



LAW ENFORCEMENT IN THE CRIMINAL ACTION OF DISSEMINATION OF FAKE NEWS (HOAX) RESULTING IN THE PURCHASE OF FAKE ONLINE TICKETS WHICH RESULTS IN CONSUMER LOSSES

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Abstract

The spread of fake news (hoaxes) that convince consumers to buy concert tickets online when the tickets are never available is a recurring crime mode in organizing international music concerts in Indonesia, as reflected in the Coldplay concert ticket fraud case that caused losses to hundreds of victims amounting to billions of rupiah. This article aims to analyze the legal regulations regarding the crime of spreading fake news that results in consumer losses in electronic transactions according to Indonesian positive law, and evaluate the consistency of its enforcement through three court decisions that are used as study material, namely the Decision of the Central Jakarta District Court Number 157 / Pid.B / 2024 / PN Jkt.Pst, the Decision of the Depok District Court Number 320 / Pid.B / 2023 / PN Dpk, and the Decision of the Supreme Court Number 3905 K / Pid.Sus / 2022. The results of the study show that Article 28 paragraph (1) in conjunction with Article 45A paragraph (1) of the Electronic Information and Transactions Law (ITE Law) is positioned as *lex specialis* against Article 378 of the Criminal Code (now Article 492 of Law Number 1 of 2023 concerning the National Criminal Code) for the act of spreading false news that is detrimental to consumers in electronic transactions, but its application in judicial practice is not yet consistent.

Keywords: Consumer Protection, Fake News, Online Concert



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INTRODUCTION

Fake news, or more popularly known as hoaxes, is not a new problem in the life of the nation and state in Indonesia. Since the beginning of independence, the state has viewed the spread of fake news as a serious problem that needs to be regulated by law, as reflected in Article 14 paragraph (1) of Law Number 1 of 1946 concerning Criminal Law Regulations which prohibits the broadcast of fake news that causes unrest among the people (Ruffo, 2023). This provision has now been declared no longer legally binding by the Constitutional Court since 2024 because it was deemed open to multiple interpretations and potentially repressive against freedom of expression (Chen, 2023). The cancellation did not immediately eliminate the problem of fake news from society; instead, the problem transformed with the times, from being spread through pamphlets and word of mouth to being rampant through social media and instant messaging apps. This transformation prompted lawmakers to formulate provisions specifically targeting consumer harm in the digital realm (Lee, 2022).

In the digital era, fake news no longer merely has the potential to cause social unrest, but has become a means of economic crime that directly and measurably harms consumers. Recognizing this shift in the nature of fake news, Article 28 paragraph (1) of the Electronic Information and Transactions Law (ITE Law) expressly prohibits anyone from spreading false and misleading news that results in consumer losses in electronic transactions (Azzimonti, 2023; Hayawi, 2023). This provision should be the primary legal framework for consumer fraud cases involving the dissemination of false information through electronic means. However, as will be outlined in the results and discussion section, judicial practice shows that this specific provision is far from fully utilized in cases that substantially meet all of its elements.

Indonesia is experiencing rapid growth in the adoption of digital technology, which is driving an increase in the volume of electronic transactions. According to the Indonesian Internet Profile 2025 report released by the Indonesian Internet Service Providers Association (APJII), the number of internet users in Indonesia reached 229,428,417 in the first half of 2025, representing a penetration rate of 80.66 percent of the total population (Karlsen, 2023; Kumar, 2023). Bank Indonesia also noted that e-commerce transactions grew 20.5 percent year-on-year in the third quarter of 2025, with a total transaction frequency of 1.44 billion transactions and a nominal value of IDR 134.67 trillion (Acerbi, 2022; H. Wu, 2022). The rapid increase in transaction volume not only brings benefits in the form of convenience and efficiency, but also opens up new opportunities for cybercrime, including the spread of fake news aimed at deceiving consumers in electronic transactions.

One form of electronic transaction that is particularly vulnerable to abuse is the online buying and selling of music show or concert tickets, given their often urgent nature, with potential buyers scrambling for limited quotas, thus minimizing consumer caution in verifying the seller's legitimacy. The Ministry of Communication and Digital noted that thousands of hoaxes were identified throughout 2024, some of which were directly related to electronic transactions that harm consumers, including the sale of counterfeit tickets (Yang, 2022; Zhang, 2024). This phenomenon has in turn become the focus of a growing academic study on how perpetrators exploit the momentum of urgency and emotional ties of fans to certain idols or musicians to carry out their fraudulent actions, as described by Alindawati and Saragih in their study on the criminal liability of perpetrators of concert ticket fraud via social media (Qu, 2024).

The most public-facing incident in this context was the case of Coldplay's concert ticket sales at Gelora Bung Karno Main Stadium, Jakarta, on November 15, 2023. High fan interest caused official tickets to sell out within minutes, leading many potential attendees who missed out on tickets to seek them through personal shopping services (jastip) on social media. The *modus operandi* was for the Jastip providers to offer ticket-buying services to those who missed out on official tickets, convincing victims with fake testimonials and transaction histories, then blocking the victims' contacts after receiving payment without ever delivering the promised tickets. The defendant Ghisca Debora Aritonang, a Trisakti University student who offered the concert tickets through her personal social media account, was proven to have sold more than 2,268 fake tickets with a total loss to the victims reaching IDR 5.1 billion, and by the Panel of Judges at the Central Jakarta District Court in Decision Number 157/Pid.B/2024/PN Jkt.Pst was found guilty of committing the crime of fraud based on Article 378 of the Criminal Code (KUHP) in conjunction with Article 65 paragraph (1) of the KUHP, with a prison sentence of 3 (three) years (Golda, 2024; Traberg, 2022).

