
LEGAL PROTECTION FOR CONSUMERS WHO USE ELECTRONIC WALLETS (E-WALLETS) AS A MEANS OF PAYMENT

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Abstract

This research aims to explore and analyze the legal protection of e-wallet applications as a means of payment, as well as factors that influence the use of e-wallets in transactions. The research method used is normative legal research, which relies on the analysis of library materials and secondary data, taking into account the suitability between the theory applied and the relevant legal aspects. The results of this study indicate that to achieve legal protection against e-wallet applications as a means of payment there are two significant things. The first is the legal protection given to customers in cases of data leakage, regulated in Law Number 8 Year 1999 concerning Consumer Protection. Second, the obligations of digital wallet service providers to customers related to financial losses are regulated in Article 7 Letter f of the Consumer Protection Law.

Keywords: Consumer; E-wallet; Payment tool.

Abstrak

Penelitian ini bertujuan untuk mengeksplorasi dan menganalisis perlindungan hukum aplikasi e-wallet sebagai alat pembayaran, serta faktor-faktor yang mempengaruhi penggunaan e-wallet dalam bertransaksi. Metode penelitian yang digunakan adalah penelitian hukum normatif yang bertumpu pada analisis bahan pustaka dan data sekunder dengan memperhatikan kesesuaian antara teori yang diterapkan dengan aspek hukum yang relevan. Hasil penelitian ini menunjukkan bahwa untuk mencapai perlindungan hukum terhadap aplikasi e-wallet sebagai alat pembayaran ada dua hal yang signifikan. Yang pertama adalah perlindungan hukum yang diberikan kepada nasabah dalam kasus kebocoran data yang diatur dalam Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen. Kedua, kewajiban penyedia layanan dompet digital kepada nasabah terkait kerugian finansial diatur dalam Pasal 7 Huruf f Undang-Undang Perlindungan Konsumen.

Kata Kunci: Konsumen; Dompet elektronik; Alat pembayaran.

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INTRODUCTION

The development of technology in Indonesia driven by the Industrial Revolution 4.0 has directed progress towards a higher level of sophistication and modernity.¹ One example is the evolution of increasingly sophisticated smartphone functions.² Now, not only as a means of communication, but smartphones have also developed into a means of payment through a mobile payment system or e-wallet. It facilitates online and offline transactions easily through QR codes, providing convenience for users in transactions. According to Article 1 paragraph 2 of Law Number 7 Year 2011 on Currency, money is a legally valid payment instrument. Money is considered an important human achievement that primarily overcomes barriers in online transactions.

Apart from its role as a medium of exchange for goods and services, money also serves as a savings and investment tool to improve the economic welfare of the community. However, the use of cash comes with certain risks, especially in large transactions at banks or other places. It can be cumbersome and potentially jeopardize security as it carries large sums of money that are at risk of crimes such as robbery or theft. Along with the increasing demand for payment mechanisms that are responsive to people's needs in transferring funds quickly, safely, and efficiently, various payment technology innovations are growing rapidly.³ Therefore, a well-identified financial sector, including healthy banks and non-bank financial institutions (LKNB), has an important role in supporting the development goals set by the Government of Indonesia.

These goals include increasing economic growth, creating more jobs, and improving the quality of life for the Indonesian population. In addition to various other legal rules, Law of the Republic of Indonesia Number 11 of 2008 concerning Electronic Information and Transactions (ITE) plays an important role in regulating the process of transactions carried out electronically.⁴ Article 1 paragraph 1-4 of the law provides an explanation of the legal basis related to electronic transactions: Electronic Information is a set of data in electronic form, including writings, sounds, images, maps, designs, photographs, electronic data interchange (EDI), electronic mail (email), telegram, facsimile, or other forms. This data can be in the form of letters, signs, paragraphs, Access Codes, symbols, or perforations that have been processed and have a meaning that can be understood by the individual who has it.⁵

