

Regulatory Disruption of Online Business Licensing (A Case Study of Legal and Ethical Challenges)

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ABSTRACT

Regulatory Disruption in Online Business Licensing has become a major subject in the modern legal and ethical landscape. The study highlights emerging regulatory challenges related to online business licensing, examining the impact of such disruptions on legal arrangements and emerging ethical issues. The cases discussed illustrate the complexities faced in adapting regulations to the dynamics of online business, including data privacy issues, transaction security, and consumer protection. Legal challenges include adapting regulations to technological innovation, while ethical challenges highlight openness, honesty, and protection of individual rights in an evolving online business environment. By analyzing the impact of disruption on online business licensing regulations, this study aims to identify solutions and approaches that can consider and balance legal and ethical aspects in regulating today's digital business world. This research uses a qualitative approach which is also intended to collect and utilize and distribute all information related to the subject matter raised.

Keywords: Regulation, Licensing, Online Business.

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INTRODUCTION

Extraordinary advances in science and technology (IPTEK) have positively impacted the development of human civilization (Alviana & Afrita, 2023). The rapid growth of the global economy, globalization, free Trade, and advances in technology, telecommunications, and information have expanded the variety of transactions of goods and services available, both domestically and internationally produced. These developments have brought about a variety of advanced telecommunications and information technology facilities that can combine all information media to facilitate people's daily activities. In this increasingly connected global communication era, the Internet has become very popular, causing the world to feel smaller. In contrast, national borders and the sovereignty of its people have become less visible (Lukito, 2017).

Since the beginning of 2020, many have stated that we are in a period of technological disruption. This is due to the emergence of many new changes and events in that year, which are generally related to technology and bring about significant changes. Technological disruption is interpreted as a fundamental transformation caused by advances in digital technology systems or robots that

begin to shift and change the role of humans in work, also causing changes in the system both in Indonesia and globally. The presence of this technological disruption then encourages humans to continue to direct their activities and activities to experiments with digital technology. People enjoy the advancement of digital technology in this era, so today, the world is dominated by the presence of technology (Jabat & Pasaribu, 2023).

In the global trading space, electronic transactions have become an integral part. *E-commerce* is a clear example of the advancement of information technology, where business transactions are no longer confined to conventional methods. This transaction involves a buyer interacting online with a system through a computer network. In this context, the buyer communicates with the system representing the seller, making transaction security a crucial element in *E-commerce*. The current era of Global Trade is characterized by the growth of the Digital Economy, which includes various electronic commerce models such as online retail, online auctions, service provision, and so on. Traditional business models are shifting to electronic business forms such as *Cyberstore*, *Virtual Store*, *Digital Market*, *Electronic Mall*, *Online Shop*, and similar terms. The growth of this digital economy has complex effects on the global economy, erasing geographical boundaries in Trade. The domestic *e-commerce* industry is booming despite the slowdown in the economy. Particularly in Indonesia, most of the *E-commerce* players are Small and Medium Enterprises (SMEs). SMEs are known as resilient businesses in the face of an economic crisis. Through *E-commerce* platforms, Indonesia's economic potential can continue to be strengthened, supporting Indonesia's vision as a new economic power on the global stage (Lukito, 2017).

Digital regulation in online business or *e-commerce* faces various legal and ethical challenges that need serious attention. The rapid growth of the digital economy in Indonesia, characterized by an increase in internet users, has driven changes in the pattern of business transactions, including online business. Some legal challenges faced in the digital era include data privacy protection, transaction security, taxation, and consumer protection. In addition, ethics is also an essential issue in online business, such as articulating guidelines for handling rumours and corrections online. To meet the legal challenges of the digital age, it is essential to develop regulations responsive to technological developments. This includes data privacy protection, transaction security, taxation and consumer protection. Along with technological developments, legal regulations must be continuously adjusted to remain relevant and practical. In addition to legal challenges, ethics is also an essential issue in online business. The digital age has changed how business interactions and transactions are conducted, making it imperative to articulate clear ethical guidelines in handling various aspects of online business. This includes disseminating information, communicating and transacting online.

In the face of legal and ethical challenges in online business licensing, it is essential to develop regulations responsive to technological developments, raise ethical awareness, and strengthen cooperation between stakeholders. The existing regulatory framework needs to be adapted to technological developments and innovations in the industry, as well as the expansion of

relevant regulations to protect consumer interests and promote sustainable growth of the digital economy. Therefore, being responsive to technological developments, raising awareness of ethics, and strengthening stakeholder cooperation are vital in addressing these challenges.

