal Protection of Consumer Data on E-Commerce Platforms with Cash on Delivery (COD) Systems. *KnE Social Sciences*, 723-730

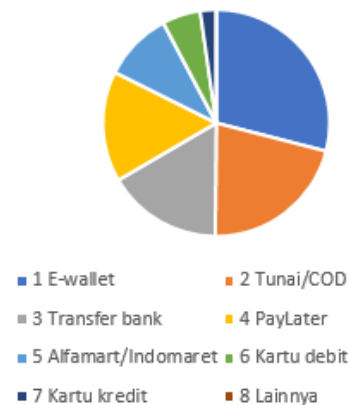
wide range of options for conducting online buying and selling transactions because to the several marketplaces that are available. Article 19 of the Electronic Information and Transactions Act regulates electronic trade in e-commerce and stipulates that parties engaging in electronic transactions shall utilize a mutually agreed-upon electronic system.

In Indonesia itself, there are several e-commerce companies that will be popular in 2023. such as Tokopedia, Bukalapak, Lazada, Shopee, and others. One of the businesses engaged in the trade sector that uses e-commerce to conduct its purchasing and selling activities is Shopee. The customer can report items that are not acceptable or arrive in poor condition to Shopee, and Shopee will withhold payment from the seller until the buyer and seller have resolved their issues, which makes the Shoopee application highly dependable. That way the possibility for sellers to cheat becomes very minimal. In this application, the seller will explain the details of the product in the product details column, including what the basic ingredients are, what colours are available, whether this product is original or not so that the buyer can find out clearly, moreover there is also a chat feature that connects the seller and the buyer so that if there is something unclear or wants to ask Pelmbelli, the buyer can ask the seller.

When the buyer has found the item he needs and intends to buy the item, he will be given options regarding what payment systems can be used. The payment system in shopee for buyers, namely: Bank Transfer, Credit Card, payment via Indomart, shopee, e wallet and by Cash on delivery (COD).

Kredivo with Katadata Insight Center (KIC) conducted a survey entitled Indonesian e-Commerce Consumer Behaviour Report 2023. In this report, trends in consumer payment behaviour in online shopping are shown.

Digital Payment Method E
commerce 2023



As a result, payment using e-wallets is the most chosen method, reaching 84.3% of respondents. The percentage increased rapidly in 2023 from the previous year's period (year-on-year/yoy) which obtained 60.9% in 2022. Cash on delivery (cod) is still widely used by respondents in the past year. Despite the variety of digital payments, 61.4% of respondents still choose this method. Meanwhile, bank transfer or virtual account is in third place as a digital payment method that is widely used by respondents, at 47.8%. Then PayLater followed with 45.9%. This digital payment method grew the fastest of any other payment method, increasing by 64.3% from the previous period (yoy) of only 28.2%. The popularity of PayLater compared to credit cards is an easier application that makes it easier for people to reach it.

From the results of previous research, the problems that arise in the use of COD as well as what happened to SiCepat Ekspres are cases of misuse of COD money by couriers. This is caused by insufficient incentives, the nominal amount of COD money, and less strict SOPs carried out by the company. Another example, the COD system raises new problems such as the rejection of payments made by consumers for goods that have been received and unwrapped on the grounds that the goods are not as ordered. One of these cases is viral on social media through the @bukuakik account in mid-2021. The account on Twitter uploaded a video of a mother's anger towards a COD delivery courier. The

video shows the anger of the ordered because the goods purchased are considered not in accordance with his order. In fact, the perpetrator even said inappropriate words to the courier.²

Even in a further context, there have been acts of violence in the form of beatings against couriers or delivery officers by consumers. At least the case of beating can be exemplified in the incident that occurred in Metro, Lampung. On Saturday (18/6/2022) a consumer and his colleague waited for the courier to receive the goods ordered with the COD system at RS Muhammadiyah Metro after the courier came twice to the customer's house and could not be found. That's when the courier was beaten.³

According to Law No. 8/1999 on Consumer Protection, consumer protection is more regulated than business protection. This is reasonable because the position of consumers is lower than that of businesses. In fact, e-commerce can place business actors as consumers who are harmed by the final consumer. Not a few business actors have suffered losses caused by consumers who do not have good faith in online selling transactions. The non-fulfillment of the business actor's right to receive payment in accordance with the agreement makes the business actor suffer losses and the business actor must bear the risk of cancellation through COD⁴. Lack of legal rules that favour business actors, especially in the COD payment system. The purpose of this research is to describe the factors that cause business actors to be disadvantaged due to the COD system and protection for business actors against unilateral cancellation in the COD payment system.

