

## THE ROLE OF BUSINESS LAW IN DIGITAL MARKETING IN INDONESIA

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### ABSTRACT

This study explores the crucial role of business law in the context of digital marketing in Indonesia. The research focuses on analyzing the legal framework that governs various aspects of digital marketing, including consumer protection, online transactions, intellectual property rights, and contractual agreements. By examining the implementation and effectiveness of business law in the digital marketing landscape, this study aims to provide insights into how legal regulations facilitate fair and secure digital business practices. Business law plays a central role in regulating and shaping digital marketing in Indonesia. By providing a strong legal framework, business law helps create a business environment that is fair, integrity, and innovative. In an era where the Internet and technology dominate, the existence of business law is essential to ensure sustainable economic growth and the well-being of all parties involved in the digital business ecosystem. The findings offer valuable implications for policymakers, businesses, and consumers in optimizing the digital marketing environment and ensuring compliance with relevant legal requirements.

**Keywords** : business law; digital marketing; KUHP; Indonesian Civil Code

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## INTRODUCTION

Business law plays a very important role in regulating and shaping digital marketing in Indonesia (Purbasari et al., 2021; Shamir, 2004). In this growing realm, business law exists to provide the necessary legal framework for businesses and consumers to be well-protected while engaging in digital marketing activities. Along with the rapid growth of this industry, the presence of business law becomes crucial to create a fair and integrity business environment. In line with the increasing internet penetration in Indonesia, business law has a key role in providing protection for the rights of businesses and consumers in the digital world (Arifin et al., 2021; Mangku et al., 2021; Santoso, 2022). Today's consumers increasingly rely on digital platforms to transact and communicate with businesses. Therefore, business law is tasked with ensuring that their rights remain well protected. Entrepreneurs also need legal certainty in order to operate calmly and focus on business development without worrying about unexpected legal risks (Braithwaite, 2002; Ericson, 2007).

One aspect regulated by business law is healthy business competition. In the dynamic world of digital marketing, competition is becoming increasingly fierce. Business law aims to prevent fraudulent and monopolistic practices that can harm

consumers and hinder the development of the industry as a whole. By enacting fair regulations, authorities can ensure that all businesses have equal opportunities to compete and innovate. Along with the advancement of technology and digital media, the way of doing business and advertising has also undergone a revolution. This transformation requires appropriate regulations so that all forms of online business activities can run smoothly and without obstacles. The Internet has been a catalyst for business growth in Indonesia, and the development of digital media has brought significant changes in the way consumers interact.

According to Junusi (2020), the Internet has opened up new opportunities for Indonesian businesses, especially with the emergence of online stores and innovative advertising strategies. Digital marketing is becoming one of the most effective strategies for reaching a wider audience and introducing products or services to them. However, to be able to implement this strategy well, the existence of business law is very important. In this regard, Business law helps establish legal requirements that must be complied with by business people in carrying out their digital marketing (Asyhadie, 2012). One of the things that must be considered is the licensing and licenses required to operate legally in cyberspace. This licensing process not only provides legal certainty for businesses but can also protect consumers from illegal or fraudulent practices (Barkatullah, 2018; Logue, 2005). Consumer protection law is also a major focus of business law in Indonesia. In a diverse digital environment, data security, and privacy are becoming increasingly important issues (Abomhara & Kjøien, 2014; Chen et al., 2022; Gillon et al., 2011). Business law is tasked with ensuring that business people maintain the confidentiality of consumer information and do not misuse their personal data.

In addition, in the world of digital marketing, advertising practices must also be strictly regulated. Business law in Indonesia insists that advertising must be in accordance with ethics and must not mislead consumers. Honest and accurate advertising is important to create trust between businesses and consumers. The law must also protect intellectual property rights so that the advertised product or service cannot be used or misused by others without permission. In an era of globalization and increasingly strong interconnection, business law in Indonesia must also be able to overcome challenges from abroad. Cross-border business transactions and regulatory differences between countries are becoming increasingly complex issues. Therefore, business law must always be updated and adjusted in order to deal with global dynamics well. Thus, it is important to note that the development of technology and digital media is ongoing, and digital marketing will continue to evolve in the next few years. Therefore, business law must be able to adapt quickly to respond to new challenges that may arise in Indonesia in the future.

