

## **LEGAL REFORM ON CORPORATE RESPONSIBILITY IN THE DISRUPTION ERA (STUDY OF LEGAL ISSUESE-COMMERCE)**

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### **Abstract**

The speed of technological development has changed the way humans live dramatically, the world is changing very quickly into the "age of disruption." "Big data, artificial intelligence, technology 4.0 have destroyed all definitions, measurements and even theories that have been used as references. At the same time, this age of disruption provides enormous opportunities and also has challenges and problems that were never imagined before, the anti-free market movement has emerged and a protectionist approach is increasingly dominating. With the advent of sophisticated technology, new innovations have emerged to replace old methods that are less effective and efficient. These new innovations are also required to be able to keep up with the needs of society and developments that continue to move forward. This phenomenon is called the era of disruption, this emerges slowly and suddenly can disrupt and replace the old system because it is easier to implement and practical. The era of disruption is an era of innovation and massive change that fundamentally changes all existing systems, arrangements and landscapes to new ways. Entering the era of disruption, companies must be more creative and innovative by creating new strategic and appropriate rules to survive amidst competitive competition. E-Commerce itself is present in society after being influenced by the era of disruption characterized by the increasingly rapid development of information technology, giving rise to a new revolution, namely the transition from conventional work systems to the completely practical digital era. Another thing that often gives rise to legal issues that demand legal reform so that there is protection through legal regulations that regulate company responsibilities in order to achieve legal certainty and prosperity can be realized in an era of disruption.

**Keywords:** Legal Reform, Corporate Responsibility, Distution Era, E-Commerce

**INTRODUCTION**

Advanced technology has made it easier for new innovations to emerge to replace old methods that are less effective and efficient. These new innovations are also required to be able to keep up with the needs of society and developments that continue to move forward. Innovation is research, development and/or engineering activities aimed at developing practical applications of new scientific values and contexts, or new ways to apply existing science and technology to products or production processes. However, amidst the changes that are taking place, there is a social phenomenon that needs to be paid attention to. This has attracted public attention and influenced the process of change because of its characteristics which are not directly felt but whose effects are very surprising. This phenomenon is called disruptive innovation, where this innovation appears slowly and suddenly can disrupt and replace the old system because it is easier to implement and practical.

Apart from that, disruptive innovation plays an important role in the use of technology, where almost all of these disruptive innovations use sophisticated technology in their application. The characteristics of disruptive innovation are as follows. The characteristics of the disruption from the Old World to the New World are from time series and linear to real time and exponential, from owning economy to sharing economy, from on the lane economy to on demand economy, from single supply demand to supply demand with networks and from opponents. clearly visible to invisible opponents.

Based on the description above, technology changes humans from time series to real time civilization. Time series statistics or periodic series are data that are used to interpolate past data to predict the future. This is different from today, where everything is in real time, today's data, this second is immediately processed in big data and summed up and followed up just as quickly.

Currently, society generally lives in an era where consumptive assets are open for joint use, sharing, collaboration without having to have their own resources. Past technology did not allow for immediacy, having to go through a process of queuing and waiting, in contrast to today, consumers can get what they need and want right away (on demand). Technology and the use of big data make this possible.

The supply-demand curve used to be single, different from today, where people live in a world of applications that are simultaneously run by tens or even thousands of networks. Competitors are no longer visible, and go straight to the main targets, to consumers, from door to door directly and connected to all corners that no longer have geographic boundaries.

What is also a concern of disruptive innovation is the population and the number of productive ages. Several countries are currently facing problems regarding workers of productive age, such as in Japan, Singapore, Russia and even China. This is because government policies in that country which began around the 1960s suppressed the birth rate in the country. As a result, around the 1990s, the country experienced a decline in the workforce of productive age. However, in 2000, the population aged 25-44 years decreased by 7%, while life expectancy continued to increase to above 85 years. Meanwhile, Indonesia itself is currently facing a demographic bonus era where the population of productive age is increasing faster than the number of non-productive age population. Many people of productive age in Indonesia are currently referred to as millennials, because almost part of their lives are always in contact with technological sophistication. Millennials are currently called agents of change because many innovations are born from the work of those who are experts in operating information technology which has become the power of the latest innovations.

The New Public Service theory plays a very important role in the formation of this era of disruption where the services promoted do not look at economic or social aspects. Cragun & Sweetman, identified five triggers for waves of disruption that have occurred since 1980, including:

1. Technology (Especially IT);
2. Management Theory (new methods of managing human resources, leadership, production and business);
3. Economic events (role of the state, central banks, supply-demand fluctuations);
4. Global competitiveness;
5. Geopolitics (tensions between regions).

The concept of disruption is about competitive response, not a theory of growth, similar to growth but not about growth. Disruption replaces 'old markets', industry and technology and produces new things that are more efficient and comprehensive. It is both destructive and creative.

