

Responsibility of Businesses With The Dropship System Reviewing From The Perspective of Law Number 8 of 1999 Concerning Consumer Protection

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ABSTRACT

Information technology has developed rapidly and affects several aspects of human life, including buying and selling transactions. Online transactions allow sellers and buyers not to meet in person. The development emerged a new buying and selling system called dropship. Even in the trade law, buying and selling online is a concern. About selling IDX online has been explained in Law no. 7 of 2014 concerning Trade (Trade Law) and Law no. 8 of 1999 concerning Consumer Protection (Consumer Protection Law) is a reference for every business actor in conducting trade transactions, both conventional trading and trading through online or e-commerce. The purpose of this study is to describe how the views or interpretations of Law No. 8 of 1999 relating to the responsibilities of business actors who use the drop shipper system. The research method is library research. The results of this study are the positive law of dropshipping buying and selling law is permissible and the validity and terms of the agreement can be based on Law Number 11 of 2008 concerning Information and Electronic Transactions and Law Number 8 of 1999 concerning Consumer Protection where startups, especially Tokopedia, remain responsible answer in accordance with the provisions of law no. 8 of 2011.

Keyword: *the responsibility of businesses, dropship system, law number 8 of 1999*

ABSTRAK

Teknologi informasi telah berkembang pesat, dan mempengaruhi beberapa aspek dalam kehidupan manusia termasuk dalam transaksi jual beli. Transaksi online memungkinkan penjual dan pembeli tidak bertemu secara langsung. Perkembangannya muncul suatu sistem jual beli baru yang dinamakan dropship. Dalam UU perdagangan pun, jual beli online menjadi perhatian. Tentang jual beli online sudah di jelaskan dalam UU No. 7 Tahun 2014 Tentang Perdagangan (UU Perdagangan) dan UU No. 8 tahun 1999 tentang Perlindungan Konsumen (UU Perlindungan Konsumen) menjadi acuan bagi setiap pelaku usaha dalam melakukan transaksi perdagangan, baik perdagangan konvensional maupun perdagangan melalui online atau e-commerce. Tujuan dari penelitian ini adalah untuk menggambarkan bagaimana pandangan atau penafsiran UU No.8 Tahun 1999 berkaitan dengan tanggung jawab pelaku usaha yang menggunakan sistem drop shipper. Adapun metode penelitian ini merupakan library reaseach. Adapun hasil dari penelitian ini adalah hukum positif hukum jual beli dropship adalah boleh dan keabsahan serta ketentuan perjanjiannya dapat disandarkan Undang-undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik dan Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen dimana startup khususnya tokopedia tetap bertanggung jawab sesuai dengan ketentuan undang-undang no 8 tahun 2011.

Keyword: *the responsibility of businesses, dropship system, law number 8 of 1999*

A. PENDAHULUAN

Humans are social creatures, in fulfilling their needs, it is undeniable that in their daily life they are always dependent on each other and always live together between groups. In meeting the needs of human life, it is impossible to separate from the activities of trading in goods and services. Trade occurs face-to-face or directly, namely between merchants (sellers) and buyers (buyers) at certain places such as shops, markets, exhibition venues, or at certain times according to the operating hours of the shop or place concerned (Yuli Kurniaty, 2015).

In Islam, we are not only taught about the relationship between humans and their God which is only in the form of worship but also regulates human relations with other humans called muamalah. Humans muamalah almost 80% within 24 hours. Islam is also a religion that is in accordance with human nature, giving burdens and obligations to its people according to their levels and abilities (Imam Mustofa, 2013).

The development of buying and selling in this modern era has brought many changes, such as utilizing the internet media so that the buying and selling process is easier and faster. By selling, promoting, and price competition only without being limited by distance, time, anytime and anywhere and with anyone.

Buying and selling or trading using internet media called electronic commerce (e-commerce) are now familiar in the business world in developing and developed countries, including Indonesia (Gemala Dewi, 2005). E-commerce is becoming more developed in terms of buying and selling transaction models, including the dropshipping sale and purchase transaction model or the affiliate online business model, in which dropshipping businesses market other people's products through online facilities via the internet. whether in the form of goods or services, these products are not their own products.

Buying and selling in the Dropshipping system have become a byword for online businessmen and is now a business model that new online businessmen are interested in with small capital even without any capital. Because dropship (online stores) never stock and provide a place to stock goods but only promote through online stores by posting photos and criteria for goods and prices. In this drop-ship model, goods are usually obtained from the collaboration with other companies or other stores in the form of online stores or physical stores that have real goods, called drop shippers.

