

The Application of Seller Strict Liability for Non-Conformity of Fashion Products in Transactions Conducted Through Instagram

Azizah Putri Sulthan¹, Andi Istiqlal Assaad², Jasmaniar Jasmaniar³

^{1,2,3} Faculty of Law, Universitas Muslim Indonesia, Indonesia

Surel Koresponden: azizahsulthan14@gmail.com

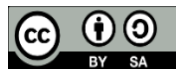
Abstrak: Perkembangan teknologi informasi telah mengubah pola perdagangan konvensional menjadi perdagangan digital yang berbasis internet, termasuk dalam sektor fashion melalui media sosial Instagram. Transformasi ini memberikan kemudahan bagi pelaku usaha dan konsumen dalam melakukan transaksi, namun juga menimbulkan permasalahan hukum, khususnya terkait ketidaksesuaian produk yang diterima konsumen dengan produk yang diiklankan. Penelitian ini bertujuan untuk menganalisis bentuk tanggung jawab pelaku usaha serta mengidentifikasi kendala yang dihadapi konsumen dalam menuntut haknya atas produk fashion yang tidak sesuai dengan iklan di platform Instagram. Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual, dan kasus. Sumber bahan hukum terdiri dari bahan hukum primer, sekunder, dan tersier yang dikaji melalui studi kepustakaan, kemudian dianalisis secara kualitatif-normatif untuk memperoleh gambaran yang sistematis mengenai perlindungan hukum konsumen dalam transaksi digital. Hasil penelitian menunjukkan bahwa pelaku usaha memiliki tanggung jawab hukum berupa pengembalian dana, penggantian barang, dan pemberian ganti rugi apabila produk yang diterima tidak sesuai dengan yang diiklankan, sebagaimana diatur dalam Undang-Undang Perlindungan Konsumen dan KUHPerduta. Namun demikian, dalam praktiknya konsumen menghadapi berbagai kendala, seperti keterbatasan bukti transaksi, rendahnya literasi hukum, lemahnya posisi tawar, tidak efektifnya mekanisme penyelesaian sengketa, serta minimnya sistem perlindungan transaksi pada platform media sosial. Kesimpulan penelitian ini menegaskan bahwa meskipun regulasi perlindungan konsumen telah tersedia, implementasinya dalam transaksi fashion melalui Instagram masih belum optimal. Oleh karena itu, diperlukan penguatan regulasi, peningkatan literasi hukum masyarakat, serta peran aktif platform digital dalam menciptakan sistem perdagangan yang lebih aman dan berkeadilan.

Kata Kunci: Perlindungan Konsumen, E-commerce, Instagram, Fashion, Tanggungjawab Pelaku Usaha.

Abstract: The development of information technology has transformed conventional trade patterns into internet-based digital commerce, including the fashion sector through social media platforms such as Instagram. This transformation provides convenience for both business actors and consumers in conducting transactions; however, it also gives rise to legal issues, particularly regarding discrepancies between products received by consumers and those advertised. This study aims to analyze the forms of business actors' liability and identify the obstacles faced by consumers in claiming their rights over fashion products that do not match the advertisements on Instagram. This research employs a normative legal method with statutory, conceptual, and case approaches.

The legal materials consist of primary, secondary, and tertiary sources, which are examined through library research and analyzed qualitatively-normatively to obtain a systematic understanding of consumer legal protection in digital transactions. The findings show that business actors bear legal responsibility in the form of refunds, product replacement, and compensation when the products received do not correspond to those advertised, as regulated under the Consumer Protection Law and the Civil Code. However, in practice, consumers face various obstacles, such as limited transaction evidence, low legal literacy, weak bargaining positions, ineffective dispute resolution mechanisms, and the lack of adequate transaction protection systems on social media platforms. This study concludes that although consumer protection regulations already exist, their implementation in fashion transactions through Instagram is still not optimal. Therefore, it is necessary to strengthen regulations, improve public legal literacy, and enhance the active role of digital platforms in creating a safer and more equitable trading system.

Keywords: Consumer Protection, E-commerce, Instagram, Fashion, Business Actor Liability.