According to Kasali, disruption is an innovation that occurs in an era that will replace all old systems with new systems. In the private world, this phenomenon has claimed many victims. Companies that were very advanced and developing suddenly became powerless and were no longer able to compete. This happened in one of the largest telecommunications companies such as Nokia, where innovation alone was not enough to develop.

Current civilization has changed all consumptive things which are open to be used together, shared with each other, and do not have to be owned alone. It is not only the private world that is affected, the government world is also experiencing the same thing. The government is finally becoming more active in using E-Government in various state administrations.

The era of disruption is very dependent on technological sophistication, apart from that it also requires an innovator who can read the direction of change. According to Christensen, the characteristics of innovators needed in this era of disruption include:

1. They create systemic social change through scale and replication;
2. They either meet excessive needs (because existing solutions are more complex than many people need) or are not served at all;
3. They offer products and services that are simpler and cheaper than existing alternatives and may be considered to have a lower level of performance but users find them quite good;
4. They generate resources such as donations, grants, volunteers, or intellectual capital in ways that are initially unattractive to competent competitors;
5. They are often ignored, underestimated by actors with good business models, thereby creating unique innovations that are different from existing paths.

Many people are not yet aware and understand that currently, in the midst of an era of disruption, a revolution is taking place in various aspects of life, especially in certain aspects, namely:

1. Information Technology: connecting everyone, both those who need it (demand side) and those who offer it (supply side);
2. Added value: carried out with serious efforts to provide greater value for consumers and service providers through low cost economics. As a result, services or products appear at relatively more attractive prices;
3. Sharing economy: innovation is not only present in products, but also in business models, namely the mutual cooperation economy, sharing resources, or sometimes called the collaboration economy;
4. Statistical technology: using big data analytics, namely big data statistics open time series again, but switch to real time so that supply can be deployed when demand moves. This reduces search costs and transaction costs that are borne by customers.

In the era of disruption, there are several consequences arising from the use of sophisticated information technology, this has a broad impact on:

1. In this era of disruption, almost all incumbents (main actors, market leaders) are attacking, be it well-known products or companies, leading schools or universities, social organizations, political parties, or services that are generally known in society;
2. In this era of disruption, new markets have been created that have been ignored by incumbents, namely those who occupy the bottom of the pyramid. Now those who were previously disadvantaged as consumers due to low purchasing power have become market forces. Overall, market participation increased;
3. In this era of disruption, it has the impact of deflation or falling prices because search costs and transaction costs have practically become zero rupiah. These two types are generally only known to the younger generation thanks to information technology. Apart from that, a sharing movement emerged which was able to mobilize the use of consumer goods into productive economic activities.

These incidents have made entrepreneurs or business people aware of the importance of legal reform in their work system.

Important aspects in the current Era of Disruption where competition is so intense, technology is one line of life that cannot be ignored. The existence of technology has erased geographical boundaries, produced new innovations that are invisible and have unwittingly changed the way of life, influenced the order of life and even replaced existing systems.

Digitalization is slowly becoming a way to solve problems felt by society. All aspects of life today depend on the digitalization system, including the world of government in the aspect of public services where relations with the community occur very closely at all times. Digitalization makes things efficient, effective and practical.

The rapid development of the world economy, the flow of globalization and free trade as well as advances in technology, telecommunications and information have expanded the transaction space for goods and services offered to become more varied, both domestically produced goods and services and foreign production.

This progress has provided many telecommunications facilities and sophisticated information technology products that are able to integrate all information media to facilitate all daily human activities. In the midst of globalization of increasingly integrated communications (global communication network), the internet is becoming popular and making the world smaller (shrinking the world) while at the same time fading national boundaries and their sovereignty and social order.

Information technology in Indonesia is developing rapidly, according to a survey conducted by the Association of Indonesian Internet Service Providers (APJII) in 2016, internet users in Indonesia amounted to 132.7 million or 52% of the total population of Indonesia.<sup>2</sup> Of this number, users on the island ranked first. Java has 86.3 million people (65%) according to the infographic in Figure 1. This is due not only to the distribution of the population but also because the readiness of the communication network infrastructure is better on the island of Java compared to other islands.

When compared with survey results in 2014, Indonesian internet users were at 88 million users. This increase is comparable to the increasing development of gadget technology (smartphones) which are increasingly cheap and competitive and improvements in communications infrastructure by telecommunications operators in Indonesia. Technological advances have brought rapid changes and shifts in a borderless life in this era of globalization. Globalization is the process of eliminating various controls that hinder the movement of trade and capital to spread across the globe.

The use of technology has encouraged rapid business growth, because various information can be provided via long distance connections and those who wish to carry out transactions do not have to meet face to face, but simply via computer and telecommunications equipment.

The development of information technology is also forming a new world society that is no longer hampered by territorial boundaries. The internet and information technology are new innovations in the last decade that have influenced human life. Several human activities have changed significantly by taking advantage of efficiency, effectiveness and mobility. In today's world of global trade, electronic transactions are something that cannot be avoided.

