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## Legal Protection of Consumers in Online Business: A Criminal Law Perspective in Handling Fraud and Identity Theft

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### Abstract

In the rapidly growing digital era, the phenomenon of fraud and identity theft in online business has become a significant challenge. In the face of this threat, legal protection of consumers plays an important role, especially in the context of a criminal law perspective. This research uses a qualitative approach with a literature study to explore these issues by taking into account the views of legal experts, government officials, consumer victims, and other stakeholders. Secondary data used included relevant laws, regulations, case studies, and academic literature. The results of this research discuss the complexities and challenges in criminal law enforcement related to fraud and identity theft in online businesses. The research emphasizes the importance of cross-sector collaboration and the development of best practices in enhancing consumer protection. The implications of these findings for law enforcement policy and practice are set out as recommendations for governments, law enforcement agencies, e-commerce companies and non-governmental organizations. This research provides an in-depth understanding of consumer protection issues in online business from a criminal law perspective and contributes to the overall improvement of the consumer protection system.

### Keywords

Identity Theft, Fraud, Criminal Law Perspective, Online Business Consumer, Legal Protection

## 1. Introduction

The phenomenon of online business is currently experiencing rapid development around the world. E-commerce is one of the main focuses, with significant growth especially during the COVID-19 pandemic which drastically changed the way people shop and transact (Ayu & Lahmi, 2020). Since the past few years, online business in Indonesia has been experiencing rapid growth. This condition is certainly supported by technological advances and the high number of internet users (Santoso et al., 2022). Even in 2018, the number of internet users in Indonesia was recorded at 93.4 million people. Thanks to this combination, the value of online business in Indonesia was able to penetrate 12 billion USD. The emergence of young entrepreneurs in Indonesia marks a positive development for the country. Data shows that the number of young Indonesian entrepreneurs has increased significantly in recent years. In 2010, the percentage stood at 0.24%, while in January 2012, the figure jumped to 1.56%, equivalent to 3.75 million people. This phenomenon has piqued the interest of researchers to delve deeper into the meaning of online business, which is now a major focus for young entrepreneurs. Online business has become a major highlight among businesses looking to explore the market more specifically and efficiently. Thus, this study aims to understand the role and impact of online business in the context of developing young entrepreneurs in Indonesia (Kurniawan, 2015).

The increasing number of online businesses goes hand in hand with the increasing number of cybercrimes. Throughout 2021, the Indonesian Ministry of Communication and Information received 115,756 reports of online transaction fraud complaints. When compared to the number of online fraud reports from 2020 which amounted to 167,675 reports, there was a decrease in the number of reports in 2021. complaints that came in during 2020 to 2021 in the category of online transaction fraud were buying and selling transactions that occurred in e-commerce and social media, such as sales of clothing and health masks. The increasing phenomenon of online businesses has become fertile ground for increased fraud and identity theft in the digital ecosystem (Raharjo, 2021). The ease of access offered by online businesses allows anyone to open a virtual store or service with relatively low capital. However, the dark side is that it allows criminals to quickly open fake stores or fraudulent websites that trick people into providing personal information or making payments to them. The anonymity created in the online world is also an obstacle, as one's identity is easily hidden or faked, providing an opening for fraudsters to commit criminal acts without fear of being identified or caught (Chhabra et al., 2023). Lack of oversight of online businesses also contributes to the rise of fraud, as less stringent regulations make them attractive targets for criminals. In addition, technological developments and cybercriminals' proficiency in hacking websites or using increasingly sophisticated phishing techniques are also major factors in the rise of online fraud (Ricki, 2023). Awareness of these risks has driven government and private efforts to improve security measures and educate the public on how to protect themselves online (Bahram, 2023). However, the challenge continues to grow as technology continues to evolve and fraud strategies become more sophisticated, demanding greater cooperation between all parties to effectively counter this threat.

