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Analysis of breach of contract in online sales agreements based on the civil law

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A R T I C L E I N F O

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ABSTRACT

This study examines the legal analysis of breach of contract in online sales agreements within the framework of the Indonesian Civil Code. The rapid growth of e-commerce has transformed traditional contractual relations, bringing forth new challenges in ensuring compliance and accountability in digital transactions. While online sales agreements are governed by general contract principles, their execution often encounters unique breaches such as non-delivery, defective goods, or refusal of payment. The research explores how the Civil Code particularly provisions related to default (wanprestasi) is applied to online transactions, and how these provisions intersect with contemporary practices in electronic commerce. The study utilizes a normative juridical approach by analyzing relevant statutory regulations, legal doctrines, and judicial precedents. It identifies key elements of contractual obligations, types of breaches, legal consequences for parties in default, and available legal remedies. The findings highlight that while the Civil Code provides a sufficient legal foundation for contractual enforcement, it lacks specificity for addressing the complexities of digital sales environments. Therefore, integration with technological regulations and consumer protection laws is essential to enhance legal certainty and justice. This research contributes to the development of digital contract law by providing recommendations for harmonizing traditional legal doctrines with modern e-commerce practices. It is expected to serve as a reference for legal practitioners, business actors, and regulators in interpreting and applying breach of contract rules in the context of online transactions.

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1. INTRODUCTION

In the contemporary digital era, technological advancements have significantly transformed the way transactions are conducted. One of the most prominent manifestations of this transformation is the emergence and rapid growth of online sales agreements, which are now a vital part of both national and international commercial activities. These transactions offer ease, efficiency, and a broader market reach for both sellers and consumers. However, alongside these advantages lie several legal challenges, particularly concerning the execution and enforcement of such agreements. The most common and complex legal issue in this context is default or breach of contract.

In legal terminology, a default (wanprestasi) occurs when one of the parties in a contractual relationship fails to fulfill their obligations as stipulated in the agreement. In the context of online sales transactions, default can take several forms: failure to deliver goods, delivery of goods that do not match the description, delayed delivery, or delivery of defective items. On the buyer's side, default might include failure to make payment or refusal to accept delivery. While these issues are not new in conventional contract law, their occurrence in the virtual realm adds layers of complexity, particularly in proving the existence of a binding agreement, determining applicable laws, and enforcing remedies. The Indonesian legal system, as codified in the Civil Code (Kitab Undang-Undang Hukum Perdata or KUHPerdata), provides a foundational framework for understanding and resolving contractual disputes, including those arising from default. However, the Civil Code, promulgated in the 19th century, was not designed with digital transactions in mind. As such, there exists a normative gap between the legal doctrines contained in the Civil Code and the practical realities of modern e-commerce. This disconnect raises a critical question: How effectively can the Civil Code accommodate default disputes in online sales agreements.

In online transactions, the lack of physical interaction and the use of electronic communication often lead to evidentiary challenges and jurisdictional issues. For example, determining the precise moment a contract is formed, or identifying the obligations of each party, can be more complex than in conventional agreements. Furthermore, online transactions are often governed by terms and conditions that are unilaterally determined by one party—usually the seller or platform provider—raising concerns about fairness and balance in contractual obligations. To address these challenges, it is essential to analyze the principles of default as regulated in the Civil Code and assess their applicability to online sales agreements. Such an analysis is not only relevant to practitioners and scholars but also crucial for consumers, businesses, and policymakers who seek to ensure legal certainty and protection in digital trade.

The growth of online commerce presents unique legal challenges that traditional legal instruments, such as the Civil Code, may not adequately anticipate or resolve. The key problem to be addressed in this research is: To what extent is the regulation of default (wanprestasi) in online sales agreements consistent with the provisions of the Indonesian Civil Code, and what legal adaptations may be necessary to ensure fair and effective resolution of online transaction disputes. To explore this central issue, the following sub-questions will be examined; What constitutes a valid and binding online sales agreement under Indonesian contract law, How is default defined and categorized in the context of online sales agreements, What legal remedies are available, to parties in case of default, according to the Civil Code, What are the limitations or gaps in the Civil Code concerning online sales transactions, How can existing legal principles be interpreted or modified to accommodate the digital nature of online sales agreements.