B. TINJAUAN PUSTAKA

1. Responsibilities of Businesses

Definition of Business Actors according to Article 1 point (3) of Law Number 8 of 1999 concerning Consumer Protection (N.H.T Siahaan, 2005). The business actor is any person or individual or business entity, whether in the form of a legal entity or not a legal entity established and domiciled or entering into business activities agreements in various economic fields within the jurisdiction of the Republic of Indonesia.

In the State of Indonesia, all actors must have the same rights and are regulated in Law Article 6 Number 8 of 1999 concerning Consumer Protection, which regulates the rights of business actors, namely:

- a. Right to receive payment
- b. Right to legal protection
- c. Right to self-defense
- d. Right to rehabilitate reputation if it is legally proven that consumer losses are not caused by goods and/or services being traded
- e. Rights regulated in the provisions of other laws and regulations.

Prior to obtaining rights, business actors are required to carry out their obligations as business actors, among others: as regulated in Article 7 of Law Number 8 of 1999 concerning Consumer Protection:

- a. a have good intentions in carrying out their business activities;
- b. Provide correct, clear, and honest information regarding the condition and guarantee of goods and/or services as well as provide an explanation of the use, repair, and maintenance;
- c. Treat or serve consumers correctly and honestly and non-discriminatory;
- d. Guarantee the quality of goods and/or services produced and/or traded based on the provisions of the applicable quality standards of goods and/or services;
- e. Provide opportunities for consumers to test and/or try certain goods and/or services and provide guarantees and/or guarantees for goods manufactured and/or traded;
- f. Provide compensation, compensation, and/or replacement of the goods and/or services received or used by consumers that are not in accordance with the agreement.

In the UUPK it appears that good faith is more emphasized on business actors because it covers all stages in carrying out their business activities so that it can be interpreted that the obligation of business actors to have good intentions starts from the time the goods are

designed / produced until the sale stage, on the other hand consumers are only required to have good intentions in carrying out their duties. transactions for the purchase of goods and/or services.

Business actors also have responsibilities that must be borne so that consumers will experience true happiness. Responsibility in English is translated from the word "responsibility" or "liability", while in Dutch, it is "verientwoedelijk" or "aansparrkelijheid". Responsibility is the obligation to bear, the obligation to bear the burden, the obligation to fulfill all the consequences arising from actions, willingness to serve, and willingness to sacrifice for the benefit of other parties.

Product liability is a legal responsibility from a person or legal entity that produces a product (manufacturer producer) or from a person or entity engaged in a process to produce a product (processor assembler) or from a person or entity that sells or distributes (seller, distributor) of these products and actions that do not violate the rights and interests of consumers, cause harm, or disrupt consumer health.

Responsibilities that must be borne for a business actor include Liability Based on Negligence, Responsibility for Achievement, and Absolute Responsibility. Business actors should not only seek profit but must manage risk and be able to overcome everything, including assuming the three responsibilities that are directly related to consumers.

2. Dropshipping

Dropshipping is a marketing technique in which the seller does not keep stock of goods and if the seller gets an order, the seller immediately forwards the order and details of delivery of the goods to the distributor, supplier, or manufacturer, then the distributor, supplier, or manufacturer will send the goods directly to the buyer under the named seller direct delivery (Tira Nur Fitria, 2017).

The parties involved in the dropshipping buying and selling activities above are related to each other from the beginning of the bidding process until the receipt of the advertised goods. This buying and selling activity is carried out with the stages of offering goods by drop shippers until the goods are received by consumers.

Based on this scheme, the legal relationship that arises between the dropshipper and the supplier is a cooperation agreement. The legal relationship between the dropshipper and the consumer is a sale and purchase agreement in which the drop shipper acts as an intermediary for buying and selling, and the legal relationship between the supplier and the consumer is a sale and purchase agreement in which the supplier is the main seller.

Of course, this drop shipper scheme is very interesting, especially in the current digital era, where everything wants to be fast and instant so it has its own advantages, including the advantages of this drop shipper, namely:

- a. Does not require large capital or investment. It is enough to only have social media and credit to promote and establish communication with potential buyers.
- b. Does not require a storage room for inventory.
- c. There is no stock of goods in sales, only promoting, then when there is a drop shipper buyer will contact the supplier, then the supplier will send the product to the buyer's address with the sender's data our name/drop shipper. All processes are the responsibility of the supplier.
- d. Do not have to have a high level of education. Anyone can follow or engage in this dropshipping business because it does not require high educational requirements.
- e. Flexible (can make sales transactions anywhere). The online-based transaction flow makes it easier for dropshippers to carry out this business activity anywhere, anytime flexibly.
- f. Very easy to run by everyone
- g. Not related to the processing time (Ahmad Syafii, 2013).

From the above advantages, it shows that according to the author's assumption, being a drop shipper actually makes it easier for those of us who want to open a business with minimal capital so that they can lift the economy of each individual. However, of course, in terms of advantages, a concept has weaknesses that become a reference for getting better, including weaknesses according to the writer from the dropshipper, namely:

- a. Unable to control inventory
- b. Lack of certainty that the delivery of the goods sent to the buyer is appropriate or not.
- c. Expensive shipping cost
- d. Limited profits.

3. UU no. 8 of 1999 concerning Consumer Protection

Consumer protection is very important in Islamic law. Because Islam sees that consumer protection is not only a civil relationship, but involves the public interest at large, even concerning the relationship between humans and Allah SWT. So the protection of Muslim consumers based on Islamic law is a state obligation.

Understanding rights are legal interests that are protected by law, while interests are demands that are expected to be fulfilled. The formulations of the norms contained in it are still relatively abstract, therefore to ensure that the formulation of rights and obligations can be realized, we must link the rights and obligations that have been formulated with the various norms that support them.

As for Consumer Rights according to Law No. 8 of 1999 which is contained in article 4, namely:

- a. The right to comfort, security, and safety in consuming goods and/or services;
- b. The right to choose goods and/or services and to obtain said goods and/or services in accordance with the exchange rate and the promised conditions and guarantees;
- c. The right to correct, clear and honest information regarding the conditions and guarantees for goods and/or services;
- d. The right to have their opinions and complaints heard on the goods and/or services used;
- e. The right to obtain proper advocacy, protection, and efforts to resolve consumer protection disputes;
- f. The right to receive consumer guidance and education;
- g. The right to be treated or served correctly and honestly and not discriminatory;
- h. The right to obtain compensation, compensation and/or replacement, if the goods and/or services received are not in accordance with the agreement or not properly;
- i. Rights regulated in the provisions of other laws and regulations

The protection of consumers is highly exalted by the government under the umbrella of the Act. Because if there are no rights for consumers, business actors will act arbitrarily against consumers. Of course, before a consumer gets these rights, a consumer must exceed his obligations as stated in Law no. 8 of 1999 Article 5, namely:

- a. Read or follow information instructions and procedures for the use or utilization of goods and/or services, for the sake of security and safety;
- b. Good faith in making transactions to purchase goods and/or services;
- c. Pay according to the agreed exchange rate;
- d. Follow legal efforts to settle consumer protection disputes properly

Of course, in buying and selling activities involving all subjects, namely consumers and business actors where they relate to each other either via air or directly face to face, this activity can sometimes be a negative effect or in quotes detrimental to both consumers and business actors. This consumer protection law is intended to create a symbiotic

mutualism with each other for both business actors and consumers. In this case, apart from the existence of rules, there are also sanctions for those involved.

If advertising has the potential to cause harm to consumers, it must be considered the possibility of an opportunity to hold the parties involved in advertising activities accountable, especially violations of the provisions contained in the UUPK.

The provision of sanctions in violations is actually not intended to persecute or favor one party, instead, this sanction is given as a mediator or as a moderator in online and offline buying and selling activities.

C. METHODS

The approach in this research is a descriptive-interpretative qualitative approach. The type of research used is library research. The data obtained is a descriptive narrative regarding the draft law, especially examining regulations regarding consumer protection laws against online buying and selling and Islamic law.

As library research, the data collection technique used is documentation, by taking data from various relevant works of literature.

D. DISCUSSION RESULT

1. Responsibilities of Business Actor (Dropshipper) At Tokopedia Market Place

The more rampant buying and selling through internet media, in Indonesia itself there are also more and more online shops circulating on social media. In Indonesia, several marketplaces have been created whose function is to protect sellers and buyers. For example, Tokopedia is one of the Market Places that is quite attractive to its users, consisting of sellers and buyers. And Tokopedia services that can be used for free by everyone.

Tokopedia makes it easy for all Indonesians from Sabang to Merauke to get what they need. Apart from acting as the first marketplace to implement an escrow system or joint account in Indonesia, Tokopedia is also the first technology company in Indonesia to introduce instant transfers through partnerships with online transportation companies. This allows consumers to get goods quickly.

But here, the author will discuss about buying and selling dropships or buying and selling without having stock for dropshippers. Dropshippers only promote items that are sold with specific item descriptions. We will discuss sellers / dropshippers who are on Tokopedia, but are not registered as sellers, the seller / dropshipper is only registered as a

buyer but the system sells the goods, not through the Tokopedia marketplace, but promotes the goods through other social media. However, the goods sold are taken/ordered from Tokopedia.

Then, how about the drop shipper's responsibility to buyers in the Tokopedia marketplace? Well, as discussed in the previous chapter, about Tokopedia's responsibilities from some of the terms and conditions imposed on Tokopedia.

Some of the responsibilities that may occur and how the solutions from the Tokopedia marketplace include,

- a. Tokopedia has the right to help resolve problems between sellers and buyers.
- b. Tokopedia has the authority to make decisions on the matter by looking at the existing evidence and/or new evidence that must be completed by each party.
- c. Tokopedia is authorized to mediate and/or make decisions for problem-solving in the Resolution Center discussion, even though one of the parties (Buyer or Seller) has not responded to the solution provided by the Resolution Center within 1 x 24 hours, in the event that: (i) The existence of information from third parties related to the course of the transaction, namely, among others, delivery couriers who provide information regarding the current status of package delivery receipts; (ii) Evidence from Buyers and/or Sellers sent via other communication channels (Tokopedia email, User Services, etc.) that needs to be forwarded to the Resolution Center on the basis of transparency of the problem; (iii) Reports from either party due to the negligence of the Buyer or Seller; (iv) One of the parties (Buyer or Seller) is indicated to have committed fraud; or (v) certain conditions that cause Tokopedia to immediately mediate.
- d. Based on Tokopedia's first decision above, both Buyer and Seller have the right to appeal, with the condition that the party filing the appeal must submit new evidence apart from the previous evidence.
- e. Buyer and Seller hereby agree that Tokopedia's decision on appeal is a final decision that cannot be contested and binds Seller and Buyer to comply.
- f. Users understand that the Resolution Center does not apply to used underwear products, problems related to product taste, aroma, and/or texture, and all products in the list of types of goods that are prohibited from being traded on Tokopedia as listed on the Terms and Conditions page.
- g. Buyers and Sellers understand and agree that in solving problems at the Resolution Center, Buyers and Sellers are required to respond to existing obstacles to

completion by complying with the conditions and time limits as determined by Tokopedia in the relevant discussion.

Well, a drop shipper here is a seller who registers an account as a buyer at Tokopedia. The problem that occurs with the customer, regarding responsibility as a dropshipper can be submitted to the supplier through a request for assistance but with the conditions agreed upon in the supplier's shop. You can return goods or money if there is an error from the supplier, such as rejecting goods, not arriving, and goods not according to the order. This applies to the agreement of both parties, but Tokopedia is the bridge to find a solution.

1. Dropshipping Sales and Purchase Practices From the Perspective of Law no. 8 of 1999 concerning Consumer Protection Law

The birth of a sale and purchase contract is if there is an agreement in an agreement between two or more parties to do and or not to do certain legal acts. In this case, a dropship sale and purchase contract can occur if there is an agreement between the first party, namely the supplier, and the second party, namely the drop shipper. Until now, there are no regulations that directly regulate the sale and purchase of dropships. However, the validity of this transaction can be seen from several provisions of the agreement contained in the Civil Code/BW and Law Number 8 of 1999 concerning Consumer Protection. Dropshipping is inseparable from the basic concept of buying and selling as stated in Article 1457 of the Civil Code which explains that buying and selling is an agreement, with one party, bind himself to surrender an object, and the other party to pay the price that has been promised.

Dropshipping is not much different from the conventional buying and selling process. In conventional buying and selling, buyers and sellers meet and meet face to face directly and in dropship selling, sellers and buyers do not meet in person but are done online.

The similarity between conventional buying and selling and dropshipping makes the concept of agreement in the Civil Code also applicable to dropshipping. However, it is also necessary to refer to the provisions of electronic transactions as regulated in Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE).

The provisions contained in this law can be used as an indication of the validity of buying and selling online. Article 1 paragraph (2) of the ITE Law states that Electronic Transactions are legal acts carried out using computers, computer networks, and/or other electronic media.

Like any agreement in general, a dropship sale and purchase agreement can be reached if the legal conditions of an agreement have been met. The conditions for the

validity of an agreement are those stated in Article 1320 of the Civil Code, namely: agreeing those who bind themselves, the ability to make an agreement, a certain thing, and a lawful cause.

If the four conditions for the validity of the agreement as regulated in Article 1320 of the Civil Code are fulfilled in the dropship sale and purchase agreement, then there has been an agreement between them which creates a legal relationship that results in the emergence of rights and obligations for each party.

The existence of a contract or sale and purchase agreement including the sale and purchase of dropship is also inseparable from the principles that bind it, to reach an agreement in agreement, the parties must both have good faith and give freedom to determine what things are must be included in the agreement without coercion, because this agreement will apply as a law for the parties who agree to make it.

The principle of Pacta Sunt Servanda is one of the principles in the agreement. The principle of Pacta Sunt Servanda (the principle of the promise is binding) is that in an agreement the most important thing is the content, namely the attachment of the parties. Article 1313 of the Civil Code (KUH Perdata) states that an agreement is: an act by which 1 (one) person or more binds himself to 1 (one) other person or more (R Subekti dan R Tjitrosudibio, 2009).

After an order occurs in a dropship sale, then the buyer will be asked to transfer an amount of money equal to the price of the item and the cost of shipping the item to the dropshipper and the dropshipper will transfer it to the seller. If you have transferred this amount, the seller will send the goods to the buyer's address using the drop shipper's name as the sender.

As the researchers mentioned earlier, that in the dropship sale and purchase agreement creates a legal relationship between the parties, including the drop shipper and the consumer. As a result of the legal relationship between the dropshipper and the consumer, rights, and obligations arise between the parties concerned.

The obligations of the seller and the buyer are regulated in articles 1473 – 1518 of the Civil Code, namely:

a. Seller's Obligations

The seller's obligations in article 1474 of the Civil Code) are: to surrender ownership of the goods being traded and to bear the peaceful enjoyment of the goods and to bear the hidden defects.

b. Buyer's Obligations

The main obligation of the buyer is to pay the purchase price at the time and place as determined according to the agreement as regulated in Article 1513 of the Civil Code. If the time of making the agreement is not determined, the buyer must pay at the place and time at which the delivery is made (Article 1514 of the Civil Code). Law Number 8 of 1999 concerning Consumer Protection, hereinafter referred to as UUPK guarantees protection for consumers who are usually in a low bargaining position. consumer rights are regulated in article 4 UUPK.

Article 4 letter c of the UUPK explains that consumers are also entitled to obtain correct, clear, and honest information about the goods to be traded, especially in buying and selling transactions with the dropship system, consumers do not see the goods being sold directly so that the information is very meaningful to buyers.

Article 4 letter h of the UUPK explains that consumers have the right to get compensation, compensation, and/or replacement if the goods and/or services received are not in accordance with the agreement or not as they should be.

Article 19 paragraph (1) of Law Number 8 of 1999 concerning Consumer Protection states that "Business actors are responsible for providing compensation to consumers due to consumer goods and/or services produced or traded".

Looking at the substance of Article 19 paragraph (1), it can be seen that the responsibility of the drop shipper as a business actor includes: responsibility for compensation for damage, pollution, and consumer losses. The responsibility of business actors includes all losses experienced by consumers as regulated in Article 7 letter f of the UUPK states that business actors are obliged to provide compensation, compensation, and/or replacement of the goods and/or services received or utilized by consumers are not in accordance with the agreement.

E. KESIMPULAN

Dropshipping buying and selling at the Tokopedia Market Place is a sale and purchase that can be said to be safe, the responsibility of the business actor or drop shipper when a loss/error occurs, it can be reported to the supplier and then the Tokopedia party who provides a solution to resolve the problem between the parties. Meanwhile, according to positive law, the law of buying and selling dropship is permissible and the validity and provisions of the agreement can be based on Law Number 11 of 2008 concerning Information and Electronic Transactions and Law Number 8 of 1999 concerning Consumer Protection. Regarding dropship at Tokopedia, it is also clear with the conditions

set by the Tokopedia. Tokopedia is considered trustworthy in the process of responsibility, Tokopedia with the conditions it has set can also minimize losses experienced by both sellers and buyers.

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