The most apparent legal challenges occur in domains such as data privacy and security, intellectual property in the digital realm, cybercrime, and regulation. Sharing economy. Ethical issues relating to the use of technology, especially in the context of artificial intelligence, are also increasingly under the spotlight. Conversely, debates around the limits of free speech, surveillance and monitoring in the digital world, and individual rights regarding the use of personal data are increasingly complex. All these challenges emphasize the need for re-evaluation and adaptation of more responsive and relevant laws. This paper, therefore, aims to investigate the role of law in addressing these challenges in the digital age. By understanding the ongoing technological changes and their impact on everyday life, we can explore how the law can adapt to these technological advancements and safeguard people's rights and values in an increasingly connected digital age. In this line of thought, this paper will outline these challenges, the steps that some countries have taken to address them, and the legal and ethical implications that arise in the face of technological developments (Rajagukguk, 2023).

From the explanation above, the main focus of this research is related to the disruption of regulation in the licensing process in online business, and the challenges and legal ethics faced in online business licensing.

According to the Big Indonesian Dictionary (KBBI), disruption refers to something separated or detached from its roots. In a literal sense, disruption is a phenomenon in which several significant changes or surges from long-established patterns result in changes in a particular structure or arrangement. Disruption is caused by the rapid and widespread advancement of digital technology, especially in urban areas that have spread throughout the country. Some of the triggers for the emergence of technological disruption include (i) the 4.0 revolution in digital technology, especially the presence of Internet networks that allow easy and real-time access to various information, such as the surge in the use of the Internet of Things (IoT), (ii) new business models owned by individuals who have technological knowledge, resulting in significant changes in the way the market operates. Moreover, (iii) Changes in people's behaviour are driven by advances in digital technology that aim to facilitate various human activities, such as online shopping only through mobile devices (Jabat & Pasaribu, 2023b).

Regulation refers to rules, policies, or regulations created and implemented by government bodies, regulatory agencies, or authorities to govern behaviour, practices, or operations in various fields. The primary purpose of regulation is to create standards, enforce compliance, and control behaviour in order to achieve goals related to safety, health, justice, consumer protection, the environment, and other aspects necessary to society. Regulations can take many forms, ranging from extensive, complex laws to more specific regulations related to specific industries. They can limit or direct economic activity, regulate the relationship between consumers and producers,

set safety standards, control the environment, oversee finances, and more. Regulatory bodies or agencies are responsible for designing, implementing, and enforcing regulations. They also often conduct monitoring and evaluation to ensure existing regulations remain relevant, effective, and in line with current needs. Regulations play an essential role in shaping the framework for various economic and social sectors, helping to prevent fraud, protect the public interest, and ensure a balance between freedom and responsibility in a society

Licensing comes from the term permit and has varying interpretations according to the context. According to the Indonesian dictionary, a permit is a statement of granting (not prohibiting and so on), approval, allowing or asking for permission. It refers to a statement that approves or allows something without a prohibition as if it has been granted. Consent to do so. A permit, also known as a "*verging*", is an authorization from the authorities under the Law or Government Regulation to deviate from the provisions prohibited by the laws and regulations in certain situations. Thus, a license functions as an exception or exemption from a prohibition. Licensing is fulfilling the state's regulatory and control functions about community activities. The form of licensing can include the process of registration, referral, certification, quota, and business license. Organizations, companies or individuals must obtain a permit before carrying out certain activities. According to E. Utrecht, which is related to this permit, he argues that "If the legislator generally does not prohibit an action, but still allows it as long as it is carried out in a manner determined for each concrete case, the State administration decision that allows the action is a permit (*vergunning*). As for Ateng Syarifudin, a permit is something that aims to eliminate prohibitions; things that are prohibited become permissible. "*Als opheffing van een algemene verbodsregel in het concrete geval*", which means the elimination of general prohibitions against certain events (Lathif, 2021).

E-commerce is a trading system that utilizes electronic mechanisms available on the internet network. *E-commerce* can include electronic transfer of funds, electronic data exchange, automation of inventory management systems, and automated data collection. *E-commerce* is any trade transaction of goods or services using electronic media. Within this realm of *e-commerce*, there are trading activities over the Internet, such as in business-to-consumer (B2C) and business-to-business (B2B) business models, as well as trading that involves the electronic exchange of structured data (Rosmayati, 2023a).

Legal challenges are situations or problems that present difficulties in applying, interpreting, or adapting the law to the times, technology, social change, or political dynamics. These include issues such as data privacy and security, intellectual property conflicts in the digital age, cybercrime, debates around freedom of speech, economic regulation relevant to the global era, and ethical issues arising from the use of technology, especially in artificial intelligence. These challenges require in-depth study and appropriate legal adaptations so that the law can remain relevant and effective in regulating society in a changing era. The ethical challenge is establishing rules for managing misinformation and correcting online mistakes. The world holds fast to the principles of accuracy, verification and transparency. Therefore, new or digital media actors are expected to encourage

individuals to share their opinions honestly, not by spreading false information (*hoaxes*), slander, lies, and the like. Media ethics issues continue to be voiced and emphasized to remind people to use digital media more carefully and be wise in respecting others (Ido Prijana, 2017).

METHODS

This research uses a qualitative approach intended to collect, utilize, and distribute all information related to the subject matter. This research is a descriptive analysis that aims to illustrate and analyze the disruption of regulation in the licensing process in online business and the challenges and legal ethics faced in online business licensing in the territory of the Unitary State of the Republic of Indonesia.

Quoting Imam Lukito's opinion on legal challenges and the role of government in *e-commerce* development based on the opinion of Miles and Huberman in Sugiono that the data analysis techniques used in this study include data reduction activities, data presentation and conclusion drawing. Data reduction and presentation are compiled when researchers get the data needed for the research. After data collection ends, researchers try to draw conclusions based on field data verification

The data was collected using a quantitative method that collaborates with legal literature on agreements or agreements with licensing law. The data comes from government statistics, predominantly from the *Online Single Submission* Institution, which regulates online trade licensing and is based on data from the Law of the Republic of Indonesia. Law No. 7 of 2014, Law No. 19 of 2016, Regulations Government No. 24/2018 and Law No. 11/2020.

DISCUSSION AND RESULT

Disruption of regulations in the licensing process in online businesses

Online business has become an alternative in trading activities. This activity requires an agreement, and there is a need for regulations that underlie the validity of this transaction. With the development of information technology, the object of buying and selling can be done through the Internet media; not only is promotion carried out on the Internet, but it also includes the contract or transaction (Siregar, 2019a). Trade or transaction regulations are regulated in Law Number 7 of 2014 concerning Trade, listed in Article 1 Number 1. Trade is an order of activities related to transactions of Goods and Services domestically and beyond national borders to transfer rights to Goods and Services to obtain rewards or compensation. Law Number 7 Year 2014 regulates the scope of trade regulations in Article 4 Paragraph (1), in letter e states that the scope of the regulation includes Trade through Electronic Systems.

Further regulated in Chapter VIII concerning Trade through electronic systems, Article 65 states about the provisions of Trade in electronic systems or what we can call online business, it is regulated that every business or service actor is obliged to provide complete and correct data and information, namely by fulfilling the identity and legality of the business actor as a producer or distributor, the requirements for the technical goods offered, the technical requirements of the goods offered. Alternatively, the criteria of the services

offered, the price and method of payment for goods or services, and the method of delivery of goods. Moreover, if a dispute occurs, it can be settled in court (Pangestu et al., 2021).

The development of time, electronics and the Internet is increasingly sophisticated so that Law Number 7 of 2014, concerning Trade, is often collaborated with Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services and Law Number 19 of 2016 concerning Electronic Information and Transactions which more specifically discusses electronic transactions or online businesses. Thus, the disruption of trade regulations will be more specific to protect traders and consumers. It is stated in Article 24 Paragraph (1) of Law Number 7 Year 2014 that business people who carry out trade business activities are required to have licenses in the field of Trade granted by the Minister. The business license is a registration given to business actors to conduct transaction activities. It is given as a letter or decision to approve or fulfil requirements or commitments (Rajab, 2018).

There is an update explaining more specifically about online business licensing in Government Regulation Number 24 of 2018 Article 5, namely, Types of Business Licenses consist of a. Business License; and b. Commercial or Operational License (Pangestu et al., 2021). In this case, the business license is issued by the *Online Single Submission* (OSS) institution on behalf of the Minister, head of institution, governor, or regent and mayor when the business actor has registered and started a business. In this case, business actors are required to submit registration applications until the issuance of business licenses and then commercial or operational licenses, fulfilment of the commitment of business actors to obey the law and supervision (Siregar, 2019b).

Challenges and Legal Ethics in Online Business Licensing

In line with the times, Trade or business systems using electronics coupled with internet networks among the community are growing increasingly rapidly. With such a business, it is straightforward for individuals to carry out various online activities, such as transferring funds and data through electronics. The online business that is now rife among the community is inseparable from various factors that influence it, including the globalization of Trade and the competition of business people, which is now getting sharper, the rapid development of technology, publicity and the reduction of physical limitations (Rosmayati, 2023b). However, online businesses offer many advantages that outweigh the possibility of obstacles or challenges in every gap. The main challenges in online business licensing include:

A. Aspects of cross-border jurisdiction

The current Consumer Protection Law is limited because it can only be enforced in the Republic of Indonesia. When looking at the rampant online business in society, it is now possible that there will be global operations, making it difficult to determine the applicable legal jurisdiction. However, to overcome this, the ITE Law has tried to adopt international and civil laws. ITE Law gives full authority to the parties involved in online transactions to choose which law to apply. However, in the end, the parties decide not to choose the law. In that case,

international civil law is automatically applied as stipulated in Article 18 paragraph (3) of the ITE Law, which states that "If the parties do not make a choice of law in International Electronic Transactions, the applicable law is based on the principles of International Civil Law" (Rongiyati, 2019).

