

# Buzzer's Position In Positive Law According To Law Number 11 Of 2008 Concerning Information And Electronic Transactions

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## **Abstract.**

*This study aims to find out and analyze the position of the buzzer who spreads hoaxes in the perspective of positive law. As well as knowing and analyzing criminal responsibility for spreading fake news by buzzers. This research is a type of normative research. So it can be seen that the threat of punishment that haunted the buzzers spreading hoaxes in the 2019 elections in the Criminal Code is regulated in several articles. The articles in question are Articles 137, 207, 208 paragraph 1, and Article 310 paragraphs 1 and 2. And for stakeholders who order such action from the buzzers, they are threatened with punishment as stipulated in Article 55 paragraph 1 and Article 56 paragraph 1 and 2.*

**Keywords:** Buzzer, Positive Law and ITE Law.

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## **I. INTRODUCTION**

*Cambridge Academic Content Dictionary* defines a buzzer as "a device that makes a low, continuous sound". If loosely translated, a buzzer can be interpreted as a device that emits a low and continuous sound. As for the context of social media, a buzzer is a person who uses his social media account to disseminate information, or in other words, carry out promotions, both advertising of a product or service for a particular company. Every buzzer action carried out via the internet or social media is subject to the provisions of Law Number 11 of 2008 concerning Electronic Information and Transactions ("UU ITE") and its amendments.

The following are some buzzer actions that have the potential to violate the law, if you do any of them:

a. Spreading content that violates decency.

Any person who intentionally and without rights distributes and/or transmits and/or makes accessible electronic information and/or documents containing violations of decency shall be subject to imprisonment for a maximum of 6 years and/or a maximum fine of IDR 1 billion.

b. Spread content containing insults/defamation.

Any person who intentionally and without rights distributes and/or transmits and/or makes accessible electronic information and/or documents containing insults and/or defamation shall be subject to imprisonment for a maximum of 4 years and/or a maximum fine of IDR 750 million.

c. Disseminate information that raises individual/group hostility based on SARA

Any person who intentionally and without rights disseminates information aimed at creating feelings of hatred or hostility towards certain individuals and/or groups of people based on ethnicity, religion, race and inter-group (SARA).

If violated, the person concerned has the potential to be sentenced to a maximum of 6 years in prison and/or a maximum fine of IDR 1 billion.

d. Sending information containing threats of violence/scare that are directed personally.

Everyone, including buzzers, is prohibited from sending electronic information and/or electronic documents that contain threats or scares that are aimed personally. If violated, the perpetrator is punished with a maximum of 4 years in prison and/or a maximum fine of IDR 750 million. Spreading fake and misleading news that is detrimental to consumers. Everyone, including the buzzer, is prohibited from

deliberately and without right spreading false and misleading news that results in consumer losses in electronic transactions. If violated, the perpetrator is subject to imprisonment for a maximum of 6 years and/or a maximum fine of IDR 1 billion.

e. Sharing other parties' personal information without permission

Basically, the use of any information via electronic media that concerns a person's personal data must be done with the consent of the person concerned. Thus, the buzzer is not justified in using information relating to other people's personal data without that person's permission. If someone's personal data is used without permission, the person whose rights have been violated can file a lawsuit for the losses incurred.

f. Spreading fake news (hoaxes) that cause trouble.

Buzzers who spread fake news (hoaxes) that cause confusion among the people can be charged with Article 14 paragraph (1) of Law Number 1 of 1946 concerning Criminal Law Regulations ("UU 1/1946") with a maximum imprisonment of 10 years.

g. Broadcasting uncertain, redundant, or incomplete news.

Then, if the buzzer broadcasts news that is uncertain, excessive or incomplete, while he understands it, at least he should be able to suspect that such news will or has been able to cause uproar among the people, he can be sentenced to a maximum of 2 years in prison.

h. Create a fake account (fake account)

In addition, buzzers generally create and use many fake accounts, and use other people's photos as profile photos for these fake accounts.

Creating a fake account has the potential to be charged with Article 35 jo. Article 51 paragraph (1) of the ITE Law which prohibits anyone intentionally and without rights manipulating electronic information and/or documents with the aim of making it appear as if the data is authentic, is punishable by imprisonment for a maximum of 12 years and/or a maximum fine of IDR 12 billion.

