

RINGKASAN

Kegiatan perdagangan di masyarakat telah berkembang sangat pesat. Hal tersebut dipengaruhi salah satunya dengan berkembangnya teknologi yang berbasis internet yang dikenal dengan nama *e-commerce*. Berbelanja melalui *electronic commerce (e-commerce)* tidak jarang juga timbul permasalahan salah satu kasusnya adalah kasus transaksi jual beli *smartphone blackmarket* di platform *e-commerce* dimana IMEI *smartphone* tersebut tidak terdaftar. Perlindungan hukum terhadap konsumen diatur dengan Undang – undang No 8 Tahun 1999 tentang Perlindungan Konsumen. Undang – undang ini diharapkan dapat menjamin kepastian hukum terhadap konsumen dalam bertransaksi *e-commerce*.

Tujuan tesis ini adalah menganalisis tanggung jawab Akulaku dan *merchant* terhadap konsumen atas pembelian *smartphone blackmarket* di toko online, kedua untuk menganalisis perlindungan hukum terhadap konsumen atas kasus *smartphone blackmarket* berdasarkan hukum perlindungan konsumen di Indonesia. Metode penelitian yang digunakan adalah yuridis normatif dengan menggunakan pendekatan kasus, pendekatan perundang-undangan dan pendekatan konseptual. Sumber penelitian hukum berupa bahan hukum primer, sekunder, dan tersier.

Hasil penelitian menunjukkan bahwa dalam kasus pembelian *smartphone blackmarket* di AKULAKU, Tanggung jawab atas pembelian *smartphone blackmarket* adalah tanggung jawab *merchant* sesuai dengan Pasal 19 UUPK, karena konsumen telah menerima barang tidak sesuai perjanjian, dan berdasarkan Pasal 8 Syarat dan Ketentuan AKULAKU yang menetapkan bahwa *merchant* wajib menanggung risiko sendiri dan Akulaku memiliki batasan atas tanggung jawab terhadap kerugian yang dialami konsumen, namun Akulaku wajib turut bertanggung jawab jika dilihat dari hubungan hukum dengan *merchant*, karena jika Akulaku tidak menindaklanjuti kasus tersebut maka konsumen akan melakukan penyelesaian sengketa di luar pengadilan.

Di Indonesia, Perlindungan hukum untuk konsumen dapat dianalisis melalui dua pendekatan, yaitu perlindungan hukum preventif dan represif. Pendekatan preventif melibatkan undang-undang seperti UU Perlindungan Konsumen, UU ITE, UU Kepabeanan, dan KUH Perdata, yang memberikan hak-hak seperti kompensasi dan ganti rugi. Perlindungan hukum represif dapat ditempuh melalui jalur litigasi dan non litigasi. Litigasi mencakup pengadilan umum dan gugatan terhadap pelanggaran UU ITE. Non litigasi melibatkan arbitrase atau lembaga penyelesaian sengketa alternatif. Syarat dan Ketentuan AKULAKU juga memberikan opsi penyelesaian melalui musyawarah dan Badan Penyelesaian Sengketa Konsumen (BPSK). Meskipun ada regulasi perlindungan konsumen, prakteknya menunjukkan bahwa konsumen belum mendapatkan ganti rugi dari *merchant* sesuai dengan peraturan hukum di Indonesia. Evaluasi implementasi perlindungan hukum represif menjadi penting untuk memastikan hak-hak konsumen terlindungi.

Saran dari penelitian ini yaitu bahwa pertama AKULAKU sebaiknya meningkatkan selektivitas dalam menerima *merchant*, dengan mengimplementasikan pemeriksaan kredibilitas, verifikasi identitas, sertifikasi, sistem penilaian, peraturan ketat, dan pelatihan untuk menciptakan lingkungan yang lebih aman dan terpercaya bagi konsumen.

Kedua Indonesia perlu mempertimbangkan untuk mengembangkan undang-undang yang lebih spesifik mengenai *blackmarket* guna meningkatkan perlindungan konsumen dan menangani transaksi ilegal, dan meningkatkan kesadaran konsumen tentang risiko yang terkait dengan pembelian di pasar gelap.

Kata Kunci : Tanggung Jawab, Perlindungan Konsumen, *Blackmarket*.

SUMMARY

Trading activities in society have developed very rapidly. This is influenced, among others, by the development of internet-based technology known as e-commerce. Shopping through electronic commerce (e-commerce) is not uncommon for problems to arise, one of which is the case of buying and selling blackmarket smartphones on e-commerce platforms where the IMEI of the smartphone is not registered. Legal protection of consumers is regulated by Law No. 8 of 1999 concerning Consumer Protection. This law is expected to ensure legal certainty for consumers in e-commerce transactions.

The purpose of this thesis is to analyse the responsibility of Akulaku and merchants towards consumers for the purchase of blackmarket smartphones in online stores, secondly to analyse the legal protection of consumers in the case of blackmarket smartphones based on consumer protection law in Indonesia. The research method used is normative juridical using a case approach, statutory approach and conceptual approach. The sources of legal research are primary, secondary, and tertiary legal materials.

The results showed that in the case of purchasing a blackmarket smartphone at AKULAKU, the responsibility for purchasing a blackmarket smartphone is the responsibility of the merchant in accordance with Article 19 of the GCPL, because consumers have received goods not according to the agreement, and based on Article 8 of the AKULAKU Terms and Conditions which stipulates that merchants are obliged to bear their own risks and Akulaku has a limit on the responsibility for losses suffered by consumers, but Akulaku must take responsibility when viewed from a legal relationship with the merchant, because if Akulaku does not follow up on the case, consumers will conduct out-of-court dispute resolution.

In Indonesia, legal protection for consumers can be analysed through two approaches, namely preventive and repressive legal protection. The preventive approach involves laws such as the Consumer Protection Law, ITE Law, Customs Law, and Civil Code, which provide rights such as compensation and damages. Repressive legal protection can be pursued through litigation and non-litigation channels. Litigation includes general courts and lawsuits against violations of the ITE Law. Non-litigation involves arbitration or alternative dispute resolution institutions. AKULAKU's Terms and Conditions also provide options for settlement through deliberation and the Consumer Dispute Resolution Agency (BPSK). Despite the existence of consumer protection regulations, the practice shows that consumers have not received compensation from merchants in accordance with Indonesian legal regulations. Evaluation of the implementation of repressive legal protection is important to ensure that consumer rights are protected.

The suggestions from this study are that firstly AKULAKU should improve selectivity in accepting merchants, by implementing credibility checks, identity verification, certification, rating systems, strict regulations, and training to create a safer and more reliable environment for consumers.

Second, Indonesia should consider developing more specific laws regarding the blackmarket to improve consumer protection and address illegal transactions, and increase consumer awareness about the risks associated with black market purchases.

Keywords: Liability, Consumer Protection, Blackmarket.