## **LITERATURE REVIEW**

Every online buying and selling activity generally involves electronic documents made by the seller. The document contains rules and conditions that must be adhered to, such as the payment term and delivery method. Although sometimes online transactions are carried out without a written agreement, if the buyer has delivered

the order for the desired item and the seller is willing to deliver the item, then an agreement has taken place between both parties. The conditions and rules set forth in this agreement serve as legal protection for both parties. In the agreement, the seller is entitled to receive payment for the products that have been purchased by the buyer. If the buyer fails to make payment within the specified time, the seller has the right to cancel the purchase and sell it to another prospective buyer. With clear rules regarding payment terms, sellers have legal protection, so they cannot be blamed if they sell the item to another prospective buyer if the initial buyer does not pay on time.

As the buyer, the right is to obtain goods in accordance with the agreed types and specifications. The agreement may also regulate the buyer's right to obtain compensation from the seller if the goods received are not in accordance with the agreement. For example, a buyer can exchange goods or seek monetary damages from the seller, providing legal protection for the buyer. In today's digital age, evidence has evolved from physical documents to information and electronic documents. The Law on Electronic Information and Transactions (UU ITE) expressly states that information, electronic documents, or printouts are valid evidence and are an extension of valid evidence in accordance with the applicable procedural law in Indonesia. This provision provides legal certainty for electronic transactions in Indonesia.

Various legal aspects of business in e-commerce and buying and selling online need to be understood before one decides to make an online transaction. By understanding these aspects, online business activities can run more easily and comfortably. However, when one decides to start one's own business, risks are unavoidable. Business law plays an important role in addressing such risks, such as fraud, loss of personal assets due to a business without a legal entity, or clients not paying fees that would otherwise be paid.

According to Purwosutjipto (2003), Law is the whole norm, which the ruler of the state or the ruler of society declares or considers as a binding regulation for some or all members of society, with the aim of establishing an order desired by the ruler. In comparison, a business can be interpreted as all activities that involve the provision of goods and services that are needed and desired by others that aim to make a profit. Thus Business Law, According to Fuady (2016), is a legal device or rule, including enforcement efforts that regulate the procedures for conducting trade, industry, or financial affairs or activities associated with the production or exchange of goods or services by placing money from entrepreneurs at certain risks with certain businesses. In this case, business is a combination of two different things, namely law and business, where each has its own definition and role. It is important for business people to understand business law in depth in order to protect their rights and interests and conduct business activities smoothly and safely.

Saliman (2016) explains that *Business Law / Bestuur Rechts* is the entirety of legal regulations, both written and unwritten, that govern the rights and obligations arising from agreements and engagements in business practice. Ibrahim (2006) also states that business law is a collection of legal rules created to regulate and resolve various problems that arise in activities between people, especially in the field of trade. The

main purpose of business law is to regulate and protect the business from various risks that may arise in the future.

The objectives of business law that need to be known are as follows: a) Ensure the security of market mechanisms efficiently and smoothly. b) Protect various types of businesses, especially Small and Medium Enterprises (SMEs). c) Help improve the financial and banking system. d) Provide protection to economic actors or business actors. e) Creating a safe and fair business environment for all business people.

The scope of business law covers various aspects, such as the form of business entity (PT, Firm, CV), buying and selling activities (including export and import), investment or investment, employment, financing, debt and securities guarantees, intellectual property rights, insurance, and other matters related to business activities. The Act has regulated in detail various aspects of business law, thus covering a wide scope.

## **METHOD**

This research uses the qualitative descriptive method as the main approach to describe the role of business law in the field of digital marketing in Indonesia. This method is based on the definition of Sukmadinata (2006), which states that descriptive research aims to provide an overview of existing phenomena, both related to natural and man-made. In the context of this study, researchers want to describe in detail and in-depth how business law affects and plays a role in digital marketing in Indonesia. The phenomenon that is the main focus is how the role of business law in creating a legal framework that protects the rights and interests of businesses and consumers involved in digital marketing activities.

This qualitative descriptive research will explore information through various data sources, including interviews with business law experts, digital entrepreneurs, and other related parties. In addition, this research will also analyze legal, policy, and regulatory documents related to digital marketing in Indonesia. Using qualitative descriptive methods, researchers can present a more comprehensive picture of how business law plays a role in shaping and regulating the digital business environment in Indonesia. In addition, the qualitative approach allows researchers to understand the perspectives and views of research subjects in depth so that research results can be more contextual and relevant to the actual situation (S. Sangadji et al., 2022).

## **RESULT AND DISCUSSION**

### **Sources of Business Law in Indonesia**

Legal sources in Indonesia are of two types, namely material legal sources and formal legal sources. The source of material law refers to the law in terms of its content and comes from factors such as socio-economic conditions, religion, and the legal system of other countries. At the same time, the source of formal law relates to the procedure or way of its formation and is used to create law. Examples are laws and regulations such as the 1945 Constitution, laws, government regulations, presidential decrees, regional regulations, treaties, doctrine of jurists, and jurisprudence

(Fazry, 2023). These two sources of law are the basis for the formation of business law or law used in running a business.