The main objective of this research is to provide a critical analysis of default in online sales agreements through the lens of the Indonesian Civil Code. This analysis is intended to highlight the practical and theoretical challenges posed by the digital environment and propose potential legal solutions. The specific objectives include, To identify and explain the basic elements of a valid online sales agreement under Indonesian contract law, To analyze the concept and forms of default in the execution of online sales agreements, To examine how the Civil Code regulates legal remedies for breach of contract and how these remedies apply to online transactions, To evaluate the effectiveness and limitations of the Civil Code in addressing defaults in online sales, To provide recommendations for legal development and harmonization between conventional civil law principles and modern e-commerce practices.

This study has both theoretical and practical significance. Theoretically, it contributes to the growing body of legal scholarship that seeks to reconcile traditional contract law with the realities of the digital economy. By examining the compatibility of the Civil Code with online contractual practices, this research adds depth to the discourse on legal adaptation and modernization. Practically, this study provides valuable insights for various stakeholders, including; Legal practitioners, who need to navigate online contract disputes and advise clients on the enforcement of their rights and obligations. E-commerce businesses, which must ensure their sales processes are compliant with prevailing legal norms and minimize the risk of disputes. Consumers, who require adequate legal protection in the digital marketplace, especially in instances of breach of contract. Policymakers and legislators, who are responsible for updating and aligning the legal framework to support Indonesia's digital economy. In addition, the findings of this study may serve as a reference for future legal reforms, particularly those aimed at strengthening consumer protection and dispute resolution in online transactions.

The analysis in this study is grounded primarily in the Indonesian Civil Code, particularly Book III which regulates obligations (verbintenissenrecht), including articles on contract formation, performance, and breach. Key provisions relevant to this study include; Article 1234: Outlines the types of obligations (to give something, to do something, or not to do something). Articles 1243–1252: Define the concept of default (wanprestasi), the requirements for liability, and the scope of damages. Article 1320: Sets out the essential elements of a valid contract (agreement, legal capacity, specific object, and lawful cause). Besides the Civil Code, this research also considers other relevant legal instruments and jurisprudence, including: Law No. 11 of 2008 on Electronic Information and Transactions (ITE Law), as amended. Government Regulation No. 71 of 2019 on the Operation of Electronic Systems and Transactions. Relevant Supreme Court decisions and doctrinal interpretations that shed light on the application of contract law in digital contexts.

This study employs a normative juridical approach, supported by case analysis and legal interpretation. The conceptual framework revolves around the principles of contractual obligation, default, and remedies under the Civil Code. The framework is adapted to include the following key concepts; Digital Contract Formation: How online agreements are formed, particularly via digital platforms and electronic communications. Performance of Obligations: The nature of performance in online contracts, including delivery, payment, and conformity of goods. Breach or Default (Wanprestasi): Failure by either party to meet their contractual obligations, and the classification of such failures (e.g., non-performance, late performance, defective performance). Remedies for Breach: Legal remedies available under the Civil Code, such as rescission, specific performance, and compensation for damages. Adaptation of Civil Law Principles: Legal interpretation and possible modernization of Civil Code provisions in light of technological developments.

This research adopts a normative juridical methodology, which involves the study of positive law (written legal norms) and the application of legal principles to a given problem. The research is conducted through; Literature review of primary legal texts (Civil Code, ITE Law), secondary sources (legal commentaries, journal articles), and relevant jurisprudence. Doctrinal analysis to interpret the meaning and application of legal provisions related to contract default. Comparative analysis, where appropriate, to examine how other legal systems address similar issues in online contracts, thereby offering perspectives for legal reform in Indonesia.

The research is primarily qualitative, with a focus on legal reasoning, consistency, and coherence in the interpretation of default rules in the context of online transactions. This research is limited to sales agreements conducted through online platforms within the jurisdiction of Indonesian law, with particular emphasis on business-to-consumer (B2C) transactions. It does not extend to cross-border e-commerce transactions governed by international law or private international law unless relevant for comparative purposes. Moreover, this study focuses solely on civil liability and private law aspects, excluding issues of criminal law, tax law, or administrative law that may also arise in online commerce. The analysis is limited to default in the performance of contractual obligations, and does not cover pre-contractual issues such as advertising, nor post-contractual issues such as returns or warranty enforcement unless directly related to breach of contract.