Electronic Transaction is a legal process that occurs using a computer, computer network, or other electronic means. Information Technology refers to the means or methods used to collect, prepare, store, process, publish, analyze, or disseminate information. Electronic documents include any form of information generated, transmitted, received or stored in a format such as analog, digital, electromagnetic, optical or similar. These documents can be accessed, displayed or heard through a Computer or Electronic System. The contents can be in the form of writings, sounds, images, maps, designs, photographs, letters, signs, paragraphs, Access Codes, symbols, or perforations that have a meaning or meaning that can be understood by authorized parties. Electronic money is a modern

¹ A. Rahmi Ainun Kirana, 2020, *Perlindungan Hukum Terhadap Konsumen Terkait Penjualan Barang Bermerek Palsu Melalui Transaksi Online Ditinjau Berdasarkan Hukum Perdata*, Qawanin Jurnal Ilmu Hukum

² Kamus Besar Bahasa Indonesia (KBBI), Edisi Kedua, Cet. 1, Jakarta: Balai Pustaka

³ Ahmadi Miru dan Sutarman Yodo, 2005, *Hukum Perlindungan Konsumen*, Jakarta : Raja Grafindo Persada.

⁴ Dewi S, 2017, *Prinsip – Prinsip Perlindungan Data Pribadi Nasabah Kartu Kredit Menurut Ketentuan Nasional dan Implementasinya*, Sosiohumaniora, Vol.19 No. 3.

⁵ Dan J. Kim, *et al*, 2015, *Antecedents of Consumer Trust in B-To-C Electronic Commerce*, Proceedings of the Americas Conference on Information Systems.

concept in the payment system that does not involve physical money, often referred to as cashless money.

In this idea, money has an electronic representation and is divided into two forms based on its storage location, namely cards or chips and servers. Using electronic money through cards or chips facilitates individuals to conduct transactions without the need to connect to the internet (called offline) with convenience, such as paying tolls, parking fees, and other activities using cards issued by certain banking institutions. Additionally, the use of electronic money stored on a server requires an internet connection (online), such as barcode payments using the t-cash service. E-Wallet, which has a definition in accordance with Article 1 paragraph 7 of Bank Indonesia Regulation Number 18/40/PBI/2016 concerning the Implementation of Payment Transaction Processing, is an electronic-based platform that functions similar to an electronic money depository. This platform is used as a way of payment.

Electronic money, as described in Article 3 of Bank Indonesia Regulation number 20/6/PBI/2018 regarding electronic money, is a form of payment instrument that meets a number of certain criteria. This electronic money is issued based on the value of money that has been deposited with the issuer and stored in electronic form through storage on server media or chips. Electronic money in the form of chips is stored in cards or other media that use chip technology as a basis, allowing transactions to be carried out without the need for an internet connection (offline), such as ATM cards or credit cards. On the other hand, electronic money in the form of e-wallet applications is stored on the issuer's server, requiring users to connect online to the issuer to conduct transactions. In this context, the use of e-wallets for transactions requires internet access as a prerequisite to access and use the service.

E-wallets, as a form of electronic money, bring a new dimension to the financial arena in Indonesia. Common examples of these e-wallets include applications such as Linkaja, Ovo, and Gopay. With these e-wallets, users can make payments both locally and remotely by simply using a smartphone connected to the internet. The transition of people's preferences from cash to electronic money does not happen without good reason. Apart from the current acceleration of digitalization, this change is also influenced by the advantages possessed by electronic money itself, such as convenience, speed, security, and does not require large physical storage space.⁶

Currently, many trade transactions are carried out electronically by businesses, both large and small scale, and also involve banking institutions and government agencies. Electronic transactions, such as those that occur through e-wallets, create agreements or legal relationships between the parties involved. In this context, electronic contracts refer to a form of agreement or legal relationship that occurs electronically through the use of a network of computer-based information systems and communication systems that rely on telecommunication-based networks and services, which are ultimately supported by the existence of the global network of the internet.