A similar case also occurred in the sale of Coldplay concert tickets outside the Ghisca Debora Aritonang case. Based on the Depok District Court Decision Number 320/Pid.B/2023/PN Dpk dated October 30, 2023, the defendant Reza Pradana Putra Bin Yardi was found guilty of committing the crime of fraud according to the First indictment of the Public Prosecutor, with a prison sentence of 1 (one) year 8 (eight) months, for the victim's losses reaching IDR 60,600,000.00. A comparison of the verdicts of these two cases shows a similar pattern: both in the case with losses of IDR 5.1 billion and the case with losses of IDR 60.6 million, the court consistently applied the general fraud article in the Criminal Code, without considering the application of the special provisions of Article 28 paragraph (1) of the ITE Law, the elements of which were actually also fulfilled in both cases.

The phenomenon of online concert ticket fraud didn't stop with the Coldplay case. In May 2024, fans of the band NCT Dream also fell victim to a similar scam through a personal shopping service (jastip) account on Twitter, which claimed to be able to provide up to 300 tickets. Meanwhile, at the 2024 Golden Disc Awards, a substantially identical scam also resulted in numerous losses for consumers (Lin, 2022; Singh, 2022). A study of the development of legal issues surrounding fake news during the Covid-19 pandemic also shows that similar patterns tended to increase in frequency as the intensity of online transactions grew rapidly during that period, a trend that has not subsided even after the pandemic has passed (Sitepu et al., 2024). The recurrence of this type of crime pattern at various other music concerts in Indonesia confirms that the problem studied in this article is systemic, not just an isolated case.

Normatively (*das sollen*), Indonesian positive law has actually provided a legal instrument that specifically regulates the act of spreading false news that results in consumer losses in electronic transactions, namely Article 28 paragraph (1) of the ITE Law, with a criminal threat based on Article 45A paragraph (1) in the form of a maximum prison sentence of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00. As a comparison, the application of Article 28 paragraph (1) in conjunction with Article 45A paragraph (1) of the ITE Law in cases with a similar pattern has occurred, as reflected in the case of the defendant Jocky Chen who sold fake memory cards online through the Tokopedia platform with a victim's loss of only IDR 146,061.00, but was still tried using more specific provisions and with heavier threats, until it was confirmed by the Supreme Court through Decision Number

3905 K/Pid.Sus/2022. This fact is an important comparison that Article 28 paragraph (1) of the ITE Law can and has been applied to cases with a similar pattern, without regard to the scale of the losses incurred, so the question arises as to why the same provisions are not applied consistently to concert ticket cases which actually cause much greater losses.

This gap in legal implementation raises fundamental issues regarding the value of justice for harmed consumers. This phenomenon aligns with Soerjono Soekanto's view that law enforcement is always influenced by both the law itself and the law enforcers. Therefore, even if a legal provision has been formulated clearly and specifically, its implementation in practice still depends on the understanding and choices of law enforcement officials regarding the available provisions (Egelhofer, 2022). In this context, the consistency of the choice of articles applied by the public prosecutor is crucial, because it directly affects the severity of the criminal sanctions that can be imposed on the perpetrator, which in turn affects the sense of justice received by the victim. The latest doctrinal study on the application of the principle of *lex specialis derogat legi generali* at the intersection between the Criminal Code and the ITE Law also confirms that this kind of inconsistency does not stem from unclear norms, but from the habits of handling cases that have developed unevenly across various jurisdictions (Flamino, 2023; Giroux, 2022).

It should also be emphasized that the enactment of the National Criminal Code (Law Number 1 of 2023) since January 2, 2026 does not change the above conclusion. The conventional fraud offense remains substantially maintained in Article 492 of the National Criminal Code, while the position of Article 28 paragraph (1) of the ITE Law as a special provision (*lex specialis*) also does not change because the ITE Law remains in effect as a separate regulation that is not taken over by the National Criminal Code. The three decisions that are the main object of study in this article were all decided between 2022 and 2024, long before the National Criminal Code came into effect, so the application of Article 378 of the old Criminal Code to the two concert ticket decisions remains valid and final based on the principle of non-retroactivity, but the consistency issues revealed remain relevant to anticipate in handling similar cases in the future that will be subject to the National Criminal Code.

From a conceptual perspective, the offer of concert ticket consignment services as the object of this article's study can be mapped into the taxonomy of information disruption proposed by Claire Wardle and Hossein Derakhshan, which distinguishes three types of information disruption based on the level of truth and the presence or absence of malicious intent of the perpetrator, namely misinformation (false information without malicious intent), disinformation (information known to be false but deliberately spread to mislead or seek profit), and malinformation (true information but presented to harm others) (Lawson, 2022; Peng, 2024). The offer of concert ticket consignment services in the cases studied is classified as disinformation, because the perpetrators know for certain that the tickets offered are not available, but still spread the claim for personal gain, an element of intent that actually fulfills the element of "intentionally" in Article 28 paragraph (1) of the ITE Law. The pattern of distribution has three characteristics that distinguish it from hoaxes in general, namely it is personal and closed (not distributed massively to the public), exploits the momentum of urgency in the form of ticket scarcity and time constraints, and is accompanied by false supporting evidence in the form of engineered screenshots. These characteristics explain why victims can still be deceived even though they are digitally literate, not because of a lack of

literacy, but because of the psychological design of the mode that exploits urgency and trust between fellow music fans.

Based on the above description, this article is written to examine in depth how the regulation of the crime of spreading fake news that results in consumer losses in electronic transactions according to Indonesian positive law, as well as how consistent law enforcement is in the concrete case of online ticket sales for the Coldplay concert, in order to realize the value of justice for the parties, especially consumers as victims. The study of the case of the sale of Coldplay concert tickets has relevance beyond the case itself, considering that more and more international musicians and music groups are holding concerts in Indonesia, so that the pattern of online ticket sales with high enthusiasm from the audience has the potential to continue to recur in the future. Thus, the results of this study are expected to serve as a reference for handling similar cases that may arise in the organization of other international music concerts in Indonesia, so that future law enforcement can be more consistent and able to realize the value of justice for consumers more optimally.

