

## THE VALIDITY OF ELECTRONIC AGREEMENTS IN SALES TRANSACTIONS VIA MARKETPLACES AS EXAMINED UNDER ARTICLE 1320 OF THE CIVIL CODE AND THE LAW ON INFORMATION AND ELECTRONIC TRANSACTIONS

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### Abstract

Advances in information technology have driven a shift in buying and selling practices from conventional systems to electronic transactions via online marketplaces. This shift has raised legal issues regarding the validity of agreements entered into without a face-to-face meeting and without physical documents between the seller and the buyer. This study aims to analyse the validity of electronic contracts in sales and purchase transactions via online marketplaces based on Article 1320 of the Civil Code (KUHPerduta) and the Law on Information and Electronic Transactions (UU ITE). This study employs a literature review method using a juridical-normative approach. The results of the study indicate that electronic contracts in marketplace transactions are valid and binding provided they fulfil the four requirements of Article 1320 of the Civil Code, namely agreement, legal capacity, a specific subject matter, and a lawful cause. The Electronic Information and Transactions Act (UU ITE) recognises electronic contracts and affirms that electronic information, electronic documents and their printed copies may be used as valid legal evidence. Consequently, the absence of physical documents or wet signatures does not invalidate an electronic contract, provided that the transaction process, the identities of the parties, the subject matter of the contract and the integrity of the electronic evidence can be accounted for.

**Keywords:** electronic contracts, marketplaces, Article 1320 of the Civil Code, the ITE Act, sales and purchase transactions, electronic evidence.

### Introduction

Advances in information technology have brought about significant changes to the nature of legal relationships in society, including in commercial transactions. Transactions that were previously conducted in person through face-to-face meetings between sellers and buyers have now largely shifted to digital systems via online marketplaces. Marketplaces provide a platform for sellers to offer goods and for buyers to select, order and pay for goods electronically. This process can take place without any physical meeting; indeed, the parties often do not know each other personally. This shift in transaction patterns offers convenience, efficiency and a wider market reach,

but at the same time raises legal issues regarding the status, validity and binding force of contracts entered into via electronic systems.

In marketplace transactions, the legal relationship between the seller and the buyer is established through a series of electronic actions, such as creating an account, selecting goods, agreeing to the price and product description, entering a delivery address, choosing a payment method, and confirming the order. This series of actions essentially constitutes a process of offer and acceptance that can give rise to a contract (Wintara & Fitriani, 2025). Such agreements are not set out in physical written documents, but rather in electronic information, electronic documents, or transaction data stored within the marketplace system. Consequently, sales and purchase transactions via marketplaces can be understood as an evolution of conventional agreements into electronic agreements, the substance of which remains concerned with the relationship of rights and obligations between the seller and the buyer (Miru & Pati, 2020).

Generally speaking, the validity of a contract under Indonesian civil law is determined in accordance with Article 1320 of the Civil Code (KUHPerdota). This provision requires the existence of an agreement between the parties, the capacity to enter into a contract, a specific subject matter, and a lawful cause. These four requirements apply to contracts entered into both conventionally and electronically. This means that the use of digital media does not remove or diminish the parties' obligation to comply with the fundamental principles of contract law. Consent via a confirmation button, the legal capacity of the account holder, the clarity of the goods being bought and sold, and the legality of the subject matter of the transaction are key aspects in determining whether such an electronic contract is legally valid (Hernoko, 2019).

The terms of an agreement in a marketplace transaction can be seen in the buyer's actions when selecting an item, agreeing to the price, clicking the 'buy' button, and completing the payment. However, such an agreement must be given freely and must not be obtained through mistake, duress or fraud. Issues may arise if information about the item is not accurately provided, the price is changed unilaterally, or the buyer is not given a reasonable opportunity to understand the terms and conditions of the transaction. Furthermore, the legal capacity of the parties must also be taken into account, as electronic transactions may be carried out by individuals who are underage, under guardianship, or using another person's identity and account. Therefore, the validity of an electronic contract cannot be determined solely by the existence of a click or payment, but must also be analysed based on the quality of consent and the legal capacity of the parties (Salim H.S, 2021).

In addition to being governed by the Civil Code, electronic contracts are also recognised under the Law on Electronic Information and Transactions. Law No. 11 of 2008 on Electronic Information and Transactions has been amended by Law No. 19 of

2016 and Law No. 1 of 2024. These amendments demonstrate that the regulations concerning electronic information and transactions are continually being adapted to technological developments and the needs of society. The Electronic Information and Transactions Act recognises the existence of electronic information, electronic documents, electronic transactions and electronic contracts as part of legal activities that may give rise to legal consequences. Consequently, an agreement cannot be deemed invalid merely because it was concluded via electronic means or is not set out in a conventional written document (Law of the Republic of Indonesia No. 11 of 2008, as amended by Law No. 19 of 2016 and Law No. 1 of 2024).