Electronic Commerce (E-Commerce) is an example of advances in information technology, where business transactions are no longer carried out conventionally, requiring buyers to interact directly with sellers or the need to use cash. But the seller is represented by a system that serves buyers online via a computer network.

In carrying out a transaction, a buyer faces and communicates with a system that represents the seller. Therefore, E-Commerce requires a system infrastructure that is able to guarantee the security of these transactions. The Global Trade Era requires the support of the Digital Economy which is reflected in the birth of electronic trading activities, in various forms of activities such as: retail trade, goods auctions, service offerings, and so on.

As a consequence, traditional stores are being replaced by electronic stores known as: Cyberstore, Virtual Store, Digital Market, Electronic Mall, Online Shop and so on. The growth of the digital economy certainly has both positive and negative impacts on global economic life which no longer recognizes the territorial boundaries of a country.

The growth of the domestic e-commerce industry is increasingly rapid amidst the country's economic slowdown. Moreover, most e-commerce business actors in the country are small and medium scale (SMEs). As we know, SME businesses are the most resilient businesses even in times of economic crisis.

Through the e-commerce industry, it can continue to develop and support the Indonesian economy which is predicted to become the world's new economic power in 2020. Not just for searching for information and interacting online, people in big cities are now making ecommerce a part of their lifestyle.

The consumer behavior of tens of millions of middle class people in Indonesia is the reason why e-commerce in Indonesia will continue to grow. This business has enormous business value, but unfortunately until now there are no specific regulations governing this online business. At the end of 2014 alone, the business value of the Indonesian e-commerce industry reached USD 12 billion. The Indonesian government wants to position Indonesia as the largest digital economy country in Southeast Asia by 2020.

The current situation is that there are many beginner e-commerce business players (startups), both online trading and digital startups with fresh and innovative ideas who lack access or funding to develop their business. The government will encourage the growth of new technopreneurs, either by collaborating with leading technopreneur mentors, data centers, technoparks, as well as providing funding.

Meanwhile, SME business actors are expected to be able to rise to the level of becoming large business actors, even going international. Strengthening technical infrastructure, business strategies, and digital marketing strategies undoubtedly play an important role in increasing e-commerce profitability. However, business development and strengthening must also be accompanied by legal safeguards against risks that can arise in e-commerce activities and transactions between online business actors and consumers.

These legal risks include those related to transaction security, both in terms of payment, logistics and delivery, identity authenticity, protection of privacy and data, service and resolution of complaints from consumers, sales and purchase contract relationships, including the risk of claims from other third parties.

For example, in 2016, the e-commerce company from Singapore, Lazada, was widely discussed by netizens that several Lazada accounts were hacked. However, Lazada denied that several of these accounts had been hacked, Lazada explained that this happened because of the

possibility of phishing on the victim's account, so that the hacker managed to take the username and password.

However, this reason cannot be accepted, because it is appropriate for Lazada to guarantee the security level of its e-commerce system at the highest level so that consumer data is not easily stolen, especially when using electronic payments and using credit cards whose data is very sensitive. confidential. Another thing that often becomes a legal problem related to e-commerce is that it is closely related to intellectual property rights issues such as copyright, trademarks and patents.

Based on the background above, the author wants to discuss Legal reform on corporate responsibility in the disruption era, case studies on E-Commerce legal issues and the role of corporations in encouraging the emergence of legal reform in the disruption era, especially in the e-commerce sector.

## **RESEARCH METHODS**

**Approach** This research uses a qualitative approach as a strategy to collect and utilize all information related to the main problem. This research is descriptive in nature and aims to describe and analyze the role of corporate responsibility and map e-commerce legal problems as an effort to find new laws or reform old laws so that they are in line with developments in the era of disruption.

**Data Collection** Using the desk study method, namely a way of collecting data and information through examination and analysis of data and information using secondary data. Secondary data was obtained through literature searches. The data sources in this research are literature, articles, journals, scientific research, and internet pages related to the research carried out.

The data analysis technique used in this research is an interactive model as proposed by Miles and Huberman in Sugiono, including data reduction activities, data presentation and drawing conclusions. Data reduction and data presentation are prepared when the researcher obtains the data needed in the research. After data collection ended, the researcher tried to draw conclusions based on verification of the field data.

## **RESULT AND DISCUSSION**

**E-Commerce Business Legal Issues** In general, it is a trading system that uses electronic mechanisms on the internet network. E-commerce can involve electronic funds transfer, electronic data exchange, automated inventory management systems, and automated data collection systems.

E-Commerce can be defined as all forms of trade or commerce transactions for goods or services (trade of goods and services) using electronic media. In e-commerce itself there is trade via the internet, such as in business to consumer (B2C) and business to business (B2B) and trade by exchanging structured data electronically.

