

Abuse of Technology by Driver in Online Transportation

Ashinta Sekar Bidari¹, Muhammad Afied Hambali¹, Warsito² and Muhammad Taufik Rusydi²

¹Faculty of Law, Universitas Surakarta, Jl. Raya Palur Km. 5 Karanganyar, Indonesia

²Faculty of Electrical and Informatics Engineering, Universitas Surakarta, Jl. Raya Palur Km. 5 Karanganyar, Indonesia

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Abstract: The presence of online transportation brings new breakthroughs in the field of transportation by presenting more practical online transportation. However, from some of the benefits there is an abuse of existing sophistication. Abuse occurs from online transportation businesses who make fake accounts and fake gps. This fake account has a very negative impact on society related to consumer protection, while fake gps is very detrimental to online taxi providers.

1 INTRODUCTION

Interesting to study about the rise of fake and fake gps accounts conducted by online transportation drivers. Initially the presence of online transportation that brought positive air to the community, but on the other hand this progress was abused by certain parties who sought profit by misusing technology progress. The development and use of technology is very rapidly developing in the present time and should be used to facilitate all human activities always using technological sophistication.

The dynamics or changes in society can occur due to several factors including the dissemination of information including the influence and mechanism of the media in conveying messages or ideas (thoughts); capital includes human resources or financial capital; technology in an element as well as a factor that changes rapidly in accordance with the development of science; ideology or religion, certain religious or ideological beliefs affect the process of social change; bureaucracy is primarily related to certain government policies in building its power; agent or actor, this is generally included in human capital, but specifically intended are individual initiatives in seeking a better life (Tejokusumo, 2014). Changes in the social dynamics of the community related to the presence of online-based transportation are caused by technological factors (Martono, 2012). With the existence of technology, business transactions can use electronic transactions. Electronic transactions according to Article 1 of Law

Number 11 Year 2008 concerning Information and Electronic Transactions are legal actions carried out using computers, computer networks and or other electronic media.(Indonesia, n.d.)

The beginning of the presence of online transportation in Indonesia was welcomed by the community, namely the presence of Gojek and Grab. Gojek and Grab have brought about changes in the social dynamics of the community in the field of utilizing safer, more convenient and practical transportation services. However, it also brings its own polemic to conventional transportation parties who feel their existence is displaced. Existing technological sophistication can not be separated from its abuse solely to seek profit for economic interests. However, on the other hand the misuse of technology can have an adverse impact on society.

In other countries, such as in the city of Edmonton, Canada and in the Philippines, application-based or online transportation makes use of private vehicles. This transportation is categorized as a new class, namely the *Private Transportation Provider* (PTP) in Edmonton and *The Transportation Network Vehicle Service* (TNVS) in the Philippines. The mechanism, conditions, and licensing fees are different and separate from taxis. In Canberra, application-based transportation is in the category of Hire Car. In the Australian capital, even every prospective driver must fulfill the accreditation requirements, one of which is not having a criminal track record, according to Australian citizenship, driving license, and taking an assessment (Aziz, 2016).

Misuse of technology by drivers is in the form of fictitious orders with fake gps and fake account drivers appearing that do not match the original driver and the car and police number used. On the one hand, with fictitious orders and fake gps, it can be said to help the economy of online transportation drivers. However, we can examine this from two things: the first is related to the existence of fake GPS, the online transportation company, Gojek, is one of them who is very disadvantaged. Second, related to the existence of a fake account, this is very disturbing to the public, consumers who use the Gojek application are actually bound in an electronic agreement. However, when in the implementation of the electronic agreement there is a default or unlawful act of how to account for it because the account registered in the motorcycle taxi with the driver and the car used is not the same. In addition, consumer protection also needs to be considered because consumers must be informed of the correct information about the services or goods in online transactions.

Based on the above background, the authors are interested in studying this problem from two aspects, namely how to study the existence of a fake account in terms of law, namely the law of consumer protection and how the study of fake gps is viewed in terms of information and technology.

2 MATERIAL AND METHODS

Based on the title and problems raised in the writing of this article, this research is a normative research, with a law approach, case approach and conceptual approach. The data source used is a secondary data source. Data collection method used by the author is the literature study method.

3 RESULTS AND DISCUSSIONS

Development of online transportation that is developing in Indonesia, namely Gojek and Grab, is a transportation service provider that utilizes applications on smartphones (Chuzaimah, 2010) in the form of android (Sari, 2015). However, in the development of this transportation application experienced some abuse in order to get the benefits of the parties who are online transportation actors, namely drivers. This abuse certainly has a detrimental effect on online transportation service providers and the wider community as consumers.