RESEARCH METHOD

This article was compiled using the juridical-normative legal research method, a scientific research procedure to discover the truth based on the logic of legal science from its normative perspective (Ahmed, 2023). This type of research was chosen because the starting point of the research is an analysis of the laws and regulations governing the crime of spreading false news, which are then examined normatively through related court decisions. Therefore, this research is juridical-normative in nature with a case study approach (normative legal research with case study).

Research Design

This research uses four complementary approaches. First, the statute approach, which is conducted by examining all laws and regulations related to the legal issue under study, particularly the Criminal Code, the National Criminal Code, the ITE Law, and the Consumer Protection Law. Second, the case approach, which is conducted by examining three legally binding court decisions: Central Jakarta District Court Decision Number 157/Pid.B/2024/PN Jkt.Pst, Depok District Court Decision Number 320/Pid.B/2023/PN Dpk, and Supreme Court Decision Number 3905 K/Pid.Sus/2022 as comparisons. Third, the conceptual approach, which departs from legal concepts developed in legal doctrine and science to build a relevant analytical framework. Fourth, the historical approach, which traces the development of regulations on the crime of fake news from the time of Law Number 1 of 1946 to the ITE Law and the National Criminal Code currently in effect.

Research Target/Subject

The sources of legal materials used consist of secondary data, which are divided into primary legal materials (the Criminal Code, the National Criminal Code, the ITE Law, and the Consumer Protection Law along with the three court decisions studied), secondary legal materials (books, articles, and legal journals relevant to the law enforcement of the crime of spreading fake news, especially those published in the last five years), and tertiary legal materials (legal dictionaries and official news sources). The collection of legal materials was carried out through library research and documentation studies of court decisions traced through the Case Tracking Information System (SIPP) at the relevant District Court and the Directory of Decisions of the Supreme Court of the Republic of Indonesia.

Instruments, and Data Collection Techniques

The analysis method used is descriptive-qualitative analysis with content analysis techniques, which is carried out in three stages. First, identification of relevant legal norms (Article 28 paragraph (1) of the ITE Law and Article 378 of the Criminal Code/Article 492 of the National Criminal Code) along with their respective elements. Second, mapping of legal facts in each decision used as study material to see which elements of the article are actually fulfilled. Third, evaluation of the consistency of the application of the article by the Public Prosecutor and Judge, linked to Soerjono Soekanto's law enforcement theory and consumer protection theory, in order to answer questions regarding the realization of the value of justice for consumers as the focus of this article (Jing, 2023; Nielsen, 2022).

RESULTS AND DISCUSSION

Legal Regulations for the Criminal Act of Spreading Fake News that Causes Consumer Losses in Electronic Transactions

The regulation of the dissemination of false news in Indonesian criminal law is nothing new. Long before the enactment of the ITE Law, provisions concerning the act of spreading false news were already stipulated in Articles 14 and 15 of Law Number 1 of 1946 concerning Criminal Law Regulations, which emerged in the context of a newly independent Indonesia vulnerable to propaganda that could disrupt security and stability (Zhou, 2023). This provision then became controversial because the element of "riot" was considered to be multi-interpretable and had the potential to be used repressively against freedom of expression, so that the Constitutional Court through Decision Number 78/PUU-XXI/2023 dated March 21, 2024, declared that the two articles were contrary to the 1945 Constitution and no longer had binding legal force. The cancellation does not affect the existence of Article 28 paragraph (1) of the ITE Law, because the norms and philosophies of the two are different: Articles 14–15 of Law 1/1946 are oriented towards the interests of public order, while Article 28 paragraph (1) of the ITE Law is oriented towards protecting consumer interests in electronic transactions.

Based on its formulation, Article 28 paragraph (1) of the ITE Law states that any person who intentionally distributes and/or transmits electronic information and/or electronic documents containing false notifications or misleading information which results in material losses for consumers in electronic transactions. The elements of this crime can be broken down into four, namely: (1) the subjective element in the form of "intentionally", which means the perpetrator wants and knows that the information he disseminates is false or misleading; (2) the element of action in the form of "distributing and/or transmitting" electronic information or documents; (3) the element of object in the form of information that "contains false notifications or misleading information"; and (4) the element of consequence in the form of "causing material losses to consumers in Electronic Transactions". Violations of these provisions are subject to criminal penalties based on Article 45A paragraph (1) of the ITE Law, namely a maximum prison sentence of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00. The study conducted by Haeranah, Mirzana, Azisa, Lutfi, and Nurdin on the criminal provisions for fake news in Indonesian legislation confirms that the formulation of Article 28 paragraph (1) of the ITE Law, with its orientation towards consequences in the form of material losses to consumers, has a more precise character and is easier to prove than conventional fraud crimes, because it does not require the element of "benefiting oneself or others unlawfully" separately (Hua, 2023).

The characteristic of the formulation of Article 28 paragraph (1) of the ITE Law is its nature as a material offense that is oriented towards consequences, so that it is structurally different from the conventional fraud offense in Article 378 of the Criminal Code (KUHP), which stipulates that anyone with the intention of unlawfully benefiting himself or another person, by using a false name or false dignity, by trickery, or a series of lies, induces another person to hand over something to him, is threatened with a maximum prison sentence of 4 (four) years. Since January 2, 2026, this provision has been replaced by Article 492 of Law Number 1 of 2023 concerning the National Criminal Code, which basically maintains the substance of the old Article 378 of the Criminal Code, with the threat of a maximum prison sentence of 4 (four) years or a maximum fine of category V, while also providing confirmation that the series of lies in question also includes manipulation of data and electronic systems (Comito, 2023). The study on the application of Islamic criminal law to the perpetrators of the Coldplay concert ticket fraud committed by Zaky, Irawan, and Burlian also emphasized that the elements of intent and malicious intent of the perpetrators in cases like this have basically fulfilled both the elements of conventional crimes and special crimes, so that the problem that arises is not in fulfilling the elements, but in the choice of legal qualifications applied by law enforcement officers (Segura-Bedmar, 2022).