## II. METHODS

Research has another term known as research. Research comes from English, namely research which comes from the word re (re) search (looking for) thus research which has the term research can be interpreted as searching again. This research activity is based on the curiosity of someone who is then referred to as a researcher in carrying out his research activities. Research is a form of expression of curiosity that is carried out in the form or activity of scientific research. This research was conducted with a sense of trust in the object being researched to be investigated by finding out the causes and effects that arise or occur in the object of research (Bambang Sunggono, 2007:27-28). According to Soerjono Soekanto, "research is a scientific activity based on analysis and construction that is carried out systematically, methodologically and consistently and aims to reveal the truth as one of the manifestations of the human desire to know what he is facing" (Soerjono Soekanto, 1986:3).

"Normative Legal Research is legal research conducted by examining literature or secondary data" (Soerjono Soekanto, et al, 2003:13). "Normative legal research is also called doctrinal legal research. According to Peter Mahmud Marzuki, normative legal research is a process to find a rule of law, legal principles, and legal doctrines to answer the legal issues at hand" (Peter Mahmud Marzuki, 2010:35). "In this type of legal research, law is often conceptualized as what is written in laws and regulations or law is conceptualized as a rule or norm which is a standard of human behavior that is considered appropriate" (Amiruddin, et al, 2006: 118).

## III. RESULTS AND DISCUSSION

### a. The Position of Hoax Spreader Buzzers in a Positive Legal Perspective

Today, cyber space has become the answer to the dream of expressing the freedom to communicate, obtain and disseminate information (free flow of information). *Free flow of information* This then has implications for accelerating the circulation of information in cyber space where everyone can very easily obtain information, produce information, and disseminate information. Problems that arise after the speed of circulation in cyberspace makes cyberspace users ignore filtering / cross-checking the information they get

and distribute in cyberspace. As a result, not a few people are deceived by the information they consume in cyber space (Tansah Rahmatullah, 2018: 104). The role of buzzers in building public perception during political campaigns has become the world's spotlight. The use of buzzers in political contexts has been carried out in almost all parts of the world. In Indonesia, buzzers are used by politicians and political parties to build public opinion and support for a candidate for a leader. The tendency of Indonesian buzzers is to build topics using fake accounts controlled by both humans and robots in large numbers to create content that is misinformation and disinformation. The massive message produced by the buzzer causes the topic of conversation to become a trending topic on social media (Shiddiq Sugiono, 49). Buzzers spreading hoax information or containing elements of defamation are basically regulated in several articles in the Indonesian Criminal Code (KUHP), namely Articles 137, 207 and 208 paragraph 1.

The articles referred to read as follows:

Article 137: Any person who broadcasts, demonstrates, or posts in public a writing or painting containing insults against the President or Vice President, with the intention of making the contents of the insult known or made known to the public, shall be punished by a maximum imprisonment of one year and four months or a maximum fine of four thousand five hundred rupiahs.

Article 207: Any person who deliberately publicly or verbally or in writing insults an authority or public body existing in Indonesia, shall be punished by a maximum imprisonment of one year and six months or a maximum fine of four thousand five hundred rupiahs.

Article 208 paragraph 1: Anyone who broadcasts, shows, or posts in public a piece of writing or a painting which contains insults to authorities or public bodies in Indonesia with the intention of making the insulting content known or better known to the public, is threatened with imprisonment a maximum of four months or a maximum fine of four thousand five hundred rupiahs.

The spread of hoaxes in general is regulated in Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions Article 27 paragraphs 1 and 3. Where the paragraphs in the articles referred to read as follows: Article 27 paragraph 1: Everyone intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have content that violates decency ( Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions Article 27 paragraph 1). Article 27 paragraph 3: Everyone intentionally and without rights distributes and/or transmits and/or makes Electronic Information and/or Electronic Documents accessible that contain insults and/or defamation. If the verses in Article 27 of this Law are examined carefully, it will be found that matters containing violations of decency, insults/defamation, and extortion/threats are included in the acts that are prohibited in this Law. And if you look at the negative campaigns carried out by the buzzers on social media during the 2019 simultaneous elections, there are several posts by the buzzers which contain information that violates decency, insults, and defamation. Then such actions are in accordance with this Article, then these actions include acts that are prohibited and punishable by punishment as stipulated in Article 45 of this Law, Article 45 paragraph 1 reads as follows: Everyone who intentionally and without rights distributes and/or transmits and/or makes Electronic Information and/or Electronic Documents accessible which has content that violates decency as referred to in Article 27 paragraph 1 shall be subject to imprisonment for a maximum of 6 (six) years and/or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah).