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A. INTRODUCTION

The development of information and communication technology has brought about significant changes in the patterns of economic interaction in society. Trading activities, previously dominated by face-to-face (offline) meetings, are now undergoing a transformation toward an internet-based digital system. The internet serves not only as a communication medium but also as a key infrastructure supporting modern business activities, including marketing processes, transactions, and the distribution of goods and services. This transformation marks the birth of the electronic commerce (e-commerce) ecosystem, which has become a new foundation for global and national trade systems. E-commerce, or digital commerce, enables businesses and consumers to conduct transactions without the constraints of space and time. This system facilitates the buying and selling process, allowing consumers to quickly access product information, place orders directly, and complete payments through various methods such as bank transfers, mobile banking, e-wallets, and cash on delivery. This convenience makes e-commerce one of the most popular trading models in today's digital era. (Kolb & Gazzini, 2021)

However, the development of e-commerce also brings complex legal implications, particularly regarding consumer protection. In practice, consumers are often in a weaker position than businesses. The inability to inspect goods in person before purchasing raises the risk of product nonconformity, whether in terms of quality, specifications, or condition. (Amerini et al., 2025) Therefore, the availability of clear, honest, and transparent information is a crucial aspect of electronic transactions. This aligns with Article 19 of Law Number 8 of 1999 concerning Consumer Protection, which stipulates that business actors are required to provide

compensation in the form of a refund, replacement of goods, or other forms of compensation if the goods received do not comply with the agreement.(Fayyaz & Jumani, 2026)

In the context of social media development, platforms like Instagram have shifted from simply a photo-sharing platform to an effective digital commerce platform. Businesses utilize Instagram to market their products through visual content such as photos, videos, and engaging product descriptions. The direct messaging feature and integration with digital payment systems further strengthen Instagram's role as a business transaction platform. In Indonesia, Instagram's use in buying and selling activities is increasing because it is considered practical, fast, and able to reach a wide range of consumers without high promotional costs. Along with the rise in digital transactions, the fashion sector has become one of the industries most impacted by the development of e-commerce. The fashion industry is dynamic because it is heavily influenced by constantly changing trends, lifestyles, and consumer preferences. Fashion products serve not only as basic necessities but also as expressions of social and cultural identity. In the context of the creative industry, fashion is a crucial sector because it combines aesthetic elements, design innovation, and high economic value. Based on the characteristics of its product turnover, fashion can be divided into two main categories: fast fashion, which focuses on production speed and trends, and slow fashion, which emphasizes sustainability and quality.(Septian et al., 2023) In digital marketing, many fashion brands utilize Instagram as their primary promotional medium. Through engaging visual posts accompanied by informative product descriptions, businesses can build brand image and influence consumer purchasing decisions. Instagram also enables direct interaction between sellers and buyers, speeding up communication and transaction processes. This demonstrates that digital marketing has shifted the paradigm of conventional marketing toward more effective and efficient technology-based marketing.(Angelia & Pratiwi, 2025)

Several previous studies have discussed the phenomenon of e-commerce and consumer protection in digital transactions. First, research by Ratna Indah Lestari examined consumer legal protection in buying and selling transactions via the social media platform Instagram. The results showed that although consumer protection regulations in Indonesia are quite adequate, their implementation still faces obstacles in terms of evidence and law enforcement, particularly in informal social media-based transactions. Second, research by Widjayanti examined the distribution of information in e-commerce transactions and its impact on consumer behavior in Indonesia. This research emphasized that incomplete and manipulative product information on social media can increase the risk of consumer loss. Furthermore, this research highlighted the importance of digital literacy in increasing consumer legal awareness in online transactions. Third, research by Wibowo examined the effectiveness of law enforcement against fraud cases in online transactions in Indonesia. The research findings indicated that law enforcement against e-commerce violations still faces various challenges, such as limited technical regulations, weak oversight of digital platforms, and low reporting rates from victims. This research recommends the need for strengthened regulations and collaboration between the

government, digital platforms, and the public to create a safer digital commerce ecosystem. Based on the previous research review, it can be seen that the issue of consumer protection in e-commerce transactions remains a relevant and evolving issue. Although various studies have been conducted on legal protection, digital literacy, and law enforcement, there are still research gaps that require further study, particularly regarding the practice of buying and selling fashion through Instagram. The limited number of studies that specifically address the relationship between legal aspects of consumer protection, fashion trade dynamics, and social media-based transaction practices indicates that there is still room for further research. Therefore, this study is important to further examine the mechanisms of consumer protection in fashion transactions through Instagram, as well as the effectiveness of existing regulations in protecting consumer rights in the digital era. Therefore, this research is expected to provide academic contributions to the development of legal science, particularly in the fields of consumer protection law and e-commerce law, as well as provide practical recommendations for strengthening regulation and supervision in the e-commerce ecosystem in Indonesia.