Further provisions regarding electronic contracts are set out in Government Regulation No. 71 of 2019 on the Operation of Electronic Systems and Transactions. This regulation defines an electronic contract as an agreement between parties entered into via an electronic system. In the context of a marketplace, electronic contracts may be reflected in the order page, invoices, terms and conditions, returns policy, and records of communications and payments. Such electronic contracts are, in principle, binding on the parties if they are entered into by mutual agreement and comply with applicable legal provisions. Furthermore, electronic information and documents may serve as evidence, provided they are accessible, reproducible, have guaranteed integrity, and are verifiable. This recognition is important because marketplace disputes often rely on digital evidence rather than physical documents (Government Regulation of the Republic of Indonesia No. 71 of 2019).

Although there is already a legal framework recognising electronic contracts, the conduct of marketplace transactions still faces various issues. These issues include unilateral order cancellations, goods not matching their descriptions, delivery delays, counterfeit goods, account misuse, payment failures, and difficulties in determining liability between sellers and marketplace operators. Furthermore, the use of standard clauses in a platform's terms and conditions can create an imbalance of power between the marketplace, sellers and buyers. Consequently, an examination of the validity of electronic contracts in sales transactions via marketplaces is essential to ascertain the extent to which the provisions of Article 1320 of the Civil Code and the ITE Law can provide legal certainty.

Based on the above, this article discusses the validity of electronic agreements in sales and purchase transactions via marketplaces under Article 1320 of the Civil Code, as well as their legal status and force under the ITE Law and its implementing regulations.

### **Research Methodology**

This study employs a literature review method using a juridical-normative approach. Research data was obtained through the search and analysis of various literature sources, such as legislation, books, national and international journals, and

other documents relevant to the validity of electronic agreements in sales transactions via the marketplace (Eliyah & Aslan, 2025); (Psomas, 2021). The primary legal sources analysed include Article 1320 of the Civil Code, Law No. 11 of 2008 on Electronic Information and Transactions and its amendments, and Government Regulation No. 71 of 2019 on the Implementation of Electronic Systems and Transactions. The analysis was conducted using a qualitative-descriptive approach by identifying, interpreting and linking legal provisions concerning the validity of agreements, electronic contracts, the evidential value of electronic information, and the legal protection of the parties involved in marketplace transactions. The results of the analysis were then systematically organised to draw conclusions regarding the validity and binding force of electronic agreements (Patten, 2016) .

## **Results and Discussion**

### **The Validity of Electronic Contracts under Article 1320 of the Civil Code**

An electronic contract in a sale and purchase transaction via a marketplace is a form of contract drawn up and executed using an electronic system. In such transactions, the seller offers goods via the marketplace page, whilst the buyer gives their consent by selecting the product, placing an order, agreeing to the price and completing payment. Although not drawn up in the form of a physical document and not always requiring a wet signature, an electronic contract can still give rise to a legal relationship between the parties. This is due to the exchange of intent manifested through digital actions. Thus, the use of electronic media merely alters the manner in which the contract is formed, whilst the principles of validity and legal consequences remain subject to the contract law applicable in Indonesia (Hernoko, 2019).

The primary basis for determining the validity of a contract is Article 1320 of the Civil Code. This provision sets out four requirements, namely: agreement between the parties; capacity to enter into a contract; a specific subject matter; and a lawful cause. The first two requirements are referred to as subjective requirements as they relate to the subjects or parties entering into the contract, whilst the latter two are referred to as objective requirements as they relate to the subject matter and purpose of the contract. If the subjective requirements are not met, the contract may be set aside. Meanwhile, if the objective conditions are not met, the contract is deemed null and void as a matter of law because, from the outset, it did not fulfil the legal basis required to give rise to a legal obligation (Miru & Pati, 2020).

The first requirement is the existence of an agreement between the parties that is binding upon them. The agreement demonstrates that the seller and the buyer share the same intention to carry out the sale and purchase transaction. In an online marketplace, the agreement may be formed through a series of electronic actions, such as when the buyer selects an item, agrees to the price, clicks the 'Buy' or 'Checkout' button, chooses a payment method, and confirms the order. Legally, these actions may

be regarded as a form of acceptance of the offer made by the seller. However, an agreement is only valid if it is given freely, knowingly, and without any mistake, duress or fraud. Therefore, incorrect or misleading product information may affect the validity of the buyer's consent (Salim H.S, 2021).

