



Law Enforcement of Black Market Handphone Sales in The Internasional Scope

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Abstract: Almost everyone now uses mobile phones to make it easier to get information remotely. The development of cellphones is also much more sophisticated in today's contemporary era. With these developments, consumer interest in communication tools is increasing, providing business people with business opportunities. even when business actors obtain these tools illegally or on the black market. The aim of this research is to identify and discuss law enforcement applied to blackmarket cellphone sales as well as the main factors that cause more cases of blackmarket cellphone sales.

Keyword: Law Enforcement, Causative Factors, Mobile Phones, Black Market

INTRODUCTION

Currently, the existence of cellphones has become one of the characteristics of the era of globalization. With the rapid growth, major changes have occurred and have resulted in a new and sophisticated telecommunication environment. Mobile phones have become an important device for communication and are needed by most of modern society.

Blackmarket cellphones appear because several cellphone brands have very complete features but are sold at quite high prices, so not everyone can buy them. To attract customers, irresponsible rogue distributors sell blackmarket cellphones at much cheaper prices. In Indonesia, many ordinary people don't know about the law and don't understand cellphones, so they choose to buy illegal goods at cheap prices rather than quality legal goods. These illegal products must be very bad and have no official guarantee.

Therefore, blackmarket cellphones are much cheaper than legal cellphones with an official guarantee. Distributors who sell blackmarket cellphones target the general public who do not understand much about cellphones. According to Article 20 of Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Electronic Information and Transactions, article 1 paragraph 2 states that online trading is included in electronic transactions if the transaction is carried out legally using a computer, computer network, and/or other electronic media. By selling cellphones on the black market, the country is experiencing

increasingly large losses. After investigation, blackmarket cellphone trading causes state losses of IDR 2 to 3 trillion per year.

METHOD

This research uses normative juridical or library methods, which means studying library materials or only using secondary data. The data sources used include primary, secondary, and tertiary legal materials that are relevant to the type of research, namely normative research to obtain secondary data used in this research including laws, books, various related journals, and articles published both offline and on line. This research aims to increase public knowledge about black market cellphone sales and how the law relates to these sales, as well as to improve the performance of law enforcement regarding black market cellphone sales.

RESULTS AND DISCUSSION

With the growth of the industrial economy and national and international trade, various types of goods and services have been offered and traded in various ways, so that consumers can enjoy and use them. Mobile phones have become a very important communication tool for most of today's society due to advances in modern technology, and therefore sales and circulation of mobile phones continue to increase every year. This is one proof that the majority of people have cellphones.

Blackmarket is also known as the black market or illegal market. In the black market transactions of buying and selling goods occur, just like in the public market. However, the buying and selling transaction process does not follow government laws or regulations. In general, Black Market (BM) cellphones are very different from "official" or "legal" cellphones. BM cellphones are basically cellphones that are smuggled into the country to avoid the state tax system, while "legal" cellphones are distributed through distributors who have an official certificate from the Directorate General of Posts and Telecommunications of the Republic of Indonesia for distribution.

Blackmarket cellphones usually come from neighboring countries and enter Indonesia without official channels, therefore they are considered illegal goods that do not have Customs and Excise permits. Thus, the black market for mobile phones is also related to the export and import of goods. The following are some of the causes of the Black Market or Black Market:

- a. The number of items that the government prohibits from being sold or purchased.
- b. The amount of restrictions placed by the government on goods to be sold or purchased.
- c. Many stolen items do not have official documents, which are usually proof of buying and selling transactions.
- d. Many fans of famous brand goods at low prices.

Since there are several laws governing the illegal sale of mobile phones on trading platforms, it is very important to ensure that these laws are in harmony with each other. To ensure that regulations do not conflict or overlap, legislators must pay attention to many things, including legal hierarchy, content material, and other principles. To avoid this overlap, regulations must be arranged vertically, in accordance with applicable laws.

To protect human interests, laws must be implemented. Although the implementation of the law can occur naturally and peacefully, violations of the law can also occur. The process of realizing legal desires is known as law enforcement. connected with law enforcement efforts to eradicate sales. Mobile phone blackmarketing means an attempt to understand the laws relating to the sale of mobile phones. People often misunderstand the law just because they see how law enforcement officers act, so misunderstandings occur and people become victims. Increasing law enforcement in Indonesia against illegal cellphone sales is an important step to protect the legitimate cellphone industry and avoid the dangers associated with illegal purchases.

The following is comparative data on cellphone estimates throughout the world:

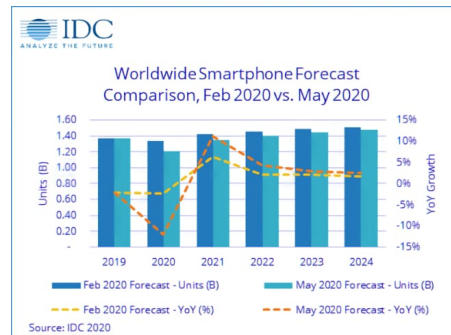


Figure 1. Comparative data on cellphones around the world

Factors causing the increase in cases of blackmarket cellphone sales

The buying and selling transaction process is a way to meet the primary, secondary and tertiary needs of society. However, in practice, people prefer to buy or sell the goods they want without paying attention to the validity and legalization of the goods. Goods that enter and circulate in the community without validation documents and whose validity is doubtful are goods from the black market. Due to the high consumer desire to own a cellphone, blackmarket cellphones are increasingly being sold in Indonesia. However, the price of cellphones in Indonesia is quite expensive, so the emergence of blackmarket cellphones has become an alternative for some people to have cellphones at cheaper prices.

The following factors lead to illegal cellphone sales:

- a. Indonesia's strategic location flanked by two continents and two oceans facilitates global trade traffic;
- b. The desire of Indonesians to own certain goods and brands imported from abroad, which allows smugglers to use this opportunity to import these imported goods illegally.
- c. It is difficult for officers who do not have moral integrity to be attacked, such as easy bribery, corruption, corruption, lack of strict supervision, and conspiracy;
- d. The domestic industry is still developing, so the results cannot be relied on;
- e. Black Market, also called BM, is a situation where goods are exactly the same as the original, but are not original or replica goods, or are often referred to as rejected goods;
- f. Get big profits.
- g. External factors are factors that have nothing to do with the Customs and Excise Office.

Because of this, sales and circulation of cellphones continue to increase from year to year, including in Indonesia. This causes a lot of competition between distributors, which results in several individual cellphone distributor entrepreneurs competing illegally or unfairly. unhealthy or unlawful actions carried out by unscrupulous cellphone distributor entrepreneurs, namely updating or beautifying cellphones in good condition, such as repairing, replacing parts, or beautifying them. The external appearance of this reconditioned cellphone is similar to a new cellphone, but the engine is outdated, so consumers are deceived.

Under these circumstances, black markets began to emerge and sell goods at cheaper prices. People are becoming more interested in buying them on the black market, even though they know that goods on the black market are illegal goods which are prohibited by law in Indonesia. Distributors in Indonesia are worried about the existence of this black market. Many cellphone distributors experience losses, and there is unhealthy competition in business. As a result, cellphone distributors need legal protection, namely laws that prevent the sale of products on the black market, or black market.

Law Enforcement Against Blackmarket Mobile Trade Business Actors and Consumer Protection

Consumer Protection Theory According to Janus Sidabalok, all efforts that ensure legal certainty to protect consumers are considered consumer protection. Therefore, there are many principles contained in efforts to provide legal protection to consumers, because talking about consumer protection means questioning guarantees or certainty regarding the fulfillment of consumer rights. According to Article 2 of Law Number 8 of 1999 concerning Consumer Protection, consumer protection is implemented based on five principles: benefit, justice, balance, consumer security and safety, and legal certainty.

The legal concept known as product liability aims to provide protection to consumers. Manufacturers or sellers of products are guaranteed against risks if they are defective or result in consumer loss. Products are usually defined as items that can be seen and held, both movable and immovable. Therefore, product responsibility is a legal responsibility of the person or entity involved in a process to produce a product, or of the person or entity that sells or distributes the goods. They must provide returns or refunds to customers.

Most of the products sold on the black market use falsification of customs supplementary documents, which is a criminal act of falsifying customs supplementary documents with the aim of falsifying data in the notebook. Article 103 letters (a) (b) and (c) Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs refers to the following classification: a. Submit false or falsified customs declarations and/or complementary customs documents; b. Falsifying data in books or records or providing false oral or written information. Contracts selling illegal cellphones are invalid according to Article 1320 of the Civil Code because they do not meet the requirements for contract legality, namely legal causes. As a result, there is no legal certainty regarding consumer rights and obligations because the agreement is considered to have never existed. This situation can cause consumers to lose a lot of money and potentially reduce state tax revenues.

Article 18 paragraph (1) of the Information and Electronic Transactions Law states that the legal consequences of e-commerce buying and selling transactions are valid. Article 1 paragraph (1) of Law Number 8 concerning Consumer Protection provides legal protection for consumers. If a customer buys a mobile phone with blackmarket status on an e-commerce website, there are two ways to resolve their issues litigation and non-litigation, such as mediation, arbitration, and conciliation. In e-commerce, people buy cellphones with blackmarket status because the prices are cheap and competitive compared to market prices. This also applies to certain brands of cellphones, such as the iPhone. Telematics products, such as cellphones, are regulated in Minister of Trade Regulation Number: 19/M-DAG/PER/5/2009. In addition, Article 8 paragraph (1) letter j UUPK states that "a business actor producing and/or trading goods does not include information and/or instructions for using the goods in Indonesian in accordance with the provisions of the applicable laws. Against violations of Article 8 UUPK, business actors can be subject to administrative sanctions. Article 22 of the Minister of Trade Regulation No. 19/M-DAG/PEER/5/2009 states: "That business actors who have violated the provisions referred to in article 2 paragraph (1), can be subject to sanctions which has been regulated in the Consumer Protection Law no. 8 of 1999." Based on this regulation, the sale of cellphones violates the regulations of the Minister of Home Affairs.