B. METHOD

This research uses a normative legal approach that focuses on the study of legal norms in legislation, legal doctrine, and court decisions relevant to consumer protection in fashion transactions via Instagram. This approach is used because the research focuses on legal regulations and their implementation in electronic transactions, so the analysis relies on written legal sources and legal concepts in academic literature. The type of research used is descriptive-analytical, namely research that not only describes applicable legal provisions but also analyzes their application in digital transaction practices. The focus of the study is directed at the relationship between positive legal norms and the reality of electronic commerce, particularly on the Instagram platform. The research approach includes a statutory approach, a conceptual approach, and a case approach. The statutory approach is used to examine regulations such as the Consumer Protection Law, the Electronic Information and Transactions Law, and the Civil Code. The conceptual approach is used to understand the concept of business actor responsibility, consumer rights, and the principle of good faith in agreements. Meanwhile, the case approach is used to examine the application of law in digital transaction practices in society. Sources of legal material consist of primary, secondary, and tertiary legal materials. Primary legal materials include binding laws and regulations. Secondary legal materials include books, scientific journals, and relevant previous research. Tertiary legal materials include legal dictionaries and encyclopedias that support understanding of legal terms. The legal material collection technique was conducted through library research by reviewing legal literature, scientific journals, and relevant electronic sources. This technique aims to obtain a comprehensive picture of consumer protection in Instagram-based e-commerce. The legal material analysis was conducted qualitatively through normative analysis methods by inventorying, classifying, and interpreting the obtained legal materials. The results of the

analysis were then systematically compiled to draw logical conclusions regarding the effectiveness of consumer legal protection in digital transactions. (Syarif et al., 2017)

C. DISCUSSION

1. The Seller's Responsibility for Fashion Products Received by Consumers that Do Not Match the Advertised Items.

The development of artificial intelligence (AI) has brought about significant changes in the practice of e-commerce, particularly in the fashion sector through social media such as Instagram. The legal relationship between sellers and consumers is born from an electronic agreement. This agreement is essentially subject to civil law provisions, particularly the principle of agreements in the Civil Code (KUHPerduta) and specific provisions in Law Number 8 of 1999 concerning Consumer Protection. One issue that frequently arises in digital transactions is the discrepancy between the advertised product and the goods received by the consumer. This condition gives rise to legal consequences in the form of responsibility that must be borne by the business actor. Conceptually, the seller's responsibility in e-commerce transactions can be understood as a legal obligation to fulfill the performance in accordance with what has been agreed. In the context of fashion buying and selling, this performance includes the conformity between the product displayed in the advertisement and the goods delivered to the consumer, both in terms of model, color, size, material, and quality. (Hatta et al., 2018) Ketika terjadi ketidaksesuaian, maka penjual dianggap telah melakukan wanprestasi, This means failing to fulfill obligations as agreed in an electronic contract.

Based on Article 1457 of the Civil Code, a sale and purchase agreement is an agreement in which the seller binds himself to deliver an item, while the buyer is obligated to pay the agreed price. This provision emphasizes that in a sale and purchase relationship, there is a balance of rights and obligations between the parties. If the goods received do not match the description or advertisement offered, this can be categorized as a violation of the principle of conformity to the object of the agreement. Furthermore, Article 19 of the Consumer Protection Law provides a more specific legal basis for the responsibilities of business actors. This provision emphasizes that business actors are required to provide compensation for losses suffered by consumers due to consuming or using the goods and/or services traded. This compensation can take the form of a refund, replacement of goods, or medical treatment and/or compensation in accordance with applicable regulations. Thus, the seller's responsibility is not only moral but also has binding legal consequences. (Buana et al., 2021)