The intersection between Article 28 paragraph (1) of the ITE Law and Article 378 of the Criminal Code/Article 492 of the National Criminal Code in cases of online fraud raises the issue of choice of law for the Public Prosecutor. In principle, special provisions (*lex specialis*) override general provisions (*lex generalis*) as long as they regulate the same legal object, so that Article 28 paragraph (1) of the ITE Law can be seen as *lex specialis* to Article 378 of the Criminal Code for the act of spreading false information that is detrimental to consumers in electronic transactions, because it expressly regulates the *locus delicti* (electronic media) and the context of the act (electronic transactions) more specifically. Recent studies on the application of this principle to the intersection of the ITE Law with other crimes, such as online gambling, show a similar pattern to the findings of this article: although Article 63 paragraph (2) of the Criminal Code explicitly provides guidance that special provisions must be prioritized, its application in the field remains inconsistent because it is influenced by the perspective, construction of the indictment, and evidentiary considerations of the Public Prosecutor handling the case (Bazmi, 2023). These findings strengthen the argument that the problem of inconsistent application of the *lex specialis* principle is not a phenomenon unique to concert ticket cases, but rather a recurring pattern that appears in various types of cybercrime in Indonesia.

The issue of choosing between these two articles is essentially a matter of idealistic *concurus* (conjunction of regulations), namely a situation where one act meets more than one criminal provision at once. In Indonesian criminal justice practice, the Public Prosecutor has the freedom (discretion) in compiling an indictment, whether in the form of a single indictment, alternative, subsidiarity, or cumulative, as regulated in Article 143 paragraph (2) of the Criminal Procedure Code (KUHAP). The absence of internal guidelines that expressly regulate the criteria for selecting the form of indictment in cases with this kind of *concurus* causes the choice of article to depend heavily on the individual discretion of the Public Prosecutor handling the case, in line with Soerjono Soekanto's view that law enforcement factors, including the Prosecutor's understanding, experience, and habits in compiling

indictments, are one of the factors that determine the effectiveness of law enforcement (Tong, 2024).

Buying and selling concert tickets online falls under the category of electronic transactions as referred to in Article 1 number 2 of the ITE Law, namely legal acts carried out using computers, computer networks, and/or other electronic media, so that they are also subject to Government Regulation Number 80 of 2019 concerning Trading Through Electronic Systems (PP PMSE). As consumers, concert ticket buyers have rights protected under Article 4 of Law Number 8 of 1999 concerning Consumer Protection, including the right to comfort, security, and safety in consuming goods and/or services, the right to correct, clear, and honest information, and the right to receive compensation if the goods and/or services received do not comply with the agreement (Guo, 2023). A recent study on consumer protection in e-commerce transactions in Indonesia shows that even though a regulatory framework is available through the Consumer Protection Law, the ITE Law, and the PMSE PP, its implementation in the field still faces obstacles, mainly due to low consumer legal literacy regarding rights and complaint procedures that can be taken when experiencing losses (Broda, 2024). This kind of legal literacy issue is relevant to the context of concert ticket fraud, where the victims are generally young fans who prioritize speed in obtaining tickets over caution in verifying the seller's legitimacy.

The characteristics of electronic transactions that do not bring sellers and buyers together physically make it much more difficult for consumers to verify the seller's legitimacy and the authenticity of goods/services before the transaction occurs, a condition that is specifically exploited by concert ticket fraud perpetrators in the cases studied in this article. Another study on the effectiveness of the implementation of Law Number 1 of 2024 concerning ITE in protecting consumer rights in e-commerce transactions concluded that normatively the digital legal framework has provided an adequate basis for protection, but in practice it still faces obstacles from both legal and technical aspects, especially regarding consistent law enforcement for violations that occur (Miró-Llinares, 2023). This conclusion is in line with the findings of this article that the main problem does not lie in the absence of norms, but rather in the consistency of their implementation by law enforcement officers.

Understanding the position of the parties in concert ticket consignment transactions is also relevant to clarify the scope of applicable protection. Article 1 number 2 of the Consumer Protection Law defines a consumer as any person who uses goods and/or services available in society, whether for the benefit of themselves, their families, other people, or other living beings, and not for trading, so that the victims of concert ticket buyers who are the objects of consignment services are included in the definition of consumers, because the tickets are purchased for the personal benefit of watching the show, not for resale. Article 1 number 3 of the same law defines a business actor as any individual or business entity that carries out business activities, either alone or together through an agreement. An interesting issue in this context is whether individuals who offer concert ticket consignment services on an unsustainable basis and without an official business permit can be categorized as business actors within the meaning of the Consumer Protection Law, or merely as individual perpetrators of criminal acts; Regardless of the formal status, the obligation not to mislead consumers remains generally applicable based on the principle of good faith in transactions, so that the unclear status of this business actor does not invalidate the fulfillment of the elements

of Article 28 paragraph (1) of the ITE Law which targets the actions of "every person", not just business actors in the formal sense.

Another aspect that needs to be emphasized is the classification of these two intersecting norms as material crimes. Moeljatno distinguishes formal crimes from material crimes based on the emphasis of the formulation of the elements of the act: a formal crime is a crime that is completed once the prohibited act is carried out without requiring the emergence of certain consequences, while a material crime is a crime that is only considered completed if the consequences prohibited by law actually arise (L. Wu, 2023). Article 28 paragraph (1) of the ITE Law is a material offense, because the element of "causing material loss to consumers" must be truly proven to have occurred, it is not enough just to spread false information. Likewise, Article 378 of the Criminal Code, which requires the effect in the form of the transfer of goods as an element that must be proven. Classifying both as material offenses is important to understand that in both legal regimes, the Public Prosecutor bears an equal burden of proof regarding the occurrence of the resulting loss, so that the difference in the choice of article is not caused by differences in the level of difficulty in proving the effect, but rather by differences in handling habits based on the context of the act alone.

