

## **Legal Protection For Consumers In Online Transactions Involving Counterfeit Branded Bags: A Review Based On Law Number 8 Of 1999 Concerning Consumer Protection**

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### **ABSTRACT**

*The development of online transactions has made it easier for consumers to buy various products, including branded bags. However, this also increases the risk of the circulation of fake branded bags which is detrimental to consumers. Many buyers are deceived by cheaper prices and inaccurate information from sellers. Based on Law Number 8 of 1999 concerning Consumer Protection, consumers have the right to obtain goods that match the description and the right to compensation if a violation occurs. Therefore, this study aims to examine the legal regulations and legal protection efforts for consumers in online transactions of fake branded bags. This study uses a normative legal research method with a descriptive-analytical approach. Data were collected through a literature review covering primary, secondary, and tertiary legal materials, then analyzed qualitatively to understand the application of legal protection in online transactions. The results of the study show that although there are regulations governing consumer protection, their implementation still faces obstacles such as weak supervision of online transactions and a lack of consumer awareness of their rights. Consumers who are victims can file a complaint with the Consumer Dispute Resolution Agency (BPSK), file a civil lawsuit, or report to the authorities. To create a safer and fairer online trading ecosystem, there needs to be increased supervision, consumer education, and more specific regulations related to digital trading. In addition, law enforcement against business actors selling counterfeit goods must be tightened, so that it can provide a deterrent effect and ensure that consumer rights can be protected effectively.*

**Keywords:** Legal Protection, Consumers, Online Transaction, Fake Branded Bags I

### **INTRODUCTION**

Trading is usually a business where something is bought in one place and sold in another place for profit. Nowadays, trading is not only done directly, but also indirectly, namely via the internet (online). Online transactions, facilitated by technological advances, are a new way to buy and sell. This process allows consumers to shop, pay bills, transfer money, and make various other transactions digitally. To make transactions online, consumers can use shopping applications such as Shopee, Lazada, Tokopedia, Buka Lapak, etc. With the development of technology that facilitates the buying and selling process, online transactions are increasingly in demand by online buyers and sellers. By using online shopping applications, consumers will find it easier to buy the products they want, both local brand products and international brand products.

In this very advanced era, everyone wants to look fashionable by wearing clothes or international branded goods that are often expensive and difficult to reach. This has caused a decline in public interest in buying local products. Products from famous brands are increasingly available in Indonesia thanks to the ease of online ordering which is popular among the public, making it easier to buy imported goods. However, customers are often not careful when shopping online, so those who intend to buy original goods end up getting fake goods. Cheaper prices often

encourage customers to buy replicas. Currently, many sellers sell famous branded goods without the permission of the original brand owner, both on the roadside and via the internet at cheaper prices. Although online shopping is an easy and fast way to make purchases, there are also consequences that are detrimental to customers, such as the possibility that the product received does not match the order or even turns out to be fake.<sup>2</sup> According to Article 1 Paragraph 3 of the 1945 Constitution, Indonesia is a country of law. Therefore, the law regulates all actions of society to achieve justice and social welfare in Indonesia. Law is a rule that is owned by humans after being born into the world and is under the authority of a country. This law can regulate all behavior and order of the people of the country both in written and unwritten form.

In cases where the public raises objections, repressive laws receive legal protection from the courts. If there is intense competition, someone can change from their way of acting and behaving to unfair competition, sacrificing the interests of customers. There are four types of bad business actions: price increases, quality decreases, and counterfeiting products. Due to the rapid growth of online trade, which allows people to have branded goods at cheaper prices, many branded goods are available in the Indonesian market. When buying something online, many people are still less careful, causing them to buy fake goods instead of original goods. Entrepreneurs or actors of goods and services, in order to respect consumer rights, must provide accurate and complete information and have good quality, ease of use, and reasonable prices. For consumers, this information is very important, it can include the quality of goods, quantity, and safety of goods desired by consumers, additional information can include product warranties for the goods. In this case, the government has established Law Number 8 of 1999 concerning Consumer Protection to protect consumers. The purpose of this determination is to protect consumer rights and prevent disputes between businesses and consumers in the future. This is already contrary to the purpose of the law, namely to realize order, security, peace, and justice. The existence of consumer protection to protect consumers from the law.