In practice, seller liability in cases of non-conformity to fashion products can be classified into several forms. First, liability in the form of a refund. This form is one of the most common mechanisms used in online transactions, especially when the item received is unusable or significantly different from what was promised. A refund represents a return of the parties to their original position before the transaction. Second, liability in the form of a replacement. (Darmawanto et al., 2025) Under certain circumstances, sellers can replace non-conforming goods with the correct product according to the consumer's order. This

mechanism is often used in the fashion industry because it allows for repairs to the sales relationship without having to cancel the entire transaction. However, the replacement must still be made within a reasonable timeframe and not be detrimental to the consumer. Third, liability in the form of compensation or additional damages. In addition to a refund or replacement of goods, consumers can also demand compensation for other losses arising from product non-conformity, such as shipping costs, wasted time, or certain immaterial losses. Although in practice this claim is still rarely formally submitted, it is still normatively possible based on the principle of business actor responsibility as stipulated in the Consumer Protection Law. (Ramadhan et al., 2026) In addition to responsibilities under statutory regulations, sellers also have responsibilities based on the principle of good faith in contracts. This principle requires every business actor to carry out their obligations honestly, transparently, and without misleading consumers. In the context of fashion product advertising on Instagram, good faith is reflected in the seller's obligation to display product photos that reflect the actual condition and provide non-misleading information regarding the item's specifications. If a seller uses excessively manipulated images or provides descriptions that do not correspond to reality, this can be categorized as a violation of the principle of good faith. (Wu et al., 2019)

On the other hand, seller responsibility can also be linked to the principle of strict liability in consumer protection law, which implies absolute responsibility without the need to prove fault. This principle aims to provide stronger protection to consumers as the weaker party in a transaction. Thus, consumers are not burdened with the burden of proving fault by the seller in detail, but rather simply demonstrating a discrepancy between the goods received and what was promised. In the practice of transactions via Instagram, enforcing seller responsibility often faces various obstacles. One of these is the informal nature of transactions, which are not always supported by clear contractual documents. Many transactions are conducted solely through direct messaging without a detailed written agreement. This can make it difficult to prove if a dispute arises between the seller and the consumer. Furthermore, not all businesses have adequate legal awareness regarding their obligations to consumers. However, developments in digital technology also provide opportunities for strengthening consumer protection. Review features, rating systems, and digital platform policies for handling transaction disputes serve as additional instruments in ensuring business accountability. In this context, platforms like Instagram function not only as a promotional medium but also as a space that can influence a seller's reputation based on consumer satisfaction. (Dickinson, n.d.)

2. Obstacles Experienced by Consumers in Demanding Fashion Products that do Not Match Those Advertised by Business Actors.

The rapid development of e-commerce, particularly in the fashion sector through social media platforms like Instagram, on the one hand, makes it easier for consumers to conduct transactions. However, on the other hand, this dynamic also presents various legal issues that cannot be ignored. One of the most common issues is the discrepancy between the product

received by consumers and the product advertised by the business actor. In such situations, consumers have the right to hold the business actor accountable. However, in practice, these prosecution efforts are not always effective due to various obstacles consumers face. The first and most fundamental obstacle is the limited evidence in informal digital transactions. Many fashion transactions via Instagram are not accompanied by complete written agreements, but rather are conducted through brief conversations in direct messages. This situation makes it difficult for consumers to prove the contents of the initial agreement in the event of a dispute. Although digital conversations can be used as electronic evidence, in law enforcement practice, proving this often requires a more complex process, especially if the business actor does not acknowledge the existence of a particular agreement or deletes traces of digital communication. (Marx & Germies, 2021)

The second obstacle relates to low consumer legal literacy. Most consumers do not fully understand their rights as stipulated in Law Number 8 of 1999 concerning Consumer Protection. Many consumers are unaware that they are entitled to a refund, replacement of goods, or compensation for losses they have experienced. This lack of awareness leads consumers to be passive when faced with product discrepancies, and in some cases, even choose not to pursue complaints because they consider the process complicated and disproportionate to the value of the losses incurred. Furthermore, another significant obstacle is consumers' weak bargaining position in e-commerce transactions. In many cases, businesses have complete control over the product information displayed on social media. Consumers rely solely on photos, videos, and descriptions provided by sellers without being able to directly inspect the goods. (Septian et al., 2023) This information asymmetry places consumers in a vulnerable position to dishonest practices, such as the use of doctored product photos or descriptions that do not correspond to actual conditions. (Muliawan & Maharani, 2026)