Consumer protection in the context of online business covers various aspects, including regulations that govern the rights and obligations between consumers and service providers (Oktavian, 2023). Some relevant legal instruments include the Consumer Protection Law (Law No. 8 of 1999), which provides the legal basis for consumer protection in Indonesia, including basic consumer rights such as the right to security, information, and compensation. In addition, the Electronic Information and Transaction Law (ITE Law, Law No. 11 of 2008 and its amendment Law No. 19 of 2016) regulates legal aspects related to electronic information and transactions,

including regulations regarding online fraud and personal data breaches. Fraud in online business can take various forms, such as purchase fraud, identity fraud, and investment scams (Sabilah, 2023). Criminal law plays an important role in handling these cases, with several relevant articles in the Criminal Code and ITE Law, such as Article 378 of the Criminal Code which regulates fraud in general, and Article 28 paragraph (1) of the ITE Law which regulates the dissemination of false and misleading news that results in consumer losses in electronic transactions. Meanwhile, identity theft is a serious problem in online business, where consumers' personal data is used without authorization for criminal purposes. The ITE Law provides a legal basis for handling these cases, especially through articles governing data security and privacy, such as Article 30 of the ITE Law which prohibits illegal access to electronic systems and the data therein, as well as Article 32 of the ITE Law which prohibits the alteration, addition, subtraction, transmission, destruction, removal, or concealment of electronic information or documents belonging to others.

Although there have been many studies conducted on the legal protection of consumers in online business and handling cybercrime, there are several scientific gaps that still require further attention. Therefore, this research aims to provide a comprehensive overview of the legal protection of consumers in online business from the perspective of criminal law. This research is expected to make a significant contribution to efforts to protect consumers in the digital era and strengthen the criminal law system in facing existing challenges.

## **2. Literature Review**

Identity theft, also known as “identity theft,” is a criminal act in which someone uses another person's personal information, such as name, identification number, or credit card number, without their permission to commit fraud or other crimes. Identity theft can be committed online through circumvention scams, malicious software, or data breaches, as well as offline through unauthorized access to corporate databases (Nafi'ah, 2020). Identity theft is the act of using another person's personal information without the consent of the original owner of the information such as social security number, name, address, phone number, driver's license number or other identifying information to disguise their identity and it can cause various losses. During times of more accessible technology and high demand for information, the crime of identity theft has become an easy crime to commit with less fear of being caught or prosecuted (Mahmud, 2019). Identity theft refers to the practice of using a person's personal data without authorization to disguise oneself, including social security numbers, addresses, phone numbers, and other identifying information (Salsabila & Sulistiyono, 2024). In the context of the technological era of easy access and high demand for information, these crimes have become easier to commit and there is less fear of arrest or prosecution. This has a detrimental impact with various consequences that can arise from the loss of personal identity (Mahmud, 2019).

Fraud is an act that involves the use of lies or manipulation to gain dishonestly or illegally from another person. It can occur in a variety of contexts, ranging from financial situations such as investment or credit card fraud to identity fraud and online scams (Lauren, 2023). The goals of fraud can be diverse, including obtaining money illegitimately, obtaining personal information, or damaging the reputation of a person or organization. Fraud often involves psychological or technological manipulation to deceive the victim, and can cause significant financial, emotional, and even reputational harm. Therefore, the prevention and enforcement of fraud is essential to protect individuals and society as a whole from the losses that may arise (Rahmad, 2019). Legal problems that are often faced in online fraud crimes are related to the delivery of information, communication, and or electronic transactions, namely in terms of evidence and matters related to legal acts carried out through

electronic systems (Rahmanto et al, 2019). The fraud article in the Criminal Code (hereinafter referred to as the KUHP) still cannot accommodate this, because usually the perpetrators of fraud through online media also use email facilities to connect with their victims, in this case whether email can be used as valid evidence and can be equated with paper letters like conventional fraud crimes in the real world (Puspitasari, 2018). In general, the regulation of a criminal act of fraud is contained in Article 378 of the Criminal Code or KUHP. This article does not specifically regulate online fraud, but rather regulates fraud as a whole (in its main form). Article 378 of the KUHP regulates actions intended to benefit oneself or others by using a false name or dignity, by deception or by deceit to hand over something of value to him, then threatened with committing acts of fraud with a maximum penalty of 4 (four) years.

A criminal law perspective is a view or point of view used to understand and analyze criminal law, including the principles and principles governing criminal acts, punishment, and the judicial process (Ali, 2022). This perspective can be derived from various sources, such as positive law, Islamic law, or legal theory, and can be used to understand how criminal law is applied and interpreted in various contexts. In some sources, the criminal law perspective can be seen as a way to understand how criminal law interacts with society and how criminal law can be used to achieve social and humanitarian goals (Nugraha, 2021). In addressing fraud and identity theft, the criminal law perspective has a very important and relevant role. Criminal law not only provides a clear framework for upholding justice, but also provides much-needed protection for victims of crime (Sunarso et al., 2022). Through strict law enforcement, perpetrators of fraud and identity theft can be punished according to the crimes they commit, thus providing legal certainty for the community. In addition, criminal law also serves as a tool to prevent future crimes by providing a deterrent effect for potential perpetrators (Budiansyah, 2023). Not only that, rehabilitation and restorative approaches in criminal law also pave the way for recovery for both perpetrators and victims of crime. Thus, the perspective of criminal law is not only a tool for law enforcement, but also a solid foundation for achieving justice, security and welfare in society (Nugraha, 2021).