The beginning of the emergence of the abuse of technology in online transportation is the increasing number of online transportation drivers, resulting in stricter competition among drivers to get consumers. Misuse of this technology is done as a manipulative tactic to get more consumers, considering the online transportation companies provide certain bonuses according to the number of trips that can be taken by drivers on one day.

The misuse of technology carried out by online transportation drivers is due to the weakness of the online transportation application.

3.1 Fake Account

Fake application for conducting fictitious orders, which also has two benefits :

- a. Make customer orders submitted by the Gojek driver itself for the needs of the Gojek driver himself,
- b. Make a customer order to be given by the driver another, so that the victim cannot take the order again, the goal is to reduce the driver who is hanging around the location that is often ordered by the customer (Pranoto, 2007).

To be able to reduce the risk of using fake accounts that are widely used by Online Transportation drivers today, developers of Online Transportation Applications can add security authentication when the Online Transportation driver logs into the system by adding retinal or facial authentication, so that if the initial account has been confirmed by the retina or face system will again check the retina or face that is used to log in. So that if found inequality with old data the system will automatically reject the login process.

Different cases if the Online Transportation Driver has entered or logged into the system, but the driver uses other drivers and other vehicles to make transactions with consumers, the Online Transportation Application Developer can add additional features on the consumer side to report driver data inequality with conditions when doing pickup by providing photos of vehicle updates, photos of vehicle police numbers, and photos of drivers into the system.

With the development of the system, the developer must socialize the development of the system, all the drivers, so that when there are consumers who give questions and take pictures by photographing vehicles, taking pictures of vehicle numbers and photos of drivers will not object.

3.2 Fake GPS

GPS (Global Positioning System) is a radio navigation and positioning system using 24 satellites owned and managed by the United States that can be used by all people with all weather, and is designed to provide continuous position, speed and time throughout the world. The advancement of location determination technologies such as GPS is growing rapidly with an increasingly precise level of precision, various variations, increasingly cheap and very helpful in terms of navigation (Hanafi, 2015).

Fake GPS is an application that can make it easy for application users to provide false location information on a map or Global Positioning System (GPS), so application users to use that information for other purposes such as providing false location information on Online Transportation Applications in places certain that is considered by many consumers so that even though application users are in different locations users still get priority orders from the online transportation system.

Fake GPS, there are two benefits of using the application, namely, Fake GPS is used to place false locations to locations that are often ordered by customers, so that Gojek drivers no longer have to approach the location of the order by hanging near the location that is often ordered by customers. Both Gojek drivers use fake applications to carry out fictitious orders, which also have two benefits:

- a. Make customer orders that the Gojek driver uses for the Gojek driver's own needs,
- b. Make a customer order to be given by another driver, so that the victim can not take orders anymore, the goal is to reduce drivers who are hanging around the location that is often ordered by the customer (Pranoto, 2007).

The solution for Online Transportation Application developers in handling the use of Fake GPS from the Online Transportation System Developer side can add features from the Online Transportation application to be able to read all applications that have been installed on the Gadget Driver Device so that when the Driver installs a new online transportation application, the System will detect that in integrated gadgets applications that are not allowed to be used in conducting Online Transportation transactions. If the Online Transportation Application has been installed and just installed the Prohibited Application, the system can also reject or give a notification when the Driver will enter or log into the system, so the driver is not logged into the system.

This third party application can harm other Users or Online Transportation Drivers who do not use the application. So that transportation drivers who do not use fake GPS applications if located further away will not get an order even though other drivers are not in the original location but using fake GPS applications.

With the existence of Fake Accounts and Fake GPS, besides violating the ethics of using technology by manipulating data or information, it has also violated legal protection for consumers of online transportation users. According to Article 1 paragraph 2 of Law Number 8 of 1999 concerning Consumer Protection, consumers are: "every person who uses goods and / or services available in the community, both for the benefit of himself, his family, other people and other living things and not for traded ". With online transactions that do not require business people and consumers must be face to face, consumer protection must be guaranteed.

Consumer protection according to Article 1 number 1 of Act Number 8 of 1999 concerning Consumer Protection is any effort that guarantees legal certainty to provide protection to consumers. The principle of consumer protection must be fulfilled in carrying out consumer protection in Article 2 :

- a. The principle of benefit is intended to mandate that all efforts in the implementation of consumer protection must provide the maximum benefit for the interests of the business and overall business behavior.
- b. The principle of justice is intended so that the participation of all people can be realized optimally and provide opportunities for consumers and business actors to obtain their rights and carry out their obligations fairly.
- c. The principle of balance is intended to provide a balance between the interests of consumers, business actors and the government in material and spiritual terms.
- d. the principle of consumer safety and security is intended to provide guarantees for security and safety to consumers in the use, use and utilization of goods and / or services consumed or used.
- e. the principle of legal certainty is intended so that both business actors and consumers obey the law and obtain justice in the implementation of consumer protection and the state guarantees legal certainty (Indonesia, 1999b).

