

**LEGAL PROTECTION OF E-COMMERCE COURIERS  
IN CASH ON DELIVERY PAYMENT SYSTEM****Ndaru Anggara Prabajati**Legal Science, Faculty of Law, Universitas Muhammadiyah Surakarta  
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mj122@ums.ac.id**ABSTRACT**

E-commerce platform purchases provide convenience in transactions, namely with cash (Cash On Delivery) or non-cash through transfer methods or other digital wallets. The Cash On Delivery payment system is a payment method that is made on the spot after the purchase order delivered by the courier is received by the buyer.(1) Payment by this method is considered very easy because no account is needed and can minimise fraud. The method used in this research uses normative research methods. This method is carried out by conducting library research on secondary data sources such as legal regulations, books and other research in the field of law. The role of the courier is as a person appointed by the Company to replace the power of the Company engaged in shipping services. Legal protection of couriers in the Cash On Delivery payment system has been regulated in Article 1601B of the Civil Code. The article regulates the requirements that must be met by couriers and has also been clarified in Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Electronic Information and Transactions.

**Keywords:** Online Buying and Selling, Cash On Delivery System, Legal Capacity

**INTRODUCTION**

Article 1457 of the Civil Code on sale and purchase can be interpreted as an agreement between two parties where the first party acts as a seller to provide goods to the second party which acts as a buyer to pay for goods at the agreed price. Sale and purchase is considered to have occurred if there is an agreement between the two parties, between the seller who agrees to the payment offered by the buyer and the buyer who agrees to the goods offered by the seller even though the goods have not been delivered to the buyer in accordance with Article 1458 of the Civil Code. This buying and selling activity is carried out in shopping centres such as shops, supermarkets and other shopping centres. However, along with the development of

technological advances, buying and selling activities have also changed.

Technological advances bring many conveniences in the economic field, one of which is in the aspect of buying and selling activities. Purchases that could previously only be made by visiting stores and shopping centres, now only by accessing e-commerce platforms we can make purchases.(2) E-commerce can be defined as a platform engaged in digital shopping economic activities, whereby such activities are carried out with the assistance of advances in information and communication technology.(3) E-commerce platform purchases provide convenience in transactions, namely with cash (Cash On Delivery) or non-cash through transfer methods or other digital wallets. This Cash On Delivery payment system is what many E-commerce users are interested in.(4)

The Cash On Delivery payment system is a method of payment made on the spot after the purchase order delivered by the courier is received by the buyer.(1) This payment method is considered very easy because there is no need for an account or other digital wallet and can minimize fraud because the buyer only needs to pay for the order after receiving the ordered goods. Purchases with the Cash On Delivery payment method are made by anyone, even children who in Article 1320 of the Civil Code are classified as subjects who are not legally capable of making transactions in E-Commerce. (4) Purchases made by subjects who are not yet capable often give rise to complications. One illustrative example of such issues is the tendency of buyers to utilize the cash-on-delivery (COD) payment system, which often results in a lack of willingness or inability to pay, ultimately leading to financial losses for the courier who is responsible for delivering the purchased goods.

Law No. 8/1999 on Consumer Protection strictly regulates consumers. This is common given the unbalanced position of consumers in relation to business actors, as a factor in online purchasing is the limited bargaining power that consumers have. Many business entities experience losses caused by consumers, such as a lack of good faith in online purchasing transactions, and not respecting the right of business entities to receive payment in accordance with agreed terms and exchange rates, even causing losses to consumers damage that causes losses to business entities. There are also buyers who order counterfeit goods through Cash On Delivery for fun or to get revenge on someone. Then there are also buyers who are not at home when the goods are delivered by couriers. The absence of legal regulations related to the protection of business entities causes losses for business entities in carrying out their business

activities, especially in the Cash On Delivery system. Good faith as one of the things that is mandatory in electronic contracts as stated in the provisions of Article 1338 Paragraph (3) of the Civil Code.(1)

The principle of good faith is actualized when honesty is present. The value of honesty serves as a guiding principle in sales transactions, facilitating the achievement of common goals. Good faith is a pivotal element in conventional buying and selling, a fact underscored by numerous extant legal and regulatory frameworks. It is incumbent upon all parties to a transaction, including e-commerce companies, to respect the principle of good faith. This is particularly pertinent in the context of online transactions, where the parties involved are not in direct contact with one another. In the absence of a face-to-face encounter, sellers and buyers may unwittingly create circumstances that result in the inefficient use of time and resources.