In the context of formal sources of business law, there are several relevant laws. First, the Criminal Code (KUHP) regulates criminal acts in business, such as fraud. Second, the Civil Code (KUHPercivil) regulates relations, both material and between individuals and legal entities. It includes rules regarding buying and selling, leasing, borrowing (including credit), and others. Third, the Commercial Law Code (KUHD) regulates trade issues specifically, such as the form of business entities, including CVs and firms. In addition, there are other regulations outside the Civil Code, Criminal Code, and KUHD, such as the Limited Liability Company Law and the Investment Law, that regulate limited liability companies and investments.

Digital transactions are all buying and selling activities carried out through electronic media, with the Internet being the main means. There are several types of digital marketing transactions, such as Business to Business (B2B), where companies sell products or services to other companies; Business to Consumer (B2C), where companies sell products or services to consumers; consumer to Consumer (C2C) where individuals sell used goods to others via the Internet, and others.

Digital marketing has many advantages, including a wide reach so that buyers from various regions can transact in online stores. In addition, digital marketing is certainly not limited by time, so buyers can still shop even though it is midnight. The operational costs of online stores are also lower than physical stores because there is no need to pay employee salaries or building rent. By becoming a drop-shipper, online stores do not need to have their own stock of goods. Transaction and shipment management is also easier with various electronic payment services and online shipment tracking systems. Through digital marketing, online store owners can learn customer habits to optimize their business. In addition, online businesses can be run from anywhere as long as they have adequate devices and internet connections.

### **The Role of Business Law in Indonesia**

As explained earlier, the Civil Code (KUHPercivil), Criminal Code (KUHP), and Commercial Law Code (KUHD) are sources of business law that play an important role in regulating and protecting digital marketing activities in Indonesia. Here is the role of each of these laws in digital marketing:

#### **1. The Role of the Civil Code in Digital Marketing**

The Civil Code has a broad role in regulating various legal aspects related to digital marketing. Some of the important roles of the Civil Code in digital marketing include a. Sale and Purchase Agreement: The Civil Code regulates the legal relationship between sellers and buyers in online buying and selling goods or services. This includes rules on procedures for forming agreements, rights, and obligations of the parties, and legal protection for buyers against goods or services that are not in accordance with the agreement; b. Obligations and Responsibilities: The Civil Code regulates the obligations and responsibilities of the parties in digital marketing activities, including consumer rights and seller obligations in fulfilling these consumer rights; and c. Cooperation Agreement: In digital marketing, there is often cooperation between the

parties involved, such as influencer marketing, affiliate marketing, or cooperation between platforms and content providers. The Civil Code has a role in regulating the cooperation agreement to protect the rights and obligations of each party.

## 2. The Role of the Criminal Code in Digital Marketing

The Criminal Code has an important role in regulating the criminal side of digital marketing, especially related to illegal or fraudulent practices that may occur. Some of the roles of the Criminal Code in digital marketing include a. Online Fraud: The Criminal Code regulates fraud in the context of digital marketing, such as fraudulent practices by using fake sites or phishing emails to steal consumers' personal information; b. Infringement of Intellectual Property Rights: The Criminal Code has provisions that protect copyrights, trademarks, and patents in the digital marketing environment. This involves protecting content and innovation made by companies and individuals in the digital realm.

## 3. The Role of KUHD in Digital Marketing

KUHD has a special role in regulating trade and business aspects in the context of digital marketing. Some of the roles of KUHD in digital marketing include a. Business Entity: KUHD regulates the form of business entities that can be used in digital marketing activities, such as limited liability companies, firms, or other forms of business entities that may be involved in digital transactions; and b. Business Transactions: The KUHD regulates various aspects of business transactions, including those conducted electronically. This includes buying and selling transactions, leasing, and various other forms of business contracts that can occur in digital marketing.

With the clear role of the law, digital marketing in Indonesia can run more regularly, fairly, and safely for all parties involved, both consumers and business people. This law provides the necessary legal framework to protect the rights and interests of parties in the world of digital marketing.

## CONCLUSION

Overall, business law plays a central role in regulating and shaping digital marketing in Indonesia. By providing a strong legal framework, business law helps create a business environment that is fair, integrity, and innovative. In an era where the Internet and technology dominate, the existence of business law is essential to ensure sustainable economic growth and the well-being of all parties involved in the digital business ecosystem.

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