

Legal Protection for Consumers in the Distribution of Illegal Gadgets

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ABSTRACT

Technological developments and the high demand for gadgets have led to the widespread distribution of products that do not comply with legal requirements, particularly those related to customs. The distribution of gadgets without official customs documents not only harms the state in terms of tax revenue but also causes losses for consumers. This study aims to analyze the form of legal protection for consumers who purchase illegal gadgets without knowing their legal status, as well as examine the government's role in combating the circulation of these products. The research method used is normative juridical with a statutory regulatory approach. The results show that consumers have the right to security, comfort, and correct information as stipulated in Law Number 8 of 1999 concerning Consumer Protection. However, weak supervision and a lack of legal literacy make consumers vulnerable to becoming victims. Therefore, it is necessary to strengthen regulations, increase supervision of product distribution, and educate the public so that consumer rights are optimally protected.

Keywords: *Legal Protection, Consumers, Gadgets, Customs, Distribution*

Introduction

Indonesia is a developing country experiencing increasing economic growth year after year. Economic growth can be categorized as a process of increasing national income that occurs sustainably over the long term. Economically, Indonesia is not yet fully self-sufficient, as it still requires assistance from other countries, especially those with more advanced economies. This assistance aims to increase Indonesia's effectiveness in implementing economic development, including sustainable export and import activities. This economic

development is also closely related to the rate of growth and the development of the quality of life of the people in each country ¹.

Gadgets are one of the most widely used information and communication technology (ICT) gadget in Indonesia because they can meet long-distance communication needs. Gadget such as cell phones and smartphones not only function as communication tools but are also used for various other activities, such as working through office applications, browsing websites, accessing social media like Facebook and Instagram, and conducting online financial transactions. All of these activities are possible because the device is connected to the internet network (Ministry of Communication and Informatics). ²

Flexibility of use, ease of access at various places and times, and relatively affordable prices are the main factors in the increasing number of gadget users in Indonesia from year to year. However, the high market demand for gadgets also triggers unfair competition among distributors. Some parties unable to compete legally choose to distribute gadgets illegally, such as selling products that resemble official brands or without going through customs procedures. This practice is known as illegal gadget distribution³.

Illegal gadget are counterfeit goods that closely resemble the original. Businesses selling these gadget can profit from the sale of these gadget because they are sold at a lower price than genuine gadget. Gadgets on the market always refer to the warranty status of the gadget, which determines compensation if something happens to the consumer who purchased the gadget. Warranties available on the market include official warranties, which include distribution warranties, and store warranties for secondhand or used items. Each of these warranties has its own niche in the gadget market⁴.

Problems arise when selling gadgets with distributor warranties, sellers do not provide sufficient explanation to potential consumers regarding the status of the goods, how to claim goods, and the distributor warranty. In gadgets with distributor warranties, sometimes found replacement supporting accessories so that the goods sold can compete with cheap prices because in a gadget consisting of a box that contains the gadget unit and other devices such as chargers, data cables, handsets, manuals sometimes found non-genuine items.

¹ Riky Novarizal dan Muhamad Anil Kumara, *Strategi Dan Peran Bea Cukai Dalam Menangani Penyelundupan Barang Di Kabupaten Bengkalis*, Jurnal Ilmu Bisnis Dan Sosial, Vol. 1 No. 2 (2023), h.62

² Dhevi Nayasari Sastradinata, Hadziqotun Nahdliyah, dan Kidung Alfiani Sidiq, Legal Review of Embezzlement of Funds in Corporate Crimes, *Jurnal Independent* 12, no. 2 (2024), 180

³ Wahab, Riva'atul Adaniah, *Penerapan Regulasi Kontrol IMEI dari Sudut Pandang Pengguna Telepon Seluler*, jurnal *Buletin Pos dan Telekomunikasi*, Vol. 19 No. 2 (2021), h.120

⁴ Ambodo dan Angga Dwi, *Pertanggungjawaban Pelaku Usaha Yang Tidak Menyediakan Jaminan Garansi Dalam Transaksi Jual Beli Handphone Dalam Perspektif Perlindungan Konsumen*, Journal of Law and Justice, Vol. 1 No. 2 (2024), h. 82.

Gadget support devices are covered by official warranties or other distributor warranties. Furthermore, consumers are sometimes hampered by business owners' after-sales service when filing warranty claims. This service often seems unprofessional, resulting in consumers being severely disadvantaged by unsatisfactory service, such as lengthy repair times or stores refusing to replace their gadgets. Business owners often conclude that consumer misuse voids warranty claims and requires paying for service⁵.