Another obstacle is the ineffectiveness of non-litigation dispute resolution mechanisms in transactions via social media. Although the Consumer Protection Law encourages dispute resolution through the Consumer Dispute Resolution Agency (BPSK), in practice, not all consumers have access to or the knowledge to use this institution. Furthermore, many businesses operating informally on social media lack clear business addresses, complicating mediation or summons processes if disputes are brought to court. Furthermore, technical constraints in using digital platforms are also a hindering factor. Transactions via Instagram lack a directly binding transaction protection system like those found in official marketplaces. The absence of an escrow system or joint account means payments are made directly to the business without an intermediary to guarantee transaction security. As a result, when disputes arise, consumers lack a third party who can assist in withholding or automatically refunding funds. (Siregar & Jambak, 2026)

Another obstacle is the psychological and social factors that influence consumers' attitudes toward asserting their rights. Many consumers are reluctant to escalate their disputes due to

concerns about complicated processes, disproportionate costs, or even fear of negative responses from businesses. In the context of social media, the relationship between sellers and buyers is often personal, so consumers tend to avoid open conflict to maintain a comfortable digital interaction. Furthermore, obstacles arise from the law enforcement aspect itself. Law enforcement officials often face difficulties in handling cases of fraud or product discrepancies in online transactions, especially when the business owner lacks a clear identity or uses a fake account. The cross-regional nature of digital transactions also adds complexity to the legal process, as businesses and consumers are often located in different locations, making it difficult to track them administratively.(Nugroho et al., 2026)

Another obstacle is the lack of oversight from social media platforms. Instagram, a widely used platform for buying and selling, is not an official marketplace with an integrated consumer protection system. Although there is an account reporting feature, this mechanism focuses more on community violations than on resolving transaction disputes. This results in consumer protection relying heavily on individual user initiative without a robust platform oversight system. In some cases, consumers also face the challenge of a lack of good faith from businesses following disputes.(Angelia & Pratiwi, 2025) Many businesses ignore consumer complaints, block communications, or even delete their accounts to avoid responsibility. This situation demonstrates that while the law provides protection, its implementation still faces serious challenges in the realm of digital commerce.

These obstacles demonstrate that consumer protection in fashion transactions via Instagram still faces various structural, cultural, and technical barriers. Structurally, the lack of a robust oversight system for transactions on social media is a major weakness. Culturally, low legal awareness among both consumers and businesses exacerbates the situation. Meanwhile, technically, the limited transaction protection features on social media platforms increase the risk of loss for consumers..

D. CONCLUSION

The development of digital commerce, particularly in the fashion sector through the social media platform Instagram, has brought about significant changes in transaction patterns between businesses and consumers. This transformation provides ease of access, time efficiency, and expanded market reach, but at the same time, it also raises various legal issues, particularly related to consumer protection. First, the form of business actors' responsibility for fashion products that do not conform to advertising is essentially regulated within the framework of civil law and consumer protection law. This responsibility includes obligations to refund, replace goods, and provide compensation for losses suffered by consumers. Furthermore, business actors' responsibilities are also based on the principle of good faith and the principle of balance in contracts, which requires honesty and transparency in all product information offered. Thus, normatively, the law has provided a fairly clear basis for consumer

protection in the face of product nonconformity. Second, in practice, consumers still face various obstacles in asserting their rights against businesses. These obstacles include limited evidence of informal transactions, low consumer legal literacy, weak consumer bargaining power, ineffective dispute resolution mechanisms, and minimal transaction protection systems on social media platforms. Furthermore, consumer psychological factors, a lack of platform oversight, and a lack of good faith on the part of some business actors also contribute to worsening consumer protection in digital transactions. Overall, it is understandable that although legal instruments governing consumer protection are in place, their effective implementation in fashion transactions via Instagram still faces various challenges. Therefore, strengthening regulations that are more adaptive to developments in digital technology, increasing public legal awareness, and actively involving social media platforms in providing a safer, more transparent, and more accountable transaction system are needed. With these steps, it is hoped that consumer protection in digital commerce can be more optimal and balanced with the increasingly rapid technological developments.

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