

# The Responsibility of Parents in Electronic Contracts Made by Minors

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**Abstract:** The quick progression of innovation and the expanding utilization of electronic stages have driven a rise in minors' interest in online exchanges. This marvel poses legitimate challenges, particularly concerning the legitimacy of electronic contracts made by minors and the degree of parental obligation. This paper looks at the legitimate system overseeing electronic contracts, including those of minors, and centres on the risk of guardians in such exchanges. Employing a regulating legitimate investigative strategy and a statute approach, the consider analyzes pertinent laws, counting gracious law and electronic exchange controls, to decide the legitimate standing of contracts made by minors. The paper also investigates the part of guardians in administering their children's computerized exercises and their legitimate commitments when their children enter into official electronic understandings. The discoveries demonstrate that whereas minors, for the most part, need the lawful capacity to enter into contracts, parents' lawful obligations change depending on each case's particular circumstances. This paper emphasizes the need for clearer, legitimate arrangements and more grounded parental supervision to ensure that minors are within the advanced age range.

## 1. Introduction

Electronic transactions have become inseparable in everyday life in the increasingly advanced digital era. Information and communication technology advances allow individuals to enter into agreements or contracts electronically without meeting in person. This phenomenon provides many conveniences, both in business and social aspects. However, this progress also brings new challenges, especially related to the participation of minors in electronic transactions.

Children and adolescents born and growing up in the digital era are highly exposed to technology, the internet, and various digital platforms. They have easy access to smartphones, tablets, and computers, facilitating access to e-commerce platforms, social media, and other digital services. In many cases, children are involved in transactions, be it purchasing goods, applications, online games, or streaming services, without a deep understanding of the legal implications of their actions.

The increasing participation of minors in electronic transactions is a crucial issue. In the context of contract law, some conditions must be met for an agreement to be valid and binding, accord-

ing to the valid conditions of an agreement in Article 1320 of the Civil Code. One important condition is that the parties to the agreement must have legal capacity. According to the laws of various countries, minors are generally considered not legally competent to enter into a valid agreement. This is because legally competent, according to Article 330 of the Civil Code, is someone who can stand alone or is an adult; an adult, according to this Article, is someone who has not reached the age of 21 years.

Meanwhile, the age of adulthood, according to the Child Protection Law, is someone who is not yet 18 years old. The problem of age makes someone legally incompetent, so the valid requirements of the agreement still need to be met, and the law can be cancelled. However, this online transaction raises a new problem: digital platforms do not always have adequate mechanisms to verify the age of users, allowing minors to create accounts and make transactions easily. Children sometimes use their parents' credit cards or electronic payment accounts without their parents' knowledge. Some of the problems are as follows: minors making transactions using the cash-on-delivery (COD) method without parental consent.<sup>1</sup> Case of a minor making an online purchase and the bill received by the parent without the child's knowledge amounting to Rp. 11 million for the purchase of an online game.<sup>2</sup> Cases of minors conducting online buying and selling transactions via social media such as Instagram or Facebook.<sup>3</sup> This raises an important question: to what extent are parents responsible for supervising their children's digital activities and for dealing with the legal consequences of transactions made by their children?

This phenomenon is increasingly relevant with laws governing electronic information and transactions (ITE) in various countries, including Indonesia. Although the law provides legal protection for those involved in electronic transactions, there are no specific rules regarding the protection of children involved in such transactions. This creates legal uncertainty, especially in terms of whether agreements made by minors are valid and binding and what the legal responsibilities of parents are in this regard.

With minors' increasing participation in electronic transactions, it is important to review the existing legal framework and parents' role in supervising their children's digital activities. Parents' responsibilities lie not only in the moral but also in the legal aspect, especially when their children are involved in electronic agreements that can have legal consequences for all parties involved. Therefore, this study aims to explore the legal responsibilities of parents in electronic agreements made by minors, as well as to provide an overview of the legal protection that must be given to children in the digital era.