In general, gadgets are different from unofficial gadgets, because unofficial gadgets are essentially gadgets that are deliberately smuggled into the country by avoiding the country's tax system. While (official) gadgets are distributed through distributors who have official certificates from the republic's postal and telecommunications directorate to be distributed to markets that have met the standards set by the government. Illegal gadgets, which are often referred to as gadgets, are the condition of an item that is exactly the same as the original but is not an original item or is just a replica or many people call it a rejected item (failed product), if we review the applicable law from the perspective of consumer protection related to the status of gadgets, then in fact the existence of gadgets has been contrary to Law No. 8 of 1999 concerning Consumer Protection, because in essence consumers have the right to obtain information that is clear, honest about the condition and guarantee of the goods / services used⁶.

The demand for wages in exchange for goods or services that are more expensive is subject to excise duties. The levies that are applied and carried out have every criterion that has been determined based on applicable laws and regulations. These levies are carried out legally and are regulated in Law Number 17 of 2006 concerning Customs and Excise with the determination of taxes, this has a role in the development that will be implemented by the state. However, in the implementation of policies and the implementation of established rules, if implemented, it will be against the law and these violations are carried out by a handful of people, irresponsible individuals for personal gain, thus harming the state, one of which is by smuggling electronic goods such as gadgets from abroad, then entering and circulating in the Indonesian market area⁷.

Smuggling of goods entering Indonesia is related to the illegal circulation of cigarettes, alcoholic beverages, clothing, electronic goods, mobile phones, and others. Every imported item into Indonesia is subject to a levy tax, which regulates the applicable regulations, including those governing every item entering the country and goods transacted abroad. Each transaction is subject to certain restrictions. The Indonesian

⁵ *Ibid.*.h.83

⁶ Zulaika Putri Wijaya, Hasnati dan Sandra Dewi, *Penegakan Hukum Terhadap Pelaku Usaha Perdagangan Telepon Gengam Ilegal*, Jurnal Proceeding Iain Batusangkar, Vol.1 No.1 (2022), h.975

⁷ Riky Novarizal & Muhamad Anil Kumara. *Op.cit*, h.63

government imposes duties on agencies that are given special authority and rights within their respective jurisdictions for each item to be shipped abroad or imported into the country. These agencies are known as customs areas⁸.

The trade in gadgets without customs clearance is becoming increasingly prevalent in many countries, with many shopping malls offering a variety of gadgets at significantly lower prices than the original ones. Illegal gadget trade cases in the country occur from time to time and continue to increase. Illegal gadget trade in this country is a problem. Laws that violate the implementation of Law Number 17 of 2006 concerning Taxes and Consumer Protection Law Number 8 of 1999 and the Criminal Code (KUHP) have not yet found a solution to the implementation of laws related to the rampant illegal gadget trade⁹.

Data from the Indonesian Digital Report published by We Are Social shows a growing trend in gadget use in Indonesia year after year. More specifically, gadget use has increased over the past three years, while non-gadget use has declined over the past two years. This shift from non-mobile phones to gadgets is predicted to be due to the increasing proliferation of internet activities that can only be done using mobile phones. The number of users has increased annually, from 121% in 2019 to 125.6% in 2021. The 2019 statistics even named Indonesia as the country with the fastest growing mobile phone customer base in Asia¹⁰.

The Directorate General of Postal and Informatics Resources and Equipment (SDPPI) reported in 2020 that the number of telecommunications devices and equipment certified in 2020 reached 6,694. Grouping by application type yields a breakdown of 6,68 (98.1%) new applications and 126 (1.9%) wireless consumer premises equipment (Wireless CPE). This represents 5,531 or 82.6% of the devices certified in 2020. Mobile phones fall into this category (Directorate General of SDDPPI-LPPM IPB, 2021). Not all mobile phones circulating in Indonesia undergo the required telecommunications device and equipment certification process. Approximately 10% of monitored devices in the market are uncertified¹¹.