Comparisons with regulations in other countries provide insight into the policy models available to address the spread of fake news that has economic impacts. Singapore regulates this issue through the Protection from Online Falsehoods and Manipulation Act 2019 (POFMA), which adopts a graduated response approach: authorized officials can issue correction orders, cease communications orders, and even access blocking orders, before resorting to criminal prosecution, which carries a prison sentence of up to six years. This graduated approach offers a proportional legal response, with criminal prosecution being pursued as a last resort (*ultimum remedium*), while information correction mechanisms can prevent further increases in victims. Unlike Singapore, Malaysia had an Anti-Fake News Act 2018, which was later revoked at the end of 2019, citing the sufficiency of existing general criminal provisions, which deemed the specific law overlapping and potentially misused to stifle freedom of expression. The provisions of Article 28 paragraph (1) of the ITE Law in Indonesia are based on a purely criminal model, without a tiered administrative mechanism like in Singapore, so that the only legal remedy available to victims is a time-consuming criminal process, while consumer losses have already occurred from the beginning. This absence of a tiered administrative mechanism is what causes the consistency of the choice of articles by the Public Prosecutor to be the only line of protection for consumers who are victims of online concert ticket fraud in Indonesia.

From the overall description above, it can be summarized that the normative framework relevant to the issues studied in this article consists of four main elements: first, conventional criminal norms (Article 378 of the Criminal Code/Article 492 of the National Criminal Code) and special criminal norms (Article 28 paragraph (1) in conjunction with Article 45A paragraph (1) of the ITE Law) which have the potential to be applied *concursum* to cases of online concert ticket fraud; second, the principle of *lex specialis derogat legi generali* which should direct the priority of applying special norms; third, consumer protection norms (the Consumer Protection Law and the PMSE PP) which provide a framework for the rights and obligations of consumers-business actors, but have not yet adequately covered informal transactions such as *jastip*; and fourth, the comparative context of other countries' laws which enriches understanding of available policy alternatives. This normative framework is used as an

analytical instrument in the following section to evaluate the consistency of its application in the three decisions that are the subject of the study.

Consistency of Law Enforcement and its Implications for Consumer Protection in the Case of Online Ticket Sales for the Coldplay Concert

This article examines three court decisions as the main analytical material for assessing the consistency of law enforcement. First, the Decision of the Central Jakarta District Court Number 157/Pid.B/2024/PN Jkt.Pst, which tried the defendant Ghisca Debora Aritonang for the case of selling fake Coldplay concert tickets with a total loss of Rp5.1 billion from 2,268 tickets. The defendant's modus operandi was to offer a ticket purchasing service via social media, then collect payments without ever actually obtaining or delivering the promised tickets. The Public Prosecutor charged the defendant with Article 378 of the Criminal Code in conjunction with Article 65 paragraph (1) of the Criminal Code, and the Panel of Judges sentenced him to 3 (three) years in prison, with aggravating considerations in the form of the large losses and the number of victims, and mitigating considerations in the form of the defendant's cooperative attitude who had never been convicted before (Zhu, 2023). Second, the Depok District Court Decision Number 320/Pid.B/2023/PN Dpk, which tried the defendant Reza Pradana Putra Bin Yardi with a similar modus, with the victim's loss amounting to IDR 60.6 million. The Public Prosecutor again charged with Article 378 of the Criminal Code as the First Charge, and the Panel of Judges sentenced him to 1 (one) year and 8 (eight) months in prison. Third, the Supreme Court Decision Number 3905 K/Pid.Sus/2022, which tried the case of online sales of goods with the dissemination of misleading information that harmed consumers. In contrast to the two previous decisions, in this case Article 28 paragraph (1) in conjunction with Article 45A paragraph (1) of the ITE Law was applied as the basis for criminalization, even though the object of the case was not concert tickets, but fake memory card products worth IDR 146,061.00.

In-depth Analysis of the Decision of the Central Jakarta District Court Number 157/Pid.B/2024/PN Jkt.Pst

This case began with the offer of a ticket purchase service for Coldplay concerts delivered by the defendant Ghisca Debora Aritonang through her personal social media account to the general public, especially to prospective audience members who were unable to obtain official tickets. The defendant received a total payment of 2,268 tickets with a total loss of Rp. 5,100,000,000.00, without ever delivering the promised tickets to the victims. The modus operandi used took advantage of the momentum of high public interest in the concert and the limited official ticket quota, so that many prospective audience members were willing to make payments in advance without having time to carry out adequate verification. The Public Prosecutor prepared an indictment using Article 378 of the Criminal Code in conjunction with Article 65 paragraph (1) of the Criminal Code concerning concurrent acts (*concurso realis*), considering that the defendant's actions were carried out repeatedly against many different victims, without considering the alternative application of Article 28 paragraph (1) in conjunction with Article 45A paragraph (1) of the ITE Law, even though the defendant's actions were carried out entirely through electronic means. The Panel of Judges in its consideration stated that the elements of Article 378 of the Criminal Code had been fulfilled legally and convincingly, and by considering the magnitude of the losses and the number of victims as aggravating factors, sentenced the defendant to 3 (three) years in prison. The author is of the opinion that this case should also consider the application of Article 28 paragraph (1)

of the ITE Law, considering that the defendant's actions occurred entirely in the realm of electronic transactions; the application of this provision will provide a higher maximum criminal threat and more proportional to the scale of the loss of IDR 5.1 billion, especially since the sentence imposed (3 years) is even still below the maximum threat of Article 378 of the Criminal Code itself (4 years), which shows that the available criminal space has not been fully utilized by the Panel of Judges.

In-depth Analysis of Depok District Court Decision Number 320/Pid.B/2023/PN Dpk

This case involves defendant Reza Pradana Putra Bin Yardi who offered a similar service, namely a service to purchase Coldplay concert tickets via social media, with a total loss of Rp60,600,000.00, much smaller than the loss in the Central Jakarta District Court Decision, but with a substantially similar *modus operandi*. The Public Prosecutor in this case prepared an indictment with Article 378 of the Criminal Code as the First Charge, a structure of the indictment consistent with the pattern in the Central Jakarta District Court Decision, even though the two cases were handled by different District Attorneys' Offices — an indication that the tendency to use Article 378 of the Criminal Code for concert ticket fraud cases is general, not just a local policy of one particular prosecutor's office. The Panel of Judges stated that the elements of Article 378 of the Criminal Code were fulfilled based on the evidence and witness statements presented at the trial, and sentenced him to 1 (one) year and 8 (eight) months in prison, taking into account that the defendant had no previous convictions and had shown remorse. A comparison between the Depok District Court Decision and the Central Jakarta District Court Decision shows the consistency of the choice of article even though the scale of the loss is very different; This consistency is positive from the perspective of legal certainty, but negative from the perspective of the proportionality of criminal threats to the scale of losses, because the two cases with very different scales of losses are still subject to the same maximum range of criminal threats, instead of considering Article 28 paragraph (1) of the ITE Law which provides a wider and more proportional range of threats for cases with large losses.

In-depth Analysis of Supreme Court Decision Number 3905 K/Pid.Sus/2022

In contrast to the two previous decisions, this case began with the sale of a VGEN 128 GB memory card product online through the Tokopedia platform by the defendant Jocky Chen, who displayed a statement that the item was guaranteed to be 100% original, thus attracting the victim witness to buy the product for Rp146,061.00. After the goods were received and examined by the brand holder, it was discovered that the product was a counterfeit item with a storage capacity much smaller than claimed. The Public Prosecutor prepared alternative charges, namely the First Charge in the form of Article 28 paragraph (1) in conjunction with Article 45A paragraph (1) of the ITE Law, and the Second Charge in the form of Article 8 paragraph (1) letter d in conjunction with Article 62 paragraph (1) of the Consumer Protection Law. The Panel of Judges at the North Jakarta District Court declared the defendant proven to have violated the First Alternative Charge, considering that all elements of Article 28 paragraph (1) of the ITE Law had been fulfilled, and sentenced him to 1 (one) year in prison and a fine of Rp10,000,000.00. The decision was then confirmed by the Supreme Court through Decision Number 3905 K/Pid.Sus/2022 which rejected the defendant's cassation request, so that this case became one of the jurisprudence that confirmed the validity of Article 28 paragraph (1) of the ITE Law as a valid basis for criminal punishment, strengthened to the cassation level. The consistent application of Article 28 paragraph (1) of the ITE Law in this case, compared to the application of Article 378 of the Criminal Code in the two previous

concert ticket cases, strengthens the suspicion that the determining factor in the choice of article is not the character of the act in general, but rather the habit of handling based on the type of transaction object: electronic goods in general on the one hand, and performance/entertainment tickets on the other, even though normatively there is no valid distinction between the two categories of objects in the formulation of Article 28 paragraph (1) of the ITE Law.

Synthesis and Mapping of Legal Facts

By applying the framework of elements outlined in the previous section, the identification of norms in the three decisions shows that the defendant's actions in the Central Jakarta District Court Decision and the Depok District Court Decision factually fulfill the objective elements of Article 28 paragraph (1) of the ITE Law, namely distributing electronic information containing false notifications that result in material losses for consumers in electronic transactions. At the same time, these actions also fulfill the elements of Article 378 of the Criminal Code, because the defendant used a series of lies to induce the victim to hand over a sum of money, with the intention of unlawfully benefiting himself. Thus, normatively, both articles can be applied equally (*concursum*) in these two concert ticket cases, so that the choice of article used by the Public Prosecutor is purely a matter of prosecutorial discretion, not because the elements of one of the articles are not fulfilled. On the other hand, in Supreme Court Decision Number 3905 K/Pid.Sus/2022, the Public Prosecutor and Panel of Judges applied Article 28 paragraph (1) of the ITE Law as the basis for sentencing, even though in fact the defendant's actions in the case also had the potential to fulfill the elements of Article 378 of the Criminal Code.

The mapping of legal facts in the three decisions shows a pattern that contradicts the principle of *lex specialis derogat legi generali*: the two cases where the object was specifically concert tickets were tried using the general Article 378 of the Criminal Code, while the cases where the object was not concert tickets were tried using the specific Article 28 paragraph (1) of the ITE Law. This inconsistency has direct implications for the disparity in the criminal threats received by the defendants. Even though the losses in the Central Jakarta District Court Decision (Rp. 5.1 billion) are much greater than the losses in the Depok District Court Decision (Rp. 60.6 million), the penalties imposed in both cases refer to the maximum threat of Article 378 of the Criminal Code (4 years in prison), which is much lighter than the maximum threat of Article 28 paragraph (1) in conjunction with Article 45A paragraph (1) of the ITE Law (6 years in prison and/or a fine of Rp. 1 billion). Interestingly, the value of the loss in the Jocky Chen case (Rp. 146,061.00) is much smaller than the loss in the two concert ticket cases, but it is still tried using more specific provisions and carries heavier threats, while the concert ticket case with much greater losses is tried using more general provisions. The object of the concert ticket appears to be unwrittenly "categorized" by law enforcement officials as a conventional fraud case, even though normatively there is no legitimate distinction between the two categories of objects in the formulation of Article 28 paragraph (1) of the ITE Law, which applies generally to all types of electronic transactions without exception to certain types of goods or services.

An evaluation of the consistency of the application of the articles in the three decisions shows that the factors influencing the choice of articles are not solely due to differences in the fulfillment of the elements of the offense, but rather are more influenced by the charging practice that still places Article 378 of the Criminal Code as the default choice for fraud crimes,

including those committed through electronic means, except in cases that are explicitly handled from the outset as cybercrimes. This condition is consistent with Soerjono Soekanto's law enforcement theory, which states that law enforcement is influenced by five interrelated factors, namely the legal factor itself, law enforcement factors, supporting facilities or means factors, community factors, and cultural factors (Yeung, 2022). Viewed from the legal factors themselves, the three decisions reviewed show that the intersection of norms between Article 28 paragraph (1) of the ITE Law and Article 378 of the Criminal Code has not been followed by clear and binding implementation guidelines for the Public Prosecutor, so that the choice of article depends entirely on law enforcement factors, namely the habits and understanding of the public prosecutor who drafted the indictment. Interestingly, even though the evidence used in proving the three cases was entirely electronic (evidence of online transfers, screenshots of social media conversations), the legal qualification of the actions in both concert ticket cases was still directed at conventional crimes, which further strengthens the conclusion that the determining factor in the choice of article is not the character of the evidence, but merely the handling habits based on the initial qualifications of the case by the investigator and the Public Prosecutor.

From the perspective of consumer protection theory, the disparity in criminal penalties arising from the choice of different articles has direct implications for the sense of justice received by consumers as victims. The victims in the Central Jakarta District Court Decision, who suffered collective losses of up to IDR 5.1 billion, should have received a legal process that reflects the scale of the loss, but the choice of Article 378 of the Criminal Code actually limits the maximum criminal penalty to 4 years in prison, the same as the threat that applies to cases with much smaller losses. This discrepancy between the scale of the loss and the available criminal penalties indicates that the value of justice for consumers has not been consistently realized in the three decisions reviewed. Consumers as victims are basically entitled to a legal enforcement process that takes into account the magnitude of the loss they suffered, as guaranteed through the right to proper consumer dispute resolution as stipulated in Article 4 of the Consumer Protection Law. The application of Article 28 paragraph (1) of the ITE Law, which provides for a heavier criminal penalty, actually reflects more proportionality to the large losses as occurred in the concert ticket cases reviewed.

From a legal and economic perspective, the consistent application of criminal sanctions has a deterrent function that depends on the predictability of the legal consequences of an act. If potential perpetrators know that online concert ticket fraud tends to be processed using Article 378 of the Criminal Code with a relatively light maximum penalty, then the deterrent effect that should be produced by the more severe penalty in Article 28 paragraph (1) of the ITE Law will not be optimally achieved. From a cost-benefit analysis perspective, the application of articles with higher criminal penalties in cases with large losses will be more socially efficient, because it encourages the internalization of the social costs incurred by the perpetrator on many victims at once, compared to an approach that applies the same criminal penalty without considering the scale of the resulting impact. The absence of binding internal guidelines regarding the criteria for selecting articles in concursus cases such as these causes the choice of articles to be highly dependent on individual discretion, which ultimately increases uncertainty for potential perpetrators and potential victims regarding the legal consequences that will apply to similar acts.

The synthesis of the in-depth analysis of the three decisions above confirms that the inconsistency is not caused by unclear norms, because both Article 378 of the Criminal Code and Article 28 paragraph (1) of the ITE Law are formulated clearly and can be applied consistently based on the principle of *lex specialis*, but rather by the habit of handling cases (charging practice) which has developed unevenly in various jurisdictions of the prosecutor's office, without any centralized, binding guidelines. This similarity of pattern is also found in the study of other concert ticket fraud cases that did not reach the court decision stage, such as the NCT Dream and Golden Disc Award 2024 cases, where the perpetrators' *modus operandi* is substantially identical: offers via social media at prices lower than official channels, followed by diverting communication to private channels to avoid transaction traces that can be traced by the platform (Auli et al., 2024). This kind of recurring pattern confirms that the three decisions that are the object of this article's study are not stand-alone cases, but rather representations of a broader phenomenon, so that the consistency of the application of law to the three has relevant precedent implications for the handling of similar cases that are still ongoing or will be ongoing.

Article 184 paragraph (1) of the Criminal Procedure Code (KUHP) determines five valid pieces of evidence, namely witness statements, expert statements, letters, clues and statements from the accused (Tembhurne, 2022). In the context of crimes committed through electronic means, documentary evidence and clues play a crucial role, given that most interactions between the perpetrator and the victim occur digitally. In the Central Jakarta District Court and the Depok District Court decisions, the primary evidence used included statements from victim witnesses, proof of payment transfers, and screenshots of conversations between the defendant and the victims via social media and instant messaging applications. While technically categorized as electronic information and/or electronic documents, which are valid as evidence under the ITE Law, in both cases they were used to prove elements of conventional crimes, not crimes under the ITE Law. This phenomenon confirms that the determining factor in the choice of article is not the nature of the evidence, which is electronic in nature in all the decisions reviewed, but rather simply the handling habits based on the initial qualifications of the case by the investigator and the Public Prosecutor.

Every sentencing decision in Indonesia is required to include considerations regarding the aggravating and mitigating factors for the defendant, as part of the individualization of the sentence. A comparison of these considerations in the two concert ticket decisions shows that the Panel of Judges has attempted to individualize the sentence according to the facts of each case within the limits of the available criminal penalties, but the limits of the criminal penalties themselves are the main limitation: even though the Judges wanted to impose a heavier sentence in the Central Jakarta District Court Decision to reflect the much greater scale of the losses, the space for this was limited from the outset by the choice of articles used by the Public Prosecutor in the indictment. In addition to this retributive perspective, a restorative justice approach is also relevant to consider in concert ticket fraud cases involving multiple victims, considering that the primary interest of consumers as victims is generally the recovery of losses (restitution), not solely the punishment of the perpetrator. Based on a search of the three decisions reviewed, no description was found regarding the incorporation of claims for compensation in criminal cases, which shows that the aspect of recovering consumer losses has not been a primary concern in the judicial process for these cases, even though the application of Article 28 paragraph (1) of the ITE Law which provides for a threat of a fine of up to IDR 1

billion actually opens up greater opportunities for recovering the interests of victims compared to Article 378 of the Criminal Code.