Agreements in electronic contracts are also closely linked to the mechanism for accepting a marketplace's terms and conditions. Before completing a transaction, users are usually asked to agree to the platform's terms of use, payment policy, delivery policy, and returns policy. Such consent is generally given by ticking a consent box or clicking a specific button (Wijaya, 2003). However, the existence of digital consent does not always automatically prove that the user has understood the entire content of the agreement. The validity of consent must still be assessed based on the presence or absence of sufficient information, the transparency of the clauses, and the absence of provisions that unreasonably disadvantage either party (Wahyuni et al., 2023). Consequently, the 'click-to-agree' mechanism can serve as evidence of an agreement, but it must be supported by a transparent and good-faith transaction process.

The second requirement is the capacity of the parties to enter into a contract. Capacity relates to a person's legal ability to perform legal acts and to be held accountable for the consequences of their actions. In marketplace transactions, the capacity of the seller and buyer may be an issue because users' identities are known only through their digital accounts. A single account may be used by its owner, a family member, or another party who has gained access to it. Furthermore, transactions may be carried out by minors or parties who do not yet have full legal capacity to enter into contracts. Therefore, the identity, age, authority and legal capacity of users are important factors in assessing whether the capacity requirement is met or not (Marilang, 2017).

Marketplaces can essentially help reduce risks relating to competence and identity through account registration, verification of telephone numbers, email addresses, OTP codes, national identity documents, and other authentication methods. However, these mechanisms cannot always guarantee that the person carrying out the transaction is actually the owner of the registered identity (Tomalili, 2019). If a transaction is carried out using another person's account without permission, legal issues may arise regarding which party is actually bound by the agreement. In such circumstances, authentication evidence, access history, electronic communications, proof of payment and delivery data may be used to identify the party carrying out the transaction (Syandika et al., 2025). Thus, the fulfilment of the capacity requirement relates not only to the legal status of the subject, but also to the system's ability to link the transaction to the correct party's identity.

The third requirement is the existence of a specific item as the subject matter of the contract. In sales transactions via a marketplace, the subject matter of the contract consists of the goods or services offered by the seller. The type, quantity, quality, size,

brand, price and other characteristics of the subject matter must be clearly defined. Product descriptions, images, product variations, prices and order quantities are key elements in defining the subject matter of the contract (Syafriana, 2016). If this information is unclear, the buyer may find it difficult to ascertain exactly which goods were agreed upon. Ambiguity regarding the subject matter may also make it difficult to determine whether the seller has fulfilled their obligations or has, in fact, breached the contract. Therefore, the information displayed on the product page may serve a legal function as part of the content of the contract (Sunanda et al., 2025).

The fourth condition is the existence of a lawful cause. A lawful cause means that the purpose or content of the agreement must not conflict with the law, public morality, or public order. In a marketplace, the subject matter of the transaction must be goods that are lawful to buy and sell and not prohibited by legislation. Transactions involving counterfeit goods, narcotics, illegal weapons, the proceeds of crime, or other prohibited products do not meet the requirement of a lawful cause. Similarly, agreements made to commit fraud or to conceal illegal activities cannot receive legal protection. Marketplaces play a vital role in monitoring products and sellers' activities to ensure that transactions taking place on the platform do not contravene the law (Law of the Republic of Indonesia No. 7 of 2014).

The validity of electronic agreements is also reinforced by the provisions of the ITE Act. The ITE Act defines an electronic contract as an agreement between parties entered into via an electronic system. Furthermore, Article 18(1) of the ITE Law stipulates that electronic transactions set out in an electronic contract are binding on the parties. This provision indicates that Indonesian law recognises the binding force of agreements concluded digitally. Such recognition does not mean that every electronic transaction is automatically valid; rather, it must still fulfil the requirements for a contract as set out in Article 1320 of the Civil Code. Government Regulation No. 71 of 2019 also states that an electronic contract is deemed valid if there is an agreement, it is entered into by competent or authorised legal persons, it has a specific subject matter, and the object of the transaction does not contravene legislation, public morality or public order (Law of the Republic of Indonesia No. 11 of 2008; Government Regulation of the Republic of Indonesia No. 71 of 2019).

Based on the above, it is clear that the validity of electronic agreements in marketplace transactions is determined by their substance and the process by which they are formed, rather than solely by their digital form. An electronic contract is considered valid if there is free consent, the parties have legal capacity, the subject matter of the transaction can be determined, and the purpose of the transaction does not contravene the law. Evidence such as electronic invoices, order histories, proof of payment, conversations, tracking numbers and system records may support the proof that a contract has been formed. Electronic information and documents may also be used as evidence provided they are accessible, reproducible, their integrity is

guaranteed, and they are verifiable. Therefore, marketplace transactions are legally binding provided they meet the requirements for a contract and are carried out via a trustworthy electronic system (Government Regulation of the Republic of Indonesia No. 71 of 2019).