The rampant circulation of undocumented gadgets in Indonesia is causing significant losses for the state and consumers. An estimated 9–10 million illegal gadgets circulate annually, potentially costing the state Rp 2.8 trillion. Those distributing gadgets without customs documentation are violating various legal provisions, including customs

⁸ *Ibid.* h.64

⁹ Zulaika Putri Wijaya dan Hasnati, *Op.Cit*, h.979

¹⁰ Wahab dan Riva'atul Adaniah, *Op. Cit*, h. 120

¹¹ *Ibid.*, h.121

regulations (import smuggling), trade regulations (prohibitions or restrictions on the import of certain goods), and consumer protection¹².

Sellers must provide accurate, clear, and honest information regarding the condition and warranty of the goods/services, as well as explanations of their use, repair, and maintenance. The distribution of illegal gadgets in the community also violates Law Number 36 of 1999 concerning Telecommunications. Businesses are subject to the risk of product use as a cause of loss due to violations of the principles of caution or arbitrary use of rights. One of the goals of dishonest promotion or advertising is to promote their merchandise or attract buyers. The government does not turn a blind eye to all these violations. Law enforcement against criminal offenses has been carried out, but the difficulty of controlling all activities, especially in remote and border areas, has driven the increase in the illicit trade in gadgets¹³.

The increasing number of companies marketing goods and services from producers to consumers is a major factor in the existence of agency companies in Indonesia. In the legal system, civil law and commercial law do not regulate agents. Agents and distributors have the same function and role in Indonesia as intermediaries in certain regions. As stipulated in Minister of Trade Regulation Number 24 of 2021 concerning Agreements for the Distribution of Goods by Distributors or Agents, a distribution agreement between the principal and distributor requires the seller to appoint the buyer as distributor. Based on this agreement, the distributor receives goods from the principal for resale¹⁴.

Through a systematic and orderly approach, internal audit functions to evaluate and improve the effectiveness of risk management, control, and governance processes. In the implementation of Good Corporate Governance in an agency, it will always be based on the Vision and Mission that have been set by the agency. as is the case at the Customs and Excise Office. The Sorong Customs Service and Supervision Office is a new Customs and Excise supervision and service office that was inaugurated in December 2012 with the same vision as other branch offices, namely to become a leading institution and excise in the world and reflect the highest ideals of the Directorate General of Customs and Excise (DJBC) better through setting challenging targets and continuously maintained in the future¹⁵.

¹² *Ibid*

¹³ Zulaika dan Hasnati dan Sandra Dewi, *Op.Cit*, h.979

¹⁴ Yonfen Hendri, *Tanggung Jawab Hukum Distributor Dan Agen Terhadap Konsumen*, Jurnal Proceeding Iain Batusangkar, Vol. 1 No.1 (2022), h.1091

¹⁵ Roberthair Suripatty, *Peran Audit Internal Dalam Mewujudkan Good Corporate Governance Pada Kantor Pengawasan Dan Pelayanan Bea Cukai*, Vol. 15 No.1 (2021), h.76

Research Method

The research method used in this study is normative legal research. Normative legal research is a process of discovering legal rules, legal principles, or legal doctrines to address the legal issues at hand. This study uses the Statute Approach¹⁶. To examine the legal basis. This method is needed to examine and analyze the current legal basis by applying laws and regulations related to the legal rules in this study.

The primary legal materials in this study are: a) Law Number 8 of 1999 concerning Consumers, b) Law of the Republic of Indonesia Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs c) Regulation of the Minister of Trade Number 8 of 2024 concerning Import of Goods, d) Regulation of the Minister of Trade No. 26 of 2021 concerning Business Activity Standards in Risk-Based Business Licensing in the Trade Sector, e) Regulation of the Minister of Communication and Information No. 1 of 2020 in conjunction with Regulation of Minister of Industry No. 108 of 2019 in conjunction with Regulation of the Minister of Finance No. 77 of 2019 concerning Blocking of Cellular Services for Devices with Illegal IMEIs.

Research Results and Discussion

1. Legal Sanctions for Distributing Gadgets Without Customs Clearance

Sanctions for distributing gadgets without official customs documents are generally associated with import smuggling. Electronic goods, such as mobile phones or tablets, imported without going through customs procedures are not declared to Customs officials and import duties and taxes are not paid. This violates Law No. 17 of 2006 concerning Customs.

Article 102 of the Republic of Indonesia Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs (hereinafter referred to as the customs law) has formulated various acts of import smuggling, including: “1. Transporting imported goods not listed on the manifest, 2. Unloading imported goods outside the customs area without a permit, illegally concealing imported goods, 3. Removing imported goods from the customs area without paying state levies¹⁷.”

Gadgets distributed without official documentation generally meet the above criteria, entering through unofficial channels or without a manifest, and therefore fall into the category of smuggled goods in the import sector. In addition to being a customs

¹⁶ Peter mahmud marzuki, *penelitian hukum revisi* jakarta:kencana, 2025, h. 60

¹⁷ Panji dan Budiarta dan Puspasutari i, *Tanggung Jawab Penjual Dalam Perjanjian Jual Beli Barang Elektronik Rekondisi Tanpa Garansi Resmi*, Jurnal Konstruksi Hukum Vol. 5 No.1 (2024), h.38

violation, the distribution of illegal gadgets also violates trade and standardization regulations¹⁸

Electronic media such as telephones, notebooks, and tablets are generally only new items that may be imported by licensed importers. Importing gadgets without an Importer Identification Number and import approval violates import permit provisions. This can result in administrative sanctions, criminal sanctions, and fines. If the gadget being distributed falls into the category of goods whose import is prohibited or restricted without a permit, the perpetrator can be charged under the Criminal Code of Law Number 7 of 2014 concerning Trade¹⁹.

a) Administrative Sanctions

Fines Violators may be subject to administrative fines, the amount of which is determined by applicable regulations. These fines may vary depending on the type and value of the goods distributed and Revocation of Business Licenses If violations are deemed serious or repeated, customs authorities may revoke the distributor's business license.

b) Criminal Sanctions

Violators can face prison sentences ranging from a few months to several years, depending on the severity of the offense. In some cases, prison sentences can reach eight years. In addition to prison sentences, violators can also face criminal fines that can reach hundreds of millions of rupiah, depending on the value of the goods involved

c) Civil Sanctions

Consumers or parties harmed by the distribution of gadgets without customs clearance can file a civil lawsuit to seek compensation for their losses. Goods distributed without customs clearance may be confiscated by customs authorities as part of law enforcement.

d) Economic Sanctions

Imposing additional tariffs or taxes on goods distributed without fulfilling customs obligations, which can increase costs for business actors, as stipulated in Article 8 of 1981 concerning legislation in the fields of taxation, trade, and consumer protection

Furthermore, those distributing gadgets without customs clearance often fail to meet technical and consumer protection requirements. For example, illegal cell phones often lack Indonesian-language manuals and warranty cards from authorized manufacturers, even though this is required by Minister of Trade Regulation No. 36 of

¹⁸ Jucolivia dan Hadi, *Upaya Pemberantasan Tindak Pidana Penyelundupan Barang Ekspor-Impor Ilegal Di Perairan Indonesia*, Jurnal Ilmu Hukum Vol. 1 No. 1 (2025), h.56

¹⁹ *Ibid.* h.58

1999 concerning Telecommunications. They also lack certification/labels from the Ministry of Information and Telematics (Kominfo) and the Ministry of Postal and Informatics Resources and Equipment (SDPPI), which guarantee the device meets telecommunications standards²⁰.

The act of trading gadgets without customs clearance, which indirectly violates the law²¹. Sanctions are regulated by Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs. Article 102 states: "Anyone who smuggles goods into or out of a customs area shall be subject to imprisonment for a minimum of 1 year and a maximum of 10 years and a fine of a minimum of Rp. 50 million and a maximum of Rp. 5 billion."

In Article 103 of Customs, there is a heavier threat (*lex specialis derogat legi generalis*) which states: "Any person who illegally accesses an electronic system related to services and/or supervision in the field of customs shall be punished with imprisonment of at least 1 (one) year and imprisonment of at most 5 (five) years and/or a fine of at least IDR 50,000,000.00 (fifty million rupiah) and at most IDR 1,000,000,000.00 (one billion rupiah)". Meanwhile, Article 55 of Law Number 39 of 2007 concerning Excise: "the threat of criminal imprisonment is at least 1 year to a maximum of 5 years and a fine of 2 to 10 times the value of the excise that should be paid."

