

Legal Protection of E-Commerce Consumers in Online Transactions in Indonesia

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Submission date: 21-Jun-2022 11:46AM (UTC-0400)

Submission ID: 1860809430

File name: of_E-Commerce_Consumers_in_Online_Transactions_in_Indonesia.pdf (256.75K)

Word count: 6124

Character count: 34549



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ABSTRACT

The use of e-commerce in economic transactions, continues to increase every year. However, various complaints arise from online consumers. They complain of experiencing various cases of fraud through online transactions. Based on this phenomenon, the increase in public consumption of online transactions was not matched by consumer protection that had to be accepted as a customer. The most pressing problem is the weak protection of consumer law. The purpose of this study is to describe the consumer legal protection model in the online transaction process and to ascertain whether the current regulatory framework in Indonesia adequately addresses relevant risks and issues. Based on normative legal studies conducted by researchers that the agreement on e-commerce is inseparable from the basic concept of the agreement established in the UNCITRAL Model Law on eCommerce and the UNCITRAL Model Law on eSignature. Where online trading is basically the same as general trade agreements, only in exchange for transactions conducted with electronic media. We found that to resolve the case of legal protection against consumers is to improve the quality of human resources who must have professional competence, academic competence, resilience, techniques and good attitude and values. Ecommerce contracts must be based on the principles of good trade transactions and enforce the law fairly. We also include that the current laws and regulations on information and electronic transactions for consumer protection have not been able to effectively protect consumers because in practice there are still many cases that cause consumer losses due to violations.

Keywords: Online transaction, The consumer's legal protection, Commercial.

DOI: 10.20448/801.42.358.368

Citation | RizkiYudha Bramantyo; Irham Rahman (2019). Legal Protection of E-Commerce Consumers in Online Transactions in Indonesia. *American Journal of Social Sciences and Humanities*, 4(2): 358-368.

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Funding: This study received no specific financial support.

Competing Interests: The authors declare that they have no competing interests.

History: Received: 10 June 2019/ Revised: 18 July 2019/ Accepted: 21 August 2019/ Published: 27 September 2019

Publisher: Online Science Publishing

Highlights of this paper

- The purpose of this study is to describe the consumer legal protection model in the online transaction process and to ascertain whether the current regulatory framework in Indonesia adequately addresses relevant risks and issues.
- We found that to resolve the case of legal protection against consumers is to improve the quality of human resources who must have professional competence, academic competence, resilience, techniques and good attitude and values.

1. INTRODUCTION

How legal issues in Indonesia are directly proportional to economic development and information technology. Developments in information technology have created socio-economic cultural changes, which occur so fast that they can ultimately affect changes in behavior and human life in various fields that have resulted in new judicial practices related to information technology. The emergence of this information technology has been utilized by people in daily life such as online trading. So, of course, online trading activities need to pay attention to legal aspects to ensure the rights and obligations of both parties are guaranteed. Especially with regard to consumer protection rights that ensure that online commercial development maintains privacy of information. This is because, a recent issue is the lack of consumer confidence in commercial media such as online trading (Hoffman *et al.*, 1999). Even in developing countries like Malaysia do not have a regulatory framework for online business (Makhtar and Asuhaimi, 2019).

Society and industry face radical new phenomena in the field of electronic commerce (e-commerce), problems protecting the rights of online consumers, and considering their rights and obligations. As the findings of Kirillova *et al.* (2016) which states that electronic communication facilities provide broad opportunities for direct contact between individuals from various countries and give rise to new tasks before the international civil law system.

Online trading is a transaction using electronic internet, so in legal language it is called electronic transaction. Based on the provisions of article 1, number 2 of Draft Law 11 of 2008 concerning electronic (legal) information and transactions, it is stated that electronic transactions are: "Legal actions by PCs, computer networks and / or other digital media."

Online trading is a legal matter in cases of fraud by businesses. Chapter 1320 of BurgerlijkWetboek (BW) stipulates that agreements must fulfill the requirements for legal agreements, that is, agreements, qualifications, certain matters and legal reasons. If the agreement is fulfilled with four legal provisions, then it is legal and binding for the parties. If one of the legal requirements of the agreement in article 1320 BW, which is a professional skill, will be a problem if trading via the Internet is a minor, this may be because trying to find the right identity through the Internet is not easy. In addition to other legal issues, deceiving consumers of goods or products from electronic transactions also often occurs. The buyer is obliged to pay the price of goods that have been purchased from the seller in accordance with the type of goods and prices that have been made between the seller and the buyer. However, consumer goods or products often do not match what is expected or do not fit the promised picture.