There have been several cases of online transactions of fake branded bags that have occurred in Indonesia. The first was the case of Jesshang who bought a Chanel bag for \$6,800 (Rp71,600,000) on Carousell from a seller named Jenny, who claimed the bag was 99 percent new and authentic. However, it turned out that the bag was fake.<sup>5</sup> Then secondly there is the case of alleged fake bag sales by Dinda Safay where a buyer reported her to the Depok Police on suspicion of fraud. And the case of Medina Zein who was tried for the case of selling fake Hermes brand bags worth Rp1.4 billion.

## **LITERATURE REVIEW**

### **Understanding Legal Protection**

According to Satjipto Rahardjo, legal protection is providing protection for human rights. humans who are harmed by others and the protection is given to the community so that they can enjoy all the rights granted by law. Meanwhile, according to Philipus M. Hadjon, legal protection is an action to protect or provide assistance to legal subjects, by using legal instruments. Consumer protection according to the Business English Dictionary is protecting consumers against *unfair or illegal traders*. Meanwhile, Black Law Dictionary defines consumer protection as a statute that safeguards consumers in the use of goods and services. The term "consumer protection" is used to describe the legal protection given to consumers in an effort to meet their needs from things

that are detrimental to the consumers themselves. In Article 1 Paragraph 1 of Law Number 8 of 1999, consumer protection is defined as everything efforts that guarantee legal certainty to protect consumers. In a broad scope, consumer protection includes consumer protection against goods and services and the consequences of using these goods and services.

### **Understanding Transactions *On line***

According to Article 1 number (2) of Law Number 11 of 2008 concerning Information and Electronic Transactions, online transactions are transactions carried out using computers, computer networks, or other electronic media. A sales and purchase agreement between a buyer and a seller electronically, usually through a personal computer network, is called an online transaction. In this case, consumers place orders via a web browser and provide payment information such as credit cards, digital cash, or electronic checks. Fake branded bags are replicas of famous branded bags at a lower price. Often, the bag makers These fakes use low-quality materials, sloppy stitching, and details that do not match the original bag. The main purpose of making fake bags is to make money unethically.

### **METHODS**

The research used in this study is descriptive analytical because it provides data as accurately as possible about humans, conditions or other symptoms where the aim is to obtain data on the relationship between one symptom and another. This analysis is based on the paradigm of the dynamic relationship between theories and concepts from the data collected. The type of research used by the Author is Normative Legal Research. Normative Legal Research is a process to find a legal rule, legal principles, or legal doctrines to answer the legal issues faced. In practice, Normative Law functions to regulate the behavior of society in realizing the social goals that have been set. The data collection tool in this study is a literature study, either done offline using the Author's personal books, books available in the library of Panca Budi University Medan. Or done online by searching the Internet to find materials relevant to the study. In this study, the data used is secondary data consisting of:

- a. The Primary Legal Materials in this study are the 1945 Constitution, Law Number 8 of 1999 concerning Consumer Protection, Law Number 11 of 2008, the Job Creation Law, Law Number 20 of 2016 concerning Trademarks and Geographical Indications, Law Number 11 of 2008 concerning Electronic Information and Transactions. Secondary Legal Materials consist of related literature books and Legal Science Journals.
- b. Tertiary Legal Materials, namely references used to explain Primary Legal Materials and Secondary Legal Materials consisting of encyclopedias, materials from the internet and so on.

The data analysis method in this study is qualitative analysis, because the study seeks the true truth, therefore this study seeks to find legal symptoms that develop in a community. The data analysis used in this study is qualitative analysis because this study is not about numbers but facts, cases of online transactions of fake branded bags. The analysis process is carried out carefully with valid and reliable research results.

### **RESULTS AND DISCUSSION**

#### **Result**

## **Legal Regulations Concerning Consumers Who Conduct Online Transactions Regarding Bags Fake Brand**

To protect consumers in Indonesia, including those who make online transactions, Law Number 8 of 1999 concerning Consumer Protection (UUPK) is the main law. However, there is no specific article that directly regulates how to protect customers from online transactions with fake brands. UUPK is general in nature, where this law establishes the basics of consumer protection, but does not comprehensively discuss every type of violation that may occur, including e-commerce violations.