Consequently, Article 1320 of the Civil Code remains the primary basis for assessing the validity of electronic contracts, whilst the ITE Law and Government Regulation No. 71 of 2019 provide recognition and a legal framework for the media, processes and evidence relating to digital transactions. The absence of physical documents or wet signatures cannot be used as grounds to invalidate an electronic contract. However, the parties must still prove the existence of consent, clear identity, a definite subject matter of the transaction, and a lawful purpose. The seller is obliged to provide accurate information regarding the goods, whilst the buyer must read and understand the information and terms of the transaction before making payment. Should either party fail to fulfil their obligations, the agreement may serve as the basis for claiming performance, cancellation of the transaction, a refund, or compensation in accordance with applicable legal provisions.

### **Provisions of the ITE Act Regarding Electronic Contracts in Marketplace Transactions**

The Electronic Information and Transactions Act provides the legal basis for the conduct of transactions via digital media, including sales and purchases via marketplaces. These provisions are important because marketplace transactions do not take place through face-to-face meetings between sellers and buyers, but rather through an electronic system that facilitates offers, acceptance, payment and the delivery of goods. The EIT Law recognises that electronic information, electronic documents and electronic transactions may give rise to legal consequences. Consequently, the legal relationship formed through a marketplace cannot be regarded as merely a social or administrative relationship, but constitutes a civil law relationship that gives rise to rights and obligations for the parties involved (Law of the Republic of Indonesia No. 11 of 2008).

The ITE Law specifically recognises electronic contracts. An electronic contract is understood to be an agreement between parties entered into via an electronic system. In marketplace transactions, electronic contracts may be reflected in the platform's terms and conditions, product pages, buyer orders, invoices, payment confirmations, and other digital records. Such electronic contracts do not always take the form of a single document signed by the seller and the buyer, but may be formed through a series of interconnected electronic communications. Consequently, the substance of the transaction and the process of consent take precedence over the physical form of the document (Government Regulation of the Republic of Indonesia No. 71 of 2019).

Article 18(1) of the ITE Act stipulates that electronic transactions set out in an electronic contract are binding on the parties. This provision reinforces the principle

that agreements made via electronic systems are as legally binding as agreements in general. However, this binding nature does not mean that every digital transaction is automatically valid. Electronic contracts must still fulfil the requirements for a valid agreement under Article 1320 of the Civil Code, namely the existence of mutual consent, legal capacity, a specific subject matter, and a lawful cause. Thus, the ITE Law serves to recognise the form and medium of electronic agreements, whilst the Civil Code remains the basis for assessing the substantive validity of agreements (Law of the Republic of Indonesia No. 11 of 2008).

In marketplace transactions, an agreement between the parties may be effected through a digital consent mechanism. The buyer is deemed to have given consent when selecting an item, agreeing to the price, clicking the 'buy' button, filling in the delivery details, and completing the payment. On the other hand, the seller indicates acceptance of the transaction through order confirmation, the packaging process, and the dispatch of the goods. These actions can be regarded as expressions of intent carried out via an electronic system. However, an agreement must not be formed as a result of fraud, misinformation, price manipulation, or hidden clauses. Therefore, marketplace operators must provide information that is clear, easily accessible, and understandable to users (Miru & Pati, 2020).

The ITE Law also sets out provisions regarding the status of electronic information and electronic documents as evidence. Article 5 of the ITE Law states that electronic information, electronic documents and their printed copies constitute valid legal evidence and represent an extension of the types of evidence recognised under Indonesian procedural law. In marketplace disputes, such evidence may take the form of conversations between sellers and buyers, product descriptions, photographs of goods, electronic invoices, proof of payment, tracking numbers, system notifications, evidence of complaint submissions, and records of changes to order status. The recognition of electronic evidence provides certainty that the parties can still prove their rights and obligations even if the transaction is not supported by a physical receipt or contract (Law of the Republic of Indonesia No. 11 of 2008).

Although electronic information is recognised as evidence, its use must still take into account the authenticity, integrity and reliability of the data. Evidence in the form of a screenshot, for example, needs to be linked to the system source, the time of the transaction, the account identity and the relevant communication chain. Electronic evidence is stronger if it can demonstrate who created or sent the information, when it was created, and whether it has been altered. Therefore, marketplaces must maintain transaction recording systems, data security, and the availability of user activity histories. From an evidential perspective, the better an electronic system stores and safeguards data integrity, the stronger the standing of digital evidence in the event of a dispute (Saputra, 2023).