People who buy cellphones without a guarantee can sue the party who caused the loss in accordance with positive law. There are only two types of compensation claims: compensation claims based on breach of contract and compensation claims based on breach. Two groups can be established based on the responsibility of business actors. The first is private liability, or civil, and the second is criminal liability. Disputes between producers and consumers are usually resolved out of court or amicably.

Seller's Responsibilities towards Customers in the BlackMarket Mobile Phone Buying and Selling Business: According to the author's research, if a customer experiences loss or

damage to their cellphone during a cellphone buying and selling transaction, the seller will examine the customer's complaint regarding the cellphone having problems and determine whether the damaged cellphone is included in service coverage area or not.

In general, the principles of responsibility in law include the following:

- 1) Error (liability based fault)
- 2) Presumption of always being responsible (presumption of liability)
- 3) Presumption of always not being responsible (presumption of nonliability)
- 4) Absolute responsibility (strict liability)
- 5) Limitation of responsibility (imitation of liability)

There are several ways to provide legal protection to consumers before a transaction occurs (before purchase). The first is law, which protects consumers before a transaction occurs by establishing legal regulations. The second is voluntary privacy regulations, which protect consumers in advance of a transaction by providing them with legal protection. However, to protect consumers after a transaction occurs (dispute or after purchase), there are two options: District Court (PN) or Consumer Dispute Resolution Agency (BPSK) outside of court. This choice depends on the parties to the dispute.

Preventively, the law handles the marketing or sale of blackmarket cellphones in online trading through preventive and repressive measures. In a preventive measure, blackmarket cellphones that passed through became unusable because they did not have an IMEI, which prevented them from using the Indonesian cellular network. In one situation, free trade, also known as blackmarket sells goods at low prices in Batam. One of the items sold at low prices is a cellphone such as the iPhone 11 with a certain series which is sold for under 13 million, even though the original price of the cellphone is between 14 and 15 million. The tax charged is clearly quite small compared to the price actually given, and the price difference looks quite large. Therefore, this condition has legal consequences and law enforcement is carried out by law enforcement and immigration.

The presence of a black market in a country actually has a negative impact on that country. Basically, this black market aims to avoid taxes on the goods included in the goods. In January 2021, three tobacco companies in Malaysia closed due to the large amount of illegal tobacco circulating in the country. This shows that Indonesia experienced a tax loss of 0.26 percent of GDP, or IDR 45.7 trillion. In addition, the film company had to suffer a loss of RM 500 million, and even the purchasing power of the Japanese people had fallen due to the circulation of illegal goods, which reduced the circulation of money and lowered taxes and state revenues.

Disadvantages of Buying Illegal Mobile Phones:

- a. Product authenticity cannot be guaranteed;
- b. The product does not have a guarantee from the official distributor
- c. Products affected by regulations
- d. IMEI Removal

Based on the Civil Code, illegal cellphone sale and purchase agreements are not legally valid. This is based on the fact that, according to Article 1320 of the Civil Code, the object agreed upon cannot be considered an invalid cause according to the applicable laws and regulations. Legal certainty for consumers or consumer rights and obligations cannot be fulfilled because the sale and purchase agreement is deemed to have never occurred. Apart from depriving the country of potential revenue from tax sources, it inevitably results in significant losses for consumers. Distributors sometimes don't care whether the cellphones they sell are official or not. The distributor's main goal is to spread cellphones among the public, so they can make big profits. By protecting entrepreneurs and consumers, distributors can provide guidelines for each of their businesses, especially for cellphones, which aims to increase protection.

Therefore, the public must be aware of the law and not be interested in selling cheap cellphones sold by "naughty" business actors. The conditions and warranty cards offered by black market HP do not guarantee its quality.

Several factors influence people's legal awareness, such as:

- a. Legal knowledge: the law is valid if the law has been passed and published in a valid manner.
- b. Legal understanding: if people's legal knowledge alone is not enough, legal understanding of applicable law is still needed.
- c. Law-abiding: people obey the law for various reasons
- d. Expectations of the law: citizens will respect a norm after they know, understand and obey it.

Even though the price is affordable, the quality is not guaranteed, and it does not have official documents, the public must be aware of the prohibition on using illegal cellphones. Even though there are laws, public unawareness will hinder the end of the illegal cellphone trade.

CONCLUSION

Increasing law enforcement in Indonesia against illegal cellphone sales is an important step to protect the legal cellphone industry and avoid the dangers associated with illegal purchases. This is also in accordance with the principle of national defense, which means that every citizen is responsible for maintaining the security of their own country, avoiding buying illegal goods, and supporting educational programs to learn about the threat of the black market in illegal cellphones. The government's arrangement to block IMEI numbers is a step forward in addressing this problem. Therefore, this effort helps Indonesia's security, economy and sovereignty.

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