A Juridical Analysis Of Dispute Resolution For Misleading Advertisements On Social Media

Herlina Sukmawati[1*], Teddy Prima Anggriawan[2]

[1*] Program Studi Ilmu Komunikasi, Universitas Pembangunan Nasional Veteran Jawa Timur, Indonesia
[2] Program Studi Magister Hukum, Dosen Universitas Pembangunan Nasional Veteran Jawa Timur, Indonesia
* Corresponding Author:
Email: teddyprima.ih@upnjatim.ac.id

Abstrak

Misleading advertisements on social media have become a significant issue affecting consumers and businesses. This research aims to analyze the legal framework governing dispute resolution related to misleading advertisements on social media in Indonesia. The research method used is a normative juridical approach with case studies of several well-known misleading advertisement disputes. This study finds that despite various regulations such as the Consumer Protection Act and the Electronic Information and Transactions Law (UU ITE), their implementation and effectiveness still face challenges, including a lack of legal awareness and technical barriers in law enforcement. The study also evaluates various dispute resolution methods available, such as litigation, arbitration, and mediation. The results indicate that although litigation can provide legal clarity, it often involves considerable time and costs. Arbitration and mediation offer faster and more flexible solutions but have not been fully optimized in the practice of resolving misleading advertisement disputes. The conclusion of this study is that there is an urgent need to enhance legal awareness and strengthen the existing regulatory framework. Additionally, promoting the use of alternative dispute resolution methods such as arbitration and mediation needs to be increased to achieve more effective and efficient resolutions. The research recommends enhancing cooperation between the government, social media platforms, and consumer protection agencies to create a safer and fairer environment for consumers.

Keywords: Dispute Resolution, Misleading Advertisements, Social Media and Law.

I.   INTRODUCTION

In the rapidly evolving digital era, social media has become one of the primary platforms for product marketing strategies employed by various businesses. Using social media as a marketing tool offers several advantages, including wide reach, relatively low costs, and the ability to target specific audiences. Platforms such as Facebook, Instagram, Twitter, and TikTok have gained immense popularity among marketers due to their capability to deliver messages quickly and interactively to consumers. However, this progress also introduces new challenges, particularly concerning the accuracy and honesty of the information conveyed through advertisements.Social media has proven to be an extremely effective marketing tool, allowing businesses to reach a broader audience at lower costs compared to traditional media. However, the use of social media also introduces new risks, including the spread of misleading information. [1] Misleading advertisements, which often promise exaggerated benefits or conceal important information, have become a major issue on social media. This practice not only harms consumers who feel deceived but also creates unfair competition among businesses. In this context, the definition of misleading advertisements includes any form of commercial communication that can give a false or incomplete impression about a product or service. The negative effects of misleading advertisements can be felt across various sectors, from health and beauty to technology.

Misleading advertisements on social media frequently promise exaggerated benefits or hide important information, which can harm consumers and create unfair competition among businesses. [2] In Indonesia, regulations regarding advertisements and marketing are governed by various laws, including Law Number 8 of 1999 concerning Consumer Protection (Consumer Protection Act) and Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law). The Consumer Protection Act explicitly prohibits businesses from making misleading or false statements about a product or service. Meanwhile, the

ITE Law regulates electronic information and related transactions, including digital advertisements. However, despite the existence of these regulations, their implementation and enforcement often face numerous obstacles. Although the existing regulations are quite comprehensive, law enforcement on the ground still faces various challenges, including a lack of legal awareness among consumers and businesses, as well One of the main challenges is the low level of legal awareness among consumers and business actors. Many consumers are unaware of their rights when faced with misleading advertisements, while many business actors do not fully understand the legal boundaries in advertising.

Additionally, technical challenges in tracking and proving misleading advertisement claims on social media also pose unique obstacles. For instance, the digital footprint of advertisements can be easily deleted or altered, and the complexity in identifying the responsible party, whether it is the ad creator, the social media platform, or other third parties.The current dispute resolution methods available include litigation, arbitration, and mediation. Litigation, while capable of providing binding decisions, is often considered inefficient due to its lengthy process and high costs. On the other hand, arbitration and mediation offer faster and more flexible solutions but are still underutilized in cases of misleading advertisement disputes. The existence of bodies such as the Consumer Dispute Settlement Agency (BPSK) and the role of advertising oversight agencies also need to be optimized to handle these disputes more effectively.This research aims to analyze the legal framework governing the resolution of misleading advertisement disputes on social media in Indonesia, evaluate the effectiveness of available dispute resolution methods, and identify the main challenges in resolving these disputes. Thus, it is hoped that this research can contribute to efforts to enhance consumer protection and create fairer and more transparent marketing practices in the digital era.