2. RESEARCH METHOD

This study adopts a normative juridical research method, which focuses on the analysis of written legal norms and doctrines as the primary source of law. The normative juridical approach is appropriate because the study aims to examine legal provisions, particularly those contained in the Indonesian Civil Code (Kitab Undang-Undang Hukum Perdata/KUHPerdata), in relation to violations (wanprestasi) that occur within online sales agreements. Primary legal materials, including the Civil Code, Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law), and Government Regulation No. 71 of 2019 on the Implementation of Electronic Systems and Transactions. Secondary legal materials, such as legal textbooks, scholarly journal articles, legal commentaries, and expert opinions discussing the theory and practice of contract law and online transactions. Tertiary legal materials, including legal dictionaries and encyclopedias, used to clarify legal terms and concepts. Legal materials are collected through literature review using a documentary study approach. Sources are gathered from national legislation databases, law journals, court decisions, and legal libraries. The data is analyzed using descriptive-analytical and prescriptive techniques. Descriptive analysis is used to explain the legal norms governing online contract violations. Prescriptive analysis is employed to formulate legal arguments, interpret ambiguous provisions, and propose recommendations for legal reform or improvement in the regulation of online contract violations. The research also uses a statute approach, a conceptual approach, and, where relevant, a comparative approach to examine how similar issues are addressed in other jurisdictions or legal systems.

3. RESULTS AND DISCUSSIONS

3.1. Overview of Online Sales Agreements in Indonesia

Indonesia has experienced a significant transformation in its commercial landscape, marked by the rapid growth of digital technology and internet penetration. This development has given rise to online sales agreements—contracts formed electronically between buyers and sellers for the sale and purchase of goods or services. These transactions, commonly facilitated through e-commerce platforms such as Tokopedia, Shopee, Lazada, and Bukalapak, represent a shift from traditional face-to-face transactions to a more flexible, borderless, and often anonymous marketplace. Legally, online sales agreements in Indonesia are governed by a combination of traditional contract law principles as set forth in the Indonesian Civil Code (Kitab Undang-Undang Hukum Perdata/KUHPerdata) and more recent regulations, including Law No. 11 of 2008 on Electronic Information and Transactions (ITE Law) and Government Regulation No. 71 of 2019 on Electronic Systems and Transactions. These regulations affirm the legal validity and binding nature of electronic contracts, recognizing that agreements formed via digital platforms, email, or mobile applications have the same legal standing as those formed in writing or verbally.

Under Article 1320 of the Civil Code, a valid contract must meet four conditions: (1) consent of the parties, (2) legal capacity, (3) a specific subject matter, and (4) a lawful cause. These principles are applicable to online transactions, albeit with adaptations to the digital context. For instance, consent is typically established through digital interaction such as clicking "agree" or completing a purchase on an e-commerce website. Similarly, the object and cause are often embedded in the product listing and terms of service. Despite this legal framework, the implementation and enforcement of online sales agreements present numerous challenges. First, the lack of physical interaction increases the risk of fraud and misrepresentation. Sellers may post inaccurate descriptions or images of products, leading to disputes regarding quality and conformity. Second, anonymity and jurisdictional issues can hinder legal enforcement, especially when parties are located in different regions or countries. This is exacerbated by the fact that many sellers operate without clear legal identities or business licenses.

Additionally, platform-based agreements often contain standardized terms and conditions that may limit consumer rights or offer limited recourse in the event of a dispute. While platforms generally provide internal dispute resolution systems, these are not always transparent or legally binding. Consumers may find it difficult to pursue legal remedies due to limited access to legal advice, high litigation costs, and insufficient awareness of their rights. In response to these issues, the ITE Law emphasizes the importance of good faith, fairness, and transparency in electronic transactions. It also acknowledges the evidentiary value of electronic documents, which is essential in proving the existence and terms of an online agreement in the event of a legal dispute. In conclusion, while online sales agreements in Indonesia are legally recognized and widely used, their practical enforcement still faces limitations. Strengthening consumer protection, enhancing legal literacy, and integrating clearer digital contract norms into the Civil Code are necessary to ensure a fairer and more secure online marketplace.