The imbalance in position between business and consumers is one of the weaknesses of electronic transactions. This is very weak in the customer's position. So in giving birth to an agreement that is detrimental to one consumer. It is important to be able to protect customers from things that might harm them. Consumers need to be protected, because they are considered to have an "unequal" position with those who do business. This imbalance involves the educational position and bargaining position of consumers. Often consumers are powerless against positions that are stronger than business doers. Sutedi (2008) so consumers need to have protection in their electronic transactions.

The importance of consumer protection because of the many frauds that often occur in cyberspace that tend to harm consumers or users. The importance of consumer protection meets the principles of security, the principle of benefits, the principle of justice, the principle of balance and safety of consumers, the principle of legal certainty is intended to provide security for benefits, justice and safety and legal certainty for consumers in using, using and utilizing goods and / or services consumed or used in accordance with Article 2 of Law Number 8 of 1999 concerning Consumer Protection. In the description above, it is important to review consumer protection in online transactions and to find solutions or to resolve problems.

Coteanu (2017) argues that existing consumer protection laws fail to protect consumers when browsing online and therefore, these laws must have racial character and be designed for the global online market. Ceteanu believes that the unique features of the online environment require countries to agree on cooperation and harmonize their laws in protecting the color of their country as consumers when transacting on the Internet.

The general purpose of this paper is to know and understand the legal aspects of consumer protection while the specific purpose is to know and understand the legal protection of online transactions and legal issues and problems of the problem.

2. LITERATURE REVIEW

There are ethical standards proposed by Caudill and Murphy (2000) in dealing with online privacy, namely increasing industrial and government dialogue, increasing the use and enforcement of privacy standards, and signifying an emphasis on online business privacy. As for consumer privacy, they suggest integrating business, ethical, and public policy standards to reduce concerns about online transaction services.

The mediating effect of consumer confidence proposed by Shi and Liao (2017) articulates the relationship of consumer trust and participation in electronic commerce. Online consumer reviews (OCR) significantly influence consumer perception in terms of: 1) perception of effectiveness; 2) perception of collateral structure; 3) familiarity with intermediaries; and 4) customer satisfaction and trust in intermediaries.

There is a clear difference felt by consumers who use online services and choose the traditional way of trading transactions as the following Table 1:

Table-1. Difference between online and physical transactions based on consumer behavior.

| Component | Online trasactions | Traditional transa on/physical |
|-------------------------|---|--|
| Credit card information | Consumers are afraid to type credit card information into any commercial web provider. | Consumers worry about giving credit card information over the telephone to an unknown voice in a mail-order company. |
| Consumer confidence | Consumer concerns that Web providers will sell their personal information to third parties without their knowledge or permission. | Consumers feel they only have limited choices. |

Source: Hoffman *et al.* (1999).

In addition, commercial web providers may have concerns that hackers want to steal credit card numbers (Culnan, 1995).

Electronic transactions are legal actions carried out using computers to computer networks, and or other electronic media. Establishing a trade agreement in electronic transactions is the same as trading in general, in the book on civil law, Act No. 8/1999 concerning consumer protection and Act No. 11 of 2008 concerning information and electronic transactions or called jiha 'ite' law. Article 1338 (1a civil law book explains if an agreement that was

legally established as an act for those who did that agreement is valid and legally binding on the parties). But the fact is, the implementation of the rights and obligations of the parties is not in accordance with what was promised (Anggaraeni *et al.*, 2018).

The term online refers to reading, writing, and communicating (cyberspace) through computer networks (Warschauer, 2003). According to Helberger *et al.* (2017) explains that consumer law and data protection laws complement each other. Data protection laws can also inform the interpretation of consumer law. By using consumer rights, consumers must be able to challenge the excessive collection of their personal data. The interaction of data protection law and consumer protection law provides attractive opportunities for a more integrated vision of data consumer law. Makhtar and Asuhaimi (2019) state in their research that there is a need to draft and enact a comprehensive law on electronic commerce, consumer protection and purchase and punishment for those who break the law (Makhtar and Asuhaimi, 2019).