## 2. Method

The research method used in writing this journal is normative legal research with a statute approach. This normative research aims to analyze the applicable legal provisions related to pa-

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<sup>1</sup> None Aqsa Fahmiranda Darmawan Lubis and Sulistio Sulistio Adiwianto, "Perlindungan Hukum Terhadap Kurir Ekspedisi Terkait Transaksi Online Yang Dilakukan Oleh Anak Di Bawah Umur," *Indonesian Journal of Law and Justice* 2, no. 1 (August 6, 2024), DOI: <https://doi.org/10.47134/ijj.v2i1.3111>.

<sup>2</sup> None Aldan Syaifullah Alulu, None Weny Almoravid Dunga, and None Zamroni Abdussamad, "Akibat Hukum Yang Ditimbulkan Terhadap Perjanjian Keabsahan Hukum Pada Perjanjian Jual Beli Elektronik Yang dilakukan Anak dibawah Umur Menurut Hukum Kontrak dan Undang-Undang Nomor 19 Tahun 2016 Tentang Informasi dan Transaksi Elektronik," *Aliansi Jurnal Hukum Pendidikan Dan Sosial Humaniora* 1, no. 4 (June 1, 2024): 125-36, DOI: <https://doi.org/10.62383/aliansi.v1i4.289>.

<sup>3</sup> Elan Jaelani, Utang Rosidin, and N Santi Novia, "Keabsahan Transaksi Jual Beli Daring Oleh Anak Dibawah Umur Dihubungkan Dengan KUHPerdata dan UU ITE," *Ojs.Unik-Kediri.Ac.Id*, 2022, DOI: <https://doi.org/10.30737/transparansi.v5i1.4197>.

rental responsibility in electronic agreements made by minors. The statutory approach examines various relevant regulations, including the Civil Code (KUHPperdata), the Electronic Information and Transactions Law (UU ITE), and other regulations governing child protection and electronic transactions.

### 3. Legal Force of Electronic Agreements by Minors

An electronic agreement is made and agreed upon through electronic or digital means, such as via the Internet, applications, email, or other digital platforms. With the development of information and communication technology, electronic agreements have become an integral part of daily business activities and transactions. Unlike conventional agreements that require physical signing, electronic agreements can be made in various ways, including electronic signatures, approval by clicking (the “I agree” button), or other forms of digital verification.

Indonesia’s Electronic Information and Transactions Law (UU ITE) provides a legal basis for electronic agreements. Article 1 number 17 of the ITE Law defines an electronic document as “any electronic information created, forwarded, sent, received, or stored in analogue, digital, electromagnetic, optical, or similar forms that can be seen, displayed, and/or heard through a computer or electronic system, including but not limited to writing, sound, images, maps, designs, photos or the like, letters, signs, numbers, access codes, symbols, or perforations that have meaning or significance or can be understood by people who are able to understand them.” Thus, electronic agreements made through digital media have the same legal force as conventional written agreements as long as they meet the requirements for a valid agreement stipulated in the Civil Code.

According to Article 1320 of the Indonesian Civil Code (KUHPperdata), one of the requirements for a valid agreement is legal capacity; a person is considered legally competent to carry out legal acts, including making agreements, based on the provisions in Article 330 of the Civil Code which states: “A person is considered an adult if he is 21 years old or has (ever been) married.” This article requires that a person declared competent to carry out legal acts must first be 21 or married before the age of 21.<sup>4</sup> This provision refers to the protection principle for minors not legally considered capable of making responsible decisions.

Meanwhile, according to the provisions of the Child Protection Law, the category of children is someone who has not reached 18 years of age or a child who is still in the womb.<sup>5</sup> On the other hand, according to Election Law No. 10 of 2008 Article 19 paragraph (1), a child is defined as someone up to 17 years old.<sup>6</sup> Meanwhile, according to Marriage Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974, the category of a child is someone who has not reached 18 years of age. Several regulations regarding children above can be concluded that what is meant by a child is someone who has not reached the age of 18 and is under the authority of their parents.

In the context of electronic agreements, legal capacity remains a basic requirement for the validity of an agreement. Although digital technology facilitates ease of transactions, the law still requires that the contracting parties have legal capacity, including adulthood or legal capacity.