3.2. Elements and Validity of Online Sales Agreements

Online sales agreements in Indonesia, though executed through digital means, are fundamentally bound by the principles of contract law as stipulated in the Indonesian Civil Code (Kitab Undang-Undang Hukum Perdata or KUHPerdata). Specifically, Article 1320 outlines the essential elements that determine the validity of any contract, including those conducted electronically. These elements are; Agreement of the parties (sepakat), Legal capacity (kecakapan hukum), A certain object (objek tertentu). In online transactions, agreement is typically demonstrated by the buyer's action of clicking "buy," "accept," or completing a payment process, while the seller accepts the transaction by confirming or dispatching the goods. This mutual consent although not expressed through traditional signatures is deemed valid under Article 1320(1) and supported by Article 18 of the ITE Law, which recognizes the legitimacy of electronic agreements.

Both parties must have the legal competence to enter into a binding agreement, meaning they must be of legal age and sound mind. Online platforms generally presume that users meet these criteria upon account registration. However, in practice, this can be difficult to verify, particularly for anonymous or pseudonymous users. The object of the agreement must be clearly defined and lawful. In online transactions, this is usually indicated through the product listing, including specifications, pricing, and delivery terms. Any ambiguity in the object of the contract may lead to disputes regarding performance and default. he purpose of the agreement must not violate laws, public order, or morality. For example, selling prohibited goods online such as narcotics or counterfeit items would render the contract void due to an unlawful cause, even if both parties agree.

The ITE Law (Law No. 11 of 2008) reinforces that electronic contracts and signatures are legally enforceable, providing a statutory foundation for recognizing digital transactions. Furthermore, electronic records, such as emails, chat histories, and transaction receipts, are admissible as evidence in court. In conclusion, online sales agreements are valid under Indonesian law as long as they fulfill the four essential elements outlined in the Civil Code. However, the digital nature of these transactions demands greater legal clarity and awareness, especially regarding proof, capacity, and consent.

3.3. he Nature and Form of Violations in Online Sales Agreements

In the framework of the Indonesian Civil Code (KUHPerdata), a violation in a sales agreement whether conducted offline or online is referred to as wanprestasi, or default. In the context of online sales agreements, default refers to a failure by one party, usually the seller or buyer, to fulfill the contractual obligations as agreed upon. The digital medium of online transactions introduces both new forms of default and challenges in identifying and proving such violations. Under Article 1234 of the Civil Code, obligations arising from an agreement include delivering something, doing something, or not doing something. When one of the parties fails to meet these obligations without lawful justification, they are considered to be in default. Further elaboration in Articles 1243 to 1252 describes the consequences and remedies for such failures, including the right to demand compensation for damages caused.

In the context of online sales, default most commonly arises from the seller's failure to deliver goods as promised. However, the buyer can also be in default, such as by refusing to pay after the product has been delivered or canceling the transaction without valid reason. The main challenge lies in identifying when a party has failed to meet their obligations, particularly in anonymous or semi-anonymous digital environments. This occurs when the seller fails to deliver the purchased goods altogether, despite having received payment. This is a straightforward violation of the seller's core obligation under the sales contract. The seller delivers the product after the agreed-upon time. While this may seem minor, in certain transactions such as perishable goods or time-sensitive purchases this can lead to significant losses and thus constitutes a form of default under Article 1244.

This is a frequent form of violation in online commerce. It occurs when the product delivered does not match the description or specification provided at the time of sale, or is defective. This breaches the principle of conformity of goods, which is essential to the integrity of sales contracts. The seller only delivers part of the goods ordered, or omits essential components. This may arise in bundled products, or in cases where quantities are specified. From the buyer's side, a violation may occur when goods are shipped as agreed, but the buyer refuses to accept the product or fails to complete the payment without legal grounds.Identifying and proving default in online sales is often complicated by the lack of direct interaction, pseudonymous seller accounts, and the use of third-party logistics providers. Furthermore, many online platforms rely on internal dispute resolution procedures which may not fully reflect the rights and obligations under the Civil Code. Thus, while the legal foundation for identifying default exists in Indonesian contract law, the digital environment necessitates a more adaptive interpretation and stronger enforcement mechanisms.