Consumer law triggers quite fierce policy debates including issues of identity theft and privacy, especially arbitration and class action lawsuits to the accumulation of debts and irresponsible practices. The reality of social change that is currently happening and technology has not been fully integrated into the legal analysis of consumer transactions (Bradley, 2019).

Disputes arising from e-commerce are rarely brought to the public court and therefore online dispute resolution (ODR) is the main solution to resolve the issue. The possibility of new technology is needed in handling online legal transactions using blockchain technology. To show the logic behind smart contracts in a more concrete way that can be programmed (Koulu, 2016).

The change in consumer behavior that is currently shifting from buying 'goods' to buying 'smart goods' implies consumers and consumer protection laws and policies. Explains that consumer law especially in the aspects of profiling and targeting on the Internet of things must play an important role in protecting the legitimate interests of consumers, and ensuring a fair balance between consumers, providers of smart goods and services, advertising, insurance companies and related parties .

One of the implications of e-commerce policy is the emergence of techno-managerial innovation. As techno-managerial innovation requires business adaptation, organizational learning, and a supportive environment that can lead to broad diffusion and transformational impact. Some global forces can trigger the adoption of e-commerce such as global competition, trade liberalization, and internet diffusion. National factors, such as governance, education, and infrastructure will shape the speed of cross-company adoption in a country and have an impact on the company and the country itself (Hanna, 2016).

Self-regulation is an effective way to provide legal protection and consumer security in e-commerce transactions. The combination of self-regulation and legislation can be the best model as well as an independent regulatory model that has been practiced in developed countries like America and the European Union (Barkatullah, 2018).

3. RESEARCH METHOD

The research is a legal research with a normative legal approach, especially the formal legal literature approach that applies in Indonesia. Marzuki in legal research has several approaches, namely statistic-approach, case approach, historical approach, comparative approach, and conceptual approach (Marzuki, 2014). Data obtained from various relevant legal sources are still valid. In addition, documentation data is collected from various government regulations, presidential regulations, and other relevant regulations. The collected documentation and literature data are analyzed through positive law analysis by linking the data findings and the developing legal reality. After

the research paper is arranged, a focus group discussion is carried out with peer experts in the field of law for further improvements to be made several times, to produce a research result that is suitable for publication. The process of drafting the final manuscript is carried out by taking into account all input and suggestions from various parties in the hope that all studies in this research will contribute to the development of scientific treasures in the field of business law.

4. RESULTS OF RESEARCH

4.1. E-Commerce Consumer Protection

According to Cheong (2019) "E-commerce is one of the main contributors to the development of the global economy." Can be seen in the following Figure 1:

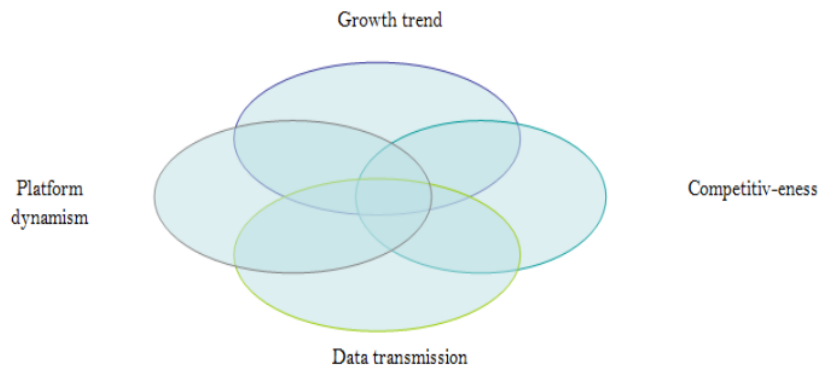


Figure-1. E-commerce as a major contributor to global economic development.

Source: Cheong (2019).

The four main reasons are; 1) represents the dynamism of the core business platforms in the digital economy; 2) e-commerce is an important transaction because it is a rapid growth trend of internet users in the world; 3) e-commerce involves the transmission of personal data; and 4) the use of e-commerce consumer data to improve the competitiveness of a company's business. "Specifically for enhancing corporate competitiveness, e-commerce was developed by developing data processing and artificial intelligence (AI). Big data is the main driving factor for improving the quality of customer satisfaction services.

