

Cyber Crimes on Influencer Victims of Online Gambling Marketing

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Abstract:

The massiveness of cybercrime on influencers who are victims of online gambling marketing underlies this research by raising the first research focus, how the practice of cybercrime cutting influencer videos for online gambling promotion, second, what legal protection is obtained for influencers who are victims of cybercrime cases. The method in this library-type research uses a statutory approach which aims to examine the rules of law and regulations that have a relationship with the issue being studied. Secondary data sources consist of primary legal materials, secondary legal materials and tertiary legal materials that are closely related to the object of research. The results of the study show that the practice of cybercrime on influencer victims of online gambling marketing begins when the perpetrator takes a video from an influencer and then cuts and edits it according to what is needed for online gambling promotion videos, so that it looks as if the influencer is promoting, then after the perpetrator succeeds in taking and connecting the influencer's video, the perpetrator posts the promotional video on the social media platform through a fake account or fake account. The perpetrators also utilize photos of influencers to carry out their criminal acts, the edited photos include online gambling frills along with links to the gambling website. Protection of Influencer victims of online gambling marketing begins at the preventive legal protection stage in the form of providing socialization about the rules and use of social media to be wiser and more careful. Repressive legal protection in the form of enforcement related to the victims' reports to the authorities is then followed up with existing regulations including the Consumer Protection Law and the Electronic Information and Transactions Law (ITE), so that people feel safe and protected in carrying out activities in cyberspace

Keywords: Cybercrime, influencers, online gambling, legal protection.

Intoduction

With the rapid progress of social media growth, now all access to *platforms* such

as Instagram, Tik Tok, You tube and so on can be done anywhere. The speed of social media is also starting to seem to replace the role of conventional mass media in disseminating all types of news.¹ It is undeniable that at this time social media has become a new way for people to communicate.² Arslan et al., 2021 Revealed that the coronavirus outbreak had an impact on the increase in the number of addictions to social media. The vast percentage of internet users around the world has been the basis for the development of social media. Online media Data Indonesia Id stated that the number of active social media users in Indonesia was 167 million people in January 2023. This number is equivalent to 60.4% of the population of Indonesia.³ Especially Indonesia in this case has experienced an increase in the use of Social Media accessed from *mobile phones*, various sources that state that Indonesia is experiencing growth in the use of social media which currently ranks third with the largest internet users after China.⁴ Social media is a *Media Platform* that can be used for various two-way activities in sharing information to make it easier for users to communicate with each other.⁵

The development of social media has now created a new type of celebrity commonly called influencers. These people have built their following by creating engaging content and engaging with their audience personally. They often collaborate with trademarks to promote products, and their endorsements can be very beneficial.⁶ According to Ladhari, et al. (2020) influencers are prominent social media users who are seen as experts in certain areas of interest, such as fashion, lifestyle, culinary, photography, travel, and so on. Influencers have a reputation that comes from a knowledge of a particular topic, such as beauty, so they are considered digital opinion leaders. Influencers are social media users who package and communicate authentic personal narratives by combining videos, photos, and activities they do to create a strong online identity.⁷

The role of *social media influencers* has dimensions in every promotion, including influencers with high credibility that attract customers. *Influencers* have a clear picture of the product being appreciated with video in terms of influencing purchasing decisions by consumers, audio content, and visual *influencers* that can improve purchasing decisions.⁸ The influence of influencers on social media is very large, influencers as public *figures* can influence the behavior of their followers based on the information conveyed and with the large number of followers he has, it can make

¹Kadarudin, *Smart Social Media from a Legal Perspective* (Semarang: CV. Pilar Nusantara, 2020). 82.

²Ahmad Setiadi, 'The Utilization of Social Media for Communication Effectiveness', *Journal of Communication Sciences*, No 1, 2022.

³A Hermila and others, 'Exploration of the Intensity of Social Media Use (Descriptive Study on Informatics Engineering Students)', *INVERTED: Journal of Information Technology Education p-ISSN:*, Vol 3.No 2 (2023).168.

⁴Hendra Junawan and Nurdin Laugu, 'The Existence of Social Media, Youtube, Instagram and Whatsapp in the Midst of the Covid-19 Pandemic Among Indonesia's Virtual Society', *Baitul 'Ulum: Journal of Library and Information Science*, Vol 4.No 1 (2020). 42.

⁵Fonny J. waani & Jouke J lasut Tongkotow Liedfray, 'The Role of Social Media in Strengthening Interaction Between Families in Esandom Village, East Tombatu District, Southeast Minasa Regency', *Scientific Journal of the Society*, Vol 2.No 1 (2022). 2.

⁶<https://pgsd.binus.ac.id/2023/03/11/pengaruh-influencer-media-sosial-bagaimana-mereka-membentuk-budaya-kita/> Accessed on February 28, 2024.

⁷Rizka Wulandari, 'The Role of Influencers in the Promotion Strategy of the Digital Disruption Era on Consumer Behavior (Case Study: Jerome Polin's Instagram Followers)', *Thesis*, 2022. 13.

⁸Heny Handayani, 'Implementation of Social Media Influencers on Consumer Buying Interest: A Digital Marketing Approach', *Journal of Sharia Economics & Economics*, Vol 6.No 1 (2023). 921.

an attraction to his followers in making choices about buying an item.⁹

The presence of influencers on social media so that an alternative to promote a product or brand emerges, it is used by companies or sellers to be part of their product campaigns with the aim of increasing reach, sales, and relationships with consumers.¹⁰ When compared to traditional media, social media influencers are effective in presenting a large amount of information to all their followers, so that the information provided is more likely to be received by social media users.¹¹ The job of an influencer is to provide reviews that can give confidence with interesting content to their followers. Interesting and diverse content is also an advantage of conducting marketing strategies using influencers. This¹² influencer creates content in the form of videos or photos containing products that will be introduced to the public which are processed based on personal perspective and in accordance with the state of the product and then uploaded to the social media that he has, because the content contains honesty about the product makes some people interested in the product they are introduced and interested in buying.¹³

Apart from the many impacts that can be obtained with the development of social media such as the emergence of an influencer, *cybercrime* in Indonesia is also increasingly rampant and growing.¹⁴ The development of social media is used by some irresponsible people to commit crimes. Not a few crimes are committed using social media due to the development of this technology.¹⁵ Technological developments not only open up opportunities for the emergence of new crimes that have been considered unlikely or unthinkable to occur, but also provide convenience in committing crimes that have existed or have occurred frequently.¹⁶ Recently, crimes in the form of cutting videos from an influencer and connected with online gambling promotional content are often found. The promotional content profiteers big names and influencers, videos made by individuals and influencers are often misused and used by malicious mobile phones to carry out their actions in promoting illegal sites such as online gambling.¹⁷

Based on the exposure to the above phenomenon, the researcher is interested in

⁹Ismi Dwi Purwanti and Budi Istiyanto, 'The Role of Social Media, Influencers, and Culture Through Consumptive Behavior on Purchase Decisions Using Intervening Variables in Bts Meal Products', *SCIENTIFIC JOURNAL OF REFLECTION: Economic, Accounting, Management and Business*, Vol 5.No 2 (2022). 214.

¹⁰Wulandari. 13.

¹¹Handayani. 921.

¹²Made Arini Hanindharputri and I Komang Angga Maha Putra, 'The Role of Influencer in Strategies to Increase Promotion of a Brand', *Sandyakala: Proceedings of the National Seminar on Arts, Crafts, and Design.*, Vol 1.No 29 (2019). 339.

¹³Dhara Ayu Crystrie and Sri Hardianti Sartika, 'Does Influencer Marketing Affect Purchase Decision Making on Shopee Marketplace in Gen Z?', *Bridge : Scientific Journal of Management*, Vol 19.No 1 (2022). 20.

¹⁴Miftakhur Rokhman Habibi and Isnatul Liviani, 'Information Technology Crime (Cyber Crime) and Its Countermeasures in Indonesia's Legal System', *Al-Qanun: Journal of Islamic Thought and Reform*, Vol 23.No 2 (2020). 412.

¹⁵Wisnu Ari Mukti, Siti Umami Masruroh, and Dewi Khairani, 'Analysis and Comparison of Forensic Evidence of Facebook and Twitter Social Media Applications on Android Smartphones', *Journal of Informatics Engineering*, Vol 10.No 1 (2018). 74.

¹⁶Jesslyn, 'Accountability of Recipients of Endorsements of Illegal Gambling and Cosmetics Through Instagram', *Lex Librum : Journal of Law*, Vol 6.No 2 (2020). 203.

¹⁷ Kasisolusi, (2024 January 8). The Story of Repentance of Nopek Comics!! Online Bookie, Lowest UMR in Indonesia, Had Violated [Youtube Video], accessed via <https://youtu.be/yHNzIRf6xp4?si=PvhFsmXImWdShjzr>, March 5, 2024.

further elaboration and in-depth exploration related to how cybercrime practices cut an influencer's video for online gambling promotion and what legal protection is obtained for influencers who are victims in the cybercrime case.

Reviw Literature

A lot of research has been done on cybercrime, as have Miftakhul Rokhman Habibi and Ismiatul Liviani researched related to Information Technology Crime (*cyber crime*) and its Countermeasures in the Indonesia Legal System. The researcher's findings are that the public still abuses social media to spread crimes in cyberspace, where the perpetrators can be ensnared by Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE). The law should protect internet users, and provide strict action for cyber crime perpetrators. However, the legal system has not solved all these crimes, in its investigation, there are many obstacles related to legal tools, investigators' capabilities, evidence, and forensic computer facilities. This is why the enforcement of cybercrime laws is still weak.¹⁸

Law Enforcement Against Crimes in Advertising Through Social Media Carried out by Alfina Yulistari Siagian & Faisal They concluded that law enforcement regarding crimes in advertising through social media by public figures (*influencers*), if business actors are proven to have committed criminal acts, they can be held legally accountable as stipulated in Article 62 of the UUPK and for *influencers* who advertise by spreading false and misleading news to the detriment of consumers can be held legally accountable in Article 28 of the ITE Law.¹⁹ Legal Sanctions Against Bookmakers and Players of Cyber Crime Online Gambling by Bayu Tri Maryono, Fajar Saputra & Asmak Ul Hosnah in their research concluded that law enforcement against online gambling crimes either as bookmakers, players or related to gambling can be subject to and charged with article 303 of the Criminal Code or the Criminal Code Bill which will soon be enforced and also entangled in article 27 paragraph (2) of the ITE Law. In this case, the government's efforts in our opinion as authors are quite good and there are also three institutions that directly supervise the indications of online gambling which in essence the three institutions do not overlap each other in having authority, but complement each other to observe, monitor and find cases of online gambling in Indonesia.²⁰

From another study entitled Analysis of the Working System and the Negative Impact of Zeus Online Gambling Applications in the Perspective of Information Systems by julianto, he concluded in his research Gate of Olympus or better known in Indonesia Slot Grandpa Zeus is an online gambling platform whose working system will direct the ball on a virtual reel, where players will be asked to spin the virtual reel to create a combination of symbols that produce multiples The advantage of the ball appearing or the advantage is in the form of a power boost. Grandpa Zeus Slot is classified as online gambling and fraud because of its nature in the form of *gambling* that damages mental and emotional well-being, makes players addicted, and game manipulation carried out by slot admins makes it difficult for players to escape the

¹⁸Habibi and Liviani. 400-426.

¹⁹Alfina Yulistari Siagian, 'Law Enforcement Against Crime in Advertising Through Social Media', *Journal of Legal Education*, Vol 2.No 2 (2023).

²⁰Fajar Saputra & Asmak Ul Hosnah Bayu Tri Maryono, 'Legal Sanctions Against Bookmakers and Players of Online Gambling Cybercrime', *Journal of Law, Social Sciences, and Humanities*, Vol 2.No 1 (2024).

influence so that they are trapped in it. One of the negative impacts concluded by Julianto in the online gambling game Grandpa Zeus slot is that Grandpa Zeus slot gambling can cause opium for players because the music, flickering lights and attractive displays in the game trigger the release of a person's dopamine so that players like and always want to play it, which makes it difficult for players to escape from their snare.²¹

The Rise of Online Gambling in the Life of the Young Generation and According to the Prevailing Legal Views by Muhammad Urifianto Ardhan, Muhammad Fadel Adepio, Lawrentiust Kennardy, Febriyandi & Seipul they concluded in their research that the rise of online gambling in the lives of the younger generation is a complex phenomenon that has a significant impact on various aspects of life. The legal view that applies to online gambling in Indonesia is that it can be subject to Article 303 of the Criminal Code, with a maximum prison sentence of four years or a fine of up to ten million rupiah. Online gambling has an impact including, social, economic, and individual impacts, from the younger generation of online gambling to become antipathy towards each other or social, addiction problems, impaired psychological development, and financial risks. The legal view of online gambling ranges from a total ban, namely with the aim of protecting the public, especially the younger generation, from potential losses etc.²²

Method

The type of research in this study is literature (normative),²³ with a statute approach that aims to examine the rules of laws and regulations that are related to the issue being studied. Secondary data sources consist of primary legal materials, secondary legal materials and tertiary legal materials,²⁴ which are closely related to the object of research. The primary legal materials used in this study consist of the 1945 Constitution, Law Number 8 of 1999 concerning Consumer Protection, and Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE). Secondary Legal Materials that provide explanations of primary legal materials, including writings from experts related to the issues being researched or related to primary legal materials, in the form of literature in the form of books, papers or seminar materials, magazines, journals, and scientific writings related to this research. Tertiary legal materials, namely materials that provide explanations of primary and secondary legal materials. The above legal materials are collected to be continued with the study of documents or literature materials,²⁵ which are analyzed qualitatively descriptively, then poured in the form of a logical and systematic description, then analyzed to obtain clarity on problem solving, then deductive conclusions are drawn, namely from general things to special things.²⁶ So that the analysis method applied in this study is descriptive

²¹Julianto, 'Analysis of the Work System and the Negative Impact of the Zeus Online Gambling Application in the Perspective of Information Systems', *Simasi Journal: Scientific Journal of Information Systems*, Vol 3.No 2 (2023).

²²Muhammad Urifianto Ardhan, Muhammad Fadel Adepio, and Lawrentiust Kennardy, 'The Rise of Online Gambling in the Life of the Young Generation and According to the Prevailing Legal View', *COMSERVA: Journal of Research and Community Service*, Vol 3.No 8 (2023).

²³Cholid Narbuko and Abu Achmadi, *Research Methodology*, (Jakarta: Bumi Aksara, 2005). 41.

²⁴Soerjono Soekanto and Sri Mamudji, *Normative Legal Research: A Brief Review*, Ed. Ninth (Jakarta: PT. Raja Grafindo Persada, 2006). 13.

²⁵Soerjono Soekanto, *Introduction to Legal Research* (Jakarta: Universitas Indonesia Press, 1986). 66.

²⁶Soetrisno Hadi, *Research Methodology Volume II* (Yogyakarta: Yayasan Penerbit Fakultas Psikologi UGM, 1985). 10.

analysis stated by the respondents in writing or orally and also their real behavior, researched and studied as something whole.²⁷

Result and Discussion

Cybercrime Practices on Influencers Victims of Online Gambling Marketing

Promotional activities for online gambling activities on social media are increasingly massive, in "creative" ways, lately social media has become a "wetland" where various online gambling (online gambling) are scattered. The use of well-known charms and influencers who have many followers and fans, is an easy target for cybercriminals from various gambling sites to promote and invite the public to participate in playing it. Not out of resource, a number of gambling sites began to upload promotional content with different formats on social media. Recently, there are a number of uploads in the form of mass media-style news, as if reporting information but infiltrated by the promotion of gambling sites. Social media is rampant to display videos of influencers and large influencers who are victims of cybercrime practices of cutting online gambling promotional videos, they are suspected of supporting online gambling.²⁸

Broadly speaking, cybercrime in influencers victims of online gambling marketing carried out by perpetrators can be seen in three stages. The first stage, the perpetrator takes a video from an influencer as material to carry out his crime, of course, the video taken is a video that contains elements of closeness to online gambling marketing, as well as a change in the degree of success of an influencer associated with the results of victory on online gambling sites. The second stage, after the perpetrator gets the video, then the editing process is cut and added to the suitability of what is conveyed by the influencer with the online gambling promotion video that he provides, so that it seems as if the online gambling marketing video is official from the influencer who is promoting. Third, after the perpetrator succeeded in taking and connecting the video from the influencer, he posted/uploaded the promotional video on social media platforms through a fake account or fake account. Not only videos, the perpetrators also use photos from various influencers to carry out their crimes, edited photos are added with online gambling appendages (*watemark*) along with links to the online gambling website. As a result of the video clips and photos that seem to be made by cybercriminals, there is a division in the netizen camps. Some netizens accepted and were deceived and considered the originality of the video, but some netizens asked questions and negative comments about its validity. Posts/uploads like the one above tend to be viral news.

The rise of cybercrime activities is based on several factors, including: The public's legal awareness factor, the meaning of legal awareness starts from the lack of attention of social media users to filter their uploads, sometimes they do not pay attention to the bad possibilities that will be present for the post/upload. Likewise with influencers, who already have many followers and fans, the slightest blunder that they make can be used by online gambling site marketers to find the suitability of the influencer's uploads with the online gambling marketing content, so that the video made seems to be an endorsement or affirmation of an influencer for the online gambling site. Online gambling marketers do not run out of wits in running their business, the illegal

²⁷Soekanto, H 12

²⁸<https://tirto.id/hoaks-promosi-judi-online-yang-mencatut--dan-media-massa-gQap> accessed on April 16, 2024.

activities they carry out will certainly not get facilities from policy makers and it is difficult for actors to find people who can cooperate to promote online gambling. The next factor is the difficulty of law enforcement. The reason for this is because the online gambling marketers by cutting influencer videos using media that provide flexibility for users to create accounts easily without detailed verification of the account owner, so that the perpetrators use fake accounts to launch their activities, and if the account has been reported by other social media users, the social media organizers close the account. So the perpetrators switched to using other fake accounts. So there needs to be more efforts for law enforcers in overcoming online gambling marketing activities.

Legal Protection of Cybercrime for Influencers Victims of Online Gambling Marketing

Legal protection is a protection that provides protection for human rights that are harmed by others and the protection is given to the community so that they can enjoy all the rights provided by the law. The law can protect the rights and obligations of every individual, with solid legal protection will realize the general purpose of law, namely order, tranquility, security, welfare, peace, and justice.²⁹ The protection of the victim itself must be a special concern from both the government, lawmakers, law enforcement officials (police), legal entities (judiciary), and other communities, so that victims do not need to appear as forgotten people and as individuals who are very disadvantaged.³⁰

Philipus M. Hadjon wrote in his book entitled *Legal Protection for the People of Indonesia*, Philipus stated that in legal protection there are two distinctions, namely preventive legal protection and repressive legal protection.³¹

1. Preventive Legal Protection

Preventive legal protection is a protection provided by the government before the occurrence of a violation as an effort to prevent violations that cause both material and non-material losses by one person to another. The preventive legal protection in question is the provisions regulated in laws and regulations.³² In the case of cybercrime in influencers who are victims of online gambling marketing, a form of preventive legal protection that can be done to reduce cybercrime is by providing socialization about rules related to cybercrime perpetrators can be punished criminally or civilly. In addition, understand social media users to be wise and always be careful in sorting out the content that will be posted/uploaded. However, if cybercrime still occurs, law enforcement can provide understanding to the general public or to influencers to be able to report to the authorities when something similar happens so that it can be followed up immediately, so that the community using technology really feels safe in carrying out activities in cyberspace and becoming supervisors in cybercrime practices.

2. Repressive legal protection

Repressive legal protection where a protection is carried out after a violation is committed. Repressive protection is provided to restore the circumstances of the

²⁹Nindi Bimantari, Sekaring Ayumeida Kusnadi, and Fifin Dwi Purwaningtyas, 'Legal Protection for Victims of Love Scam Crimes', *Journal of Wijaya Putra Law*, Vol 1.No 2 (2023). 181-182.