The purpose of this law is to protect consumers from irresponsible companies. According to Article 4 of the Consumer Protection Law, consumers have the following rights:

1. The right to feel comfortable, safe and secure when consuming goods and services.
2. The right to choose and obtain goods and services according to exchange value, conditions and guarantees.
3. The right to correct, clear and honest information regarding the condition and guarantee of goods and/or services.
4. The right to have opinions and complaints heard regarding the goods and/or services used.
5. The right to receive advocacy, protection and appropriate dispute resolution efforts.
6. The right to receive consumer guidance and education.
7. The right to be treated or served properly and honestly and without discrimination.
8. The right to receive compensation, damages and/or replacement if the goods and/or services received do not comply with the agreement or are not as they should be.
9. Rights regulated in other statutory provisions.

Article 7 of the Consumer Protection Law also regulates the obligations of business actors, including:

1. Have good intentions in carrying out business activities.
2. Provide correct, clear and honest information regarding the condition and guarantee of goods and/or services and provide an explanation of use, repair and maintenance.
3. Treat or serve consumers properly and honestly and without discrimination.
4. Guarantee the quality of goods and/or services produced and/or traded based on applicable goods and/or services quality standards.
5. Providing consumers with the opportunity to test and/or try certain goods and/or services and providing guarantees and/or warranties for goods manufactured and/or traded.
6. Provide compensation, restitution and/or replacement for losses resulting from the use, utilization and utilization of traded goods and/or services.
7. Provide compensation, damages and/or replacement if the goods and/or services received or used do not comply with the agreement. Consumers have the right to receive products according to the description given by the business during online transactions. Article 8 paragraph (1) letter a of the Consumer Protection Law prohibits business actors from producing and/or trading goods that do not match the label or description given, if the bag received turns out to have a fake brand. As regulated in Article 19 paragraph (1), which states that business actors are responsible for providing compensation for losses suffered by consumers due to goods traded, consumers can also claim compensation.

### **Legal Regulations Regarding Trademark Law**

Law Number 20 of 2016 concerning Trademarks and Geographical Indications (Trademark Law) prohibits the use of counterfeit bags. A trademark is defined in Article 1 paragraph (1) as a sign used to distinguish goods or services made by one company from those made by another company. Registered trademark owners have the right to file a lawsuit against anyone who uses their trademark without permission, including making or selling goods with counterfeit trademarks, as stated in Article 83 paragraph (1) Article 100 paragraph (1) stipulates that anyone who intentionally uses a brand that is essentially similar to a registered brand for similar goods or services without the permission of the brand owner can be subject to a maximum prison sentence of five years or a maximum fine of IDR 2 billion.

Law Number 11 of 2020 concerning Job Creation (Job Creation Law) provides significant changes to various aspects of the law, including consumer and trademark protection. In the Job Creation Law, changes to the Trademark Law place more emphasis on legal protection for trademark owners and expediting the law enforcement process. One important change is the provision regarding trademark infringement as explained in Article 100 of the Trademark Law, which is emphasized in the Job Creation Law to make it easier for trademark owners to sue perpetrators of infringement.

### **Law Number 11 of 2008 concerning Electronic Information and Transactions**

Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE) provides legal protection for consumers who are harmed in online transactions, including the purchase of fake branded bags. Article 28 Paragraph (1) prohibits the dissemination of false information or misleading which is detrimental to consumers in electronic transactions. If the seller claims that the bag being sold is genuine, when in fact it is fake, then he can be subject to criminal sanctions in the form of imprisonment for up to 6 years and/or a maximum fine of IDR 1 billion, as regulated in Article 45A Paragraph (1). In addition, Article 5 Paragraph (1) ensures that electronic evidence, such as digital communications, proof of payment, and product descriptions, can be used as valid legal evidence in resolving disputes. After making an online transaction for a fake branded bag, consumers have several legal remedies that can be taken to protect their rights, namely:

#### **Violated Consumer Rights**

- a. The Right to Correct and Clear Information
- b. Right to Safety and Health
- c. Right to Compensation

### **Legal Actions That Consumers Can Take After Making a Fake Brand Bag Transaction**

- a. Resolve disputes with sellers or e-commerce platforms by filing a complaint directly with the seller or through the e-commerce platform where the transaction took place.
- b. Submit a complaint to the Consumer Dispute Resolution Agency (BPSK).
- c. Report to the relevant authorities such as the Ministry of Trade or the Ministry of Communication and Informatics (Kominfo). In addition, if there is a criminal element, consumers can report this case to the police for further processing. Consumers can file a



civil lawsuit to seek compensation for losses incurred as a result of purchasing a fake bag, or a criminal lawsuit if the seller commits fraud.