The work of Samuel Warren and Louis Brandeis in 1890, The Right to Privacy was the starting point for consumer privacy laws in the United States. Ideas that appear to prevent invasion of consumer privacy include paying attention to the protection of privacy in mind, emotions and sensations. This technology is able to facilitate the emergence of 'Big Data' - a term used to describe the collection, storage and analysis of data sets that have large volumes, significant variations, and high speeds, sometimes fed by the combination of online and offline data (Ohlhausen and Okuliar, 2015).

Positive drivers of consumer confidence in e-commerce based on an analysis of the status of digital law include; 1) advances in open and adequate consumer protection processes; 2) difficulty handling online trading platforms; and 3) the function of trust and its causes in e-commerce (Nica, 2015).

Concerns over consumer privacy in online transactions cover two dimensions namely; 1) the dimensions of control over the environment or the ability of consumers to control the actions of web vendors that directly influence consumers' perceptions about the security of online shopping and, 2) the secondary use of information control that reflects the perceived ability of consumers to control the use of their personal information for purposes

other than transactions where Such data information is collected (Goodwin, 1991). Therefore, companies seem to have to make the right strategic decisions to increase consumer interest. The role of culture in the use of ecommerce for communication strategies is proposed as part of a network expansion strategy (Cunningham *et al.*, 2018).

Kirilova *et al.* (2016) provide solutions to solve problems to protect consumer rights by providing some findings on the basic principles of consumer protection in consumer trade, namely; 1) the principle of the right to return goods purchased through the internet; 2) the right to handle complaints when buying goods through the internet; 3) the principle of online contract recognition; 4) the principle of providing effective protection; and 5) the principle of protecting the personal data of online consumers. By designing an efficient structure for the justice system, set of laws that will actually apply, in the application of consumer rights protection in electronic commerce.

Martin (2016) explains that formal privacy notices reduce trust in web sites. Furthermore, violating informal privacy norms has a negative impact on trust on the website even when the exchange of information is appropriate or not mentioned in the privacy notice. Respecting privacy norms is the key to trusting online transactions and challenging reliance on privacy notices to maintain consumer confidence. In addition, to ensure a fundamental process of regulation in the field of e-commerce, the government must pay attention to the regulatory framework regarding electronic transactions. The framework in question is to pay attention to important points that must be corrected in ecommerce consumer protection, adequate data protection and security to deal with relevant risks and problems, so as to provide a 'safe environment for electronic consumers' (Markou, 2019).

4.2. Legal Consequence of an Online Agreement

The online/buy agreement is not independent of the fundamental concept of agreement found in chapter 1313 BW that affirms that a covenant is a work by which one or more person attains himself to one person or more. Basically, online trading is the equivalent of a general purchase, in which a purchase occurs when a trade is struck about goods or services and the price of those goods or services. Selling online and purchasing in general that distinguishes only the media used. If there is conventional purchasing or selling, parties must meet somewhere in person to agree on what is bought and how much it costs. Whereas in e-commerce, the transaction requires Internet media content as its primary media, so trade transactions take place without any face-to-face or face to face between parties. Bargaining chips can be anywhere in the world without getting the seller together and the buyer's in the same place to agree on the price of one thing.

The legal relations involved in the conventional transactions involved only between the parties of both sellers and the buyers. The relationship resulted in a legal covenant that resulted in the rights and obligations of the seller as well as the rights and obligations of the buyer. Whether the conventional purchase agreement or online the buyers and sellers will be protected by bill Number 8 Year 1999 about Consumer Protection. It regulates the rights and obligations of consumers and businesses.

The agreement is the basic framework used as a framework of the business relationships of the economic wrongdoers, so the sense of the rights and obligations of the parties becomes clear and detailed. For a covenant to be valid, as prescribed by chapter 1320 BW, there must be 4 (four) the conditions: 1) agreement among the contractors (chapters 1321-1328); b) it was evident that the parties were qualified to carry out legal action (chapters 1329-1331); 3) the nature and breadth of covenant objects can be determined (chapters 1332-1334) BW); 4) causative is legitimate or permitted (chapter 1335-1337) (Isnaeni, 2013).