² DetikInet, Tim. 2021. "Viral Emak-Emak Ngamuk Ke Kurir Karena Barang Tak Sesuai," June 16, 2021. <https://inet.detik.com/cyberlife/d-5570941/viral-emak-emak-ngamuk-ke-kurir-karena-barang-tak-sesuai>, diakses pada 19 Oktober 2023 pukul 11.15 WIB.

³ Elsa Catriana. 2022. "Kurir Shopee Dipukuli Saat Kirim Barang, YLKI Sarankan Sistem COD Dihapus." *Kompas.Com*, June 21, 2022. <https://money.kompas.com/read/2022/06/21/190211726/kurir-shopee-dipukuli-saat-kirim-barang-ylki-sarankan-sistem-cod-dihapus?page=all>, diakses pada 19 Oktober 2023 pukul 11.15 WIB.

2. LITERATURE REVIEW

Indonesia as a State of law guarantees the recognition and protection of fundamental rights for all its people, including in conducting a transaction either conventionally or online. both conventional and online. Government Indonesia issued Law Number 8 Year 1999 on Consumer Protection to protect consumers who are often harmed consumers who are often harmed. Considering the weaker overall position of consumers in relation to the greater overall position of corporate players in numerous areas. In this instance, the business actors' unilaterally established regulations must be adhered to by the customer as persons in need of their goods and/or services. However, losses in online transactions are not limited to those suffered by customers. At the moment, business actors frequently suffer losses as a result of customer behavior.

2.1 Legal Protection

Legal protection is defined as a safeguard provided to the subject of law by written and unwritten legal instruments that are both repressive and preventative. both written and unwritten, repressive and preventive. Put differently, legal protection is a definition of the role that the law plays, especially the idea that the law can bring about justice, certainty, order, expediency, and peace.

Satjito Rahardjo defines legal protection as an endeavor to safeguard an individual's interests through the assignment of a right. allocate a human right in order to safeguard an individual's interests. Human Rights gives him the authority to act in his own best interests⁵. Legal protection,

[sistem-cod-dihapus?page=all](https://inet.detik.com/cyberlife/d-5570941/viral-emak-emak-ngamuk-ke-kurir-karena-barang-tak-sesuai), diakses pada 19 Oktober 2023 pukul 11.15 WIB.

⁴ Purwandari, B., Suriazdin, S. A., Hidayanto, A. N., Setiawan, S., Phusavat, K., & Maulida, M. *Factors affecting switching intention from cash on delivery to e-payment services in C2C E-commerce transactions: COVID-19, transaction, and technology perspectives*. *Emerging Science Journal*, 6(Special Issue), 136-150, 2022.

⁵ Satjipro Rahardjo, *Sisi-Sisi Lain dari Hukum di Indonesia*, (Jakarta: Kompas, 2003),h. 121

according to Setiono, is an endeavor to safeguard the populace against capricious actions by the state that violate the rule of law, to establish order and peace and achieve order and tranquility so that people can enjoy their dignity as human beings, and to create order and peace.⁶

Muchsin defines legal protection as an endeavor to safeguard people by balancing the link between norms or values that manifest in behaviors and attitudes in order to establish order. manifest in behaviors and attitudes that bring about order amongst people in the relationship of life amongst people⁷. According to Hetty Hasanah, legal protection entails taking all necessary steps to provide legal certainty in order to give the parties involved legal protection. legal defense to those who file a lawsuit or who are involved.⁸