According to Onno W. Purbo and Aang Wahyudi who quoted David Baum's opinion, stated that:<sup>9</sup>"e-commerce is a dynamic set of technologies, applications, and business processes that link enterprises, consumers, and communities through electronic transactions and the electronic exchange of goods, services, and information." That e-commerce is a dynamic set of technologies, applications and business processes that connect companies, consumers and communities through electronic transactions and trade in goods, services and information carried out electronically.

E-commerce is a new concept which is usually described as the process of buying and selling goods or services on the World Wide Web Internet (Shim, Qureshi, Siegel, 2000) or the process of buying and selling or exchanging products, services and information via information networks including the internet (Turban, Lee , King, Chung, 7 Sugiyono, Quantitative

Qualitative Research Methods and R&D, Bandung: Alfabeta. 2012, see also Miles, Matthew B. and A. Michel Huberman, *Qualitative Data Analysis*. Print I. (Jakarta: UI-Press. 2004) 8 Rieyeke Ustadiyanto, *eCommerce Framework*, Yogyakarta: Andi, 2001, pp. 139- 143 9 Onno W. Purbo, *Getting to Know E-Commerce*, Jakarta: PT. Elex Media Komputindo, 2000, p. 2. JIKH Vol. 11 No. 3 November 2017 : 349 - 367 354 2000) in Suyanto's book.<sup>10</sup>

Meanwhile, according to Kalakota and Whinston (1997) in M. Suyanto's book defines e-commerce from the following perspectives: 11

1. Communication Perspective: is the delivery of information, products or services and payments via telephone, computer network or other electronic means. transactions and company work flow.
2. Service Perspective: is a tool that meets the desires of companies, consumers and management in cutting service costs while improving the quality of goods and speed of service.
3. Online Perspective: related to the capacity of buying and selling products and information on the internet and other online services. The classification of e-commerce that people usually do is based on the nature of the transaction.

The following types of e-commerce: 12

1. Business to business (B2B), includes all electronic transactions carried out between companies. Examples of e-commerce businesses that apply this model are bizzy.co.id and ralali.com;
2. Business to Consumer (B2C), where business actors directly involve sellers or companies with end consumers (individual buyers). This type is developing very quickly due to the support of the emergence of website platforms and the many virtual shops and even malls on the internet that sell various people's needs. Examples of e-commerce businesses that apply this model are Berybenka, Bhinneka, Tiket.com and others;
3. Consumer to Consumer (C2C), includes all electronic transactions between consumers. Generally, these transactions are carried out through third parties who provide online platforms to carry out these transactions. This type of concept is widely used on online auction sites or online auctions. Examples of e-commerce portals that apply the C2C concept are Tokopedia, Bukalapak, Elevania and others;
4. Consumer to Business (C2B), where individual business actors carry out transactions or interactions with one or several companies. This type of e-commerce is very rare in Indonesia. An example of an e-commerce portal that applies a business model like this is priceline.com;
5. Business-to-Administration (B2A), includes all transactions carried out online between companies and government public administrations. This type of e-commerce involves many services, especially in areas such as fiscal, social security, employment, legal documents and registers, among others. An example of a public administration website that implements B2A is www. bpjs-online.com;
6. Consumer-to-Administration (C2A), includes all electronic transactions carried out between individuals and public administrations. Examples of areas that use this type of e-commerce are:
  - a. Education – dissemination of information, distance learning processes, etc.;
  - b. Jamsostek – information dissemination, payments, etc.;
  - c. Taxes – filing taxes, paying taxes, and more;
  - d. Health – appointments, information about illnesses, payment for health services and more
7. Online-to-Offline (O2O), a type of ecommerce that attracts customers from online channels to physical stores. Several websites in Indonesia that implement the O2O type are Kudo and MatahariMall. As is done by the large retail company in America, Walmart.

Factors that drive the implementation of e-commerce, according to Desruelle and Burgelman (2001) include:

1. Globalization and trade liberalization;
2. Increasingly sharp competition;
3. Technological development;
4. Physical reduction of goals;
5. Publicity

Despite the many benefits offered by the e-commerce system, there are threats that exist in its use. These threats are various possible events that could endanger valuable assets. Juridically, activities in the cyber/internet space cannot use a conventional legal approach alone because many difficulties will arise.

Activities in cyber space are virtual activities that have a very real impact even though the documents used as evidence are electronic or softcopy. Therefore, the role of corporations, the state, in this case the government, has an obligation to protect its citizens by carrying out a protective function through legal regulations governing e-commerce transactions, so that legal certainty is achieved and prosperity can be realized.

When viewed from a legal aspect, trade transactions or buying and selling as a form of agreement are regulated in the Civil Code, namely Book III concerning Engagements. However, the Criminal Code only regulates conventional buying and selling transactions, it does not regulate buying and selling activities in cyberspace (e-commerce).