The provisions of the ITE Law also relate to the use of electronic signatures. Electronic signatures serve to identify parties, indicate consent, and safeguard the integrity of electronic documents or transactions. In marketplace transactions, consent is not always indicated through a certified electronic signature, but may be demonstrated through account authentication, the use of passwords, OTP codes, payment confirmation, or a click action linked to the user's identity. However, the evidential weight depends on the system's ability to link such actions to the party carrying out the transaction. The stronger the authentication method used, the easier it is to prove that consent was indeed given by the account holder or the authorised party (Law of the Republic of Indonesia No. 11 of 2008).

Electronic agreements within marketplaces also relate to the responsibilities of Electronic System Operators. Marketplaces not only provide a platform for sellers and buyers, but also manage systems that store transaction data, process user information and, in some circumstances, facilitate payments and dispute resolution. Therefore, operators must run systems that are reliable, secure and accountable. System disruptions, data loss, information leaks, or the inability to provide transaction records may affect the legal certainty of the parties. Although the liability of the marketplace must be distinguished from that of the seller as the party selling the goods, both may still be involved in providing protection to users in accordance with their respective roles (Government Regulation of the Republic of Indonesia No. 71 of 2019).

The ITE Act also addresses electronic contracts that use standard terms, particularly in the relationship between electronic system operators and users . Amendments introduced by Law No. 1 of 2024 regulate aspects of international electronic contracts that use standard terms and are directed at users in Indonesia. Under certain circumstances, such contracts may be subject to Indonesian law, particularly if the user is from Indonesia, the contract is performed within Indonesian territory, or the operator has a place of business or carries out business activities in Indonesia. This provision is important for marketplace users as many digital platforms have cross-border business relationships. These provisions aim to provide Indonesian users with access to an effective legal system for exercising their rights, fulfilling their obligations and resolving disputes (Law of the Republic of Indonesia No. 1 of 2024).

Thus, the provisions of the ITE Law regarding electronic agreements in marketplace transactions serve to provide legitimacy, certainty and a mechanism for proving digital transactions. The ITE Law recognises electronic contracts as a form of agreement that is binding on the parties, recognises electronic information and documents as valid evidence, and provides a legal framework for the use of electronic systems and electronic signatures. However, the application of the ITE Law must still be interpreted in conjunction with Article 1320 of the Civil Code, consumer protection law, and regulations concerning trade via electronic systems. The validity of an agreement is determined not only by a click or payment, but also by free consent, the legal capacity

of the parties, the clarity of the subject matter, a lawful cause, the reliability of the system, and the ability to prove the transaction in its entirety. Therefore, the ITE Law recognises marketplace agreements as valid and binding provided they are formed and executed in accordance with applicable legal provisions.

## **Conclusion**

Electronic agreements in sales transactions via marketplaces essentially have the same validity and binding force as conventional agreements, provided they fulfil the four conditions for the validity of an agreement under Article 1320 of the Civil Code, namely: the consent of the parties; the capacity to enter into a contract; a specific subject matter; and a lawful cause. Consent may be expressed through digital actions such as selecting goods, proceeding to checkout, agreeing to the price, and completing payment. Legal capacity relates to the status and legal authority of the parties, whilst the subject matter and purpose of the transaction must be clear and must not contravene legislation, public morality, or public order.

The ITE Law recognises electronic contracts as agreements entered into via electronic systems. Electronic transactions set out in electronic contracts are binding on the parties, whilst electronic information, electronic documents and their printed copies may be used as valid legal evidence. In marketplace transactions, such evidence may take the form of invoices, proof of payment, conversations, product descriptions, order confirmations and delivery histories. Therefore, the absence of physical documents or wet signatures does not invalidate the agreement, provided that the transaction formation process, the identities of the parties and the integrity of the electronic data can be proven.

Consequently, the validity of an electronic agreement is determined by the fulfilment of the substantive requirements under Article 1320 of the Civil Code and the fulfilment of the formal requirements and electronic evidence provisions under the ITE Law. Marketplaces, sellers and buyers have a responsibility to conduct transactions in good faith, provide accurate information, maintain system security, and retain complete transaction records. In the event of a breach, such as goods not conforming to the description, unilateral cancellation, or failure to fulfil obligations, the aggrieved party may use electronic evidence to seek performance of the contract, cancellation of the transaction, a refund, or compensation in accordance with the applicable legal provisions.

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