³⁰Annisa Hesti Kurniawati, Dara Pustika Sukma, and Yulio Iqbal Cahyo Arsetyo, 'Legal Protection for Victims of Online-Based Fraud Crime Based on Law Number 19 of 2016 concerning Information and Electronic Transactions in Victimology', *Journal of Scientific Horizon*, Vol 2.No 9 (2023). 3470.

³¹Philipus M. Hadjon, *Legal Protection for the People of Indonesia* (Surabaya: PT. Bina Ilmu, 1987). 30

³²Muhammad Irfan Reza Mahendra and Jeane Neltje, 'Preventive and Repressive Legal Protection Against Plagiarism of Song or Music Creations', *Nusantara: Journal of Social Sciences*, Vol 10.No 4 (2023). 1689.

aggrieved party and attempt to find a legally valid settlement and recover the losses of a party.³³

Preventive and repressive legal protection are complementary approaches to each other. Prevention efforts can help reduce the number of violations of the law (preventive), while law enforcement actions are carried out to ensure justice and recover losses and find solutions that occur (repressive). Law enforcement requires legal certainty, legal certainty is a judicial protection against arbitrary actions. The community expects legal certainty because with legal certainty, the community will be orderly, safe and peaceful. The legal protection needed by victims of cybercrime on influencers victims of online gambling marketing is an action that must be taken by government and private institutions in helping victims to secure control, for life satisfaction in accordance with human rights that have been determined.³⁴

Currently, the regulation used as the legal basis for *Cyber Crime* cases is Law Number 11 of 2008 concerning information and electronic transactions (ITE). And Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE). The law that can be applied to cyber crime perpetrators on influencers who are victims of online gambling marketing through electronic media is the ITE Law with Article 45 Paragraph (2) which reads that "Every person who intentionally and without the right to distribute and/or transmit and/or make accessible electronic information and/or electronic documents that have gambling content as referred to in article 27 paragraph (2) shall be sentenced to a maximum of 6 (six) years in prison and/or a maximum fine of Rp 1,000,000,000.00 (one billion rupiah)." and the ITE Law with paragraph 45A Paragraph (1) which states that every person who intentionally and without rights spreads false and misleading news that results in consumer losses in electronic transactions as referred to in article 28 paragraph (1) shall be sentenced to imprisonment for a maximum of 6 (six) years and/or a maximum fine of Rp. 1. 000. 000.000.00 (one billion rupiah. With the existence of material or formal rules that regulate crimes in cyberspace, at least it can help law enforcement officials in dealing with crimes that occur in cyberspace, both conventional crimes and modern crimes. With the hope of providing a sense of security for the community of information technology users, considering that this technology crime knows no space and time and can happen to anyone and anytime.³⁵

Conclusion

Cybercrime on influencers who are victims of online gambling marketing begins when the perpetrator takes a video from an Influencer and then cuts and edits according to what is needed for the online gambling promotion video, so that it seems as if the influencer is the one who promotes, then after the perpetrator successfully takes and connects the influencer's video, the perpetrator posts the promotional video on social media platforms through a *fake account or fake account*. The perpetrator also used photos from influencers to carry out his crimes, the edited photos included online gambling frills along with links to the gambling website. Protection of influencers who are victims of online gambling marketing can begin with the stage of preventive legal protection in the form of providing socialization about the rules and use of social media

³³Mahendra and Neltje. 1689.

³⁴Bimantari, Kusnadi, and Purvaningtyas. 183.

³⁵Dheny Wahyudi, 'Legal Protection for Cyber Crime Victims in Indonesia', *Jambi Journal of Law*, Vol 4.No 1 (2013). 111.

to be wiser and more careful. Repressive legal protection in the form of enforcement related to victims' reports to the authorities is then followed up with existing regulations including the Consumer Protection Law and the Electronic Information and Transaction Law (ITE), so that people feel safe and protected in carrying out activities in cyberspace.

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