The use of this standard clause contains terms that have been prepared by one party, while the other party only needs to agree or reject the clause. In payment services using e-wallets, standardized clauses are considered valid if both parties involved in the payment service still adhere to the principles of the transaction, such as not posing a risk to the stability of a sound financial system and avoiding

⁶ Jacoby dan Kaplan, 2015, *The componen of perceived risk*, Annual Conference of the association for customer research, association for consumer research.

fraudulent acts. The purpose of this is to ensure that transactions can take place as expected without compromising the integrity of the financial system.⁷

The use of payment services through E-Wallets has provided positive benefits by providing people with the convenience of making transactions using only a smartphone device, reducing the need to carry heavy physical items. Nonetheless, as technology advances, new challenges arise regarding this modern payment tool. These challenges can come from intentional or unintentional actions, such as cases of balance theft due to account hacking, money laundering, or system errors during transactions. Situations like this can change people's perceptions regarding the security of using E-Wallet services and cast doubts on the legitimacy of e-wallets as a means of payment, due to their non-physical, but virtual nature. The use of E-Wallets significantly reduces the need to carry a physical wallet, which is capable of storing user payment information safely and practically. In addition, the use of digital wallets also has the potential to benefit companies by collecting consumer data.

The more information companies collect about consumers' purchasing habits, the more efficient they can be in planning suitable marketing strategies for their customers. However, from a consumer perspective, there are privacy-related risks that can occur if this data is misused. With the growing use of digital wallets, people often pay little attention to how their personal data is managed when registering as a digital wallet user. As a country with the fifth largest number of internet users in the world, Indonesia faces substantial risks and threats related to potential privacy breaches.

Currently, in Indonesia there are legal regulations governing the protection of individual privacy, as outlined below:

1. Law of the Republic of Indonesia Number 19 of 2016, which is a revision of Article 26 Paragraph 1 of Law of the Republic of Indonesia Number 11 of 2008 on Electronic Information and Transactions, emphasizes that the use of information involving personal data through electronic media must be based on consent given by the individual concerned.
2. Law of the Republic of Indonesia Number 24 of 2013, as a revision of Article 1 Paragraph 22 of Law of the Republic of Indonesia Number 23 of 2006 on Population Administration, explains that personal data refers to certain personal information that is stored, maintained for accuracy, and kept confidential.

Article 19 of Law No. 8/1999 on Consumer Protection has outlined aspects relating to legal certainty for users of Dana's e-wallet services as consumers. The article emphasizes basic regulations related to liability for losses, such as errors or damage that may occur during the use of services by users. As such, the Fund's e-wallet service providers are expected to take responsibility for any mistakes they make as well as any alleged breaches of agreements arising from the use of services in e-wallets.

In addition to the privacy issues of e-wallet users, there are often complaints about the negligence of electronic wallet service providers in providing the rights that should be given to users. This is related to delays in providing agreed compensation, where consumers often do not receive the expected compensation or compensation. Some of the e-wallet-related incidents reported in the media from 2020 to 2022 include personal data leaks and other financial losses. According to the Ministry of

⁷ F. D. Davis, ,1989, *Percieved Usefulness, Percieved Ease of Use, and Acceptance of Information System Technology*, MIS Quarterly, Vol. 13 No. 3.

Communication and Informatics (KOMINFO), the number of personal data security breach cases in 2020 reached 21 cases, decreased to 20 cases in 2021, and drastically dropped to 3 cases in 2022.⁸

One of the incidents that attracted attention occurred on January 3, 2022, when an e-wallet user "DANA" named Alexander Adrian Saragi experienced a breach of his e-wallet account which resulted in a loss of Rp.100,000. However, according to Article 7 letter G in Law Number 8 Year 1999 concerning Consumer Protection has regulated the responsibility for business actors to provide compensation and / or compensation to consumers in certain circumstances.

This applies since February 6, 2021, someone topped up the OVO Cash balance of IDR 2,300,000. However, suddenly a transaction occurred at around 7:30 in the Grab account using OVO cash without the person's knowledge. After checking the OVO balance, there was a reduction in balance through the purchase of Axis and Telkomsel credit. Axis number 083802790600 and Telkomsel number 085382772735. Credit top-ups on the Axis number amounted to Rp.100,000 and Rp.200,000 for a total of Rp.300,000. While topping up the credit on the Telkomsel number twice with a nominal value of 1 million rupiah each, a total of 2 million rupiah.