Article 45 paragraph 3: Any Person who intentionally and without rights distributes and/or transmits and/or makes Electronic Information and/or Electronic Documents accessible which contain insults and/or defamation. As referred to in Article 27 paragraph 3 shall be punished with imprisonment for a maximum of 4 (four) years and/or a maximum fine of Rp. 750,000,000.00 (seven hundred and fifty million rupiah). Director General of Informatics Applications, Samuel Abrijani Pengapan. According to him, when talking about hoaxes, there are two things, firstly, hoaxes must have the value of the subject object being harmed, secondly, they violate article 28 paragraph 2 of this Law which reads: Article 28 paragraph 2: Everyone intentionally and without rights disseminates information aimed at creating feelings of hatred or hostility towards certain individuals and/or community groups based on ethnicity, religion, race and between groups. For buzzers spreading hoaxes who violate the legal provisions of Article 28 paragraph 2 of the ITE

Law, these perpetrators are threatened with punishment as stipulated in Article 45A paragraph 2 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions which read as follows: Article 45A paragraph 2: Everyone who intentionally and without rights disseminates information aimed at causing hatred or hostility towards certain individuals and/or community groups based on ethnicity, religion, race and intergroup (SARA) as referred to in Article 28 paragraph 2 shall be subject to imprisonment for a maximum of 6 (six) years and/or a fine of a maximum of Rp. 1,000,000,000.00 (one billion rupiah). In line with the explanation presented by Samuel Abrijani that hoaxes must have a value that is detrimental to the subjects and objects contained in the hoaxes being spread, in this case the subjects are the buzzers who spread the hoax information and the objects are the simultaneous election participants, in this case the participants simultaneous elections in 2019 (Rino Sun Joy, et al, 2019: 3).

**b. Criminal Responsibility for Spreading Fake News by Buzzers**

In Law Number 11 of 2008 concerning Information and Electronic Transactions article 28, which reads:

- 1) Everyone intentionally and without right spreads false and misleading news that results in consumer losses in Electronic Transactions.
- 2) Everyone intentionally and without rights disseminates information intended to create feelings of hatred or hostility towards certain individuals and/or groups of people based on ethnicity, religion, race and inter-group (SARA).

There are two forms of ITE criminal acts in article 28, each of which is formulated in paragraph (1) and paragraph (2).

The criminal act of ITE in paragraph (1) consists of the following elements (Adami Chazawi, et al: 128):

- a. Error: on purpose.
- b. Against the law: without rights.
- c. Action: spreading.
- d. Object: fake and misleading news.
- e. Constitutive consequences: resulting in consumer losses in electronic transactions.

So, if you look at these elements, a person can be held criminally responsible as regulated in Law Number 11 of 2008 concerning Information and Electronic Transactions in conjunction with Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions Article 45A paragraph (1) and (2):

- 1) Everyone who intentionally and without right spreads false and misleading news that results in consumer losses in Electronic Transactions as referred to in Article 28 paragraph (1) shall be punished with imprisonment for a maximum of 6 (six) years and/or a fine of up to Rp. 1,000. 000,000.00 (one billion rupiah).
- 2) Everyone who deliberately and without rights disseminates information aimed at causing hatred or hostility towards certain individuals and/or community groups based on ethnicity, religion, race and inter-group (SARA) as referred to in Article 28 paragraph (2) shall be punished with criminal maximum imprisonment of 6 (six) years and/or a maximum fine of IDR 1,000,000. 000.00 (one billion rupiah).