And so the legal consequence of an online/buy agreement is legal according to the requirements of article 1320 BW which must meet these four requirements. The terms of one and two are subjective terms because of people, if

the terms of 1 and 2 are non-existent the agreement can simply be nullified. And the canceling is the ones who feel wronged. Whereas requirement 3 and 4 is called the objective requirement because it comes to articles, if the objective is not fulfilled then the treaty is void by law, it is not accepted as a treaty. The probability of fraud cases is also high, owing to the lack of information often accepted by consumers. As for the article in bill number 8 of 1999 on consumer protection that can be used as guidelines regarding fraudulent cases experienced by the customer in online transactions is as follows:

First, article 8(1)(d), (e) and (f) states that business actors are prohibited from manufacturing and/or trading goods and/or services which are not in accordance with the quality, conditions and promises set out in the labels, information, advertisements or promotions of such goods and/or services.

Second, article 16 Letters a and b states that company actors are forbidden from maintaining orders and/or agreements on the agreed moment of payment when providing goods and/or services through orders and are forbidden from maintaining commitments for services and/or accomplishments.

Based on these descriptions above, it is necessary to establish a legal guarantee of protection for consumers who conduct online transactions. This is not only because consumers have important rights to uphold, but also to grow an enterprising awareness of the importance of consumer protection that grows an honest and responsible attitude in trying. In light of the 1999 bill number 8 of 1999 for consumer protection, regulation specifically regulating online trade activities is needed because it can provide not only protection for customers but also for online businesses.

4.3. Legal Regulation on Electronic Transaction in Indonesia

The Government of Indonesia through the Ministry of Communication and Information Technology (Kemkominfo) regulates consumer protection laws in digital transactions. As stipulated in Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE) and Government Regulation No.82 of 2012 concerning Operation of the system and Electronic Transactions (PP PSTE). According to legislative historical records, the Draft Law on Information and Electronic Transactions was issued on September 5, 2005 and amended to Act No. 19 of 2016. Whereas Law of the Republic of Indonesia Number 11 of 2008 Concerning Information and Electronic Transactions is applied on April 21 2008 and announced that date. "This law has jurisdiction that applies to every person who commits legal acts as regulated in this Act, both within the territory of Indonesia and outside the jurisdiction of Indonesia which has legal consequences in the jurisdiction of Indonesia and or outside the jurisdiction of Indonesia. and harm the interests of Indonesia. "

Whereas for the case of consumers who feel aggrieved if there are goods that are not in accordance with the qualifications contained in the online media or not in accordance with the agreement, they can use Article 28 paragraph 1 of the ITE Law, regarding consumer losses, such cases are also regulated in PP PSTE. Until now , the public is still waiting for the ratification of the Draft Government Regulation on Electronic Commerce (RPPPMSE) to protect consumers when making digital transactions. However, according to the Ministry of Communication and Information, that the PMSE RPP is actually a more detailed version of the ITE Law and PP PSTE. Some of the prohibited acts in carrying out electronic transactions in the legislation include; 1) Article 28 paragraph 1 of Chapter VII, "Everyone intentionally, and without the right to spread false and misleading news that results in consumer losses in Electronic Transactions"; and 2) Criminal provisions in article 45 paragraph 2, "Those who violate may be sentenced to a maximum sentence of imprisonment of six years and or a maximum fine of Rp 1 billion (CNN Indonesia, 2018).

Law enforcement in cases of acts of misuse and violations of electronic transactions in Indonesia can be accessed through, inter alia; "1) The Ministry of Communication and Information that plays the role of regulator, particularly the Directorate General of Informatics Application which has 6 Directorates and Civil Servant Investigators to handle ITE criminal cases; 2) National Police of the Republic of Indonesia, especially Unit IV Cybercrime, Directorate of Special Criminal Investigation, Criminal Investigation Agency; 3) ID-CERT (Indonesia Computer Emergency Response Team) as the first community established in 1998 to handle incidents on the internet; 4) ID-SIRTII / CC (Indonesia Security Incident Response Team on the Internet Infrastructure / Coordination Center) as the Indonesian IT community and state institutions to handle the threat of internet infrastructure; and 5) Managers of Indonesian Internet Domain Names (PANDI) are communities that are granted the right to manage domains" (Wikipedia, 2019).