Consumers in this context refer to individuals or groups who use goods or services for their personal, family, or household needs, not for the purpose of production or re-trading (Setiadi & Se, 2019). Consumer transactions encompass the process by which goods or services are transferred from providers to consumers for personal use or satisfaction. In essence, consumers are end users who enjoy the direct benefits of the goods or services they obtain (Khotimah & Chairunnisa, 2016). Article 4 of the UUPK states that consumer rights include; the right to choose goods and/or services and obtain these goods and/or services in accordance with the exchange rate and the conditions and guarantees promised; the right to correct, clear and honest information regarding the conditions and guarantees of goods and/or services; the right to 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.

The Indonesian government issued Law Number 8 Year 1999 on Consumer Protection or UUPK to protect consumers who are often harmed. Given the weak position of consumers in general compared to the stronger position of business actors in many ways. In this case, consumers as parties who need goods and/or services offered by business actors are required to follow the rules set unilaterally by business actors (Sugesti et al., 2020). Indonesia is a country based on the principle of law, emphasizing the recognition and protection of fundamental rights for all its citizens, including in the context of transactions both conventionally and online (Kristiyanti, 2022). In order to protect consumers from various losses that often occur, the Indonesian government has passed Law Number 8 of 1999 concerning

Consumer Protection (*Undang-Undang Perlindungan Konsumen/UUPK*). This was initiated considering the more vulnerable position of consumers compared to business actors who have more dominant power in many aspects. Although consumers are expected to comply with the provisions set by businesses, especially in online transactions, it is not only consumers who can suffer losses. Currently, businesses can also feel the impact of losses caused by the actions of their consumers (Darnia et al., 2023).

### **3. Method**

This research uses a qualitative approach with a literature study to understand the legal protection of consumers in online business, especially in the perspective of criminal law in dealing with fraud and identity theft. This approach was chosen because it is able to provide an in-depth understanding of complex and dynamic phenomena, and allows researchers to explore various related legal, social and technological aspects. The data source used is secondary data which includes legal documents such as laws, court decisions, previous research reports, journal articles, books, other relevant publications, and statistical data from agencies related to legal protection of consumers in handling fraud and identity theft in online business. This research method also involves developing a conceptual understanding of the legal protection of consumers in online business, which includes aspects such as seller responsibility, consumer rights, and relevant criminal law principles. The collected data will be analyzed using the thematic analysis method, which involves data coding, theme development, data interpretation, and triangulation to ensure data validity. After that, data interpretation is carried out to identify what strategies can be used in legal protection of consumers and the final stage is data presentation.

### **4. Result**

The research found that the implementation of laws against fraud and identity theft in online businesses still faces significant challenges. Some studies show that criminal law plays an important role in providing protection to consumers who are victims of fraud and identity theft in online businesses. Research by Aprilah (2019) found that criminal laws in Indonesia, such as the Electronic Information and Transaction Law (UU ITE), have provided a strong legal foundation to take action against cyber criminals. However, this study also revealed that there are still gaps in the implementation of these laws, especially related to the knowledge and capacity of law enforcement officials in handling cybercrime cases. Meanwhile, research by Siregar (2020) states that the law enforcement mechanism for cybercrime cases such as fraud and identity theft in online businesses involves various institutions, including the police, prosecutors, and courts. This research highlights the importance of inter-agency cooperation in handling these cases. In addition, Siregar (2020) also noted that specialized training for law enforcement officers on cybercrime can increase the effectiveness of law enforcement. Key challenges in criminal law enforcement against fraud and identity theft in online business have been identified in various studies. According to a study by Ramadhani (2023) these challenges include a lack of sufficient electronic evidence, technological limitations in law enforcement agencies, as well as a lack of coordination between countries in dealing with cross-border cybercrime. Ramadhani (2023) also noted that victims often do not report the crime due to a lack of trust in the legal system.