Furthermore, if a telecommunications service provider sells internet services or general capacity of a communication line (bandwidth) for resale by its customers, it can be categorized as participating in the provision of illegal telecommunications. Telecommunications service providers can be subject to sanctions with a maximum imprisonment of 10 years and/or a maximum fine of IDR 1.5 billion as regulated in Article 47 and Article 11 Paragraph (1) of Law Number 36 of 1999 concerning Telecommunications as amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation. Article 55 Paragraph (1) explains; "Anyone who violates the provisions as referred to in Article 11 paragraph (1) shall be punished with a maximum imprisonment of 10 (ten) years and/or a maximum fine of IDR 1,500,000,000.00 (one billion five hundred million rupiah)"

Legal Protection for Gadget Consumers Without Customs

Consumer protection is a matter of human interest, and therefore, it is a hope for all nations worldwide to achieve it. In gadget sales transactions between businesses and

²⁰ Zulaika, Hasnati dan Sandra, *Op.Cit.* h.972

²¹ Enik Isnaini, Yanto dan Andika, *The Position of the Village Regulations in the Legal System in Indonesia*, Jurnal Independent, Vol. 11 No. 2 (2023), h.36

consumers, there are provisions that require consumers to comply with predetermined terms and conditions. These provisions are stated in the purchase note or a special document detailing the terms and conditions applicable to the purchased item²². Meanwhile, legal protection for consumers during a transaction (conflict/post purchase) can be carried out through the district court or outside the court by a consumer dispute resolution body based on the disputing parties²³.

Further discussion of legal protection inevitably leads to the issue of consumer protection, which has long been a key topic of concern, though not specifically addressed. However, discussing consumer protection as a separate legal issue is relatively new, not only in Indonesia but also in countries that have advanced in the field of gadget distribution, such as Law Number 8 of 1999 concerning Consumer Protection²⁴.

The distribution of gadgets without customs clearance to consumers and the public has had a very serious negative impact. This impact not only harms consumers but also the country's tax burden on customs and excise, or taxes collected on goods entering or leaving Indonesia. Article 4 of Law No. 8 of 1999 concerning Consumer Protection regulates consumer rights. 1. The right to comfort, security and safety in goods/or services, 2. The right to own goods or services and obtain goods/or services in accordance with the exchange rate and conditions and guarantees promised, 3. The right to correct, clear and honest information regarding the conditions and guarantees of goods and services, 4. The right to be heard about opinions and complaints about the goods and/or services used, 5. The right to receive proper consumer protection advocacy, 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 or compensation/or replacement, if the goods and/or received do not comply with the agreement or are not as they should be, 9. Rights regulated in other statutory provisions

The article states that consumers have the right to receive clear, accurate, and honest information about the condition of the goods they sell. If the goods or services received do not match the agreement or are not as expected, but are genuine, consumers may experience difficulties in using the warranty provided by the gadget. Furthermore, the warranty period provided to consumers is short, within 7 days and 1 week of purchase²⁵.

²² Ja'far Shodiq, dan Susi Winanda, *Legal Provisions for Settlement of Plagiarism of Digital Fiction Works*, Jurnal Independent 12, no. 2 (2024), h. 215

²³ Fajar Seto Nugroho dan Putri Ainiyatur Rizkiyah, *E-Consumer Privacy Policy on the Online Marketplace System*, Jurnal Independent 12, no. 1 (2024), h. 90

²⁴Nuruwe, Alexander, dan Bambang "Penanganan Tindak Pidana Pemalsuan Dokumen Pabean Di Kota Surabaya." Jurnal Hukum Dan Keadilan, 4 No. 6 (2024). h.25

²⁵ Elmanzah, Fajar, Yayuk Sugiarti, and Abshoril Fithry, *Perlindungan Hukum terhadap Pelaku Usaha Rental Mobil akibat Penyewa yang Beriktikad Tidak Baik*, Jurnal Jendela Hukum, Vol. 10 No. 2 (2023), h.203

Conclusion

Legal sanctions related to the distribution of gadgets without customs clearance can be in the form of administrative sanctions, criminal sanctions, civil sanctions, economic sanctions, and can also damage the reputation of companies or individuals in the market, as stated in Law Number 7 of 2014 concerning trade. If a telecommunications service provider sells internet services or general capacity of a communication line (bandwidth) for resale by its customers, it can be categorized as participating in the implementation of illegal telecommunications. Legal protection for consumers of gadgets without customs clearance can be carried out through district courts or outside the court by a consumer dispute resolution body based on the disputing parties. The law distributes gadgets without customs clearance that are sold to consumers and among the public which has a very fatal negative impact. And in fact, this impact is not only detrimental to consumers but also detrimental to state taxes on customs and excise or taxes collected on goods leaving or entering Indonesia. In Article 4 of Law Number 8 of 1999 concerning Consumer Protection Regulates Consumer Rights.

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