E-commerce has a code of conduct and refers to the ITE Law and PP 82 which are more detailed [rules] than online shopping activities. For its own arrangements refer to international instrumental such as the UNCITRAL Model Law on eCommerce (UNCITRAL, 1999) and the UNCITRAL Model Law on eSignature (UNCITRAL, 2001).

5. DISCUSSION

"The role of business capital in the e-commerce industry is very important. International trade transactions are one of the important factors for enhancing e-commerce throughout the world. An integrated cross-border e-commerce model is needed to sustain a country's domestic industry." from several e-commerce industries in developing countries is the availability of business capital to be able to compete in international markets (Kawa and Wojciech, 2016).

According to Sitepu, "Increasing the volume of industrial products makes it easier for people to be consumptive and materialistic." This consumptive behavior is also a habit of several Muslim communities of various classes and social statuses (Sitepu, 2016).

Quoting from The Wall Street Journal, there are two reasons why Indonesians to date have never studied online business. "First, due to low credit and debit card penetration. The second cause is distrust. Not a few Indonesians still have concerns about online shopping because they are afraid of fraud cases" (Ebis, 2017).

Alfi further revealed that the economic benefits felt were on the part of the seller, "The e-commerce industry created 26 million jobs in 2022, a 4x increase compared to 2017. Considering the total number of workers in 2022 is estimated at 130 million, meaning e-commerce will contribute 20% of the total workforce, while for buyers, e-commerce opens up opportunities to get prices lower than traditional trading systems, this is especially felt for buyers outside Java, who manage to get savings of 15-25% (Alfi, 2019).

The challenges of the era of the ASEAN economic community that are facing the free market, especially in terms of technological advances and new innovations. Sharia products are able to compete in quite good conditions. The Global Economy Report 2015-2016 reports that halal products in the world are worth more than US \$ 1 Trillion. Industry players benefit from profit growth in the halal industry, for example in food and beverage products (Azmi *et al.*, 2019) cosmetics (Ibidapo-Obe and Annabi, 2017) halal tourism (Sánchez and María, 2019) and financial institutions. Ahmad *et al.* (2016) meanwhile in 2020, the ASEAN e-commerce market is projected to reach US \$ 25 billion from last year's US \$ 11.2 billion. This is inseparable from the increasing digital lifestyle.

According to Syariaef (1997) to develop the quality of human resources in the field of education in particular, it requires several elements that can support the achievement of objectives, including: "1) instilling a love of science and technology in encouraging the development of cultural science and technology, 2) creating an atmosphere and

teaching and learning processes that are able to enhance and develop creativity and innovation as well as interest and enthusiasm for learning, 3) develop sales and professional insights into professionalism and insight that are key to developing quality resources, 4) developing economical, intelligent, Orderly, thorough, diligent and disciplined, these values are the basis that must be instilled in every human being, 5) develop moral and noble character as an embodiment of faith and devotion to God Almighty, through the learning process, not only touching the cognitive, affective aspects and psimotorik, so to the whole morality and manners become part of the character of human personality. "

The resources needed to build the Indonesian nation, especially in this global era, as revealed by Kasiram (2008) there are at least five competencies that must be possessed, as in the following Figure 2:



Figure-2. Five competence to build the nation.

Source: Kasiram (2008).

Explanation; 1) academic competence, which is related to the mastery and ability of scientific methods in the context of mastery and development of science and technology, 2) professional competence, which is related to insight, behavior and ability to advance science and technology in the reality of people's lives, 3) competence in dealing with change (resilient), namely the ability to anticipate, manage, and utilize change to achieve excellence in the future, 4) technical competence, namely the ability to give attention and real attention to fellow humans or social care, and 5) value competence and attitude, namely the ability to always place all problems within the framework of the values of Pancasila, national culture, faith, piety to Allah SWT. "

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6. CONCLUSION

Based on the results of the research discussion, we found that law enforcement and complaints for online transactions in Indonesia have been regulated in accordance with the laws and regulations of trade law only through electronic media. In addition, the cases that occur to date have not all gone through legal channels because in this case consumers do not understand the applicable legal regulations to protect them from loss or online fraud. As one of the main contributors to the world economy, ecommmerce is very promising. Therefore, truly effective management is needed by improving the quality of human resources as an economic driving factor. In other words, technology can be utilized to the fullest if its human resources are of high quality so that it has the ability needed to improve legal protection through electronic information and transactions in Indonesia.

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