2.2 Business Actor

The definition of a business actor in the Consumer Protection Law is very broad, because the definition is not limited to manufacturers only, but also distributors (and their networks), as well as importers. The definition of a business actor is stated in Article 1:3 of Law No. IX. No. 8/1999 on the protection of or users which explains that "the actor or person doing business is an individual or group of business entities in the form of a legal entity or those that are not including legal entities that are established or located and carry out a certain activity in the region of certain activities in the legal territory of the Republic of Indonesia, either alone or jointly through agreements organising business activities in various fields of economy."⁹

There are a number of forms of entrepreneurs including:

- a. Individual, is a person or individual who conducts a business without involving other people or alone.
- b. by not involving other people or alone.

As for the business field, it is a collection of a number of people who do a business. In this case, business entities can be grouped into two groups or two categories including:

- a. Legal entities, such as Limited Liability Companies (PT)
- b. those that do not include legal entities, such as firms or a number of people who carry out business activities in an incidental manner. For example, during a flood and many cars are stuck or broken down, then there are a number or group of people who offer services to help the vehicle with a number of rewards that have been determined by the nominal or type of goods.

The business entity must fulfil one of the following criteria:

- a. Established and domiciled in the jurisdiction of the Republic of Indonesia.
- b. Conducting activities in the jurisdiction of the Republic of Indonesia

3. METHODS

This study is an example of normative legal research using a qualitative, descriptive methodology. Secondary data is the kind of data that is used. Library resources pertinent to the issues under study are a source of secondary data. Secondary data sources from primary, secondary, and tertiary legal publications were employed as the data sources. Examining papers or library resources is the method utilized to acquire data.

⁶ Setiono. *Rule Of Law (Supremasi Hukum)*, Tesis Magister Ilmu Hukum Pasca Sarjana Univeristas Sebelas Maret, 2004.

⁷ Muchsin, *Perlindungan dan Kepastian Hukum bagi Investor di Indonesia*, Magister Ilmu Hukum Program Pascasarjana Universitas Sebelas Maret, Surakarta, 2003.

⁸ Hasanah, H. *Perlindungan Konsumen dalam Perjanjian Pembiayaan Konsumen atas Kendaraan Bermotor dengan Fidusia*. Jurnal Unikom, 3(2), 2015.

⁹ Gurning, R., *Implikasi Regulasi Jaminan Produk Halal Terhadap Pelaku Usaha Berdasarkan Undang-Undang Cipta Kerja (UU NO 11 TAHUN 2020)*, 2022.

4. RESULTS AND DISCUSSION

4.1. *Factors That Cause Business Actors to be Harmed in the Practice of Cash on delivery (COD) Payment*

One of the most important factors in the current rapid development of e-commerce is the usage of cashless payment methods in online buying and selling operations. The ability to make cash payments for online purchases and sales is an intriguing novelty in an age where digital and cashless payments are the norm. In the context of e-commerce, the idea of cash-on-delivery (COD) is becoming more and more popular as a payment option. With COD, the buyer may pay the seller directly with cash after the products have changed hands and are in the buyer's possession rather than having to wait for payment to be made before the goods are delivered.

COD is essentially an agreement of sale and purchase transaction that marks a pivotal point where payment for goods is made upon the buyer's receipt of the ordered goods. This method provides additional flexibility to buyers who may not have access or preference to make payments via bank transfer or ATM. With COD, consumers have the option to pay with cash or cash on receipt, which can be particularly useful in situations where they are more comfortable with in-person cash payments. Through COD, online buying and selling transactions become more inclusive, allowing different walks of life to participate in the e-commerce ecosystem without complicated payment barriers.

In the COD payment method, there are several factors that cause losses for business actors, among others:

- 1) The buyer is not at the delivery location, this causes the return of goods to the business actor because the package will be returned to the seller.
- 2) The buyer refuses to pay without clear reasons if the buyer refuses to pay for the goods ordered and received, it can be classified as a default. Against the buyer's behavior, the seller can claim

compensation as contained in articles 1266, 1267, and 1517 of the civil code.