In 2008 the government passed Law Number 11 of 2008 which has now been amended in Law Number 19 of 2016 concerning Information and Electronic Transactions (UU ITE). The ITE Law generally regulates the use of information and communication technology. In this law, the interpretation of norms relating to e-commerce is expanded, which still refers to conventional civil regulations in the Criminal Code.

Statistical data released by Social Research & Monitoring (soclab.co), shows that the potential of the e-commerce market in Indonesia has indeed spread to various lines, including SMEs (Small and Medium Enterprises). The fantastic transaction figures from businesses via the internet network have indeed attracted anyone to try their luck.

However, now you can no longer play e-commerce haphazardly, there are several rules you need to understand so you don't fall into legal traps. Currently the government is seriously structuring and regulating the world of e-commerce. Of course, in the future you can be sure that e-commerce businesses will have many rules and laws that bind them. So the existence of several e-commerce legal regulations will certainly create its own challenges for the perpetrators.

According to the Director for Development and Business at Easybiz, Leo Faraytody, business people who do not know and understand existing e-commerce laws, it is not impossible that they will encounter many difficulties and obstacles. So what are the existing and future legal challenges in the world of e-commerce that must be understood by the perpetrators. The following are the legal challenges in the world of e-commerce:

a. E-commerce Legal Entities in Indonesia

The first thing that needs and must be considered in an e-commerce business is knowing the legal entity of the business that will be established. Several things such as business scale, capital, target market and strategy to be implemented are taken into consideration to align with the form of legal entity that will be determined.

By having a legal entity, the e-commerce business has a definite identity and can support and anticipate existing legal problems. Even though it is still on a small scale, a legal entity is an important thing to consider when building an e-commerce business. Can form a Commanditaire Vennootschap (CV) legal entity, or a stronger and more trusted Limited Liability Company (PT) legal entity.



As stated in Article 1 point 4 of Government Regulation Number 82 of 2012 concerning Implementation of Electronic Systems and Transactions as follows: 1 Electronic System Operator is every person, state administrator, business entity and community who provides, manages and/or operates an Electronic System for his own needs and/or the needs of other parties.

The same thing is also stated in Law Number 7 of 2014 concerning Trade in CHAPTER I General Provisions Article I paragraph 14 defines business actors including the e-commerce business sector as follows: Business Actors are every individual Indonesian citizen or business entity that in the form of a legal entity or non-legal entity established and domiciled within the legal territory of the Unitary State of the Republic of Indonesia which carries out business activities in the field of Trade.

Based on the provisions above, there is no problem if you choose a form of business entity other than PT, for example by establishing a cooperative, Limited Partnership (CV), or firm. Establishing a PT for an e-commerce business is certainly safer than a CV. This is because PT has the status of a legal entity so there is a separation of assets and responsibilities between the company owner and the company. The responsibility of the owner or shareholder is only limited to the value of their shares in the company.

Meanwhile, CV is not a legal entity. So there is no separation of assets and responsibilities. This means that if a CV experiences a loss, it could spread to the company owner's personal assets.

#### b. About Licensing

Licensing often makes business people lazy and reluctant to take care of it because of the complexity (bureaucracy). The poor licensing service system is something that hinders business actors. Licensing and legal documents for establishing a business include Company Domicile Certificate (SKDP), Taxpayer Identification Number (NPWP) in the name of the company, Trading Business License (SIUP) and Company Registration Certificate (TDP). To set up an e-commerce company, what you need to pay attention to is that you must have a SIUP. Without a SIUP, you cannot carry out trading activities in Indonesia.

Article 24 paragraph (1) of the Trade Law states: Business actors carrying out trade business activities are required to have a permit in the trade sector granted by the Minister. This article is the legal basis for issuing SIUP. Without having a SIUP, the criminal threat for business actors is a maximum imprisonment of 4 years or a maximum fine of IDR 10 billion.

Article 1 number 4 Government Regulation Number 82 of 2012 concerning Implementation of Electronic Systems and Transactions 17 Article 1 number 14 Law Number 7 of 2014 concerning Trade 18 See Article 106 of the Trade Law "Business Actors carrying out Trading business activities do not have permits in the Trade sector "given by the Minister as intended in Article 24 paragraph (1) shall be punished with a maximum imprisonment of 4 (four) years or a maximum fine of IDR 10,000,000,000.00 (ten billion rupiah)."

#### c. Legality Aspect

The legal aspect does not just stop at establishing a company or licensing, but is all matters that can facilitate the running of all business activities, strengthen the business foundation to maintain and hope for the continuity of business activities, in order to achieve competitive victory in business. The legal aspect has a major and very important role. Every part of the activity in carrying out and implementing business activities from simple to complex matters is also a matter of the legal aspect itself.

The legal aspect in e-commerce concerns regulations or rules that regulate the running of e-business so that it complies with the laws and rules that apply in a country. The legality process will be the entry point for business actors to develop their e-commerce business.

In this case, the legality angle must touch the entire e-commerce business process, including aspects of communication resources and information technology infrastructure used as well as aspects of the trade system, so that there are no overlapping regulations between departments.

Legal regulations in e-commerce should be harmonized with regulations regarding Intellectual Property Rights, Patents and Brands because everyone has the ability to access and use the internet for their needs. In e-commerce, there is a big opportunity for violations or deviations from copyrights, trademarks and patents.

#### D. Form of Legal Protection

The next legal challenge that needs to be considered in e-commerce businesses is regarding legal protection. E-commerce business actors in their activities must protect their assets as well as their own business aspects. This is done so that legal problems do not occur in the future after the business has been running for a long time. By anticipating this from the start, business actors will be safe and save costs that could be incurred by business actors if legal problems arise.

This policy is contained in the Circular Letter of the Minister of Communication and Informatics number 5 of 2016 concerning Limitations of Responsibility of Platform Providers and Traders (Merchants) Trading Through Electronic Systems in the form of User Generated Content. This policy is similar to the Digital Millennium Copyright Act (DMCA) which took effect in the US in 1996. The DMCA will criminalize the production and use of technology, services and devices with (Intellectual Property Rights) which regulates Copyright, Legal Challenges and the Role of the Government.

This circular aims to protect online buying and selling platform owners from legal action. The reason is that platform providers have been vulnerable to lawsuits due to buying and selling activities of prohibited products sold by their users. One of the points in the circular in Part II.B.2 states that there is legal protection for providers, traders and users of online shop platforms.

Protection is carried out by ensuring the limits and responsibilities of each in carrying out trading activities via electronic systems. In this circular, for example, it is stipulated that platform providers are obliged to provide reporting facilities, as well as pay attention to the time period for removing or blocking prohibited content.

Meanwhile, users are obliged to provide complete and correct information regarding the terms and contracts for the products they sell. The Government's Role in Supporting E-Commerce Business Development Internet technology, which was initially created only to publish information, has now changed a lot to become more interactive, which can create reciprocal processes and become a means for transactions.

Likewise with the transaction and payment mechanisms as well as delivery. Trade transactions have now become one-stop shopping, where transaction agreements include agreements on goods or services as well as payment and delivery, so that the total includes the flow of information, the flow of money and the flow of goods.

The dynamics of policies regarding e-commerce globally have changed in order to provide legal certainty for e-commerce transaction organizers and legal protection for consumers. The phenomenon of the Global Framework for E-commerce which limits the government's role in providing regulations in various regulations has changed into an expectation for the government to play a role in creating regulations to regulate all activities in e-commerce as an effort to protect both parties, both business actors and from the consumer side.

The principle of electronic commerce policy is that it is basically directed towards the mandate of providing legal protection to the interests of users or consumers (user's centric).

This has been revealed as legal principles or at least several important things that must be paid attention to by business actors carrying out electronic trading, including:

- a. Trade must be built on the basis of good faith and respect the principle of trustworthiness and accountability of good electronic systems;
- b. Electronic trading must be efficient and effective so that the obstacle of high economic costs must be eliminated;
- c. Trade is expected to foster a climate of healthy business competition;
- d. Trade is expected to provide convenience and protection.

In accordance with the dynamics of telematics development, e-commerce policy cannot be separated from policies and regulations on communications resources and telecommunications network infrastructure. In the context of telematics, electronic trading is actually at the application and content layer after the network implementation layer as infrastructure and trading facilities.

There is a paradigm difference between regulation of networks and regulation of applications and content. In the context of infrastructure, the focus is to be able to create a fast internet connection that can be accessed from all regions of the Unitary State of the Republic of Indonesia, the development is the same as physical development, namely in the form of building Fiber Optic network infrastructure or that utilizes satellites (Palapa Ring). Meanwhile, the opposite can be said about applications and content, because the existence of applications and content can be dynamic according to the thinking and needs of application and content creators, not limited to physical development such as network connection infrastructure.

Therefore, implementing applications and content that operate on an internet connection network does not require permits like physical construction of internet connection network infrastructure. What must be ensured is that the application and content it runs meet all aspects of legal eligibility for an electronic system and transaction provider for the purposes of e-commerce transactions in accordance with applicable regulations.

Based on the above, there needs to be coordination of authority between the supervisory and supervisory agency of the network, namely the Ministry of Communication and Information (Kemkominfo) with the supervisory and supervisory agency of the trade system, namely the Ministry of Trade. The Ministry of Communication and Information is responsible for every aspect of the engineering process, while the Ministry of Trade is responsible for every aspect of the business process.

On the technical side, every electronic system operation must meet the feasibility or accountability of the electronic system according to technical standards, while on the business side every trading system operation must meet trading standards. Policies regarding Electronic Trading can be derived in the form of coordination between ministries, for example for an e-commerce company to obtain a business (trading) permit, the company must first register its electronic system with the Ministry of Communication and Information in accordance with Minister of Communication and Information Regulation Number 36 of 2014 Concerning Procedures for Registration for the Implementation of Electronic Systems, the data processing of which is carried out electronically via the portal <https://pse.kominfo.go.id/penregistranpse>, which consists of several stages, including:

- a. Fill out the Electronic System Operator registration application form;
- b. Complete documents (business profile, domicile, KTP, TDP, .id domain);
- c. Complete Technical Description data (Hardware, software, experts, scope of services) Legal Challenges and Government Role;
- d. Registration will be published on the Ministry of Communication and Information's e-business website.

Thus, in order to protect the public interest, the government can declare that every implementation of electronic trading runs on the implementation of an electronic system that is accountable and responsible.

The government has a vision to place Indonesia as the country with the largest digital economic capacity in Southeast Asia by 2020. Indonesia is one of the largest internet users in the world, reaching 93.4 million people and smartphone users reaching 71 million people. On July 21 2017, the Government issued Presidential Regulation Number 74 of 2017 concerning the 2017-2019 National Electronic Trading System Road Map (Ecommerce Road Map) (SPNBE 2017-2019) to efficiently encourage the expansion and improvement of community economic activities throughout Indonesia. and connected globally.

This e-commerce roadmap can also encourage creation, innovation and invention of new economic activities among the younger generation. In the 2017-2019 SPNBE there are 8 (eight) regulatory aspects, namely:

1. Funding, namely access to capital where start-up and developing companies need capital support. The funding policy framework is in the form of:
  - a. People's Business Credit (KUR) for platform developers, both from banks and other financial institutions;
  - b. Grants for start-up business incubators;
  - c. Universal Service Obligation (USO) Fund for MSMEs and start-up e-commerce platforms;
  - d. Provision of Angel Capital/seed capital from the 'adopted father' of Information and Communication Technology players;
  - e. crowdfunding policy;
  - f. Gradual opening of the Negative Investment List (DNI).
2. Taxation, in this aspect there is a distortion regarding the application of taxes. How to apply taxes for SMEs for e-commerce that has a marketplace platform. There will definitely be a very troublesome calculation of incoming and outgoing taxes. The tax policy framework is in the form of:
  - a. Simplifying the fulfillment of tax obligations;
  - b. Simplification of registration procedures for e-commerce business actors;
  - c. Equal tax treatment among e-commerce entrepreneurs.
3. Consumer Protection, building consumer trust through developing regulations, protecting industry players, simplifying business licensing registration for e-commerce players. Consumer protection policy through:
  - a. Government Regulations on Trade Transactions via Electronic Systems;
  - b. Harmonization of applicable regulations in a harmonious and consistent manner to build consumer trust;
  - c. Payment system for trade and government goods/services purchases via e-commerce with the development of a national payment gateway.
4. Education and HR, providing education to the entire ecommerce ecosystem consisting of:
  - a. Increased awareness for the entire e-commerce ecosystem;
  - b. Carrying out e-commerce education for policy makers according to the role of each stakeholder;
  - c. National incubator program for start-ups to help the development of new business actors, especially in the initial process;
  - d. E-commerce curriculum in formal education;
  - e. Development of e-commerce education facilitators.
5. Improving national communications infrastructure as the backbone of the growth of the e-commerce industry through expanding broadband network development.
6. Logistics via:

- a. Utilization of the National Logistics System (Sislognas);
  - b. Increasing the capacity of local and national logistics service providers;
  - c. Development of MSME logistics outsourcing;
  - d. Logistics development from villages to cities.
7. Cyber security (cyber security):
    - a. Monitoring and increasing public awareness about cybercrime;
    - b. Preparation of a national supervision system model in e-commerce transactions.
  8. Establishment of Implementing Management by monitoring and evaluating the implementation of the e-commerce roadmap.

The programs and activities that cover the regulatory aspects above involve various agencies that have authority in accordance with the duties, functions and roles of each agency. Some of the agencies involved include the Coordinating Ministry for Economic Affairs, the Coordinating Ministry for Political, Legal and Security Affairs, the Ministry of Communication and Information, the Ministry of Home Affairs, the Ministry of Finance, the Ministry of Trade, the Ministry of Industry, the Ministry of Cooperatives and Small and Medium Enterprises, the Ministry of Law and Human Rights, Ministry of Education and Culture, Ministry of Research, Technology and Higher Education, Ministry of Transportation, Ministry of National Development Planning/Head of the National Development Planning Agency, Ministry of State-Owned Enterprises, Cabinet Secretariat, Investment Coordinating Board, Creative Economy Agency, Goods Procurement Policy Institute /Government Services, Presidential Staff Office, Bank Indonesia and Financial Services Authority.