The person expressed disappointment that OVO and Grab accounts could be easily accessed and used by other parties without adequate protection for consumers. The person has never given the OTP code or password to another party. The person has contacted the customer service (CS Center) of Grab and OVO, but has not received a satisfactory answer. As long as this issue has not been resolved and the lost money has not been returned, the person is reluctant to use OVO and Grab services. To date, the person has received no response via email or phone from either party. The person conducted their own investigation by saving the Telkomsel number used to purchase credit, and looking at the WhatsApp profile that shows a child's profile as wallpaper.⁹

The person intended to report the matter to the authorities after making a report to the Polsek, but was recommended to report to the Polres because the case exceeded the handling capacity of the Polsek in the village where he lived.¹⁰ He hopes that by making a police report, it can prevent similar incidents from happening to other victims. A person warns other consumers to be careful when using OVO or Grab services, based on personal experience as a consumer who suffered losses. He also hopes that OVO and Grab can take full responsibility and immediately resolve this issue with a quick solution.

METHOD

The type of research conducted is normative legal research or also known as doctrinal legal research. This type of legal research uses secondary data sources derived from literature or other documents. In normative legal research, the approach starts from juridical aspects towards social facts. This is due to the belief that the law is considered as something that is final and has a higher position than society. The reason for using normative legal research (legal research) for this research proposal is based on the suitability of the theory with the needs of the research method needed.¹¹

⁸ Daon001, *Apa itu Industri 4.0 dan bagaimana Indonesia menyongsongnya*, Kominfo, Diakses dari https://www.kominfo.go.id/content/detail/16505/apa-itu-industri-40-dan-bagaimana-indonesia-menyongsongnya/0/sorotan_media, Pada tanggal 9 Juni 2023.

⁹ H. M. Jogiyanto, 2015, *Analisa dan Desain Sistem Informasi: Pendekatan Terstruktur Teori dan Praktik Aplikasi Bisnis*, Yogyakarta: Andi.

¹⁰ Janus Sidabalok, 2010, *Hukum Perlindungan Konsumen Di Indonesia Cetakan ke II*, Bandung: PT.Citra Aditya Bakti.

¹¹ Abdul Atsar dan Rani Apriani, 2019, *Hukum Perlindungan Konsumen*, Sleman : Deepublish.

Normative legal research is basically an attempt to examine the internal aspects of positive law. The approach adopted in normative legal research is the statutory approach, by making the rule of law the focus of research. It is important to note that in normative research with a statutory approach, it is necessary to pay attention to the type and hierarchy of laws and regulations of the Republic of Indonesia in accordance with the provisions listed in Article 7 paragraph 1 of Law number 10 of 2004 concerning the formation of laws and regulations.

RESULT AND DISCUSSION

1. Legal protection for customers who experience data leaks

One of the negative impacts experienced by digital wallet users as consumers is the risk of their personal information being leaked. This is related to the right of individuals to protect their personal data, which is described in the explanation of Article 26 of the Law on Electronic Information and Transactions. Government Regulation on Electronic System and Transaction Operator Number 82 Year 2012 confirms the importance of maintaining the accuracy and confidentiality of specific personal information.

Digital wallet organizers have the responsibility to maintain the confidentiality, integrity, and availability of users' personal, transaction, and financial data from the moment the data is obtained until it is deleted. The use of user data and information by the organizer must be based on the user's consent. Nowadays, the internet has become an inseparable necessity in life, playing a crucial role in various fields of life. Especially in the economic realm, the internet plays an important role by contributing greatly to businesses through its ability to facilitate more intense interactions between them and consumers, and vice versa.