- 3) The buyer does not have the money to pay for the cod package when the goods arrive at the buyer's hands, sometimes the buyer does not have the money to pay for the cod order. The buyer should make sure he has enough money to pay for the order so as not to harm the business actor and also the courier.

Article 2 paragraph 5 letter b of Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions explains the rights of the marketplace as an electronic organiser, namely:

- 1) The market place organiser has the authority to operate a platform to support the offering or trading of goods/services offered by the seller.
- 2) Marketplace organisers have the right to operate services in the form of financial transactions.
- 3) The marketplace organiser has the right to manage or operate related mechanisms that connect communication between buyers and sellers.
- 4) the marketplace organiser has the right to manage user personal data properly and not violate the law.

With the rights of the marketplace, there are also obligations of the marketplace. This is stated in Government Regulation 71 of 2019, and Minister of Communication and Information Regulation Number 5 of 2020 concerning Electronic System Operators in the Private Sector. The obligations stipulated in this regulation consist of important points:

- 1) Report to the authorized body
- 2) manage, run, and operate electronic systems and/or transactions in accordance with the procedures stipulated in government Regulation 71 of 2019
- 3) Protect the personal data of marketplace users
- 4) conduct a feasibility study of the electronic system used

The marketplace has the responsibility to ensure that the goods sent by the seller match the description and photos displayed. In COD transactions, if the goods received by the buyer are not as ordered, the buyer can return the goods via courier and submit a complaint to the seller so that it can be followed up. the marketplace must monitor the return of these goods so that the problem can be resolved.

Law no. 8 of 1999 concerning consumer protection explains the obligations of consumers where consumers must fulfil these obligations in good faith, pay in accordance with the agreement. To suppress problems that arise, education is held on the marketplace and consumers regarding the terms and conditions that apply COD. For consumers, it is necessary to apply good faith in utilising trade through electronic systems (PMSE) because the COD takes place is an agreement to purchase goods between consumers and business actors in accordance with Article 49 paragraph 1 of Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions which states "that electronic transactions occur when the parties reach an agreement".

4.2. Legal Protection for Business Actors Against Payment Cancellation by E-commerce Consumers with Cash on delivery (COD) System

Electronic buying and selling transactions are effective activities, but they also carry the risk of actions that are detrimental to the parties involved. Therefore, it is necessary to conduct supervision and guidance from the government on ecommerce. The government has the authority and obligation to provide juridical sanctions against business actors who do not comply with applicable regulations, as well as consumers or buyers who make defaults in online buying and selling transactions.

Article 3 of Government Regulation No. 80/2019 on e-commerce stipulates 7 principles that must be considered by the parties in conducting e-commerce, namely good faith, prudence, transparency, trust, accountability, balance, and fairness and health.

Article 45 of Government Regulation No. 71/2019 on the Implementation of Electronic Systems and Transactions states that electronic transactions carried out by the parties in the implementation must pay attention to good faith, the principles of prudence, transparency, accountability and fairness.

The legal requirements for electronic contracts are regulated in Article 46 of Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions. The implementation of online buying and selling transactions often causes violations from the parties which result in losses for business actors and consumers. Therefore, legal protection is needed so that the rights that are violated can be protected in terms of business actors, consumers, and other communities.¹⁰

In online transactions with the cash-on-delivery payment method at the marketplace, often consumers or buyers are not responsible for the orders they have ordered. This is due to the absence of rules that clearly regulate the COD payment mechanism. According to Article 1460 of the Civil Code, the goods sold have become the responsibility of the buyer since the agreement or purchase even though the delivery has not yet been made, so the seller has the right to demand costs for the goods¹¹. Article 1243 of the Civil Code states that the buyer is obliged to provide reimbursement of costs.

The Consumer Protection Law, namely Law Number 8 of 1999, regulates consumer obligations such as reading instructions for use, having good faith in transactions, paying

¹⁰ Salsabila, S. *Prospek Pelarangan Cash On Delivery (COD) Sebagai Sistem Pembayaran Dalam Perdagangan Secara Elektronik*. JISIP (Jurnal Ilmu Sosial dan Pendidikan), 7(2), 2023.