<sup>4</sup> TRi Minarti, “Penetapan Terhadap Batas Usia Dewasa Menurut Peraturan Perundang-Undangan Di Indonesia,” *Perahu (Penerangan Hukum) Jurnal Ilmu Hukum* 11, no. 1 (March 2022), DOI: <https://jurnal.unka.ac.id/index.php/Perahu/article/view/767>.

<sup>5</sup> Levana Safira, Sonny Dewi Judiasih, and Deviana Yuanitasari, “Perlindungan Hukum Terhadap Anak Yang Melakukan Perkawinan Bawah Umur Tanpa Dispensasi Kawin Dari Pengadilan,” *Acta Diurnal Jurnal Ilmu Hukum Kenotariatan Dan Ke-PPAT-An* 4, no. 2 (June 30, 2021), DOI: <https://doi.org/10.23920/acta.v4i2.521>.

<sup>6</sup> Eddy Fadlyana and Shinta Larasaty, “Pernikahan Usia Dini Dan Permasalahannya,” *Sari Pediatri* 11, no. 2 (November 25, 2016): 136, DOI: <https://doi.org/10.14238/sp11.2.2009.136-41>.

Agreements made by minors without the consent or supervision of parents or guardians can be considered invalid or voidable, depending on the type of transaction and the legal impacts that arise.

Based on Article 1320, the requirements for a valid agreement include four requirements: agreement, legal capacity, a certain thing and a lawful cause. So, these requirements must be met in whatever form of the agreement, including an electronic agreement. In addition, specifically, the valid requirements in electronic agreements are regulated in Article 52 of Government Regulation 80 of 2019 concerning Trading Through Electronic Systems, which include: 1). By the terms and conditions in the Electronic Offer; 2). The information in the Electronic Contract is by the information in the Electronic Offer; 3). There is an agreement of the parties, namely the terms and conditions of the offer sent by the party submitting it, received and approved by the party submitting the offer, received and approved by the party receiving the offer; 4). Carried out by a competent legal subject or one authorised to represent per the provisions of laws and regulations; 5). There are certain things; and 6). The object of the transaction must not conflict with laws and regulations, morality, and public order.

In both of the above rules, legal capacity is one of the elements of the valid conditions for the agreement. In contrast, legal capacity based on Article 1330 of the Civil Code states that legal subjects who are not competent to make agreements include people who are not adults. Likewise, in Article 46 paragraph (2) of Government Regulation No. 71 of 2019 concerning the Implementation of Electronic Systems and Transactions, an electronic contract is considered valid if: a). there is an agreement between the parties; b). They are carried out by a legal subject competent or authorized to represent them by the provisions of laws and regulations; c). there are certain matters; and d). the object of the transaction must not conflict with laws and regulations, morality, and public order.

Specifically related to the competence of the parties, it is stated in Article 46 paragraph (2) letter b of the Electronic Transaction PP above, expressly stated that "Electronic Contracts are considered valid if carried out by legal subjects who are competent or authorized to represent in accordance with the provisions of laws and regulations." This is in line with the provisions of Article 1320 of the Civil Code, which requires the existence of "Capacity" legally, which is used as one of the subjective elements of the requirements for the validity of an agreement. While in reality, it cannot be denied that in electronic transactions, it is difficult to know the capacity of the parties carrying out the legal act.<sup>7</sup>

Although the Electronic Information and Transactions Law has regulated the legality of electronic transactions, this regulation does not explicitly discuss age limits or the legal capacity of parties involved in electronic agreements. However, existing e-commerce sites such as Tokopedia do not have a reliable system to prevent sales to minors. This is because age verification is based only on personal data that can be filled in carelessly without verifying identity documents such as e-KTP.<sup>8</sup> This creates a legal loophole that allows minors to make transactions independently on various digital platforms without strict control.

<sup>7</sup> Emma Nurlaela Sari, "Telaah Terhadap Pemenuhan Syarat Subjektif Sahnya Suatu Perjanjian di Dalam Transaksi Elektronik yang Dilakukan Anak di Bawah Umur," *Jurnal Poros Hukum Padjadjaran* 1 (1) November 28, 2019, DOI: <https://jurnal.fh.unpad.ac.id/index.php/jphp/article/view/236>.

<sup>8</sup> Kevin Alim Rabbani, Lucky Saputra, and Graciela Brenda Louisa, "Rekonstruksi Syarat Sah Perjanjian Yang Terdapat Di Dalam Peraturan Pemerintah Nomor 80 Tahun 2019 Lex Specialis Terhadap Pasal 1320 Kitab Undang-Undang Hukum Perdata Sebagai Ketentuan Lex Generalis," *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 1, no. 2 (December 31, 2021): 105-14, DOI: <https://doi.org/10.15294/ipmhi.v1i2.53270>.

Many e-commerce platforms and digital applications only rely on users' honest statements about their age without adequate verification mechanisms. This allows minors to easily create accounts and legally bind transactions without fully understanding the legal consequences. Although some platforms provide parental control features, their implementation is still ineffective and is not always used by parents. In civil law, agreements made by minors are, in principle, voidable because one of the parties lacks legal capacity. This means that the agreement is not automatically void ab initio but can be cancelled at the request of an authorized party, such as the child's parents or guardian.

However, in some cases, if the agreement directly benefits the child and does not harm his/her interests, the court may consider maintaining its validity. For example, purchasing basic necessities that directly benefit the child, such as textbooks, may be considered legitimate even though a minor carries it out. It is also important to consider the protection of third parties who transact with minors. In many cases, third parties may not be aware that they are transacting with minors, especially in electronic transactions where there is no direct interaction. If the agreement is declared void or cancelled, the third party may suffer losses, especially if the goods or services have been delivered. In this case, clearer regulations are needed to provide legal certainty for third parties in good faith.

One way to prevent legal problems arising from electronic agreements made by minors is through parental supervision. Parents have an important role in supervising their children's digital activities, including ensuring that children do not engage in transactions that exceed their legal capabilities. However, in practice, this supervision is often difficult to carry out effectively, given the ease of access that children have to various digital platforms. Legally, electronic agreements made by minors in principle do not have valid legal force because children are considered not to have the legal capacity to make binding agreements. However, the agreement can be considered valid in certain situations if it benefits the child and does not harm the parties involved. Even so, legal loopholes in age regulation in electronic transactions are still challenging, so clearer regulations and increased parental supervision are needed to protect minors in the digital world.

#### **4. Legal Responsibility of Parents in Electronic Agreements Made by Minors**

The development of technology and the increasing access of children to the internet have created a new phenomenon in law, namely the involvement of minors in electronic transactions. In civil law, minors are generally considered not to have the total legal capacity to carry out legal acts, including in terms of agreements. This legal inability raises questions about the responsibility of parents when their children are involved in electronic agreements, either with or without their consent.

Given the ease of access to various electronic platforms, supervising children's digital activities is becoming increasingly difficult. Many digital platforms need adequate mechanisms to verify users' age so minors can create accounts or transact without hindrance.

On the other hand, laws governing electronic transactions, such as the ITE Law in Indonesia, do not expressly regulate the protection mechanism for minors in electronic transactions. As a result, parents are more responsible for supervising their children's activities in the digital world. In addition, existing regulations do not provide adequate protection for third parties who may not be aware that they are transacting with minors.

As part of the general principle in civil law, minors are considered legally incompetent to enter into valid agreements because they do not have sufficient understanding to realize the rights and obligations arising from the agreement. However, the development of digital technology has made it possible for children to easily engage in online transactions, from purchasing goods on e-commerce platforms to subscribing to digital services. In this context, the law considers that children cannot be fully relied on to understand or bear legal responsibilities arising from electronic agreements. When a child is born, both legal parents have the responsibility for the child to fulfil the child's rights. Regarding children who are not yet adults, of course, when carrying out legal acts, they still need to have the authority. For that, the child needs an adult to represent him.<sup>9</sup>

Based on the provisions of Article 26 paragraph (1) of Law Number 35 of 2014 concerning Child Protection, parents are obliged and responsible for: a). raising, maintaining, educating, and protecting children; b). developing children according to their abilities, talents, and interests; c). preventing marriage at a young age; and d). providing character education and instilling moral values in children. In addition, the obligations and responsibilities of parents towards their children are also regulated in Article 45 paragraphs (1) and (2) of Law Number 1 of 1974 as follows: 1). Both parents are obliged to raise and educate their children as well as possible; 2). The obligations of parents referred to in paragraph (1) of this article apply until the child is married or can stand alone, which obligations continue to apply even if the marriage between the two parents ends.

Parents have a power of attorney for their children who are not yet 18 years old or who have not yet been married. Therefore, as long as there is no dispute between the two parents, the parents have obligations towards the child, including managing the child's person or property, without requiring a decision from a legal panel.<sup>10</sup> So, in this case, legal responsibility often shifts to the parents or guardians who are responsible for the child. Legal problems that result from electronic transactions carried out by minors are unlawful acts, and these detrimental acts must be accounted for in accordance with applicable law.

Article 1365 of the Civil Code states that every unlawful act that causes harm to another person requires the party committing the act to compensate for the loss. This provision is often referred to as an unlawful act, both the unlawful act of doing something (active) and the unlawful act of not doing something (passive), as well as negligence. In the context of electronic transactions carried out by minors, this responsibility is shifted to their parents or guardians, as regulated in Article 1367 of the Civil Code, which states that parents are responsible for losses caused by their children who are still under their supervision.

The provisions in Article 1367 paragraph (1) of the Civil Code state, "A person is not only responsible for losses caused by his own actions, but also for losses caused by the actions of people who are his responsibility or caused by goods under his supervision". This can be caused by the perpetrator not being an adult or still being a minor. While the measure of adulthood is twenty-one years of age or having been married based on Article 330 of the Civil Code.<sup>11</sup>

<sup>9</sup> Atika Farah, Yunanto RSuharto, "Pengaturan Dan Pelaksanaan Perwalian Oleh Lembaga Kesejahteraan Sosial Anak Berdasar Hukum Perdata Indonesia (Studi Kasus Di Panti Sosial Asuhan Anak Aisyiyah Semarang)," *Diponegoro Law Journal*, June 30, 2016, DOI: <https://doi.org/10.14710/dlj.2016.12345>.

<sup>10</sup> Muhammad Dzaky, "Tanggung Jawab Orang Tua Sebagai Wali Dalam Pengurusan Harta Waris Anak Di Bawah Umur Berdasarkan Hukum Islam," *Jurnal Hukum Lex Generalis* 3, no. 6 (June 29, 2022): 478-89, DOI: <https://doi.org/10.56370/jhlg.v3i6.276>.

<sup>11</sup> Darmiwati Darmiwati, "Tanggung Gugat Terhadap Kerugian Yang Diterbitkan Oleh Anak Di Sekolah Berdasarkan Pasal 1367 KUHPperdata," *JURNAL HUKUM DAS SOLLEN* 5, no. 1 (June 29, 2021), DOI: <https://doi.org/10.32520/das-sollen.v5i1.1633>.

The article above shows that civil law related to liability also regulates that a person is not only responsible for losses caused by his own actions but also for losses caused by the actions of people who are his dependents or caused by people under his supervision, in this case, parents.<sup>12</sup> Therefore, parents' legal responsibility in electronic agreements made by minors includes the obligation to supervise and control the child's activities in the digital world. Indonesian civil law, especially the Civil Code, stipulates that parents are responsible for losses caused by their children's actions, including in the context of electronic transactions.

## 5. Conclusion

Electronic transactions carried out by minors have legal consequences that can be canceled because the valid requirements of the agreement in Article 1320 of the Civil Code are not met, namely, regarding the requirements for legal capacity. Minors are considered legally incompetent, as the law regulates that legal capacity is someone who is an adult. On the other hand, if the electronic transaction has occurred and caused a loss to another party, the responsibility lies with the child's attorney, in this case, the parents. Furthermore, to avoid or reduce this from happening again, it is hoped that in the future, the law will regulate verification for every electronic transaction so that it is known that the person carrying out the transaction is indeed a person who is legally competent to do so.

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