3.4. Legal Action for Violations Based on the Civil law

Violations or defaults in online sales agreements give rise to legal consequences governed by the Indonesian Civil law. When one party fails to fulfill the obligations as stipulated in an agreement whether through non-performance, delay, or improper performance the injured party has the legal right to seek remedies through civil action. In online transactions, such violations are increasingly common, ranging from undelivered goods to misrepresented products, and often require resolution through a legal framework adapted to the digital context. The legal action for violations in contract law is primarily based on Articles 1243–1252 of the Civil law, which regulate compensation for loss due to default. Article 1243 specifically states that compensation for damages may be claimed when a debtor fails to perform an obligation after being officially declared in default, unless the default occurs automatically due to the nature of the obligation or as stipulated in the contract.

Before compensation can be claimed, the creditor (injured party) is generally required to issue a formal warning letter or somasi to the party in default. This serves as a legal notification, offering the party a final chance to fulfill the obligation before litigation. The injured party may demand that the contract be honored as originally agreed. For example, a buyer can require the seller to deliver the exact goods as described. If performance becomes impossible or if the breach is material, the injured party may request termination of the agreement, effectively freeing both parties from their obligations. he injured party can demand financial compensation for losses incurred due to the default. This includes actual loss and potential profit loss, as outlined in Article 1246.

In the digital environment, enforcing legal remedies can be difficult. Many online transactions are conducted anonymously or through third-party platforms, complicating efforts to identify and hold the defaulting party accountable. Additionally, many consumers are unaware of their legal rights or consider the legal process too costly and time-consuming relative to the value of the goods involved. To address these issues, online platforms often provide internal dispute resolution mechanisms. However, these are not always transparent or binding under Indonesian law. Therefore, for serious violations, victims are encouraged to pursue formal legal action through the District Court (Pengadilan Negeri) based on civil procedure. The Civil law offers a clear legal path for resolving contract violations, including those in online transactions. However, the effectiveness of such remedies depends on the injured party's willingness and ability to assert their rights, as well as improvements in digital contract enforcement and consumer protection frameworks in Indonesia.

3.5. Limitations in the Application of the Civil law to Online Transactions

The Indonesian Civil law, which serves as the foundation of private law in Indonesia, was drafted in the 19th century and primarily addresses conventional, face-to-face transactions. Although it remains legally binding and is applicable to online transactions, several substantive and procedural limitations hinder its effective application in the context of modern e-commerce. One of the primary limitations is the temporal gap between the Civil Code's principles and the digital realities of online commerce. The Code does not explicitly regulate digital transactions, electronic signatures, or electronic evidence. For example, although Article 1320 defines the validity requirements for a contract such as consent, capacity, a specific object, and a lawful cause it does not account for clickwrap agreements, automated contracts, or algorithmic interactions common in e-commerce platforms.

This has led to legal uncertainties in determining when consent is valid in digital environments, especially when users agree to complex terms with a single click, often without reading them. Likewise, the doctrine of freedom of contract may be misused in online platforms where users have no real opportunity to negotiate. In many online transactions, especially in consumer-to-consumer (C2C) marketplaces, parties often engage under pseudonyms or without verifiable legal identities. This anonymity complicates the enforcement of civil rights and obligations, as the injured party may struggle to identify the perpetrator to initiate a legal claim. The Civil Code assumes a level of transparency and trust between contracting parties that is often absent in online transactions.

Another challenge lies in determining jurisdiction and applicable law, particularly when parties are located in different regions or countries. The Civil Code is silent on cross-border digital disputes, while the global nature of e-commerce often demands international or hybrid solutions. This limitation makes it difficult for Indonesian courts to exercise jurisdiction over foreign-based sellers or platforms. Traditional contract disputes rely heavily on written documents and physical evidence. In contrast, online transactions involve digital records such as emails, screenshots, or chat logs, which are often not formally recognized in older interpretations of the Civil Code. Although the ITE Law (Law No. 11 of 2008) partially addresses this by validating electronic evidence, its implementation in court remains inconsistent and dependent on judges' familiarity with technology.