¹¹ Endeshaw, Assafa. *Hukum E-Commerce dan Internet Dengan Fokus di Asia Pasifik*. Yogyakarta: Pustaka Pelajar, 2007.

according to agreement, and following dispute resolution. However, the rules governing business actors tend to be minimal, creating an imbalance between consumers and business actors. Law Number 8 of 1999, Article 6, provides protection to business actors, such as: 1) The right to receive payment in accordance with the agreement according to the conditions and exchange value of the goods and/or services traded 2) The right to obtain legal protection from consumer actions with bad intentions. 3) The right to obtain legal protection from consumer actions with bad intentions 4) The right to rehabilitate a good name if it is legally proven that the consumer's loss was not caused by the goods or services being traded.

In the relationship between business actors and consumers, there are rules that regulate the rights and obligations of business actors and consumers. Which regulates the rights and obligations of the parties. Article 6 letter A states that states that business actors has the right to obtain good faith from the customer when using the COD payment method. COD payment method. However, if the buyer does not act in good faith, the seller may return the goods through a courier and refer the matter to the marketplace who will take further action. In addition, business actors also have obligations, such as acting in good faith in their business, providing good provide information that is true and honest information about about the product, conduct fair and fair consumer fair, and have ensure the quality of goods and services is up to standard¹². They must also provide the opportunity to test the products and provide compensation if the products are not in accordance with the agreement. This is regulated in Article 7 of Law No. 8/1999.

Consumers who do not fulfil the payment agreement have violated the right of businesses to receive payment according to the agreement, as stipulated in Article 6 of the Consumer Protection Law Number 8 Year 1999. Article 5 of the same law also stipulates

as a good faith consumer in the transaction and payment in accordance with the agreement.

The consumer protection laws have the same content in protecting the legal rights of business actors and consumers. The Indonesian government has taken a step by issuing Law No. 11/2008 on Electronic Information and Transactions (ITE Law) and

The case of unilateral cancellation by consumers, especially in COD transactions on online platforms, shows the need for changes to consumer laws to protect businesses that aim to prevent a legal vacuum from arbitrary actions by consumers that harm sellers both materially and immaterially.

For the seller who feels aggrieved by the consumer who violate agreement in an online transaction, there are legal remedies that can be pursued according to in accordance with Law No. 11/2008 on Information and Electronic Transactions, namely electronic through arbitration or alternative settlement agencies. Law Number 11 Year 2008 on Information and Electronic Transaction Electronic also recognises evidence of electronic evidence as valid in court proceedings.

5. CONCLUSION

In the cash on delivery payment method, there are problems, among others, when the buyer is not at home when the courier has delivered the goods to the buyer, conditions like this result in the goods having to be returned to the seller. Another problem is that buyers refuse to pay without clear reasons or default. Basically, the seller can demand compensation or cancel the transaction in accordance with Articles 1266, 1267 and 1517 of the Civil Code. The third problem is that buyers do not have sufficient funds to pay for COD orders when the goods arrive in their hands. Therefore, when buyers agree to buy goods with COD, it is important for them to ensure that consumers have sufficient funds to pay for orders so as not to

¹² Saragih, A. E., & Bagaskara, M. F., *Perlindungan Hukum Terhadap Konsumen Dalam Transaksi E-*

Commerce. *Civilia: Jurnal Kajian Hukum dan Pendidikan Kewarganegaraan*, 2(2), 145-155, 2023.

harm the seller and the courier who delivers them during online transactions via COD payments. The legal protection that currently exists is less than optimal in protecting business actors. Business actors need more

detailed and specific legal protection in online transactions, especially in COD payment mechanisms so that sellers' rights are also protected.

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Act:

Undang-Undang Dasar 1945

Kitab Undang-Undang Hukum Perdata

Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen

Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik

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Undang-Undang Nomor 19 Tahun 2016 Tentang Informasi Dan Transaksi Elektronik

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