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Australian & Indonesian Regulations: Preventive and Repressive Law Enforcement of Consumer Protection in Electronic Commerce

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Abstract

Preventive and repressive consumer protection law enforcement is implemented in Australia and Indonesia. Regulations related to legal protection for consumers in electronic transactions or e-commerce in Australia and Indonesia share significant similarities, with the same principled goal of providing legal protection. However, in Australia, this is regulated by the Australian Consumer Law (ACL), which is part of the Competition and Consumer Act 2010. In Indonesia, consumer protection is regulated by Law Number 8 of 1999 concerning Consumer Protection (UUPK), despite the differences in the legal systems of Australia and Indonesia. The purpose of this study is to analyze and examine the legal comparison between regulations related to legal protection for consumers in electronic transactions or e-commerce in Australia and Indonesia, focusing on the nature of preventive and repressive law enforcement. The research method used in this study is a normative legal research method using a comparative legal approach. The results of the study show that consumer protection laws in Australia and Indonesia, namely in Australia using a single national regulation that regulates consumer protection and business competition in an integrated manner, so that it is more efficient and coordinated, while in Indonesia the regulations are scattered across various regulations that often overlap with many regulations, causing weak effectiveness of supervision and implementation of consumer protection in the e-commerce sector. Furthermore, there are similarities, namely prohibiting misleading practices including fraud and guaranteeing consumer rights, as well as emphasizing that business actors are obliged to be responsible if there is a loss to consumers.

Keywords: Preventive, Repressive, Protection, Consumer, E-Commerce

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1. Introduction.

E-Comerce is generally used by people in urban areas. The density of each individual activities encourages everyone to do things in an instant way. One example the instant way is searching for items without wasting a lot time. This can be done because the impact of internet developments. The development of the internet in the business sector can be seen from the existence of various types of world wide web. That matter form a container as a means to carry out buying and selling transactions. E-Comerce is not only done through one website but also through various websites with various types. The existence of various forms of E-Comerce due to the differences in the forms feach type of E-Comerce itself.

The use of e-commerce is not limited to large companies, it also includes various businesses, including micro, small, and medium enterprises. The utilization of e-commerce benefits not only sellers but also facilitates consumers in purchasing goods. E-commerce represents a modern business model that operates non-face-to-face, without the direct or physical presence of business actors. (Anjani & Santoso, 2018) e-comerce differs from conventional trade in several ways. In e-commerce, the process begins with searching for information about the required goods, followed by placing an order, and concluding with the electronic payment process (Purwanto & Faizah, 2020).

The rapid advancement of technology has driven changes across various sectors. One of the sectors impacted by technological developments is the trade sector. The utilization of technology has provided convenience for people in carrying out daily activities, one of which is trading (Wulandari, 2018). Initially, trading only took place directly at specific locations, involving face-to-face interactions between sellers and buyers. However, with these developments, trading can now be conducted solely through electronic systems without any physical interaction between sellers and buyers, this also occurs in various countries in the world, including Australia and Indonesia, which also uses the e-commerce sector in carrying out buying and selling transactions by business actors and consumers.

According to A.Z. Nasution, consumer protection law is a part of consumer law that contains principles or norms that are regulatory in nature and aim to protect the interests of consumers (Fista, Machmud, & Suartini, 2023) Consumer law, on the other hand, is the law that regulates the relationships and issues between one party and another concerning consumer goods or services in everyday life. Regulations regarding electronic trade are aimed at enhancing human resource development and national economic growth. The main priority using the internet is trust and security. Everyone wants this to ensure certainly in the use of e-comerce. The existence of risks such as fraud, data theft, and non-conforming products are obstacle to the use of e-comerce. The relationship between trust and security also related to concumer protection in the use of e-comerce. Whit thus, it has implications for the sustainability of the use of e-comerce itself.

E-comerce is a trading that is different from conventional trading because it uses an electronic system. Through electronic systems, individuals are facilitated in purchasing goods via a platform without spending significant time. The presence of electronic systems in trade offers many advantages, making complex processes simpler and faster. E-comerce covers the scope of electronic commerce. In a broad sense, all trading activities use electronic media or the internet. The wide scope of E-comerce makes the scope of E-comerce very broad. Therefore, to explain the limitations of E-comerce, it can be seen from several things that are included in its scope (Kuspriatni, n.d.) The first thing that is covered is technology. Technology is the main thing that makes E-comerce possible. Without technology, E-comerce will never happen. The second scope of E-comerce is marketing and new ways of connecting with consumers. The third thing is the existence of electronic linkage. This encourages the existence of a relationship such as a relationship between two different groups such as buyers and consumers or consumers with other consumers, including Australia and Indonesia, which also uses the e-commerce sector in carrying out buying and selling transactions by business actors and consumers.