Criminal liability related to criminal acts of information or fake news (hoaxes), applies various kinds of responsibilities in it, such as social responsibility to society and responsibility to the law. In the case of liability for false information or news (hoaxes), a person is said to be criminally responsible if he fulfills the elements contained in Law Number 11 of 2008 concerning Information and Electronic Transactions juncto Law Number 19 of 2016 concerning Amendments to the Law Law Number 11 of 2008 concerning Information and Electronic Transactions Article 45A paragraph (1) and (2). Elements in Law Number 11 of 2008 concerning Information and Electronic Transactions juncto Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions Article 45A paragraph (1) and ( 2). The perpetrators of spreading false information (hoaxes) from the start have the intention to add, spread, create, reduce, and make losses for the parties concerned which can be said to be a

criminal act. So it can be said that the person who can be punished is the person who actually did it himself and spread it himself. Paragraph (2) also explains/indicates that a person who can be sentenced is one who has the intention and deliberately disseminates information which is to create hatred or hostility towards certain individuals and/or community groups based on ethnicity, religion, race, and between groups. (SARA). But it also has to be seen that there have been reports from a particular community and/or group based on the ethnicity, religion, race, and inter-group (SARA) concerned. In addition, it must be examined first by an expert in the field of hate speech so that it can be said that it aims to create feelings of hatred or hostility towards certain individuals and/or groups of people based on ethnicity, religion, race and inter-group (SARA).

#### IV. CONCLUSION AND SUGGESTION

##### Conclusion

Based on the explanation above, it can be concluded that the threat of punishment that haunted the buzzers who spread hoaxes in the 2019 elections in the Criminal Code is regulated in several articles. The articles in question are Articles 137, 207, 208 paragraph 1, and Article 310 paragraphs 1 and 2. And for stakeholders who order such action from the buzzers, they are threatened with punishment as stipulated in Article 55 paragraph 1 and Article 56 paragraph 1 and 2. Whereas in the Information and Electronic Transactions Law (ITE) the provisions for punishment for buzzers spreading hoaxes are regulated in Article 27 paragraphs 1 and 3, Article 28 paragraph 2, and the provisions for punishment are regulated in Article 45 paragraphs 1 and 3, and Article paragraph 45A paragraph 2. In addition, to be responsible for the spread of fake news carried out by buzzers, there must be elements including every person intentionally and without right spreading fake and misleading news which results in consumer losses in Electronic Transactions. And every person intentionally and without rights disseminates information intended to create feelings of hatred or hostility towards certain individuals and/or groups of people based on ethnicity, religion, race and inter-group (SARA).

##### Suggestion

Even though it has been regulated in several articles in a lawful law, the behavior of buzzers spreading hoaxes in elections is still rife. According to the author, this can happen because law enforcement is still not appropriate in taking action against buzzers spreading hoaxes and stakeholder elites who hire their services. Therefore, the problem raised in this study is maximizing and tightening law enforcement against buzzers. So that no party is harmed by hoax information spread by buzzers on social media.

#### REFERENCES

- [1] Amiruddin and H. Zainal Asikin, Introduction to Legal Research Methods, Jakarta: PT. Raja Grafindo Persada, 2006
- [2] Chazawi, Adami & Ardi Ferdian, Information and Electronic Transaction Crimes
- [3] Soekanto, Soerjono. Introduction to Legal Research, Jakarta: UI Press, 1986
- [4] Soekanto, Soerjono & Sri Mamudji, Normative Legal Research: A Brief Overview, PT. Jakarta : Raja Grafindo Persada, 2003
- [5] Criminal Code
- [6] Mahmud Marzuki, Peter. Legal Research, Jakarta,: Kencana Prenada, 2010
- [7] Rahmatullah, Tansah. "Hoax in the Perspective of Indonesian Law", *Media Law Journal Justitia Nusantara* Vol. 8, No. 2, September 2018
- [8] Sungono, Bambang. Legal Research Methodology, Jakarta: PT. Raja Grafindo Persada, 2007
- [9] SunJoy, Rino. et al. "The Role of Police Officers in Law Enforcement in Responding to Hoax News for the 2019 Presidential Election in the Legal Area of the East Java Regional Police", *Journal of Lex Suprema* Vol. 1, No. 11, September 2019.
- [10] Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions