



## LEGAL PROTECTION FOR DRIVER AGAINST CANCELLATION OF FOOD AND BEVERAGE ORDERING AGREEMENT THROUGH ONLINE APPLICATION ACCORDING TO LAW NO. 8 YEAR 1999

**Hasdiana Juwita Bintang**

Department of Law, Faculty of Social Science Universitas Pembangunan Panca Budi

Correspondence Email: [hasdiana\\_juwita@yahoo.co.id](mailto:hasdiana_juwita@yahoo.co.id)

### Abstract

This research is to find out legal protection for gojek drivers who experience unilateral order cancellations by consumers when making gofood transactions. One-sided cancellation by the customer is an act against the law. For this reason, drivers can claim rights that have not been fulfilled by the customer in Gofood payments. Problems arising from using the online motorcycle taxi application to buy food and drinks range from inappropriate messages, prices for food and drinks that are different from online applications, up to the problem of orders being canceled unilaterally by consumers. This is a problem, so if it is related to civil matters it is included in an unlawful act.

**Keywords :** *Legal Protection for Drivers, Cancellation of Food and Beverage Orders, Law No. 8 of 1999*

### 1. INTRODUCTION

The influence of this technological advancement can be seen in changes in the way people make transactions, one of which is by using communication. This communication has experienced very rapid development, one of which is electronic communication, this electronic communication has been widely used for various activities including buying and selling. Buying and selling activities by utilizing internet media is known as electronic commerce or e-commerce. The implementation of buying and selling online provides a lot of benefits to streamline time so that everyone can make buying and selling transactions wherever and whenever. Currently, application-based online buying and selling ordering services are developing. One form of transaction like this is buying and selling food and drinks through the go-food feature. With the go-food application, buyers only need to order the food and drinks they want to buy using the application, then the gojek driver will buy and deliver the order to the address of the customer in question. Ordering through this food delivery service can be done using an internet-based application. This online feature service provides convenience to the public, because the order is made online, so the arrangement is inseparable from Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE Amendment No. 19 of 2016) article 1 number 17 which states "Contract Electronic is an agreement between parties made through an Electronic System.

However, the implementation of online ordering in practice raises several problems, for example by using the Go-Food service system in buying and selling. unilateral cancellation without explanation. The actions taken by the customer for the cancellation of orders made are unlawful acts (PMH) articles 1365 – 1371 BW. Unlawful acts are regulated in article 1365 BW which states that "any unlawful act that causes harm to another person, is obliged by the person who because of the mistake to issue the loss to compensate for the loss.

Hasdiana Juwita Bintang

## 2. IMPLEMENTATION METHOD

### 2.1 Legal Protection

According to Satjipto Rahardjo, legal protection is to provide protection for human rights that are harmed by other people and this protection is given to the community so that they can enjoy all the rights granted by law. Legal protection is a variety of legal remedies that must be given to law enforcement officials to provide a sense of security, both mentally and physically from harassment and various threats from any party. Legal protection is divided into two, namely preventive and repressive legal protection. Preventive legal protection is legal protection that aims to prevent disputes from occurring, while repressive legal protection is legal protection that aims to resolve disputes. Based on paragraph 4 of the preamble to the 1945 Constitution of the Republic of Indonesia (1945 Constitution), the state is obliged to provide protection to Indonesian citizens.

### 2.2 Agreement Cancellation

An agreement is an act that occurs between one or two people or more binds himself to another person or where both parties remind each other. Cancellation of the agreement is an agreement that is not executed or canceled, or in other words, with the cancellation, the agreement is deemed to have never existed. Basically the agreement can be canceled unilaterally but must fulfill the conditions specified by article 1266 of the Civil Code which essentially states that agreements between parties must make a clause "if one party / certain parties neglects to carry out their obligations as stated in the agreement, then the agreement can be canceled".

### 2.3 Food and Beverage Ordering

Ordering according to the Big Indonesian Dictionary (KBBI) is the process of requesting, the act of ordering and ordering. Food and Drink in KBBI is putting something into the mouth and into the stomach, chewing food before being swallowed into the stomach for human consumption as a source of energy.

### 2.4 Online Application

Application is a software (software) or computer program that operates on a particular system that was created and developed to perform certain commands. An example of a mobile application is an application that is widely used on mobile devices where there are already many uses for this category.

### 2.5 Types of Research

The type of research in this thesis is a normative legal approach. Normative law is a scientific research procedure that is based on scientific logic from a normative perspective and is not limited to laws and regulations but as library research or document study. Normative law is broader, and normative research is shown in written regulations or other legal materials.

### 2.6 Data Type

#### a.Primary Legal Materials

Binding legal materials, consisting of:

1. The 1945 Constitution of the Republic of Indonesia
2. Norms or Basic Rules
3. Legislation
4. Legal Materials that are not Codified, For example Customary Law
5. Jurisprudence



## **b. Secondary Legal Material**

Secondary legal material is legal material that provides instructions or explanations regarding primary law, such as obtained from books, research results, journals, papers related to the problem to be examined, and the internet related to the problem to be studied. examined.

## **c. Tertiary Legal Materials**

Tertiary legal materials are materials that provide instructions for secondary legal materials in languages that are difficult to understand or understand, such as (legal) dictionaries and Indonesian language dictionaries.

## **3. RESULTS AND DISCUSSION**

Gojek is a company founded by a nation's son named Nadiem Makarim which aims to provide convenience to the public in finding transportation. Without realizing it, the presence of Gojek Online can provide many benefits to the community, from saving travel time, making travel more economical, to making travel more practical. The presence of Gojek also makes people have more choices and can make decisions according to their needs. The decision to choose Gojek services is an alternative that is popular with the public because it has various advantages. With Gojek online, passengers no longer need to approach the ojek base or wait long on the side of the road to get ojek transportation. In addition, passengers also do not need to bargain because the fare has been determined based on the distance traveled.

The presence of Gojek is a solution for people's needs for transportation. The community's need for fast and efficient transportation will always be high, especially in big cities where the level of mobility of the people is quite high and using public transportation alone is not enough. This online transportation application was created to provide convenience for the community's needs for easier, faster and more efficient transportation. In carrying out services on the Gojek application, consumers place orders for the desired services on the application. The information made in the application will be continued based on the next order which will be sent to the Gojek server. In the electronic partnership agreement and PT. Gojek Indonesia works closely with AKAB in managing applications and partners as service implementers. Consumers only realize that orders for services made are only related to PT. Indonesian GoJek.

One of the services that consumers often use in the Gojek application is the Gofood service feature, because from a more practical and effective point of view it is when buying the desired food without having to come to a restaurant. Consumers can easily choose the food they want at restaurants that work with PT. Gojek through the application. Consumers are people who interact with companies before the production process is complete because they are users of service products. Consumers are parties who order food at restaurants through the Gojek application, and consumers must pay an amount of money according to the rates displayed in the application in cash or use the Gopay method when receiving food. Partners are parties that carry out services in the form of food delivery orders by purchasing at restaurants and delivering the food to consumers' addresses, and partners must also maintain the quality of food orders so that they remain intact when they arrive at the consumer's location. AKAB is the application manager, providing information about consumers to drivers who will receive orders, provide prices, receive orders, send messages to Gojek, partners and consumers. And Gojek is the party that manages cooperation with partners and restaurants. The restaurant is responsible for the taste and quality of the food.

Recently, there have been complaints from several drivers regarding irresponsible customer problems in ordering food through the Gofood feature, where the problem is that if orders on the Gofood feature are made with cash payments, consumers do irresponsible things that harm the driver. The act of consumer behavior should be to form references and make decisions in solving problems in activities using a product to fulfill a need. Losses suffered by drivers occur as a result of actions carried out by customers, based on observations where AKAB and PT. Gojek is responsible for the incident that happened to the driver, the later responsibilities will be related to

*Hasdiana Juwita Bintang*

compensation. In legal cases, responsibility is a must for someone to carry out what has been made obligatory for him. According to the law, responsibility is a result of the consequences of a person's freedom regarding his actions related to ethics or morals in carrying out an action.

Compensation is divided into two forms, namely compensation for default and acts against the law. The loss includes 3 elements, viz :

- 1) Cost (fee)
- 2) Real loss
- 3) Profit is expected

This element can be applied analogically, thus the PMH calculation is based on the presence of this element and the loss is calculated in a certain amount of money. The purpose of compensation is to provide punishment in the form of an obligation to pay compensation to consumers due to actions taken.

#### **A. Efforts Made by Online Gojek Drivers Against One-sided Order Cancellations by Customers**

Gojek drivers are protected by Indonesian laws and regulations. Behind the success of Gojek Indonesia, there is integrity and loyalty of Gojek partners who support the activities and innovations being developed, for example Gofood, which continues to grow. The Gojek company gets a profit of 20 percent from every Gofood transaction from the shop (warung) as a result of advertising, Gojek Partners collaborate for the success of Indonesian Gojek. According to Lan Lion, partnership is an attitude of doing business that is characterized by a long-term relationship of high-level cooperation, mutual trust in one another to achieve common business goals. For this reason, behind the success of GoJek, it is appropriate when it experiences unilateral cancellations. If there is a unilateral cancellation in a Gofood transaction after ordering food, the driver can claim to receive compensation because the consumer cannot be found. Efforts that can be made by online gojek drivers if they get a unilateral cancellation are by calling the central Go-Jek Customer Service whose number has been given at the time of registration to become a driver or by going directly to the Gojek operational office in their respective areas. Drivers can also claim to get compensation due to the unilateral cancellation of orders made by the customer.

#### **B. The Impact of Unilateral Cancellation by the Customer on Gojek Online Drivers**

The cancellation of the order is known to be due to the order cancellation feature on the Gojek application, which means the driver or consumer can cancel the order. With several reasons that can be used in the application. But some people make unilateral cancellations without any acceptable reasons, such as an order made by a child who is accidentally depressed, joking, and the number cannot be called back. Of course, this can cause losses to Gofood drivers because drivers will pay in advance for orders made by customers and then deliver them to the consumer's address using the Gopay or COD payment method.

The impact that will be received by online drivers for canceling orders on Go-food services is as follows:

- a. Cancel order can have an impact on decreasing the performance of online drivers  
Driver performance is a requirement that must be met by drivers in order to get daily incentives when they reach certain points.
- b. Increasing driver performance is not easy  
Improving driver performance is not easy, if at the beginning before the cancellation the driver performance could reach 100%, then there is only one cancellation, the driver





- performance will not return to 100% again. The impact of reduced driver performance makes drivers struggle even more to raise it and it will take more time to work all day.
- c. This cancellation disrupts the driver's account in the Gojek application  
The cause of a failed account is caused by poor driver performance or because orders are often cancelled. The history of canceling the order itself can occur because the driver himself canceled or the customer's reason for canceling. Customer cancellation history can be recorded in the driver's history if the customer cancels on the grounds that the driver asks for a cancellation of the effect, the driver will find it difficult to get orders or is often called a default account.
  - d. The cancellation was not accompanied by a notification in the application  
Cancellations of orders can be made and are valid as long as they are accompanied by clear reasons and agreed upon by the consumer and the driver because it is unlikely that the cancellation notification made by the consumer will not appear on the driver's account so that the driver has delivered the consumer's order to the address provided in the order, of course This will be detrimental to online drivers because of the costs that have been incurred and also the costs of paying in advance for customer orders at the restaurant in question. If an order is canceled unilaterally while the order has been ordered, the Gojek head office will provide compensation in the form of a change in capital for the order that has been ordered. The act of canceling the order is an irresponsible act and the reasons given by the consumer are very unreasonable and unreasonable.

#### 4. CONCLUSION

The unilateral cancellation made by the customer in ordering Gofood is an action that is very detrimental to Gojek drivers on the grounds that the food does not arrive on time, according to the UUPK the actions taken by consumers indirectly violate the Consumer Protection Act article 5 paragraph (2) da (3) ) which contains the fulfillment of consumer obligations and good faith in fulfilling payments in transactions and also violates Article 6 concerning rights that must be fulfilled by consumers, including the seller's right to receive payment for goods and services. The result of unilateral cancellation experienced by drivers is a decrease in driver performance which makes drivers struggle even more to increase it. The form of legal protection for drivers is preventive and repressive legal protection. A form of preventive legal protection regarding employment relations, this clause protects each driver's rights, calculating service fees. For repressive protection is the resolution of disputes, that in the event of a dispute can resolve the matter to legal channels. Until now, the regulations used to protect the rights of business actors to receive payments are contained in Law No. 8 of 1999. Meanwhile, the regulations used to regulate transactions that occur online are Law No. 11 of 2008 concerning information and electronic transactions. The actions taken by the customer against the driver are unlawful acts because the customer has violated the driver's rights and resulted in a loss to the driver.

The form of responsibility of PT. Gojek in the unilateral cancellation of Gofood orders is in the form of compensation for the order that has been ordered and not accompanied by shipping costs/fees, provided that the online driver must report the incident to the Gojek central call center by showing evidence in the form of a screenshot of the order, customer id number, receipt purchase of food that has been purchased, then compensation will be processed within 3-7 days after being reported. However, this compensation does not satisfy the driver's sense of justice, immaterial losses in the form of losses on the money spent to buy fuel when ordering and delivering orders, loss of power, and time are still the responsibility of the driver.

REFERENCES

- Anwar, dan ahsani amelia, 2017, online vs konvensional: keunggulan dan konflik antar mode transportasi di kota makasar, jurnal etnosia: etnografis Indonesia universitas hasanuddin makasar, vol. 2, no. 2.
- Arif, Dian Aditya Dkk, 2022, Perlindungan Hukum Terhadap Mitra Driver Gojek Dalam Transaksi Online Orderan Fiktif, Jurnal Fakultas Hukum, Vol. 28, No. 17.
- Augustti, Vanda Widyawati Putri Dan Sunarjo, 2018, Tanggung Jawab PT. Gojek Indonesia Terhadap Kerugian Yang Diderita Pengemudi Gojek Melalui Fitur Gofood, Jurnal Cakrawala Hukum, Vol. 9, No. 1.
- Farqi, Muhammad, 2019, Perlindungan Hukum Terhadap Driver Go-Food Terkait Orderan Fiktif Oleh Konsumen Go-Jek, Jurnal Fakultas Hukum Universitas Riau, Vol. 6, No. 1.
- Fadjarwati, Syifa Aulia Ratna, dan Husni Syawali. 2020. Perlindungan Hukum Bagi Pelaku Usaha Jual Beli Online atas Pembatalan Pemesanan Oleh Pembeli Ditinjau dari Undang Undang Perlindungan Konsumen. Jurnal Prosiding Ilmu Hukum. Vol, 6 no, 1. Unisba.
- Muliani, Sri Dkk, 2022, Persepsi Masyarakat Terhadap Penggunaan Transportasi Ojek Online Gojek Di Kota Medan, Jurnal Ruang Luar Dan Dalam FTSP, Vol. 3, No. 1.
- Megawati, Sinthiarahma Felyna, 2020, Perlindungan Hukum Bagi Driver Ojek Online Terhadap Pembatalan Sepihak Oleh Konsumen Yang Tidak Beritikad Baik, Jurnal Hukum Adigama, Vol. 3, No. 2.
- Nathalia, Henry Brown Dan Irwansyah, 2018, Aplikasi Transportasi Online Go-Jek Bentuk Dari Konstruksi Sosial Teknologi Dalam Media Baru, Jurnal Media Tor, Vol. 11, No. 2.
- Nola, Luthvi Febryka. 2016. Upaya Perlindungan Hukum Secara Terpadu Bagi Tenaga Kerja Indonesia. Pusat Penelitian Badan Keahlian, DPR RI. Vol. 7, No. 1.
- Sidik, Kurniawan, 2022, Pertanggungjawaban Hukum PT. Karya Anak Bangsa Indonesia Atas Pembatalan Pesanan Secara Sepihak Oleh Konsumen Terhadap Pengemudi Gojek Di Kota Balikpapan, Jurnal Lex Suprema, Vol. 4, No. 1.
- Sukmayanti, Made Sinthia Dan I Made Sudirga, 2022, Perlindungan Hukum Terhadap Driver Ojek Online Yang Mengalami Kerugian Akibat Tindakan Konsumen Yang Melakukan Pesanan Fiktif, Jurnal Ilmu Hukum, Vol. 1, No. 3.
- Wijaya, Putu Mahendra, 2021, Perlindungan Hukum Terhadap Mitra Gojek Atas Tindakan Konsumen Yang Melakukan Orderan Fiktif, Jurnal Kertha Negara, Vol. 9, No. 2.
- Yetni, 2021, Perlindungan Hukum Terhadap Pelaku Usaha Jasa Transportasi Berbasis Aplikasi Atas Pembatalan Pesanan Oleh Konsumen Di Kota Pekanbaru, Jurnal Ilmu Hukum, Vol. 10, No. 1