Online buying and selling transactions are included in transactions using electronic media (Article 1 paragraph (2) of Law No. 11/2008 on Electronic Information and Transactions). This paragraph clearly states "Electronic transactions are legal actions carried out using computers, computer networks, and/or other electronic means." In this case, it creates an agreement that becomes an agreement between the seller and the buyer. Related to online buying and selling transactions have been regulated in the Civil Code. This is a form of application of information technology in the form of E-Commerce which is a basic form of information technology platform. Article 3 of the Electronic Information and Transaction Law stipulates that "The utilization of information technology and electronic transactions is carried out based on the principles of legal certainty, expediency, prudence, good faith, and freedom of choice regarding technology or technological neutrality". Therefore, goodwill is the cornerstone of online trade transactions. In addition, Article 45 paragraph (2) of the Government Regulation on the Implementation of Electronic Systems and Transactions (PP PSTE) also clearly states "The implementation of electronic transactions by the parties must pay attention to: a. good faith; b. the principle of prudence; c. transparency; d. accountability, and e. Fairness". By upholding the principle of good faith, the values of honesty and obedience in achieving common goals can be achieved. Especially for online transactions with the Cash On Delivery system.(5)

In e-commerce there are two parties involved, commercial agents offer products for sale over the internet and consumers get offers from sellers who want to transact on products

offered by commercial agents.(6) Based on Law Number 8 of 1999 concerning Consumer Protection Article 1 Point 3 stipulates that a business entity is any person in the form of a legal entity or not a legal entity established, residing or conducting business within the jurisdiction of the Republic of Indonesia, either individually or jointly based on a contract to carry out business activities in other economic sectors. (7) From these problems, the researcher is interested in analyzing and further examining these problems with the research title: "Legal Protection Against E-Commerce Couriers in the Cash On Delivery Payment System".

### **RESEARCH METHOD**

The method used in this research uses normative research methods, this research refers to Law Number 11 of 2008 concerning Electronic Information and Transactions, Article 1457 of the Civil Code, Article 1338 Paragraph (3) of the Civil Code, Article 45 Paragraph (2) of Government Regulation on the Implementation of Electronic Systems and Transactions legal principles, legal literature, and existing legal theories. The researcher in this study analyzes legal norms and principles related to a particular rule, using the method of identifying a case that can be linked and reviewed through pre-existing laws and regulations. The data collection method used in this research is a literature study, namely legal materials that are used as research data sourced from literature studies. In this research, the data contained therein is analyzed deductively by drawing conclusions from major premises and minor premises.(8)

### **RESULTS AND DISCUSSION**

#### **The Position of the Courier in the Online Sales and Purchase Agreement with the Cash On Delivery System**

In payments using the Cash On Delivery system, the role of the courier is as a person appointed by the Company to replace the power of the Company engaged in goods delivery services to deliver goods to consumers. In addition, the courier has a role as a person authorized by the company to receive payments from consumers.(9) According to Article 1801 of the Civil Code, the company is liable for negligence committed intentionally by the courier in performing his powers as a person appointed by the delivery service company to replace the execution of his powers.(10) Online sales transactions with cash on delivery payments are

classified as electronic contracts. The courier, acting on behalf of the company, has the right to deliver the purchased goods from the seller to the buyer. This process is governed by Article 1601B of the Civil Code, which also outlines the conditions that must be met by the courier. These conditions have been further clarified in Law No. 19 of 2016, which concerns amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions.

Article 1457 of the Civil Code on sale and purchase can be interpreted as an agreement where the first party acts as a seller binding himself to provide goods to the second party, and the second party acts as a buyer binding himself to pay for goods at the agreed price. Sale and purchase is considered to occur if there is an agreement between the two parties, between the seller who agrees with the payment offered by the buyer and the buyer who agrees with the goods offered by the seller even though the goods have not been delivered to the buyer in accordance with Article 1458 of the Civil Code. After the agreement between the seller and the buyer regarding the price and goods occurs, the seller is obliged to deliver the agreed goods through the courier as the authorized party, and the buyer is obliged to pay for the agreed price after the goods are delivered by the courier to the buyer's address. According to article 1802 of the Civil Code, the courier is further obliged to provide the payment received to the company which is then submitted to the E-commerce platform and the seller of the goods. The courier is entitled to receive wages or payment for the performance of duties in accordance with the delivery company agreement, in accordance with article 1808 of the Civil Code.(10)

### **Courier Protection for Online Buying and Selling Activities Conducted by Minors**

Agreements in online buying and selling must fulfill the legal requirements of the agreement as stated in the laws and regulations. Article 1320 of the Civil Code regulates the legal requirements for an agreement:(10)

1. Agreement of those who bind themselves;

Agreement is an agreement of personal will between one person and another person who makes the agreement. The existence of a contract in the elements of E-commerce agreement is measured by the buyer accessing E-commerce and agreeing to the online media offer.(11) In this case, it means that the agreement between the parties occurs when the buyer accesses or makes a purchase through E-commerce and the seller processes the transaction to be sent to the buyer through a courier intermediary

in the delivery service.

2. Capacity to act to enter into an agreement;

According to Article 1330 of the Civil Code, minors, persons under guardianship, and women may not enter into contracts in matters specified by law, and in general, all persons prohibited by law from entering into certain contracts.

3. A certain thing;

The contractual agreement requires the client to have an item of a slightly specified type. This does not preclude the uncertainty of the amount of the item, as long as the amount can be determined according to Article 1333 of the Civil Code.

4. A lawful cause.

A reason is declared prohibited if it is prohibited by law within the meaning of Article 1337 of the Civil Code. A contract cannot be made for an unlawful reason.