Consumer protection aims at Article 3:

- a. Increase awareness, ability and independence of consumers to protect themselves;
- b. Lifting the dignity of consumers by avoiding the negative excesses of the use of goods and / or services;
- c. Increasing consumer empowerment in choosing, determining and demanding their rights as consumers;
- d. Creating a consumer protection system that contains elements of legal certainty and information disclosure and access to information;
- e. Growing awareness of business actors regarding the importance of consumer protection so that an honest and responsible attitude in the business grows;
- f. improve the quality of goods and / or services that guarantee the continuity of business in the production of goods and / or services, health, comfort, safety and consumer safety (Indonesia, 1999b).

Scope of consumer protection can be divided into two aspects, namely protection against the possibility of goods delivered to consumers not in accordance with what has been agreed and protection against the unfair conditions applied to consumers (Zulham, 2013). The online transaction process is basically not much different from the process of buying and selling transactions in general in the real world. As in conventional trading, buying and selling through electronics or online transactions creates an engagement between parties to provide an achievement. The implication of the engagement is the emergence of rights and obligations that must be fulfilled by the parties involved (Nugraha & Mukhtar, 2014).

Consumers are required to be aware of their rights, as a control of the actions and behavior of business actors and the government (Holijah, 2014). Article 4 of Law Number 8 of 1999 concerning Consumer Protection regulates consumer rights, namely (Indonesia, 1999b):

- a. The right to comfort, security and safety in consuming goods and / or services;
- b. The right to choose goods and / or services and obtain the goods and / or services in accordance with the exchange rate and the conditions and guarantees promised;
- c. Right to correct, clear and honest information regarding the condition and guarantee of goods and / or services;
- d. The right to hear opinions and complaints about the goods and / or services used;

- e. The right to get protection advocacy, and proper consumer protection dispute resolution efforts;
- f. The right to get consumer coaching and education;
- g. The right to be treated or served correctly and honestly and not discriminatory;
- h. The right to get compensation, compensation and / or reimbursement, if the goods and / or services received are not in agreement or not as they should;
- i. Rights that are regulated in other statutory provisions.

Article 7 Law Number 8 of 1999 concerning Consumer Protection regulates the obligations of business actors, namely (Indonesia, 1999b):

- a. Goodwill in conducting business activities;
- b. Provide correct, clear and honest information regarding the condition and guarantee of goods and / or services and provide an explanation of the use, repair and maintenance;
- c. Treat or serve consumers correctly and honestly and not discriminatively;
- d. Ensure the quality of goods and / or services produced and / or traded based on the provisions of the quality standards of goods and / or services that apply;
- e. Providing opportunities for consumers to test and / or try certain goods and / or services and provide guarantees and / or guarantees for goods made and / or traded;
- f. Provide compensation, compensation, and / or compensation for losses due to the use, use and use of goods and / or services traded;
- g. Providing compensation, compensation and / or reimbursement if the goods and / or services received or utilized are not in accordance with the agreement.

Article 9 of Law Number 19 Year 2016 concerning Amendment to Law Number 11 Year 2008 concerning Information and Electronic Transactions explains that Business Actors offering products through electronic systems must provide complete and correct information relating to contract terms, manufacturers and products, which is offered. In the explanation of article 9 of the ITE Law, it is explained that what is meant by complete and correct information includes:

- a. Information that contains the identity and status of legal subjects and their competencies, both as producers, suppliers, organizers and intermediaries;

- b. Other information, which explains certain things that become legal requirements of the agreement and explains the goods and / or services offered, such as name, address, and description of goods / services (Indonesia, 2016).

The development of technology will have a major impact on the protection of consumer rights which has been the target of the electronic business. All risks that occur will be felt by consumers along with the development of a mode of fraud, bad faith, and oversight or negligence (Wulandari, 2015). The Consumer Protection Law has explicitly regulated that consumers have the right to obtain actual information and the obligation of business actors to also provide true and honest information. With the existence of a fake account it has violated what has been regulated in the Consumer Protection Act.