### **Responsibilities of Business Actors Selling Fake Branded Bags**

- a. Responsibility for Spreading False Information
- b. Responsibility for Consumer Losses
- c. Responsibility for Intellectual Property Rights Infringement

### **Legal Protection for Consumers in Online Transactions of Fake Branded Bags**

Consumer protection is an effort to guarantee legal certainty to protect consumers from detrimental actions by business actors, as regulated in Article 1 paragraph (1) of the Consumer Protection Law. According to Az. Nasution, consumer protection law includes principles and rules that protect consumers in the provision and use of goods or services. Johaness Gunawan added that legal protection can be carried out before the transaction (no conflict/pre-purchase) or after the transaction (conflict/post-purchase). Regulations on consumer protection law have been regulated in the PK Law. Even though these regulations are in place, consumers still face several obstacles in online transactions, including:

- a. Many consumers do not yet understand their rights and the complaint mechanisms available when they experience problems with online transactions.
- b. Lack of human resources and surveillance technology, as well as the complexity of cross-border jurisdictions, make it difficult to monitor and enforce violations in online transactions.
- c. The risk of misuse of personal data by irresponsible parties is still a threat to consumers.
- d. Slow and bureaucratic dispute resolution processes discourage consumers from filing complaints or claims.

### **Legal Sanctions Against Perpetrators Who Sell Fake Branded Bags After Making Transactions On line**

Selling bags with counterfeit brands is a violation of the law in Indonesia and can be subject to criminal sanctions based on:

- a. Law Number 20 of 2016 concerning Trademarks and Geographical Indications<sup>24</sup>:
  - 1) Article 100 paragraph (1): Any person who without the right uses a brand which is identical in its entirety to a registered brand belonging to another party for similar goods and/or services produced and/or traded, shall be punished with imprisonment for a maximum of 5 years and/or a maximum fine of IDR 2,000,000,000.00 (two billion rupiah).
  - 2) Article 102: Any person who trades goods and/or services that are known or reasonably suspected to be the result of a criminal act as referred to in Article 100, shall be punished with imprisonment for a maximum of 1 year or a maximum fine of IDR 200,000,000.00 (two hundred million rupiah).
- b. Criminal Code (KUHP):
  - 1) Article 382 bis: Regulates the criminal act of unfair competition which can be subject to a maximum prison sentence of 1 year and 4 months or a fine.

- 2) Article 393: Regulates the crime of fraud which can be subject to a maximum prison sentence of 4 months and 2 weeks or a fine.

In addition to criminal sanctions, perpetrators can also be subject to civil sanctions based on Article 1365 of the Civil Code (KUHPperdata) which regulates unlawful acts, where the injured party can sue for damages. Thus, selling fake branded bags is Online fraud not only harms consumers and original brand owners, but also has serious legal consequences for the perpetrators.

## CONCLUSION.

Legal protection for consumers in online transactions, especially for branded goods counterfeit goods such as bags, is a shared responsibility between the government, business actors, and consumers. Although Law Number 8 of 1999 concerning Consumer Protection is the main foundation, its implementation still faces various challenges, such as lack of supervision, weak law enforcement, and low consumer awareness of their rights. Consumers have the right to obtain clear information, goods that match the description, and compensation in the event of a violation. On the other hand, business actors who are proven to be selling counterfeit goods can be subject to criminal, civil, and administrative sanctions in accordance with Law Number 20 of 2016 concerning Trademarks and Geographical Indications and other related regulations. However, in practice, supervision of online transactions still needs to be improved, especially in ensuring the authenticity of products sold on e-commerce platforms. Therefore, collaboration between all parties is needed to create a safe, fair, and legally compliant online transaction ecosystem.

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