Although the Indonesian legal system does not adhere to a strictly binding precedent system (*stare decisis*) like the common law system, court decisions, particularly Supreme Court decisions, still function as jurisprudence that serves as a reference for judges in similar cases in the future. The three decisions reviewed in this article, when analyzed as a single jurisprudential entity, actually show inconsistencies that have the potential to make it difficult for judges in future cases to determine the appropriate article for similar cases, because there is no clear and reliable pattern as a reference. In the future, if the Supreme Court issues another decision regarding online concert ticket fraud, there are two possible scenarios: following the pattern of the Central Jakarta District Court and Depok District Court Decisions by continuing to use Article 378 of the Criminal Code, or following the pattern of Supreme Court Decision Number 3905 K/Pid.Sus/2022 by applying Article 28 paragraph (1) of the ITE Law. This article leads to the recommendation of the second scenario, with the consideration that consistent application of the principle of *lex specialis derogat legi generali* will provide better legal certainty for all parties, including consumers, legitimate business actors, and law enforcement officers themselves.

Based on all the analysis above, it is necessary to strengthen the internal guidelines of the prosecutor's office regarding the criteria for selecting articles in fraud cases carried out through electronic means, especially to consistently emphasize the applicability of the principle of *lex specialis derogat legi generali*. The author proposes that the prosecution guidelines prepared by the Attorney General's Office contain at least three main elements. First, objective criteria for determining the applicability of the principle of *lex specialis*, namely by emphasizing that every act of fraud in which the entire series of acts (offer, communication, and payment) is carried out through electronic means must be charged with Article 28 paragraph (1) in conjunction with Article 45A paragraph (1) of the ITE Law as the primary charge, regardless of the type of goods or services that are the object of the transaction. Second, a subsidiary indictment mechanism that still includes Article 378 of the Criminal Code/Article 492 of the National Criminal Code as an alternative or subsidiary charge, in order to anticipate if the elements of the ITE Law are not fully proven in court. Third, the obligation for regular reporting by the District Attorney's Office to the Attorney General's Office regarding the handling of electronic fraud cases, to enable monitoring of the consistency of the implementation of these guidelines nationally.

In addition to strengthening prosecution guidelines as a repressive solution, this article also highlights the importance of preventive measures involving digital platform operators. Referring to the tiered handling model of Singapore's POFMA, a corrective order or administrative access blocking mechanism, which can be issued before criminal proceedings begin, has the potential to prevent an increase in the number of victims during the criminal investigation and prosecution process, which in Indonesia can take months. However, the author argues that the adoption of such an administrative mechanism does not necessarily replace the need for consistent application of existing criminal law, but rather complements it. Government Regulation Number 80 of 2019 concerning Trading Through Electronic Systems essentially requires intermediary service providers to verify business actors who use their services. However, this mechanism cannot be effectively applied to concert ticket consignment transactions, which are generally conducted through social media, rather than through official

marketplace platforms that provide verification and escrow mechanisms. The regulatory gap regarding the responsibility of social media platforms for transactions that occur within them, although beyond the scope of this article's main focus, still requires policymakers' attention given the increasing number of buying and selling transactions that in practice occur through social media.

Normative legal research has inherent limitations, namely, it cannot explain the motives or psychological reasons behind the decisions of law enforcement officials, because it focuses on the analysis of legal norms and documents, rather than on direct interviews with the parties involved. This article recognizes this limitation, so the conclusions regarding the factors causing inconsistencies in the application of articles are inferential based on patterns observed in the decision documents, not based on direct confirmation from the Public Prosecutor or Judge handling the cases. The limitation of the study object to three decisions (purposive sampling) also needs to be acknowledged, because generalizing the conclusions to the overall practice of law enforcement in electronic fraud cases in Indonesia requires the study of a broader and statistically representative sample of decisions. Nevertheless, the three selected decisions are considered sufficiently representative to illustrate the pattern of inconsistency that is the focus of this study, given the similar characteristics of the acts in all three. Further research of a juridical-empirical nature, for example through interviews with Prosecutors and Judges handling similar cases, will complement the findings of this article with perspectives on the practical considerations behind the choice of articles used.

CONCLUSION

Based on the results and discussions that have been described, two things can be concluded as answers to the problems studied in this article. First, the regulation of the criminal act of spreading false news that results in consumer losses in Indonesian positive law has undergone developments from Article 14 and Article 15 of Law Number 1 of 1946 which were oriented towards public order (now annulled by the Constitutional Court since 2024), to Article 28 paragraph (1) of the ITE Law which specifically (*lex specialis*) regulates the spread of false news in the context of electronic transactions that are detrimental to consumers. This provision is side by side with Article 378 of the Criminal Code/Article 492 of the National Criminal Code which is general in nature (*lex generalis*) and regulates the crime of fraud broadly. Normatively, both provisions can be applied *concursum* to online concert ticket fraud, but Article 28 paragraph (1) of the ITE Law should be prioritized in its application based on the principle of *lex specialis derogat legi generali*. Second, the consistency of the application of articles by the Public Prosecutor and Judge in the three decisions reviewed has not been adequately realized. In the two decisions where the object was specifically concert tickets, the Public Prosecutor consistently chose Article 378 of the Criminal Code, while in the decision where the object was not concert tickets, Article 28 paragraph (1) of the ITE Law was applied.

DECLARATION OF AI AND AI ASSISTED TECHNOLOGIES IN THE WRITING PROCESS

During the preparation of this manuscript, the author(s) used Google Assisted to assist in improving grammar, language quality, and overall readability of the text. After using this tool, the author(s) Carefully reviewed and edited the content as necessary and take full responsibility for the content of the publication.

AUTHOR CONTRIBUTIONS

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.

Author 2: Conceptualization; Data curation; In-vestigation.

Author 3: Data curation; Investigation.

Author 4: Formal analysis; Methodology; Writing - original draft.

DECLARATION OF COMPETING INTEREST

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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