Considering the rapid growth of e-commerce, related regulations have been regulated in Law Number 7 of 2014 concerning Trade. E-commerce regulations provide certainty and understanding regarding what is meant by Trading Through Electronic Systems (PMSE) and provide protection, legal challenges and the role of the government in carrying out trading activities through electronic systems.

The Trade Law stipulates that every business actor who trades goods and/or services using an electronic system is obliged to provide complete and correct data and/or information. Every business actor is prohibited from trading goods and/or services using an electronic system that is not in accordance with data and/or information and the use of the electronic system must comply with the provisions stipulated in the Information and Electronic Transactions Law.

PMSE data and information must at least contain the identity and legality of the Business Actor as a producer or Distribution Business Actor, technical requirements for the Goods offered, technical requirements or qualifications for the Services offered, price and method of payment for the Goods and/or Services, and method of delivery of the Goods.

The government as a regulator in developing the e-commerce climate prepares policies and regulations that support the implementation of electronic transactions in e-commerce, including by:

1. Law of the Republic of Indonesia no. 11 of 2008 concerning Information and Electronic Transactions (ITE) which has been amended in Law Number 19 of 2016 (UU ITE). Law drafted by the government (Kemenkominfo) together with the DPR RI to regulate all aspects of the engineering process. This law regulates information and electronic transactions, or information technology in general. This law has jurisdiction that applies to every person who commits legal acts as regulated in this Law, whether within the jurisdiction of Indonesia or outside the jurisdiction of Indonesia, which has legal consequences in the jurisdiction of Indonesia and/or outside Indonesian jurisdiction and is detrimental to Indonesia's interests. Regulations regarding electronic information and transactions refer to several international instruments, such as the UNCITRAL Model Law on eCommerce and the UNCITRAL Model Law on eSignature. This section is intended to accommodate the needs of business

- people on the internet and the general public in order to obtain legal certainty in carrying out electronic transactions;
2. Republic of Indonesia Government Regulation no. 82 of 2012 concerning Implementation of Electronic Systems and Transactions (PSTE);
  3. Law Number 7 of 2016 concerning Trade;
  4. Bank Indonesia Regulation No.11/12/ PBI/2009 concerning Electronic Money (Electronic Money) specifically for institutions other than banks, issuers who are required to obtain permission from Bank Indonesia are issuers who have or plan to manage float funds that reach a certain value. The limit for the value of float funds is further regulated in a Bank Indonesia Circular Letter, namely it has reached IDR 1 billion or more.

The limit on the value of electronic money that can be stored in electronic money media, as further regulated in the Bank Indonesia Circular Letter, is determined as follows:

- a. The value of Electronic Money for the unregistered type is a maximum of IDR 1,000,000.00 (one million rupiah);
- b. The maximum value of Electronic Money for registered types is IDR 5,000,000.00 (five million rupiah);
- c. The transaction value limit for the two types of Electronic Money in 1 (one) month for each Electronic Money as a whole is a maximum of IDR 20,000,000.00 (twenty million rupiah), which includes payment transactions, fund transfers and other transaction facilities that provided by the Publisher;
- d. Electronic Money issued and/or used in the territory of the Republic of Indonesia must use rupiah currency;
- e. The value of Electronic Money issued by the Issuer must be the same as the value of the money deposited by the Holder.

## CONCLUSION

The use of developments in information technology in the economic sector has brought many changes to today's trading activities. Trade, which was previously conventional, requiring face-to-face interaction between sellers and buyers, has transformed into electronic commerce, where sellers and buyers do not need to meet in the buying and selling process, but simply use an e-commerce system. Electronic-based commerce currently and in the future has the potential for a high market share, and can become an important sector and one of the backbones of the national economy.

From statistical data, the development of e-commerce shows an increase every year, which has also spread to small and medium businesses. For conventional business people and beginners who want to develop an e-commerce business, there are several legal challenges that beginners need to know, including:

1. Form of Legal Entity in e-commerce business;
2. Licensing and other legal documents for establishing an e-commerce business;
3. Understanding and implementing legal aspects from upstream to downstream in accordance with applicable legal regulations;
4. Comprehensive understanding of the forms of legal protection of parties in the e-commerce business community.

In order to optimize the utilization of electronic-based economic potential from a general policy perspective, the government is making improvements to the national legal system in accordance with the dynamics of telematics development which cannot be separated from the formation of policies and regulations on communications resources and telecommunications network infrastructure. The legal regulations (legal umbrella) regarding e-commerce must be in line with the regulations regarding Intellectual Property Rights that apply in Indonesia because e-commerce is closely related to Copyright, Patents and Trademarks.

Apart from that, the role of the government is really needed by e-commerce business players to encourage the acceleration and development of electronic-based national trading systems, start-up businesses, business development, and acceleration of logistics. The government has established an integrated National Electronic Trading System Roadmap (eCommerce Road Map) which includes aspects of funding, taxation, consumer protection, education and human resources, communications network infrastructure, logistics, cyber security and implementation management of the e-commerce road map.

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