II.   METHODS

Legal research methods are a systematic approach to conducting research. In this context, it is crucial to identify and determine the type of research, as it is one of the components of the research method that will significantly influence the process and outcomes of a legal study.[3]This study employs a normative juridical approach combined with case studies to analyze the resolution of misleading advertisement disputes on social media. The normative juridical approach focuses on analyzing written laws and applicable legal norms, encompassing legislation, legal doctrines, and principles relevant to resolving misleading advertisement disputes on social media. This research will examine Law Number 8 of 1999 on Consumer Protection, Law Number 11 of 2008 on Information and Electronic Transactions (ITE) and its amendments, as well as other regulations related to advertisements and social media. Additionally, case studies are used to understand the application of the law in real situations and to evaluate the effectiveness of the dispute resolution methods used. This study will include an analysis of several resolved misleading advertisement dispute cases, both through court decisions and alternative dispute resolution methods.The data collection techniques used include document studies and interviews. Document studies will gather data from various legal sources, including statutory texts and regulations, court decisions related to misleading advertisement disputes, as well as reports, journals, and scholarly articles discussing related issues. Furthermore, documents from advertising oversight and consumer protection agencies will also be analyzed.

Interviews will be conducted with several informants who have knowledge and experience in this field, including legal practitioners handling misleading advertisement dispute cases, academics with expertise in consumer protection law and social media, and officials or staff from advertising oversight and consumer protection agencies.The collected data will be analyzed descriptively to provide an overview of the legal framework governing the resolution of misleading advertisement disputes on social media. This descriptive analysis will illustrate how regulations and legal principles are applied in the context of advertisement disputes. Subsequently, a comparative analysis will be conducted between various dispute resolution methods, such as litigation, arbitration, and mediation. This analysis aims to evaluate the strengths and weaknesses of each method and their effectiveness in resolving misleading advertisement disputes. The

interview results will be analyzed qualitatively to gain in-depth insights into the challenges and practical solutions in resolving misleading advertisement disputes. This qualitative analysis will help formulate recommendations for improving regulations and dispute resolution practices. By using this research method, it is expected that the study can provide a comprehensive overview of the resolution of misleading advertisement disputes on social media and present practical and effective solutions to enhance consumer protection and fair marketing practices.

III.   RESULTS AND DISCUSSION

Regulations governing the resolution of misleading advertisement disputes on social media in Indonesia are based on several relevant laws and government regulations. Firstly, Law Number 8 of 1999 on Consumer Protection (Consumer Protection Law) serves as the main foundation for protecting consumers from misleading advertising practices. Article 8 of this law explicitly prohibits businesses from making misleading statements about the goods and/or services offered. Additionally, Article 9 prohibits the sale of goods that do not match the information provided to consumers. The sanctions that can be imposed include administrative penalties such as fines and warnings, as well as criminal sanctions in the form of imprisonment for businesses that violate these provisions.Secondly, Law Number 11 of 2008 on Information and Electronic Transactions (ITE Law) and its amendments also play a crucial role in regulating the dissemination of information on social media. Article 28 of the ITE Law prohibits the dissemination of misleading or harmful information, including advertisements that do not correspond to reality. Violations of these provisions can result in significant criminal penalties and fines, aiming to provide a deterrent effect for businesses that engage in such violations.Legal certainty has become commonplace when certainty becomes an integral part of the formation of law. Law without certainty loses the essence of its presence, as it can no longer be used as a guide for individuals in controlling their daily behavior. Normatively, legal certainty can be interpreted as a form of legislation that is created and enacted definitively.