Preventive and repressive consumer protection law enforcement is implemented in Australia and Indonesia. Regulations related to legal protection for consumers in electronic transactions or e-commerce in Australia and Indonesia share significant similarities, with the same principled goal of providing legal protection. However, in Australia, this is regulated by the Australian Consumer Law (ACL), which is part of the Competition and Consumer Act 2010. In Indonesia, consumer protection is regulated by Law Number 8 of 1999 concerning Consumer Protection (UUPK), despite the differences in the legal systems of Australia and Indonesia. The purpose of this study is to analyze and examine the legal comparison between regulations related to legal protection for consumers in electronic transactions or e-commerce in Australia and Indonesia, focusing on the nature of preventive and repressive law enforcement.

2. Problem Formulation & Methode Research.

Based on the previously explained background of the problem, the research problem is formulated to analyze and examine comparative laws related to consumer protection law enforcement regulations in e-commerce transactions, both preventive and repressive, between Australia and Indonesia. The type of research used in this study is normative legal research and a comparative legal approach. Normative research includes a literature review that includes bibliographic materials related to the object of study (Rosidi, Zainuddin, & Arifiana, 2024). Preventive and repressive consumer protection law enforcement is implemented in Australia and Indonesia. Regulations related to legal protection for consumers in electronic transactions or e-commerce in Australia and Indonesia share significant similarities, with the same principled goal of providing legal protection. However, in Australia, this is regulated by the Australian Consumer Law (ACL), which is part of the Competition and Consumer Act 2010. In Indonesia, consumer protection is regulated by Law Number 8 of 1999 concerning Consumer Protection (UUPK), despite the differences in the legal systems of Australia and Indonesia.

3. Analysis and Discussion.

In Australia, regarding law enforcement in the context of consumer protection, the Australian Competition and Consumer Commission (ACCC) is an active consumer protection agency with a much broader scope of authority. The ACCC plays a role not only in resolving consumer disputes but also carries out supervisory, prevention, and enforcement functions to protect consumers from unfair or detrimental business practices. The ACCC's strength lies in its ability to act independently without having to wait for complaints or directives (Hay, 2021).

Australia operates an Anglo-Saxon (common law) legal system that places a significant role on legal precedent and court decisions in shaping legal norms. Australian Consumer Law (ACL), codified in the Competition and Consumer Act 2010 (CCA), serves as the primary legal framework for consumer protection in the country. The ACL regulates consumer guarantees, prohibitions on deceptive trade practices, and dispute resolution provisions (Government, 2025).

In Indonesia, consumer dispute resolution is carried out through the Consumer Dispute Resolution Agency (BPSK), a special institution established to handle disputes between consumers and businesses. However, BPSK has the characteristics of a passive institution, meaning that this institution can only act if there are complaints or requests from the public who feel disadvantaged in the context of consumer protection (Yuanitasari, 2019).

Legal protection for consumers in the e-commerce sector in Indonesia and Australia shares several significant similarities, despite being governed by different legal systems. In Indonesia, consumer protection is regulated by Law Number 8 of 1999 concerning Consumer Protection (UUPK), while in Australia, it is regulated by the Australian Consumer Law (ACL), which is part of the Competition and Consumer Act 2010. Both countries prohibit business practices that mislead or deceive consumers. Law Number 8 of 1999 concerning Consumer Protection (UUPK) expressly prohibits businesses from providing false or misleading information about goods or services, as stipulated in Articles 10 and 13 of Law Number 8 of 1999 concerning Consumer Protection (UUPK). In Australia, a similar prohibition prohibits businesses from providing false or misleading information about goods or services, as regulated by the Australian Competition and Consumer Commission (ACCC) regulations.

Article 10 of Law Number 8 of 1999 concerning Consumer Protection (UUPK) states that business actors offering goods and/or services intended for trading are prohibited from offering, promoting, advertising, or making false or misleading statements regarding: a. the price or rate of a good and/or service; b. the use of a good and/or service; c. the conditions, liabilities, guarantees, rights, or compensation for a good and/or service; d. offers of discounts or attractive prizes offered; e. the dangers of using the good and/or service.

Article 13 of Law Number 8 of 1999 concerning Consumer Protection (UUPK) states in paragraph (1): Business actors are prohibited from offering, promoting, or advertising goods and/or services by promising to provide gifts in the form of other goods and/or services free of charge with the intention of not providing them or providing them in a manner inconsistent with the promise. Article (2) states that business actors are prohibited from offering, promoting or advertising medicines, traditional medicines, food supplements, medical devices and health services by promising to give prizes in the form of goods and/or services by promising to give prizes in the form of other goods and/or services.

Australia offers a more coordinated and efficient consumer protection system, particularly through the consolidation of competition and consumer protection regulations into a single, unified law, the Competition and Consumer Act 2010. This system allows for faster and more transparent law enforcement, and provides legal certainty for consumers and businesses. While Indonesia already has regulations covering consumer protection, Australia can learn from its approach to strengthening consumer protection in the e-commerce sector, particularly in the e-commerce sector. Consumer protection law in Australia uses a single national regulation that regulates consumer protection and business competition in an integrated manner, so that it is more efficient and coordinated. Australia places more emphasis on strong and repressive law enforcement and institutional supervision.

Indonesia is a country based on law (Rumiartha, INPB 2022), the implementation of state activities must be based on law (Rumiartha, INPB, et al. 2022), including in this case the implementation of activities related to consumer protection. In Indonesia, there are numerous institutions or units related to consumer protection efforts, including the regulations that govern them. While this multiplicity of institutions is a strength in consumer protection, it also has the potential to create disharmony due to differing interests.

The National Consumer Protection Agency (BPKN) and the Consumer Dispute Resolution Agency (BPSK) are two separate institutions under the Consumer Protection Law. The National Consumer Protection Agency (BPKN) focuses on policy, research, and recommendations to the government, while the Consumer Dispute Resolution Agency (BPSK) focuses on resolving specific disputes between consumers and businesses through mediation, arbitration, or conciliation. The National Consumer Protection Agency (BPKN) reports to the President, while the Consumer Dispute Resolution Agency (BPSK) operates at the regional level. The National Consumer Protection Agency (BPKN) also plays a role in overseeing consumer protection through its duties, namely receiving complaints regarding consumer protection from the public, non-governmental consumer protection institutions, or business actors, as mandated in Article 34 Paragraph (1) letter f of Law Number 8 of 1999 concerning Consumer Protection.

Furthermore, there is the Non-Governmental Consumer Protection Agency (LPKSM), a registered private/non-governmental organization. Its primary function is to disseminate information, provide advice, accompany consumers, and assist in resolving disputes. Regarding authority, it does not have final decision-making authority like the Consumer Dispute Resolution Agency (BPSK), but actively advocates for consumers who require legal assistance or legal representation regarding consumer protection disputes.

The overlapping situation of consumer protection regulations in Indonesia is a serious structural problem, characterized by a multitude of existing regulations. This situation leads to overlapping norms related to consumer protection regulations, policy inconsistencies, and weak protection effectiveness in the field.

The current Law No. 8 of 1999 concerning Consumer Protection is considered no longer relevant and needs to be revised to address modern transactions, particularly the digital economy and e-commerce. Sectoral Overlap (Financial Services and General Services) in this case involves a conflict of authority between the Financial Services Authority (OJK) and the Consumer Dispute Resolution Agency (BPSK). Consumers are often confused about reporting because the regulations of the Consumer Dispute Resolution Agency (BPSK) and the Financial Services Authority (OJK), namely POJK Regulation No. 22 of 2023 regarding financial dispute resolution, overlap with the regulations of the Consumer Dispute Resolution Agency (BPSK).

Regarding Personal Data and E-Commerce, the Personal Data Protection Law (Law No. 27 of 2022) has again created overlapping regulations with Law No. 8 of 1999 concerning Consumer Protection in cases of cybercrime/personal data.

Dispute Resolution Institutions: There is still overlapping duties between the National Consumer Protection Agency (BPKN), the Non-Governmental Consumer Protection Agency (LPKSM), and the Consumer Dispute Resolution Agency (BPSK). Harmonization is essential in this regard. Reform of the governance of supervisory institutions and the development of a new national consumer protection system are needed to address overlapping and conflicting regulations related to consumer protection.

Consumer protection laws in Australia and Indonesia, namely in Australia using a single national regulation that regulates consumer protection and business competition in an integrated manner, so that it is more efficient and coordinated, while in Indonesia the regulations are scattered across various regulations that often overlap with many regulations, causing weak effectiveness of supervision and implementation of consumer protection in the e-commerce sector. Furthermore, there are similarities, namely prohibiting misleading practices including fraud and guaranteeing consumer rights, as well as emphasizing that business actors are obliged to be responsible if there is a loss to consumers. Australia places more emphasis on law enforcement and strong institutional supervision of a repressive nature, while in Indonesia on preventive enforcement including repressive ones if there is a significant violation of the law that causes harm to consumers. The preventive approach is directed at preventing violations of the law, while the repressive approach is aimed at taking action against violations that have already occurred and restoring disturbed order.

Types of Trading Through Electronic Systems in Indonesia.

The development of science, technology and the era of globalization are things that cannot be separated today. This development encourages various sectors to innovate to produce change. One of the sectors affected by this is the trade sector. These changes resulted in a medium for cross-border transactions in an easy and efficient manner. This progress brings convenience to both sellers and buyers in trade. Sellers can easily offer goods for sale without having to look for a place and incur high costs. Meanwhile, buyers can easily buy goods without having to spend time visiting a place just to look for one item. The results of these developments in the business sector have produced a system known as e-comerce.

Universally, electronic trade refers to all commercial transactions that involve individuals or organizations through electronic processes. (Purnastuti, 2004) The existence of electronic trade, or e-comerce, began with the advancement of technology. The rapid development of technology, particularly in the field of information technology, seems to be relentless. This advancement provides convenience for individuals to conduct their business activities (Rehatalanit, 2021) As a result of this technological advancement, businesses that utilize technology are closely interconnected. The use of technology has driven rapid business growth. (Lukito, 2017) As a result of this technological advancement, businesses that utilize technology are closely interconnected. The use of technology has driven rapid business growth.

The use of e-commerce is not limited to large companies, it also includes various businesses, including micro, small, and medium enterprises. The utilization of e-commerce benefits not only sellers but also facilitates consumers in purchasing goods. E-commerce represents a modern business model that operates non-face-to-face, without the direct or physical presence of business actors. (Anjani & Santoso, 2018) e-comerce differs from conventional trade in several ways. In e-comerce, the process begins with searching for information about the required goods, followed by placing an order, and concluding with the electronic payment process. (Purwanto & Faizah, 2020)

E-comerce is generally used by people in urban areas. The density of each individual activities encourages everyone to do things in an instant way. One example the instant way is searching for items without wasting a lot time. This can be done because the impact of internet developments. The development of the internet in the business sector can be seen from the existence of various types of world wide web. That matter form a container as a means to carry out buying and selling transactions. E-comerce is not only done through one website but also through various websites with various types. The existence of various forms of e-comerce due to the differences in the forms f each type of e-comerce itself.

E-comerce is a trading that is different from conventional trading because it uses an electronic system. Through electronic systems, individuals are facilitated in purchasing goods via a platform without spending significant time. The presence of electronic systems in trade offers many advantages, making complex processes simpler and faster. E-comerce covers the scope of electronic commerce. In a broad sense, all trading activities use electronic media or the internet. The wide scope of E-comerce makes the scope of E-comerce very broad. Therefore, to explain the limitations of E-comerce, it can be seen from several things that are included in its scope. (Kuspriatni, n.d.) The first thing that is covered is technology. Technology is the main thing that makes E-comerce possible. Without technology, E-comerce will never happen. The second scope of PMSE is marketing and new ways of connecting with consumers. The third thing is the existence of electronic linkage. This encourages the existence of a relationship such as a relationship between two different groups such as buyers and consumers or consumers with other consumers. the next thing is the added value. This addition is the basis for the implementation of E-comerce. Then the thing that is the scope of E-comerce is the existence of market making because it forms a new market through electronic media.

Apart from the things mentioned previously, the last thing that is an important scope of E-comerce is supporting infrastructure. The supporting infrastructure includes the mechanisms and containers used in PMSE. This is important because the infrastructure must run E-comerce in real time to facilitate the transaction process. the existence of the infrastructure considering that PMSE requires media such as internet access. This is not only a portal for shopping but also a place for various groups to gather to build relationships or build communities and also become an information center. fulfillment of these things will bring benefits in the use of E-comerce. For consumers, E-comerce is something that helps everyday life especially to buy an item. In addition, the benefits of E-comerce are full access all the time, there are many choices, direct price comparisons, and can find various products with innovative distribution processes.

Indonesia is a country based on law. Therefore, all aspects of life in Indonesia are grounded in the applicable laws. Regarding E-comerce, it is regulated under Permendag 31/2023. Given that e-commerce has many forms, the types of e-commerce based on this regulation are: (Peraturan Menteri Perdagangan Nomor 31 Tahun 2023)

1. Retail Online

   Retail online is a E-Comerce medium in the form of a commercial website or application that is created, managed, and/or owned by individuals or entities. This form of business describes a business process where consumer can get information about products easly.

2. Marketplace

   Marketplace is an application or website that functions as a platform provider and can be accessed publicly. This platform fuctions as a place for traders to register and offer items or service.

3. Online Classified Ads

   Online classified ads are platforms for conducting electronic systems in the form of websites or applications aimed at connecting sellers and buyers, with transactions occurring outside of the platform.

4. Price Comparison Platforms

   This platform is an electronic system that appears as a website or application for commercial purposes, displaying price comparisons of goods or services sold on other websites or applications.

5. Daily Deals

   Daily deals refer to platforms for conducting electronic systems, such as websites or applications, with the commercial aim of selling discount coupons and/or providing other facilities that consumers can use as payment methods for purchasing goods or services from other businesses.

6. Sosial-Commerce

   This medium involves social media platforms that provide special features, such as menus that enable traders to list or offer goods and services.

The six items mentioned are the types or forms of E-comerce outlined in Permendag 31/2023. The presence of E-comerce provides exceptional facilities to consumers, as they do not need to travel far to obtain goods. (Putra, 2014) E-comerce is a business activity conducted electronically through the exchange of data over the internet, allowing the involved parties to carry out transactions. (Situmorang, 2016) Based on this, the occurrence of E-Comerce begins from the initiation of the transaction to the payment process, all conducted through the internet or electronic media.

The existence of E-comerce encourages a shop or company to incrase all business values it has. So as consumers, must be able to properly understand E-comerce through the types of that exist based on Permendag 31/2023. Even though there are types or differences in E-comerce, they still alive the same principles. For example the existence of a website for products offerings, participation in online market, sales in business to business, the use and storage of contact data or social media, and electronic data exchange. Through E-comerce, a business and consumers can reach a wider and easier reach.

4. Conclusion

The overlapping situation of consumer protection regulations in Indonesia is a serious structural problem, characterized by a multitude of existing regulations. This situation leads to overlapping norms related to consumer protection regulations, policy inconsistencies, and weak protection effectiveness in the field. The current Law No. 8 of 1999 concerning Consumer Protection is considered no longer relevant and needs to be revised to address modern transactions, particularly the digital economy and e-commerce. Sectoral Overlap (Financial Services and General Services) in this case involves a conflict of authority between the Financial Services Authority (OJK) and the Consumer Dispute Resolution Agency (BPSK). Consumers are often confused about reporting because the regulations of the Consumer Dispute Resolution Agency (BPSK) and the Financial Services Authority (OJK), namely POJK Regulation No. 22 of 2023 regarding financial dispute resolution, overlap with the regulations of the Consumer Dispute Resolution Agency (BPSK). Regarding Personal Data and E-Commerce, the Personal Data Protection Law (Law No. 27 of 2022) has again created overlapping regulations with Law No. 8 of 1999 concerning Consumer Protection in cases of cybercrime/personal data. Dispute Resolution Institutions: There is still overlapping duties between the National Consumer Protection Agency (BPKN), the Non-Governmental Consumer Protection Agency (LPKSM), and the Consumer Dispute Resolution Agency (BPSK). Harmonization is essential in this regard. Reform of the governance of supervisory institutions and the development of a new national consumer protection system are needed to address overlapping and conflicting regulations related to consumer protection.

Consumer protection laws in Australia and Indonesia, namely in Australia using a single national regulation that regulates consumer protection and business competition in an integrated manner, so that it is more efficient and coordinated, while in Indonesia the regulations are scattered across various regulations that often overlap with many regulations, causing weak effectiveness of supervision and implementation of consumer protection in the e-commerce sector. Furthermore, there are similarities, namely prohibiting misleading practices including fraud and guaranteeing consumer rights, as well as emphasizing that business actors are obliged to be responsible if there is a loss to consumers. Australia places more emphasis on law enforcement and strong institutional supervision of a repressive nature, while in Indonesia on preventive enforcement including repressive ones if there is a significant violation of the law that causes harm to consumers. The preventive approach is directed at preventing violations of the law, while the repressive approach is aimed at taking action against violations that have already occurred and restoring disturbed order.

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