Given that an online business transaction that exists on online transportation such as Gojek is based on a belief, namely the trust of consumers to transportation service businesses, especially drivers and vice versa. Online transportation drivers in this case must stand on the principle of consumer protection and their obligations which provide clear information and actual data on their products so that when consumers use online transportation, they feel safe when transacting. This sense of trust becomes very important in an online transaction. With the existence of fake GPS cases and fake accounts must be supported by the level of awareness of business people to organize an online business that guarantees consumer protection, and vice versa consumers must also increase legal awareness of their rights in consumer protection.

Law will be sought by humans, when the law is able to play a role in its duty to guide and serve the community, so it is not excessive if the main function of the law is to provide justice. This is in line with the theory of justice by Adam Smith, who said the purpose of justice is to secure from injury. As one measure of justice, the balance between rights and obligations plays an important role in every legal pillar so that in formulating the formulation of justice rights and obligations will be included (Fuady, 2009).

Drivers who violate their account will be suspended or suspended (suspended), so they can no longer receive orders and the contract will be terminated (Anwar, 2017). The beginning of the conflict began with some drivers playing cheats by making fictitious orders using the Fake GPS application. The majority of drivers have a motorcycle community in each region, when a

community friend is suspended then these communities communicate with each other and eventually create resistance to help their colleagues involved in problems that lead to demonstrations carried out in the gojek office. However, the company did not want to be harmed by the demonstrations carried out by the drivers because be found in the following sentence: "I am always fictitious orders which caused a lot of harm to the company so that the motorcycle management gave strict sanctions to anyone who cheated the fictional order with apply suspension of motorcycle taxi drivers and impose a fine as compensation for the company. However, on the other hand gojek drivers feel disadvantaged by sanctions imposed by the management of motorcycle taxi because in addition to their accounts being suspended the amount of fines they have to pay is very high and varies. In addition, gojek driver vehicles that cannot pay the sanctions are held by the company as collateral (Hidayat & Handoyo, 2016).

Counterfeit accounts are usually used by online transportation drivers after the drivers get sanctions from online transportation providers. So that the driver can operate again, the driver uses a fake account by buying a fake account from the vendor or on the internet. The simplest way we can find a fake account is one of them through the driver, car and police car number that is not in accordance with the one in the application. This is very vulnerable, where consumer protection needs to be protected related to online transportation transactions, this is also an agreement even though electronically.

This fake online transportation account in terms of legal protection does not guarantee the security and protection of consumers. If in the execution of the transaction there are defaults, acts against the law or crime then the responsibility will face problems. Because the identities listed in the application include the name of the driver, the type of vehicle and the police number with those that serve consumers in different fields. Many cases happened regarding crimes that were apparently carried out by drivers who bought fake accounts. Considering Article 12 paragraph (3) UU ITE explains that every person who violates the provisions regarding obligations in electronic transactions, is responsible for all losses and legal consequences arising. So that in electronic transactions accountability is very important.

Considering the need for clearer data / information regarding the identity of the parties in this application is very important so the Consumer Protection Act needs to be renewed, so that legal

protection does not only apply to conventional transactions but also on online application transactions. This must be addressed by the Government and online transportation providers (Wicaksono, 2017). Although the existence of a fake account is still profitable for online transport providers, online transportation providers still have to prioritize the safety and comfort of consumers. So that online transportation companies should provide socialization to the public to be able to anticipate online transportation using fake accounts.

Article 1 number 14 of Act Number 13 of 2003 concerning Manpower is explained that a work agreement is an agreement between a worker / laborer and an employer or employer that contains the work conditions, rights, and obligations of the parties (Indonesia, 2003). Considering that between online transportation service providers and online transportation drivers have been bound in a work agreement. If the work agreement has regulated fake GPS and fake account, the driver has defaulted, which is violating the existing work agreement. However, if the work agreement does not yet exist, the online transportation service provider company can follow up on the action by acting against the law of the online transportation driver. So from the company the provider of online transportation services firmly handles fraud committed by online transportation drivers by giving strict sanctions and strengthening work agreements by regulating fake gps and fake accounts if the work agreement has not been regulated.

The misuse of technology in the form of Fake GPS also has negative implications, especially for companies providing online transportation services. Online transportation service providers will be harmed if the order made by the drivers turns out to be a fictitious order to collect travel points to get certain bonuses provided by online transportation service providers. In addition, the existence of fake GPS brings unhealthy influence on business competition in the field of transportation both online and conventional. Given the presence of online transportation brings its own conflict to date with conventional transportation. The Indonesian government policy which has not been able to accommodate the interests of these two types of transportation causes prolonged social conflict. So with the existence of fake gps, it is expected that the Government can synergize with the online Transportation Service Provider Company to prevent and eradicate the existence of fake GPS in order to realize good business competition.