B. Consumer protection

In the implementation of regulations regarding consumer protection, it has not been able to be applied optimally. Let us say, for example, in the *e-commerce* business that is now rampant among the public, of course, it does not rule out the possibility of violations. It is common to find problems such as the unclear identity of transaction actors, numbers that cannot be contacted, misuse of other people's identities, and so on that usually occur after transactions. This reflects that the regulations that now exist and regulate the implementation of transactions through electronic systems must be fully complied with by every business actor or online business (Rongiyati, 2019).

In relation to consumer data that is increasingly prone to misuse in online transactions or businesses, it should also receive protection. For example, in online transactions that require personal data of the parties, the protection of which has actually been regulated in the ITE Law. However, what is still a problem is that the ITE Law still regulates protection in general and requires provisions that are considered more specific technically. It can be interpreted that the consumer data protection provisions that have been outlined in the ITE Law require more detailed arrangements. So with such a problem, the ITE Law regulates the opportunity given to parties who feel that their identity has been misused and have suffered losses due to such actions, they can file a lawsuit because the use of a person's identity or personal data must be in accordance with the permission of the person concerned as stipulated in Article 26 of the ITE Law. So to avoid unwanted things, ITE Law requires the deletion of information or documents that are considered irrelevant at the request of the person concerned as a form of state concern for consumer protection in terms of privacy rights (Rongiyati, 2016).

C. Taxation

Kaspersky Lab research data involving 26 countries around the world in 2021 states that so far, there have been violations in the form of financial fraud against digital consumers in Indonesia, with a presentation of 26% of the total number of consumers involved, causing substantial losses of billions of rupiah. (Ngaisah, 2024). Not only stopping with these problems, it turns out that the taxation system in this online business needs to be fixed. The problem is motivated by the number of business actors or online businesses that escape the imposition of taxation fees due to the assumption that *e-commerce* or other online businesses need clear legal payings. This is undoubtedly a challenge for the government, so it must issue a policy in the form of the issuance of Minister of Finance Regulation Number 210/PMK.010/2018 concerning Tax Treatment of Trade Transactions Through Electronic Systems. This is intended to create

justice between digital and conventional-based business actors. Although the PMK does not concretely regulate the type or rate of tax, the regulation describes the taxation procedure in detail. However, it turned out that the regulation was considered to cause ambiguity, which resulted in the regulation being revoked by the government (Widhajati & Zadok, 2022).

However, apart from these regulations, the government implements other supporting regulations regarding the latest e-commerce policies or other online businesses in Government Regulation No. 88 of 2019 concerning Trading Through Electronic Systems to provide legal certainty. This regulation is oriented toward providing consumer protection. However, there are still obstacles in the form of several provisions that need further clarification regarding the implementing regulations.

CONCLUSION

The disruption of regulations on online business licensing is evidenced by the existence of laws and regulations that, more specifically, regulate business transactions. Online, which is based on legal ethics for the sake of application that is appropriate to the times and can overcome all economic problems or online transactions that occur on the Internet.

The disruption of regulations on online business licensing is evidenced by the existence of laws and regulations that more specifically regulate online business transactions, which it is based on legal ethics for the sake of application that is appropriate to the times and can overcome all economic problems or online transactions that occur on the Internet.

Online business licensing is a complex challenge requiring a holistic approach covering legal and ethical aspects. It requires the cooperation of many parties, such as the government, companies, and the wider community, to create a safe, fair and innovative online business. Challenges such as violations of consumer safety, taxation and cross-border jurisdiction can be overcome by implementing several regulations on related issues. Thus, if business ethics principles can be applied appropriately, online business will have positive impacts and benefits for all parties involved.

The data shows that there is a disruption in the regulation of online business licensing; in Law 7/2014, it is explained that every business actor is required to have a license. Permits in online transactions have yet to be concretely regulated in this regard. Then, the disruption found in PP 24/2018 regulates the licenses and criteria that online business actors must fulfil. By further emphasizing the duties of the OSS Institution, the regulation is more severe in handling and protecting the rights of online business actors and consumers.

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