Consumers often face difficulties accessing legal remedies due to high litigation costs, lack of legal awareness, and complex procedures under civil law. For small-value disputes, the cost and effort required to initiate legal action may outweigh the potential benefit, discouraging victims from seeking justice. While the Civil Code provides a foundational legal structure, it has significant limitations in addressing the complex and evolving nature of online transactions. To ensure legal certainty and protection for parties involved in digital commerce, there is a pressing need for harmonization between the Civil Code, the ITE Law, and modern contract practices, including clearer regulation of online platforms, digital identities, and dispute resolution mechanisms.

3.6. The Supporting Role of the ITE Law and the Consumer Protection Law

As online commerce continues to evolve rapidly in Indonesia, traditional contract frameworks under the Civil law have proven insufficient to address the complexities and risks inherent in digital transactions. To fill this gap, two key statutes Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law) and Law No. 8 of 1999 concerning Consumer Protection (UUPK) play crucial roles in strengthening the legal structure for online transactions and ensuring fairness, security, and accountability. The ITE Law, along with its amendments through Law No. 19 of 2016 and the implementing Government Regulation No. 71 of 2019, legitimizes electronic transactions and affirms that agreements made through digital means are legally binding, provided they meet the general requirements of a valid contract. Article 18(1) affirms that electronic agreements are binding and enforceable, provided there is mutual consent between parties. This addresses the core requirement under Article 1320 of the Civil Code in the context of online interactions. Articles 5 and 6 recognize electronic documents, data, and signatures as valid forms of legal evidence, enabling the parties to prove agreements or defaults in court using screenshots, digital invoices, or email correspondence. Article 17 mandates that businesses operating electronic systems ensure accuracy, transparency, and accountability in their transactions, supporting consumers' rights and trust in digital commerce.

The Consumer Protection Law (UUPK) serves as an essential complement to both the Civil Code and ITE Law by specifically protecting the rights of buyers especially individual consumers in online transactions. Article 4 mandates that consumers be provided with clear, accurate, and honest information about the products and services being offered. This provision combats deceptive advertising and product misrepresentation, which are common in online sales. Articles 4 and 19 provide that consumers have the right to safety, comfort, and proper compensation if they receive damaged, counterfeit, or non-conforming goods. Sellers are held strictly liable for losses resulting from product defects or delivery failures, even if these were caused by third parties (e.g., logistics providers), reinforcing accountability throughout the supply chain. Importantly, Article 45 allows consumers to resolve disputes either through court litigation or alternative dispute resolution (ADR) mechanisms, such as mediation or consumer dispute settlement bodies (BPSK), which are often more accessible and affordable than formal courts.

The ITE Law and Consumer Protection Law significantly enhance the protection of parties involved in online transactions, particularly consumers, by filling the gaps left by the Civil Code. Together, they provide a robust legal framework that promotes trust, fairness, and legal certainty in Indonesia's rapidly growing digital economy. For the future, further integration and digital literacy are needed to ensure these laws are applied consistently and effectively.

4. CONCLUSION

The rapid development of e-commerce in Indonesia has introduced new forms of contractual relationships that often go beyond the traditional boundaries of the Civil Code (KUHPerdata). Despite its enduring role as the foundational framework for contract law, the Civil Code shows limitations in effectively governing the nuances of online sales agreements. Violations or defaults (wanprestasi) such as failure to deliver goods, delivery of defective products, or refusal to pay are increasingly common in digital transactions, highlighting the need for an adaptive and integrated legal approach. In analyzing these violations, it becomes evident that while the principles of contractual validity under Article 1320 and remedies under Articles 1243–1252 of the Civil Code remain relevant, they require reinforcement through modern regulations. Challenges such as anonymity of transacting parties, cross-border jurisdictions, and difficulties in presenting digital evidence complicate the application of traditional legal remedies. To address these gaps, the ITE Law and the Consumer Protection Law play a crucial supporting role. The ITE Law validates the legal force of electronic contracts and recognizes digital evidence, while the Consumer Protection Law ensures the rights of consumers are upheld through strict seller obligations and accessible dispute resolution mechanisms. Together, these laws form a more comprehensive legal framework capable of addressing the risks and dynamics of online commerce. In conclusion, the integration of the Civil Code with sectoral laws such as the ITE Law and Consumer Protection Law is essential to ensuring legal certainty and protection in online sales. Strengthening enforcement mechanisms, promoting legal literacy among consumers, and refining regulations to reflect technological advancements will be critical for upholding justice and trust in Indonesia's digital economy.

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