In the principle of the business world, efforts to obtain maximum profits are reasonable behavior, insofar as they do not lead to monopolistic practices and unfair business competition (Mantili, Kusmayanti, & Afriana, 2016). Business competition law is a law that regulates the interaction of a company or business actor in the market, while corporate behavior when interacting is based on economic motives (Lubis, 2009). The impact of the existence of fake accounts and fake gps in addition to consumer protection and loss of online transportation provider companies will also lead to unfair business competition among online transportation modes. This can happen if fake accounts and fake gps are not handled explicitly, because the drivers who make fake accounts and fake gps will monopolize the market in an dishonest manner.

The definition of unfair business competition based on Law No.5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition in Article 1 number 6 Unfair business competition is competition between business actors in carrying out production activities and or marketing of goods or services carried out with dishonest or against the law or hinder business competition. Prohibited activities as referred to in Law No. 5 of 1999 which occurred or resulted in monopolistic practices and unfair business competition, including monopoly, monopsony, market control, collusion, dominant position. Article 1 Number 4 of Law No. 5 of 1999 states that the dominant position is a situation where the business actor does not have a competitor in the relevant market in relation to the controlled market share, or the business actor has the highest position among competitors in the relevant market in relation to financial ability, access to supply or sales, and the ability to adjust the supply or demand for certain goods or services (Indonesia, 1999a).

Competition between business actors in carrying out activities both in production and marketing or sale of goods and services is done by ignoring the values of honesty, unlawfulness and pricing in a tyrannical manner, this is part of the unhealthy market phenomenon. UU no. 5 of 1999 in Article 25 states that business actors are prohibited from using dominant positions either directly to establish trade conditions with the aim of preventing and / or preventing consumers from competing goods and / or services, both in terms of price and in terms of quality, restrict markets and technology development; or hinder other business actors who

have the potential to become competitors to enter the relevant market (Indonesia, 1999a).

Given the perfect market ideals can not be separated from the role of the government in realizing a perfect market. In this case the law must be able to participate so that market idealism can be achieved and does not harm the economic actors / business actors and can realize the balance of ecosystem business. So that to create a fair business competition climate, it is expected that online transportation drivers can run their business honestly without harming other drivers

4 CONCLUSIONS

The misuse of technology carried out by online transportation drivers has the following impacts:

a. Consumer

The act of cheating online transportation drivers in the form of fake accounts and fake GPS does not provide legal protection for consumers. Related to the rights of consumers to obtain correct information and obtain a sense of security in online transactions must be fulfilled by business actors. However, in the case of fake accounts and fake GPS, online transportation drivers cannot fulfill this by aiming for profit without regard to consumer protection. Therefore, awareness of consumer protection from both the consumer and business actors must be increased.

b. Online Transportation Services Provider Company

With the existence of fake accounts and fake GPS this can also have implications for companies providing online transportation services. The fraud committed by the drivers of online transportation can cause losses to the company and reduce the sense of public trust in the company providing the transportation service. It is better for companies that provide online transportation services to follow up on manipulative drivers by giving strict sanctions and strengthening work agreements by regulating fake accounts and fake GPS or other driver actions that can harm consumers. In addition, it also increases the security of online transportation applications so that there are no loopholes by fraudulent drivers.

c. Business competition

A good business competition climate is needed to build a healthy market. However, a healthy market must be supported by existing business actors. This act of cheating on online transportation drivers can disrupt the balance of the business

climate in online transportation. In order to compete for greater profits then fraudulent online transportation drivers can dominate the market and hamper other online transportation drivers. The government in this case must play a role and oversee in order to realize regulations that can encourage fair business competition among online transportation mods.

This transportation application experienced some abuse in order to get the benefits of the parties of online transportation actors, namely drivers. This abuse certainly has a detrimental effect on online transportation service providers and the wider community as consumers. Legal protection of consumers against counterfeit accounts and fake GPS is stated in Law Number 8 of 1999 concerning Consumer Protection. This fake online transportation account in terms of legal protection does not guarantee the security and protection of consumers. If in the execution of the transaction there are defaults, acts against the law or crime then the responsibility will face problems. Because the identities listed in the application include the name of the driver, the type of vehicle and the police number with those that serve consumers in different fields. The existence of fake GPS brings an unhealthy influence on business competition in the field of transportation both online and conventional. So the Government is expected to synergize with the online Transportation Service Provider Company to prevent and eradicate the existence of fake GPS in order to realize good business competition.

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