Several studies have also discussed efforts that can be made to improve legal protection for consumers in online businesses. In accordance with research conducted by Umami & Yusuf (2018), which recommends strengthening regulations regarding personal data security and increasing digital literacy for consumers. Utami emphasized that education about risks and how to protect themselves from

online fraud is very important to prevent cybercrime. In addition, research by Bahtiar (2024) also highlighted the importance of updating laws that more specifically regulate cybercrime, as well as the need for the development of more sophisticated forensic technology to assist in the investigation of these cases. Prasetyo also recommended increased international cooperation in handling cybercrime, given its often cross-border nature. Other research, such as that conducted by Syahputra et al (2024) found that analyzing the effectiveness of criminal law in dealing with cases of fraud and identity theft in online businesses. Anggraeni found that in some cases, perpetrators were successfully punished in accordance with the applicable criminal law provisions, but in many other cases, the legal process was hampered by various factors, including insufficient evidence and the slow judicial process. Overall, past research shows that while there is a legal framework that supports consumer protection in online businesses, challenges in law enforcement remain significant. Collaborative efforts between the government, law enforcement agencies, and the public are needed to address these challenges and improve the effectiveness of legal protection for consumers.

## 5. Discussion

This research presents an in-depth understanding of the legal protection of consumers in the context of online business, particularly in handling fraud and identity theft from a criminal law perspective. The results illustrate a number of challenges faced in legal implementation, international cooperation, consumer awareness, regulation, and technology. It also discusses the complexities of enforcing criminal law in the context of online business. Despite the existence of a legal framework governing consumer protection, the challenges in addressing online fraud and identity theft cannot be ignored. This emphasizes the need for improvements in regulation and adequate law enforcement to address these threats. The importance of investing in digital investigation resources and capabilities for law enforcement. In an era where cybercrime is increasingly complex and rapidly evolving, there is a need for improvements in investigative and law enforcement capacity to meet these challenges. The psychological and financial impact experienced by victims of fraud and identity theft was also a focus of discussion. The need for greater support for victims in the process of recovering and obtaining compensation for their losses emphasized the important role of government agencies and communities in providing assistance and protection for those affected.

Several previous studies have provided a comprehensive view of the various aspects of these challenges and the efforts that can be made to overcome them. One of the main challenges is the gap in law implementation. While Indonesia's ITE Law provides a strong legal foundation for cracking down on cybercriminals, there are gaps in its implementation, particularly in terms of the knowledge and capacity of law enforcement officers. This emphasizes the need to increase the capacity and knowledge of law enforcement officers through specialized training. This training is expected to increase the effectiveness of law enforcement by providing a better understanding of cybercrime and how it is handled. The lack of sufficient electronic evidence is also a major challenge in criminal law enforcement against fraud and identity theft in online businesses. In addition, technological limitations in law enforcement agencies and a lack of coordination between countries in dealing with cross-border cybercrime are also significant obstacles.

## 6. Conclusion

This research provides in-depth insight into the significant challenges in the legal protection of consumers in online businesses, especially in handling fraud and identity theft through a criminal law perspective. While Indonesia's ITE Law

provides a strong legal foundation to take action against cybercriminals, there are gaps in its implementation, particularly in the knowledge and capacity of law enforcement officers. This emphasizes the need for capacity and knowledge building through specialized training to improve the effectiveness of law enforcement. In addition, the lack of sufficient electronic evidence, technological limitations in law enforcement agencies, as well as the lack of international coordination in addressing cross-border cybercrime, add to the complexity of enforcing criminal laws in online businesses. These challenges point to the need for updated laws that are more specific to cybercrime and the development of more advanced forensic technologies.

In addition to the technical and legal challenges, this research also highlights the significant psychological and financial impact on victims of fraud and identity theft. Victims' lack of trust in the legal system often discourages the reporting of crimes, making it difficult for legal proceedings to take place. Greater support for victims in the process of recovering and compensating for their losses is urgently needed. In conclusion, while the legal framework supporting consumer protection in online businesses is in place, challenges in law enforcement remain significant. To address these challenges and improve the effectiveness of legal protection for consumers, collaborative efforts between the government, law enforcement agencies, and communities are needed. Steps that can be taken include increasing the capacity of law enforcement officers, developing forensic technology, strengthening regulations, increasing digital literacy, and international cooperation.

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