The development of internet technology in the context of the economy is supported by electronic payment systems without the use of cash, serving to facilitate the payment process and storage of money in digital form, similar to the use of cash in physical form but in digital form. This situation creates a legal relationship that must be optimally regulated to protect the rights and obligations of consumers and business actors. This phenomenon often leads to complaints due to incidents of customer data leakage that are detrimental to all parties involved.

Law No. 8/1999 on Consumer Protection (UUPK) aims primarily to protect consumers. Article 3 of the GCPL sets out six consumer protection objectives that are regulated under the provisions of the law:¹²

- a. Raising consumer awareness, capability, and self-reliance is the main focus in consumer protection, not necessarily related to the enforcement of the rule of law. Before following up with legal measures, consumer protection is focused on raising consumers' awareness and independence to protect themselves. This awareness is important as a preventive measure to avoid losses and arbitrary behavior that may occur.
- b. Improving the dignity and position of consumers is done by protecting them from the negative impacts of using goods or services. Sometimes, consumers are considered to be in a less favorable position than business actors. Therefore, it is important to equalize the position of consumers

¹² Achmad Ali, 2008, *Hukum Perlindungan Konsumen*, Jakarta: Raja Grafindo Persada.

with business actors so that consumers have an equal role. This aims to increase consumer dignity and encourage the creation of smarter consumers.

- c. Enhancing consumers' capacity to make choices, make decisions, and claim their rights as consumers is important. Consumer empowerment is an effective strategy in realizing protection. One effective way is through the provision of knowledge about consumer protection rights, enabling consumers to make informed decisions and claim their rights as consumers.
- d. Establish a consumer protection system that includes elements such as clarity of laws, transparency of information, and easy access to information.
- e. With the enactment of this Law, it is expected to encourage business actors' awareness of the importance of consumer protection, so that they develop an honest and responsible attitude in running their business. This is expected to encourage business actors' awareness of the need to pay attention to the interests of consumers, because they have an obligation to be responsible for the products or services they offer to the public.
- f. Improving the quality of goods or services by guaranteeing the continuity of production, health, comfort, security, and safety of consumers is the objective outlined in Article 3 of the Consumer Protection Law. This consumer protection objective is the main achievement in the implementation of national legal development in the consumer protection sector.

Legal protection for e-wallet customers who experience data leaks is regulated in Law Number 8 Year 1999 concerning Consumer Protection. This law provides rights to consumers to enjoy comfort and safety in the use of goods and / or services, as well as the right to obtain compensation in accordance with the provisions listed in Article 4 Letter (a). In addition, Article 4 Letter (d) gives consumers the right to express opinions and complaints related to the goods and/or services they use. This situation provides an opportunity for e-wallet users to provide input regarding the services they receive from the digital wallet used. In response, business actors who are e-wallet service providers have an obligation to pay attention to opinions or complaints submitted by their consumers.

Personal data protection is a crucial issue in building customer trust. It is important for e-wallet service providers to maintain privacy confidentiality, as regulated in Law Number 11 of 2008 concerning Electronic Information and Transactions Article 26 Paragraph (1) which briefly discusses personal data protection. Furthermore, Law No. 10 of 1998 Concerning Amendments to Law No. 7 of 1992 Concerning Banking also regulates the protection of personal data, especially in the context of information confidentiality in banking institutions through Article 40 Paragraphs (1) and (2). The concept of bank secrecy, as explained in Article 1 Point 28 of Law No. 10 of 1998 Concerning the Amendment to Law No. 7 of 1992 Concerning Banking, is part of this regulation, referring to all information related to the data of depositors and their deposits.

CONCLUSION

To ensure legal protection of the e-wallet application as a means of payment, there are two aspects that must be considered. First, Law Number 8 Year 1999 concerning Consumer Protection regulates legal protection for customers who experience data leakage. Second, the regulation also stipulates the responsibility of e-wallets to customers in cases of loss of funds regulated in Article 7 Letter f of the Law. Consumer Protection. To improve the legal protection of consumers who use electronic wallets as a means of payment, it is important to develop the management and services of e-

wallet companies. This includes improving services and ease of use of products offered by e-wallets, in line with technological developments.

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