The legal requirements of the agreement, the element of capability is a subjective element which regulates a person or individual who will make an agreement. Proficiency comes from the basic word capable, which means being able to perform an action or the ability to perform or carry out a task.<sup>(12)</sup> A contract is a legal act that has legal consequences and its implementation must be carried out by those who have the capacity to perform legal acts in accordance with applicable standards.<sup>(13)</sup> In E-Commerce, the agreement is carried out using electronic media as stated in the Electronic Information and Transaction Law article 1 paragraph (2). If the subjective requirements are not met, it will raise a problem related to Cash On Delivery payments involving couriers.

The buyer's act of refusing payment is an act of default and can prevent the courier from carrying out his duties as a delivery party for the purchased goods, and cause losses to the seller. Referring to Article 1460 of the Civil Code, the goods sold are the responsibility of the buyer. Even though there has been no delivery of goods which is an agreement between the seller and the buyer.<sup>(9)</sup> The incident caused losses to the courier as a party to the delivery service. The losses received by the courier for the incident of non-fulfillment of the skill requirement in terms of energy and time the courier is disadvantaged, especially if the intended delivery location / access road is damaged and rocky.<sup>(14)</sup> Then in terms of income, the courier is disadvantaged because the courier gets income from every purchase of goods he delivers, if the consumer cancels the order carried by the courier, the courier does not get income.

Meanwhile, from each order brought, the share obtained by the courier is not much.<sup>(15)</sup> In connection with this, the requirements regarding the competence of the parties are very important because if the requirements are not met, there will be losses incurred by the courier. The courier in this Cash On Delivery transaction is involved although indirectly but as an intermediary, the courier gets a direct loss because the courier is involved in the process of delivering the purchased goods to consumers.

In terms of this capability, if the contract maker is said to be immature, he can submit a cancellation of the agreement that has been made as stated in Article 1331 of the Civil Code. The agreement can be canceled means that any party can request for the cancellation of the agreement. Therefore, if no one of the parties submits a request for annulment to the district court, the agreement is considered binding and remains valid or valid.<sup>(16)</sup> Meanwhile, according to Article 1446 of the Civil Code, all agreements made by people who are not capable, the agreement is null and void on the basis of immaturity.<sup>(10)</sup> With this explanation, the sale and purchase agreement by a person who is not legally capable can be said to be invalid. Protection for couriers for Cash On Delivery transactions carried out by children who are not yet capable is to ensure that the transactions carried out can be canceled or not legally valid. So with this, the courier as a party who gets power from a company engaged in shipping services is not harmed by transactions carried out by a person who is not legally capable.

As a buyer has obligations that must be understood and obeyed which are regulated in article 5 of Law Number 8 of 1999 concerning consumer protection as follows, Obligations as consumers are<sup>(17)</sup> :

- a) Read instructions and procedures for use and use goods and services for safety and security purposes;
- b) Have good faith in conducting transactions to purchase goods and services;
- c) Payment at the agreed exchange rate;
- d) Conduct appropriate legal settlements of consumer protection disputes.

In obligations as consumers, in general, incapable people often do not understand their obligations as consumers. If the buyer in the E-commerce platform does not fulfill his obligations as a consumer, it can cause harm to the courier as a person ordered by the delivery service company to deliver goods to consumers and as a person who has a direct relationship with consumers in buying and selling using the E-commerce platform.

## CONCLUSION

In article 1792 of the Civil Code, the company is the recipient of a power of attorney from the seller in E-commerce to deliver goods to consumers. The shipping company appoints a courier as a substitute for carrying out the power as stated in article 1803 of the Civil Code. Sale and purchase is considered to have occurred if there is an agreement between the two parties, between the seller who agrees with the payment offered by the buyer and the buyer who agrees with the goods offered by the seller even though the goods have not been delivered to the buyer in accordance with article 1458 of the Civil Code. After an agreement between the seller and the buyer regarding the price and goods occurs, the seller is obliged to deliver the agreed goods through the courier as the authorized party, and the buyer is obliged to pay for the agreed price after the goods are delivered by the courier to the buyer's address.

The element of capability is a subjective element which regulates a person or individual who will make an agreement. If the subjective requirement is not fulfilled, it will raise a problem related to the Cash On Delivery payment system which involves a courier as an intermediary. In making a sale and purchase agreement through the E-commerce platform, it is not permissible to override the capability requirement. In terms of this capability, if the contract maker is said to be immature, he can demand the cancellation of the agreement that has been made as stated in Article 1331 of the Civil Code. Meanwhile, according to Article 1446 of the Civil Code, all agreements made by people who are not capable or immature are null and void on the basis of immaturity. With this explanation, the sale and purchase agreement by a person who is not legally capable can be said to be invalid due to the non-fulfillment of the subjective requirements of the validity of an agreement. In the law has shortcomings in the arrangements relating to the Cash On Delivery transaction system, so that new regulations or laws are needed to regulate the Cash On Delivery transaction system so as not to cause new problems in the future and so as not to cause losses to the courier as a party directly dealing with the buyer.

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