This means that legal certainty should regulate clearly and logically, so as not to cause doubt in cases of multiple interpretations of the rules, and to prevent conflicts within existing societal norms.[4]Additionally, there are Government Regulations and Ministerial Regulations that provide technical details related to the implementation of electronic systems and transactions. One such regulation is Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions (PP PSTE), which outlines the responsibilities of electronic system operators, including social media platforms, in handling misleading advertisements. This regulation mandates that platforms act responsively in addressing unlawful content and provides guidelines on the procedures for removing such content.Although these regulations are quite comprehensive, their implementation and compliance in the field still face various challenges. Compliance studies show that many businesses do not fully adhere to the existing provisions. Several case studies reveal that law enforcement is often ineffective due to limited resources and insufficient oversight. Other obstacles include low legal awareness among consumers, which results in infrequent reporting of misleading advertisements, as well as technical difficulties in tracking and proving misleading advertisement claims on social media. Aristotle's theory of justice explains his thoughts on the concept of justice.

For Aristotle, virtue—specifically, adherence to both written and unwritten laws—achieves justice. Theo Huijber expands on Aristotle's theory of justice by discussing its application in legal interpretation. Since laws are general and do not cover all concrete issues, judges must interpret them as if they were personally involved in the specific situation. According to Aristotle, such judges must possess a sense of what is appropriate.[5]The role of advertising oversight agencies and consumer protection organizations is also crucial in resolving these disputes. The Business Competition Supervisory Commission (KPPU) plays a role in monitoring fair and competitive advertising practices. The National Consumer Protection Agency (BPKN) is responsible for providing education and legal assistance to consumers harmed by misleading

advertisements. However, the effectiveness of these institutions is often hampered by limited resources and poor coordination among the various related parties.

The legal principle of "Equality Before The Law" signifies that all individuals are equal before the law. This concept is fundamental in combating discrimination. The law must be enforced impartially, without regard to an individual's social, economic, or political background. [6] Thus, the existing legal framework provides a solid foundation for resolving misleading advertisement disputes on social media. However, further efforts are needed to enhance compliance and the effectiveness of regulation implementation. This includes increasing legal awareness, stricter supervision, and optimizing the roles of oversight and consumer protection agencies.In addressing misleading advertisement disputes on social media, several dispute resolution methods can be employed, namely litigation, arbitration, and mediation. Each method has its own advantages, disadvantages, and varying levels of effectiveness in the context of resolving misleading advertisement disputes. This analysis aims to evaluate the effectiveness of each method in resolving such disputes.In the context of resolving misleading advertisement disputes on social media, litigation, arbitration, and mediation each have unique advantages and disadvantages. Litigation provides justice and legal certainty but requires significant time and costs. Arbitration offers a quick and flexible resolution, but the lack of an appeal opportunity can be a drawback. Mediation provides a cheaper and faster solution, but the binding strength of the agreement reached remains a challenge.

Thus, the effectiveness of dispute resolution methods depends greatly on the situation and needs of the parties involved. A combination of these methods can be used to achieve the most effective and efficient resolution. Recommendations for improving dispute resolution effectiveness include increasing legal awareness among consumers and businesses, as well as strengthening regulations and oversight mechanisms.

IV.   CONCLUSION

This study reveals that the legal framework governing the resolution of misleading advertisement disputes on social media in Indonesia is quite comprehensive, especially with the existence of Law Number 8 of 1999 on Consumer Protection and Law Number 11 of 2008 on Information and Electronic Transactions (ITE). These two laws provide a strong legal foundation for protecting consumers from misleading advertising practices. However, implementation and enforcement in the field still face various challenges, including a lack of legal awareness among consumers and businesses, as well as technical difficulties in tracking and proving misleading advertisement claims on social media.The analysis of the dispute resolution methods used shows that each method—litigation, arbitration, and mediation—has its own advantages and disadvantages. Litigation provides justice and legal certainty, but the process is time-consuming and costly.

Arbitration offers a faster and more flexible resolution, but the lack of an appeal opportunity can be a drawback. Mediation, on the other hand, provides a cheaper and quicker solution, but the binding strength of the agreement reached remains a challenge.Overall, the effectiveness of resolving misleading advertisement disputes on social media depends greatly on the situation and needs of the parties involved. A combination of these methods can be used to achieve the most effective and efficient resolution. To improve the effectiveness of dispute resolution, it is important to increase legal awareness among consumers and businesses, as well as strengthen regulations and oversight mechanisms. With these measures, it is hoped that misleading advertising practices on social media can be minimized and consumer protection can be significantly enhanced.

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