

E-COMMERCE VICTIMS DUE TO CONSUMER TRUST

Wilma Laura Sahetapy, wilma@petra.ac.id, 08113320044,
Petra Christian University

Abstract

The widespread of so-called trading via the internet or used to be called as e-commerce provides many new problems in social and economic fields and some of them even common of fraud on transactions of e-commerce in spite of the ITE Law existence. Buyers are the only victims of this scam crime, because its position is very weak. More over, the convinience of this scam happened because there is no direct meeting of sellers and buyers, so sellers do not have the responsibility and no bound as well to the buyers. Observing this phenomenon, the e-commerce requires transparency in their transactions, disclosure is directly proportional to consumer trust in the transaction. It gives a considerable impact and thus creates more increasing consumer protection issues. This transaction strength is merely needed a strong belief in order that consumers can buy the products offered by the businessmen. Special arrangements regarding e-commerce is very necessary, so that it will minimize the fraud of the trust that has been given by e-commerce consumers.

Keywords: E-commerce, trust, Losses, Fraud

1.1.Introduction

These last few years, people are using more technology to achieve its goals, one of them is in the field of trade. Trading over the Internet has become a new trend because of the so many conveniences provided. Salah satunya tidak perlu lagi masyarakat membuang waktu pergi ke mal untuk sekedar membeli barang. One of the conviniences is that people no longer need to waste time going to the mall buying the stuff they need. They can simply open some applications that sell goods they want, then just easily purchased the selected goods although the goods bought are not visible and cannot be touched before purchased. The

easiness makes people using more internet facilities as their transactions. Transactions using the internet commonly referred to as e-commerce.

The convenience amounts generally received makes the internet using increased each year. Society as the buyers have the conveniences which gives its own problems. Karim Benyaklef said as following:¹

“ ... Yet, one cannot claim to fully comprehend and understand this phenomenon if one reduces it to only its technical component. Obviously the latter might seem much more spectacular than its legal counterpart. However regardless of how impressive electronic highways may become, it remains undeniable that their integration and acceptance in the social and economic fabric will be dependent notably on the legal guarantees they can provide. In other words, the consumer will only be inclined to use these new services if they can offer a degree of legal security comparable to that provided in the framework of traditional operations...”

Karim Benyaklef statement said that one cannot be considered as fully understand the phenomenon of the virtual world when their understanding is only limited to technical elements of the virtual world, and not yet aware of the legal issues of those cyber spaces. So according to the author, what is stated by Karim Benyaklef is true, that in e-commerce transactions are likely such as currency, which has two different sides. In one side there is an easiness achieved, but on the other side of legal aspect there is an importance attention needed. Why is it necessary to get more attention, because it is precisely that the legal issues of virtual worlds are more commonly happened. The legal problem occurs because the e-commerce transactions have special characteristics. The special characteristics in e-commerce transactions are that sellers and consumers (buyers) do not meet directly, goods offered was through pictures only. Consumers and producers are not getting balanced positions. Whereas in e-commerce transactions reality, the consumer confidence to the manufacturer is very high.

1.2 Problem

¹ Karim Benyaklef, in Sutan Remy Sjahdeini, op., Cit., Pg. 17.

The unbalanced positions between consumers and producers in e-commerce transactions cause a lot of legal issues. The producer's position that is more powerful than the consumer's position which is very weak causes an indirectly proportional given to the consumers trust.

The number of legal issues such as fraud and other crimes are caused by no meeting of sellers and buyers, so that businesses or seller has no responsibility and bond relation to the consumer. Observing things happen, the e-commerce requires transparency in their transactions. This will provide a big enough impact and that the strength of this transaction required a strong confidence of consumers so that they can buy the products offered by businesses. Special arrangements regarding e-commerce is very necessary so as to minimize the fraud of the trust given by e-commerce consumers.

2.1. Discussion

Protection aspects above show that the consumer's position is always in a weak position because the consumer only has the bargaining level over the goods to be bought without knowing the actual quality of the goods/services. Similarly to the reimbursement of the consumer's loss, again consumers are in unfair positions.

Victimology is researching topics about victims, such as the victim's role in the criminal act occurrences, the relationship between the perpetrator to the victim, the victim vulnerable position and the victims role in the criminal justice system. Hans Von Hentig an expert in criminology in 1941 wrote a book entitled **The Criminal and his victim** stating that the victim had a decisive role in the incidence of crime.

World trade particularly in e-commerce has a lot of frauds that cause disadvantages to consumers. Viewing victimology as a scientific field, the occurrence of criminal acts because of the fraud presence are the result of the victim role. It is said that the victim role is nothing but because of consumers give full trust (in this case because they do not see and touch the goods directly) on the other hand the trust given turned out to be misused by businesses.

Budi Agus Riswandi also revealed that "The issue of consumer protection is an important part of e-commerce to be considered, because some of the typical characteristics of e-commerce will put the consumer in a weak position or in the disadvantaged position such as:

- a. Internet Companies (the Internet merchant) does not have a physical address in a particular country, so it will be difficult for consumers to return the product that does not comply with the order.
- b. Consumers are difficult to obtain collateral to get a local follow-up service or repair.
- c. The products bought by consumers is likely not appropriate or is not compatible with the the local requirements.²

The ITE constitution in this case had not fully accommodate e-commerce consumer protection in the case of purchasing goods/ services, so the element of protection afforded to the e-commerce consumer has not been fully listed in the ITE Law. The implementation of e-commerce transactions on ITE law is only set on how businesses in their activities must provide complete and correct information, that is regulated in Article 9 of ITE Law. The definition of "correct and complete information" is essentially include important information and be the main thing in e-commerce consists of:

1. Load identity, in-page business must clear the original name of the businesses.
2. Status of the legal subjects that is license or the validity of its business so that the type of goods/services offered is in accordance with the business permit owned by the businesses.
3. Its competence, either as producers (which means the maker or provider of goods and/or services), suppliers (third parties that supply goods or services to another entity), providers as well as intermediaries; and other information that describe certain things as legitimate requirement of the agreement, and explain the goods and/or services offered, such as name, address, and description of goods/services.

² Agus Budi Riswandi, Law and Internet in Indonesia, (Yogyakarta: UII Press, 2003) p.62

The existence of complete and correct information that is actually intended to make the physical store as well as the identity of the business that cannot be traced, can legally clear the existence. In fact the presence of stores that are not real or the virtual stores make fraudulent businesses can take their deceit action. Besides the lack of clarity in the identity of businesses is considered to provide chances or opportunities to conduct fraud. Yet on the other hand, the fullest consumers' trust is not comparable to what is provided by businesses.

Truth identity is required in e-commerce transactions, and it is not met by businesses because of the absence of strict sanctions against the obligation to provide data/information on the identity. In addition, the most important thing is the lack of verification or justification that identified the truth of the business identity.

It was the perfect time to act against the law in the cyber world that is not easily overcome simply by relying on conventional positive law, but Indonesia is now properly deserving a self reflection with other countries such as Malaysia, Singapore, India or the European Union countries which has seriously integrated the Cyber Legal regulations into its domestic positive legal instrument.³ It is also expected that Consumer Protection Law which is a conventional positive law will be able to amend its articles so as to provide legal protection to e-commerce consumers.

2.2. The consumer's position in e-commerce transactions

The development of technology at the present time, automatically spur advance in the dynamics of community life. The presence of the latest technology makes the society increasingly want the convenience and speed of access in performing activities of life. E-commerce occurs as one of the new trading technologies. The presence of the new technologies are often used by certain

³ Leonard, Eamonn, Ahmad M. Ramli, Kimberley, Paul, et.al., Government of Indonesia Information Infrastructure Development Project (ITDP), in Ahmad M. Ramli, Op. Cit. P. 5.

parties to gain unilateral advantage and irresponsible. Parties doing that tend to lead to a crime form namely deception. This fraud occurs originated from the customs and ways or procedures online shopping consumers with a high level of confidence.

Based on research conducted by the author⁴ in 2013, it was discovered some of these consumer habits. Consumer habits are divided into several surveys of consumer behavior. Respondents' reasons preferring to shop online compared to direct spending to the greatest shop percentage is practical (50.43%). In addition, the price is cheaper than spending directly (24.07%) and goods are more up to date (12.61%), there are few respondents who reasoned because they already know that online sellers (0.57%), this is because of the trust factor to the seller.

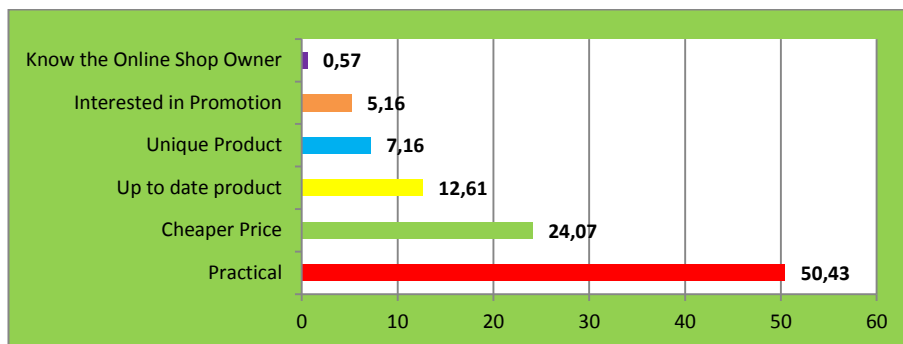
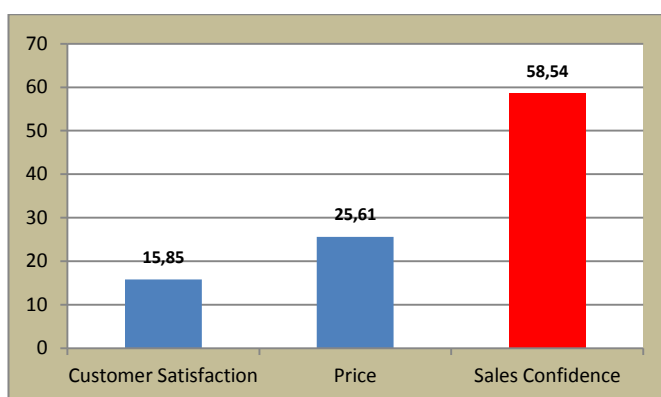


Figure 1. Percentage of Respondents Reason in Online Shopping



⁴ Wilma Laura.S., study on 544 students at the University of Surabaya from various faculties and forces, about "online shop".

Figure Percentage Factors that are considered important by respondents When Online Shopping.

The surveys above can be concluded that the consumer in e-commerce transactions is needed trust from the consumer because without trust the goods that are not touched or held, will not be purchased by the consumers. It took a high confidence of consumers to buy goods from e-commerce transactions.

2.3. The consumer existence in e-commerce transactions

The continued development of e-commerce transactions, it must be surely followed with a very strong rules and supervision because with the rise of online sales it will also increase prevalent opportunities for fraud to the buyers. This is due to lack of caution to buyers or consumers also a lack of government oversight in the regulations that do not reach out to the perpetrators of criminal acts due to online fraud. For the victim of online fraud, the loss Therefore, it is necessary to have protection guarantee in online shopping and also the importance of follow-up if there is a report or complaint for online shoppers. To see the condition of the victims of online shop fraud, it is described in detailed as follows: Of the 544 respondents surveyed, 70.94% had experienced fraud when doing online shopping

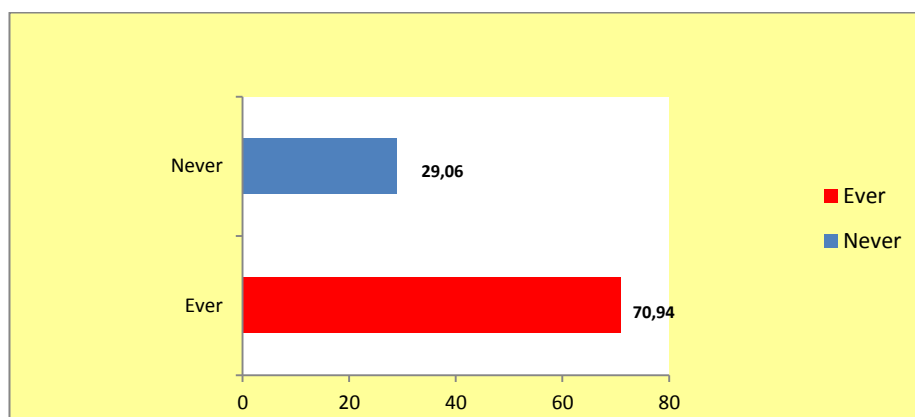


Figure 2. Percentage of respondents who experienced fraud when online shopping

Types of fraud experienced by many of the respondents are goods not according to the photos or pictures the offered (48.65%), goods arrive not on time or late, not in accordance with the promise (28.65%), the goods have been paid but the goods did not come (11.35%), in completely this type of fraud experienced by respondents can be seen in Figure 3 below:

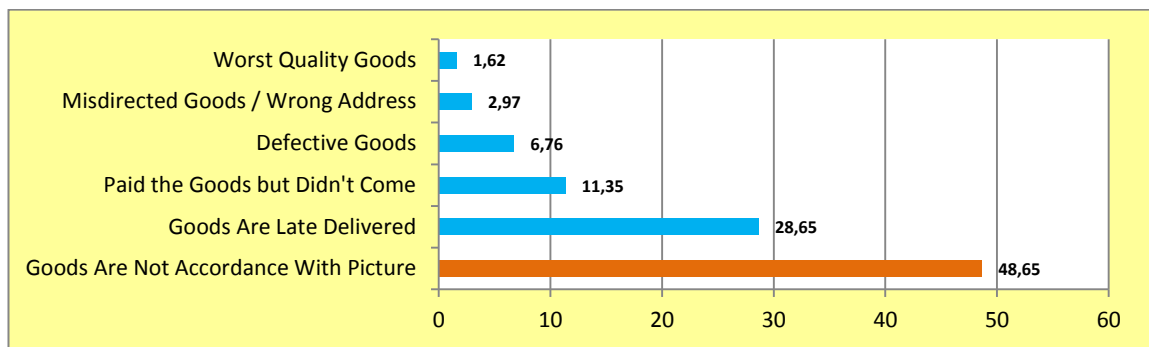


Figure 3. Percentage of Respondents Type Fraud experienced when Online Shopping.

The actions of the respondent as the victim of online shop fraud mostly are giving up the money lost or whole-heartedly not get the desired goods or even not getting any with a percentage of (55.84%), while 20.78% are trying to spread information about the bad things that happened to the general public or to good friends through social media or notify directly so that will not encounter to fraud as experienced by the responders. There were 15.5% of respondents trying to contact the online shop to seek damages or request a follow-up of problems that occur. There were also respondents who tried to report to the police about the case incidents (7.79%) but did not get a positive follow-up from the police. There were also respondents who tried to contact the bank to block the account owned by the online shop.

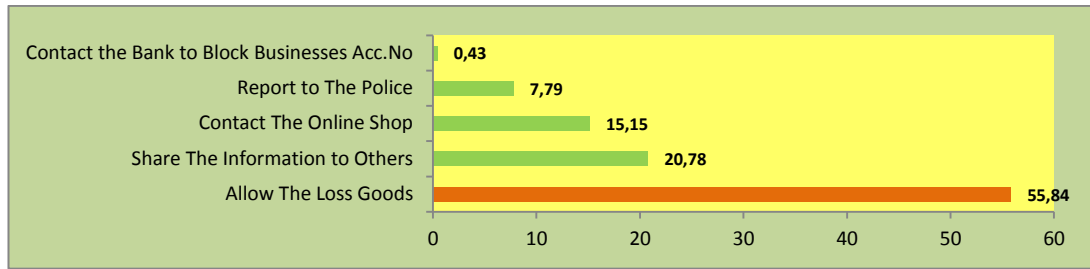


Figure 4. Percentage of Respondents action when becomes Online Shop Victim

Events or bad experiences suffered by the respondents when doing shopping online is not a deterrent to the respondents; it can be seen from the 70.81% of the respondents who still make purchases online but certainly more careful in selecting its online sellers.

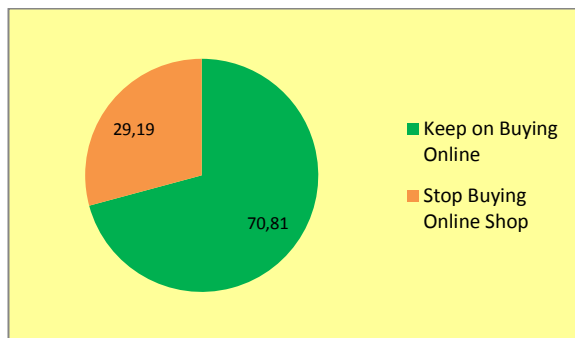


Figure 5. Percentage of Deterrent Respondents Level After becoming a victim of online shop.

Although surveys show that many disappointments experienced by consumers against e-commerce transactions, but in fact consumers still buy them online or through e-commerce transactions.

There is an important thing that should also be noted by consumers in e-commerce transactions after a survey in doing the purchasing is that the consumers need confidence to the seller. It shows that e-commerce transactions need to have more confidence, because in the electronic commerce there is no meeting between sellers and buyers. There is no doubt that in e-commerce transactions businesses in selling goods and/or services did not reveal initially the condition of the goods sold to consumers. This situation provides an opportunity

for businesses to sell goods and services whose quality is not in accordance with what has been promised. Even in that case, consumers also do not know the credibility of businesses that sell goods and/or services. So it needs high consumer confidence in buying goods and/or services.

Therefore, according to the author's observation, to realize the consumer confidence it is absolutely essential about the need of identity truth that will give good impact for businesses, consumers and government. Good impact for businesses are: businesses will run their business more honest and can run a fair business competition. The impact for consumers is the presence of the correct identity, then the consumer can be more confident, secure and comfortable in conducting e-commerce transactions. In addition consumers can complain objection directly in case things unsatisfactorily happen to him/her as a consumer. Last impact for the government is with the grant of identity will bring order to administration and provide more order in the licensing trade.

Truth ID is required on the application for a request of dispute settlement. Therefore, the procedures for consumer dispute settlement particularly in e-commerce, reinforced with a written request, so it should load correctly and comprehensively about:

- a. Full name and address of the consumer;
- b. Full name and address business actors;
- c. Goods or services of the complaint;
- d. Proof of acquisition (vouchers, receipts and other evidence documents);
- e. Description of the place, time and date acquired goods and services;
- f. Witnesses who know the goods and services are acquired;
- g. Photographs of goods and services implementation activities, if any.

3. Conclusion

Status of a weak consumer in e-commerce transactions is no need to be worried anymore considering that identity has become clear legal concept in every transaction. The accuracy of data/information is containing the legal

certainty that should be realized so that no more fraud arising. It is time for law and regulation enforced over again in Indonesia. When it is no longer possible to use conventional law then the law must follow the progress changes at this time. It can be analogous to the problem occurs in the beginning of electricity theft. The stolen evidence was not possible to be brought into the courtroom. Similarly with crime in cyberspace, bandwidth theft, and others cannot be possible that the evidence presented at the hearing.

Observing such specific characteristics can be concluded that if businesses do not provide their identity so consumers will be difficult to be protected, because as we all know in e-commerce transactions the consumers and business operators are not met in the transaction process. Then the consumer can not see directly the sold goods. It would require the correct identity as a guarantee that the businesses will give its responsibility in carrying out the process of e-commerce transactions.

Updates and breakthroughs in legal protection for consumers through identity, legality and location of businesses are expected to provide a balanced legal position between consumers, businesses and governments. It can not be denied that in e-commerce transactions enables businesses to not inform in advance about the physical condition of the sold goods to consumers. Those circumstances create loopholes for businesses to provide goods and services whose quality is not in accordance with what has been promised. Therefore, with the right data/information on the identity, legality and business location can provide awareness to businesses that can provide goods and/or services which are appropriate to the promise. Such precautions bring good effect for the consumers, because if businesses can not deliver as promised, it can be charged for compensation or can be demanded direct complaint to the businesses.

The presence of the correct data/information on the identity, legality and business location can also guarantee that if the goods purchased do not fit or cannot be used, consumers obtain reimbursement for compensation or indemnity either directly in the form of products or goods that have been purchased or

replacement in the form of money. The gap for businesses is very substantial if there is no data/correct information about businesses. Cheating would be enormous opportunities if data/information on the identity, legality, and the business location is not included by businesses.

The conclusions of the provision from the complete data and information is to give benefit to all parties in e-commerce transactions. Moreover, the benefits to be received from e-commerce transactions are much more confidence on the part of consumers to businesses. Thus with more confidence on the part of consumers, economic growth will also increase.

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