



Business Law Study on Consumer Privacy Protection in The Online Ticketing Service of PT Indonesia Railways

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Abstract

The significant increase in online activities cannot be separated from the many active internet users who use mobile internet connections to carry out their daily life, one of which is for the convenience of making ticket reservations at PT Indonesian Railways (KAI). The reason of this exploration is to figure out research of the business law of consumer privacy in the online ticketing service of PT KAI. Data collection was carried out by means of a literature study of the relationship between laws and regulations in consumer protection and the position of PT KAI as business actors and customers as consumers who submit their personal data/privacy. The results of the study indicate a study of business law that concludes the protection of consumer privacy in the online ticketing service of PT KAI, then actually PT KAI has been supervised by several institutions such as the Ministry of Communication and Information with periodic database reports and state formulations with the principles of justice and fairness. In addition, in more detail PT KAI is also bound by the existence of Law Number 11 of 2008 concerning Information and Electronic Transactions which has provided legal protection for the security of consumer electronic data from PT KAI from illegal access and also Law Number 27 of 2022 concerning about the consumer privacy protection.

Keywords

Personal data, business law, consumer protection, privacy, PT KAI

Abstrak

Peningkatan ekonomi secara daring dimanfaatkan pula untuk reservasi tiket di PT Kereta Api Indonesia (KAI). Tujuan penelitian ini untuk mengetahui perlindungan privasi konsumen pada layanan tiket online PT KAI. Pengumpulan data dilakukan dengan studi pustaka pada peraturan perundangan dalam perlindungan konsumen. Posisi PT KAI selaku pelaku bisnis dan pelanggan sebagai konsumen yang menyerahkan data privasi. Penelitian menyimpulkan perlindungan privasi konsumen sejatinya diawasi oleh lembaga Kemenkominfo dengan report database berkala dan formulasi negara dengan prinsip justice and fairness. Selain itu, PT KAI juga terikat dengan Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik dalam melindungi keamanan data elektronik konsumen dari pengaksesan ilegal serta Undang-Undang Nomor 27 Tahun 2022 tentang Perlindungan Data Pribadi.

Kata Kunci

Data diri, hukum bisnis, perlindungan konsumen, privasi, PT KAI

Introduction

The pandemic has shifted the need of daily life access to internet that offers ease online and in real time. During this period, there has also been a significant increase in online activities, which is inseparable from the sheer number of internet active users making use of mobile internet connection for their online purposes such as communication and business (Wahyudi Djafar & Asep Komarudin, 2014). One example of internet being infused in communication and business is online ticketing. Nowadays, many people choose to buy transportation mode tickets online (reservation via internet). This reservation process has changed the way they transact and use personal data, which is inputted through data entry using a smartphone. On the one hand, it offers a variety of conveniences. On the other hand, it has loopholes that have the potential to breach privacy when the data included during online reservations is leaked and spread to the public (Inge Graef, 2015).

Therefore, along with the increasing need for easy access in the reservation process, PT KAI as a state-owned enterprise that participates in providing online ticket reservation services by dealing with individual information of millions of clients needs to provide a guarantee and legal protection for the managed data. The open access nature of online customers brings up issues about privacy trust and data protection of PT KAI customer, among the community.

As technology advances give rise to the ability to record our search activities, track records that match consumer search results online are achieved. This practice may create disturbances with personal data, which is one of the big problems when it comes to consumer data protection. This situation certainly results in the vulnerability of the protection of the right to privacy of each consumer in electronic transactions. In various countries, privacy-related issues and regulations have begun to develop as part of an integrated legal protection polemic (Amiruddin & H.Zainal Asikin, 2004).

Thus, the need to understand customer data privacy issues is very important because it will help companies develop online-based businesses and understand customer perspectives in terms of privacy. The development of technology and social media applications contributes to the increasing variety of forms of violation of one's privacy rights, such as messages containing advertisements when someone is in a certain place or Location-Based Messaging or pop-up advertisements on one's social media pages that match the user's interests (Simon Kemp, 2021) (Nurmiasih, 2014). Usually, this practice occurs without being preceded by an agreement between the provider or electronic service provider and the data owner.

It should be noted that, in general, in everyday life, the absence of a mechanism for securing privacy, especially personal data, has an impact on intrusive offers of a assortment of products to consumers, ranging from property, insurance, credit service and others. On the other hand, consumers have never presented their personal data to the producers concerned regarding the preferences of a product or service. This will result in a change in trust and the risk of data leakage. In this case, it is necessary to review how the applicable laws in Indonesia can protect consumer privacy, in the case of every reservation made with PT KAI. This study focuses on how the law can be the basis for strengthening a company and the community to understand each other's position and role in every online transaction (Ardyanto & Sendrawan, 2022), so that weaknesses can be modified through policies and processes to improve customer trust in PT KAI itself.

The aim of this study was to identify the business law study on consumer privacy protection in the online ticketing service of PT Indonesian Railways.

Method

The method used in this paper was normative juridical with a qualitative approach. Normative legal research emphasized observation and assessment of the object of study. Data collection was carried out by means of a literature study on the relationship between laws and regulations in consumer protection and the position of PT Indonesian Railways as business actors and customers as consumers who submit their personal data.

Result and Discussion

Result

Marketplace System as Consumer Privacy Data Leakage Vulnerability

Classical economic laws have signified how trading systems and mechanisms transpire (M.Dawan Rahardjo, 1982), where if there is a demand (Supply), there is always a supply (Demand), which is also observed in the ticket reservation process held by PT KAI today. The collected consumer data provides an easy opportunity to find out their needs accurately and effortlessly, even though this is a clear violation of the privacy rights of online consumers themselves.

Privacy policy is a comprehensive depiction that states the responsibilities and execution of arrangements so that the data of each person's transactions, in order to protect individual privacy rights, is guaranteed to be well handled. Privacy policy in every online transaction activity can actually be accessed easily, bringing the risk of consumer data leakage (Edmond Makarim, 2013).

In general, Indonesia has legal regulations that regulate privacy policies in the online marketplace system, namely Law Number 11 of 2008 (Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan



Transaksi Elektronik, 2008) concerning Information and Electronic Transactions and Government Regulation Number 28 of 2012 concerning the Implementation of Electronic Systems and Transactions (Peraturan Pemerintah Nomor 28 Tahun 2012 Tentang Penyelenggaraan Sistem Dan Transaksi Elektronik, 2012) and also Law Number 27 of 2022 concerning about the consumer privacy protection.

One of the lead areas of the Indonesian government that handles every electronic transaction is the Ministry of Communication and Information (*Kemenkominfo*). They have a registration and data collection program for business actors, including SOEs such as PT KAI, through a series of profiling processes and database reports. The goal is to prevent consumers from being scammed by irresponsible people.

In fact, upon further examination, there are two lawful guidelines that explicitly direct the right to privacy, namely Ministerial Regulation on Protection of Personal Data which is a mandate from PP No. 82 of 2012 as well as Law on Protection of Personal Data (Peraturan Pemerintah Nomor 28 Tahun 2012 Tentang Penyelenggaraan Sistem Dan Transaksi Elektronik, 2012). The two legal regulations are driven by the government's intent to meet people's need for consumer privacy protection. The goals of the two legal regulations are to encourage standard clauses that are often presented to potential consumers in applications organized by companies, including SOEs such as PT KAI, which can be fairly and openly agreed upon by consumers and business people.

Discussion

Legal Protection Against Consumer Privacy Violations

The topic of consumer privacy is related to consumer personal data which is individual privacy data. The right to privacy is additionally the capacity of people to figure out who holds data about them and how that data is utilized. It is mentioned in Article 1 of Government Regulation No. 82 of 2012 on the Implementation of Electronic Systems and Transactions that personal data refers to certain personal data that is stored, maintained, and kept true and confidential.

When making a reservation on PT KAI through the KAI Access application, every user must input a phone number and email. Phone number data is a necessity in a marketplace that includes all privacy. In this case, protection for the use of telephone numbers in reservations, customer service services and other activities will be reviewed for protection under the law.

Each telephone number listed is actually subject to the privacy policy of the cellular provider, where SIM card providers since October 31, 2017, in accordance with government regulations, requires new customers (starter SIM card buyers) to include the National Identity Number (*NIK*) and Family Card number (*KK*) when registering a new card. Existing customers who already have an active prepaid SIM card before 31 October 2017 are also required to re-register in the same way. According to the government, based on a press release from the Ministry of Communication and Information, this registration (or re-registration) is needed to protect consumers regarding the misuse of cellphone numbers by irresponsible parties. The legal basis for registration of prepaid cards is contained in the Regulation of the Minister of Communication and Information Technology No. 14 of 2017 concerning Amendments to the Regulation of the Minister of Communication and Information Technology No. 12 of 2016 concerning Registration of Telecommunication Service Customers (Peraturan Menteri Komunikasi Dan Informatika No.14 Tahun 2017 Tentang Perubahan Atas Peraturan Menteri Komunikasi Dan Informatika No. 12 Tahun 2016 Tentang Registrasi Pelanggan Jasa Telekomunikasi, 2017).

Enrollment of a cellular SIM card by inputting NIN and FC makes SIM card registration a part of personal data and public privacy (Adery & Winter, n.d.). The issue around the importance of protecting personal data began to intensify alongside the rising number of cellular phone and internet users (Lukman Enrico, 2019). Protection of personal data is related to the concept of privacy. Therefore, personal data protection is important for consumers themselves in conducting online transactions with PT KAI because their personal data are related to their security. Due to the powerless position of consumers, they should be safeguarded by regulation.

In practice, in the event of personal data hack which leads to the loss, alteration or leakage of consumer's confidential data, Law Number 11 of 2008 concerning Information and Electronic Transactions provides legal protection for the security of electronic data from illegal access, stated specifically in the paragraphs of Article 30 as follows:

- 1) Any Person who purposely and without power or unlawfully gets to Computers and additionally Electronic Systems of different Persons in any way at all.
- 2) Any Person who purposely and without power or unlawfully gets to Computers and additionally Electronic Systems in any way at all with the aim to get Electronic Information as well as Electronic Documents.
- 3) Any Person who purposely and without power or unlawfully gets to Computers and additionally Electronic Systems in any way at all by penetrating, hacking into, intruding into, or getting through security frameworks.

Meanwhile, in Article 46 of Law No. 11 of 2008 concerning Information and Electronic Transactions, sanctions that can be imposed are underlined if a case of personal data breach occurs in the public, as stated in the paragraphs:

- 1) Any Person who fulfills the components as expected by Article 30 paragraph (1) shall be sentenced to imprisonment not exceeding 6 (six) years and/or a fine not exceeding Rp600,000,000 (six hundred million rupiah).
- 2) Any Person who fulfills the components as expected by Article 30 paragraph (2) shall be sentenced to imprisonment not exceeding 7 (seven) years and/or a fine not exceeding Rp700,000,000 (seven hundred million rupiah).
- 3) Any Person who fulfills the components as expected by Article 30 paragraph (3) shall be sentenced to imprisonment not exceeding 8 (eight) years and/or a fine not exceeding Rp800,000,000 (eight hundred million rupiah).

In fact, it is the basic right of consumers to get protection of their privacy which is as guaranteed in Law. Meanwhile, in Article 46 of Law No. 11 of 2008 concerning Information and Electronic Transactions.

The Responsibilities of PT Indonesian Railways as a Customer Personal Data Access Manager

The KAI Access application places responsibility on the shoulders of PT Indonesian Railways (KAI) in managing consumer data. In general, the legal responsibilities of business entities, such as PT KAI, in UUPK are based on the principles of contractual liability, product liability, professional liability, and criminal responsibility (Celina Tri Siwi Kristiyanti, 2011).

Contractual Liability refers to civil liability on the basis of an agreement/contract from PT KAI as a transportation service provider for losses suffered by consumers due to the services it has provided. In contractual liability there is an agreement or contract (directly) between PT KAI and the customer, in which the object is a ticket with a travel service agreement. Agreements or contracts between business actors and consumers almost always use agreements or contracts in the standard form (Pangalila Christi, 2015) and are contained in PT KAI regulations for prospective passengers.

Second, the responsibilities of business actors are based on Product Liability, namely direct civil liability (strict liability) from PT KAI for losses suffered by consumers due to the services offered. It can be used by consumers to obtain compensation directly from PT KAI, if case they feel they suffer a loss in the form of damage, pollution, and/or consumer loss for services. In this case, the use of consumer data outside the agreement is a violation of the law committed by the company (Made Sudarma, 2012).

The third responsibility is Professional Liability which uses civil liability directly from PT KAI in the event that there is an agreement relationship with the consumer on the basis of an agreement/contract if the loss suffered by the consumer is due to the use of the services it provides. It is similar to product liability; however, professional liability regulates how the company's efforts to maintain confidentiality and efforts to restore reputation and provide immaterial compensation in the event of leakage of customer privacy data (Jimly Asshiddiqie, 2010).

The last responsibility is based on Criminal Responsibility, namely criminal responsibility from PT KAI and services for compromising the safety and security of customers. The company will provide legal protection in fulfilling consumer rights if consumers are harmed and threatened by law due to data leakage caused by PT KAI. One of the consumer rights mandated by UUPK is the right to security. Security in this case can also be in the form of the security of consumers' personal information when using transportation services from PT KAI (Pratomo et al., 2012).



The Government's Role in the Formulation of Personal Data Protection Law

In online activities, personal data is of great importance, especially with regard to payment methods, marketing and offers. With the technology in it, there are potential problems in using consumers' personal data, such as online transaction tracking which include shopping preferences, shopping locations, communication data, to the address of a consumer (Lin et al., 2016).

Associated with the theory of legal protection, the role and intervention of the government has been analyzed in realizing legal protection for the community, which in this case plays the role of consumers and business actors. Legal protection is born from an agreement between the community and the government which is considered to represent the interests of the community (Satjipto Rahardjo, 2000). legal protection for the people as a preventive and repressive government action. Preventive Legal Protection aims to preventing disputes, which directs government actions to be careful in making decisions based on discretion and repressive protection aimed at preventing disputes (Philipus M Hadjon, 1987). The legitimate security hypothesis aims to integrate and coordinate various interests in the community because in a traffic of interests, protection of certain interests can only be done by limiting various interests of other parties.

Apart from being guided by the electronic transaction law, the enactment of the personal data protection law is a strong legal basis and a momentum for history in the management of personal data in Indonesia in the digital sphere and protects the fundamental rights of citizens, strengthens the government's authority in monitoring parties who process data, as a measure in the protection of personal data, balance the rights of personal data subjects with the obligations of data controllers, encourage the reform of data processing practices across personal data controllers and support the development of the industry (Ericha Andreyra, 2022). The state likewise alludes to worldwide lawful guidelines in regards to the security of protection freedoms in electronic exchanges. The Organization for Economic Cooperation and Development (OECD) which is an inter-governmental organization consisting of 29 countries has made a formulation by recommending the obligation for countries to develop national regulations with specific principles regarding the protection of privacy and individual freedoms related to online consumer privacy data recorded online in cookies so as not to be misused (Abu Bakar Munir & Siti Hajar Mohd. Yasin, 2002).

Looking at current legal formulation and regulations, the role of the state through the law will be justice and fairness in being the "party in the middle" and being the party controlling the privacy policy that is formulated and agreed upon by the service provider. One of these problems includes the fact that data processing can threaten individual rights to privacy. Personal data can now be combined and stored without restriction and can be accessed, shared, and manipulated for information in every field and often without the knowledge of the data owner. Moreover, there is a possibility that the government and state companies as business managers are able to collect information from citizens that have the potential to threaten individual freedom (J Lee Riccardi, 1977).

In this case is PT KAI and consumers regarding online personal data management. In current legal regulations, the state's position on legal protection of consumer privacy data involving state-owned companies, such as PT KAI, has not stated comprehensively, especially regarding the customer's explicit approval regarding the purpose of managing customer personal data (David Christian, 2022). This agreement will be one of the most well-positioned consumer data protection instruments in balance with the company's mutually beneficial goals. This is also to ensure that both PT KAI as the entrepreneur who manages consumer data with online consumers is well involved and mutually ensures the fulfillment of privacy data protection.

Conclusions

Based on the analysis above, PT KAI has actually been supervised by several institutions such as the Ministry of Communication and Informatics with a database of periodic reports and state formulas with the principles of fairness and justice. In addition, PT KAI is also bound by Law No. 27 of 2022 concerning personal data protection and Law No. 11 of 2008 concerning Information and Electronic Transactions which provides legal protection for the security of PT KAI from illegal access and use that is not in accordance with the designation. With this, in the future PT KAI may be subject to sanctions in accordance with Article 46 of Law Number 11 of

2008 concerning Information and Electronic Transactions and Articles 57, Articles 65 and 66 of Law No. 27 of 2022 concerning Protection of personal data if there is a data leak either intentionally or by failure to implementation of corporate governance. In theory, legal protection can be concluded that the state is here to make preventive and corrective efforts in protecting PT KAI's consumer personal data.

References

- Abu Bakar Munir, & Siti Hajar Mohd. Yasin. (2002). *Privacy and Data Protection*. Thomson, Sweet and Maxell Asia.
- Adery, O., & Winter, P. (n.d.). *Perlindungan Hak-Hak Konsumen Terhadap Penggunaan Produk Provider Telekomunikasi di Indonesia*.
- Amiruddin, & H.Zainal Asikin. (2004). *Pengantar Metode Penelitian Hukum*. Rajawali Pers.
- Ardyanto, N., & Sendrawan, T. (2022). Perseroan Perorangan sebagai Badan Hukum di Indonesia dalam Kaitannya dengan Pendirian Perseroan Terbatas oleh Pemilik Tunggal berdasarkan Undang-Undang Republik Indonesia Nomor 40 Tahun 2007. *Ideas: Jurnal Pendidikan, Sosial, dan Budaya*, 8(3), 1085. <https://doi.org/10.32884/ideas.v8i3.768>
- Celina Tri Siwi Kristiyanti. (2011). *Hukum Perlindungan Konsumen*. Sinar Grafika.
- Edmond Makarim. (2013). *Challenges to National E-Authentication, International Seminar on Cyberlaw. Lembaga Kajian Hukum dan Teknologi*. Fakultas Hukum Universitas Indonesia.
- Inge Graef. (2015). *Market Definition and Market Power in Data: The Case of Online Platforms. World Competition 38, No.4*. Kluwer Law International.
- Jimly Asshiddiqie. (2010). Negara Hukum Indonesia. *Ceramah Umum dalam Rangka Pelantikan Dewan Pimpinan Pusat Ikatan Alumni Universitas Jayabaya Jakarta*.
- Lin, T. T. C., Paragas, F., Goh, D., & Bautista, J. R. (2016). Developing Location-Based Mobile Advertising in Singapore: A Socio-Technical Perspective. *Technological Forecasting and Social Change*, 103, 334–349. <https://doi.org/https://doi.org/10.1016/j.techfore.2015.06.002>
- Lukman Enrico. (2019). *The Latest Numbers on Web, Mobile, and Social Media in Indonesia (Infographic)*.
- Made Sudarma. (2012). *Manajemen Proyek Teknologi Informasi*. Udayana University Press.
- Nurmiasih. (2014). Aplikasi Shopping Assistant dengan *Location Based Advertisement* pada Sistem Operasi Android. *Jurnal Manajemen Universitas Gajah Mada*.
- Pangalila Christi. (2015). Kajian Hukum terhadap Sanksi dan Larangan Klausula Baku Menurut UU No. 8 Tahun 1999 tentang Perlindungan Konsumen. *Lez Privatum, III* (3).
- Pratomo, Ilham Aji, & Dadan Hardianto. (2012). Faktor-Faktor Sistem Interaksi yang Mempengaruhi Efektifitas Iklan Online. *Jurnal Sistem Informasi MTI-UII*.
- Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik, Pub. L. No. 11 (2008).
- Undang-Undang Nomor 27 Tahun 2022 tentang Perlindungan data Pribadi, Pub.L.No.27 (2022).
- Peraturan Pemerintah Nomor 82 Tahun 2012 tentang Penyelenggaraan Sistem dan Transaksi Elektronik, Pub. L. No. 82 (2012).
- Peraturan Menteri Komunikasi dan Informatika No.14 Tahun 2017 tentang Perubahan atas Peraturan Menteri Komunikasi dan Informatika No. 12 Tahun 2016 tentang Registrasi Pelanggan Jasa Telekomunikasi, Pub. L. No. 14 (2017).
- Simon Kemp. (2021). *Digital 2021: The Latest Insights into The 'State Of Digital.'*
- Wahyudi Djafar, & Asep Komarudin. (2014). *Perlindungan Privasi di Internet: Beberapa Penjelasan Kunci, Seri Internet dan HAM*. ELSAM.
- M.Dawan Rahardjo, (1982). *Essai-Essai Ekonomi Politik*, Lembaga Penelitian. Pendidikan dan Penerangan Ekonomi dan Sosial (LP3ES).
- Satjipto Raharjo, (2000), *Ilmu Hukum*, PT Citra Aditya Bakti,
- Philipus M Hadjon (1987), *Perlindungan Hukum Bagi Rakyat di Indonesia*, Bina Ilmu.
- Ericha Andreyra (2022), *Pengesahan RUU PDP Dorong Tumbuhnya Ekosistem Digital*, <https://aptika.kominfo.go.id/2022/09/pengeahan-ruu-pdp-dorong-tumbuhnya-ekosistem-digital/>

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David Christian (2022), *UU PDP: Landasan Hukum Pelindungan Data Pribadi*,
<https://www.hukumonline.com/klinik/a/uu-pdp--landasan-hukum-pelindungan-data-pribadi-1t5d588c1cc649e>

J Lee Riccardi, *The German Federal Data Protection Act of 1977: Protecting the Right to Privacy?* *Boston College International and Comparative Law Review*, Volume 6 | Issue 1.

