

Law Enforcement Against Influencers (Artists, Youtubers, and Celebgrams) Who Promote Online Gambling Sites

Luthfi Mohamad Ashar
Universitas Muhammadiyah Purwokerto

ARTICLE INFO

Article history:

DOI:

[10.30595/pssh.v14i.1018](https://doi.org/10.30595/pssh.v14i.1018)

Submitted:

June 08, 2023

Accepted:

September 29, 2023

Published:

November 16, 2023

Keywords:Law Enforcement, Online
Gambling, Influencers

ABSTRACT

The development of technology in the current era of globalization continues to develop in facilitating human life to carry out daily activities. With the rapid development of technology, it is easier to interact on the internet, namely social media. The existence of social media such as YouTube and Instagram causes many new celebrities and YouTubers to emerge, with many followers on Instagram and YouTube platforms causing offers from online gambling sites to promote with large enough rewards so that they become tempted to promote. This research determines the formulation of the problem, namely how legal action against Influencers (artists, youtubers, celebrities) who promote online gambling sites and What obstacles Law Enforcement Faces in Combating Influencers who promote Online Gambling Sites. The purpose of this research is to provide a deterrent effect to actors including public figures who promote or advertise on their social media platforms and prevent and minimize the emergence of new actors either playing or owning online gambling site platforms. This research is analyzed using normative juridical research methods, in order to use this research to provide law enforcement to influencers who promote online gambling sites because there are still many freely promoting them.

This work is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/).



Corresponding Author:**Luthfi Mohamad Ashar**

Faculty of Law, Universitas Muhammadiyah Purwokerto

Jl. KH. Ahmad Dahlan, Kembaran, Banyumas, Jawa Tengah 53182, Indonesia

I. INTRODUCTION

The development of technology in the current era of globalization continues to progress in facilitating human life to carry out daily activities. One of the developing information and communication technologies, its sophistication has developed very rapidly and has mastered almost all aspects of human daily life.¹

With the rapid development of technology, it is easy for us to dig up information or get it from social media, therefore it seems to make people dependent on social media. The existence of social media such as YouTube and Instagram causes many new celebrities and YouTubers to appear, with many followers on Instagram and YouTube platforms causing offers from online gambling sites to promote with large enough rewards so that they become tempted to promote. Gambling is a game or bet that can make the person can get a big win in a short time so that people are tempted to gambling.²

¹ Nono, Dewi, and Seputra, "Penegakan Hukum Terhadap Selebgram Yang Mempromosikan Situs Judi Online."

² Pande Putu Rastika Paramartha, Anak Agung Sagung Laksmi Dewi, and I Putu Gede Seputra, "Sanksi Pidana Terhadap Para Pemasang Dan Promosi Iklan Bermuatan Konten Judi Online."

With the development of technology that has no limits, it triggers the emergence of the name online gambling which is now crowded among young people, easily accessing online gambling sites that can be reached using a smartphone or laptop, examples of games in online gambling are casino, roulette and slots with us having e-wallet or digital wallet and m-banking to facilitate transactions to the online gambling platform.

In this study the authors make comparisons that distinguish between previous researchers and those that will be researched by the authors, the difference between the previous researcher entitled Comparative Study of the Act of Endorse (Promotion) of Online Gambling in the Perspective of Positive Criminal Law and Islamic Criminal Law written by Hunafa Nafila, Dian Alan Setiawan, Fariz Farih Izadi with the current author, the previous researcher discusses how Law Enforcement is Applied to Perpetrators of Online Gambling Endorse (Promotion) in the Islamic Criminal Law Perspective, while the current author discusses how legal action against Influencers (artists, YouTube users, celebrities) promoting online gambling sites.

The difference between the 2nd previous researcher entitled Criminal Liability of Celebgrams in promoting Gambling According to the ITE Law written by Ventry Faomassi zega, Hernita Aruan, Roni Dear A Purba, Mazmur Septian Rumapea with the current author, the previous researcher discussed how the criminal regulation of gambling in Indonesia according to the Criminal Code, while the current author discusses the obstacles faced by law enforcement in combating influencers who promote online gambling sites.³

Based on the background above, the author is interested in taking research with the title **“LAW ENFORCEMENT AGAINST INFLUENCERS (ARTISTS, YOUTUBERS, AND CELEBGRAMS) WHO PROMOTE ONLINE GAMBLING SITES”**.

II. RESEARCH PROBLEMS

1. How is the legal action against Influencers (artists, youtubers, celebrities) who promote online gambling sites?
2. What obstacles Law Enforcement Faces in Combating Influencers who promote Online Gambling Sites?

III. RESEARCH METHODS

The research used in this research is normative juridical legal research. normative juridical is a study of documents, namely using sources of legal material in the form of laws and regulations, court decisions / decrees, contracts / agreements / contracts, legal theories, and opinions of scholars.⁴ The data sources in the normative juridical research method are primary and secondary legal materials, Primary Legal Materials used by the authors in this study are articles in the form of applicable laws and regulations, namely regulations that examine the legalization of online gambling content are Law Number 19 of 2019 concerning amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions. Secondary Legal Materials are legal materials obtained from library materials which include official documents of library books related to the subject matter to be studied. The data collection technique used by the author in this research is through literature study, namely by searching for reading and reviewing library materials either manually or digitally related to the promotion of online gambling sites on social media platforms. All data that has been collected through searches in literature studies will be analyzed qualitatively. The data analysis method used is descriptive analysis, how to discuss the results of the search in the form of materials based on laws, legal norms, and legal theories.

IV. RESULT AND DISCUSSION

1. Legal action against Influencers (artists, youtubers, celebrities) promoting online gambling sites

In today's millennial era, social media promotions or invitations are certainly not taboo and have even become a strategy that is widely used by products and services. This strategy is commonly called endorsement. Endorsements are usually made to people who have many supporters and followers in the environment or on social media and also on sites that are visited by many people.⁵

The people we often know on social media are now often called celebgrams or influencers, which is a recognition from the public, everyone who becomes an influencer must have their own characteristics in order to get extraordinary attention from consumers who use themselves on social media appearances. Advertising does not always share precise or complete information about the product, in advertising there are several elements of actions that are prohibited in advertising, namely in article 17 paragraph (1) of the Consumer Protection Law, such as: a. Deceiving or deceiving consumers in matters such as the price of goods, quantity of goods, quality of

³ Zega et al., “Pertanggungjawaban Pidana Selebgram Dalam Mempromosikan Judi Menurut UU ITE.”

⁴ Los, *No 主観的健康感を中心とした在宅高齢者における健康関連指標に関する共分散構造分析Title.*

⁵ Jendraningrat, “Yustisia Efektifitas Penegakan Hukum Tindak Pidana Cyber Gambling Endorsment Di Indonesia How to Cite : Bintang Arsena Jendraningrat , ‘ Efektifitas Penegakan Hukum Tindak Pidana Cyber Gambling Endorsement Di Indonesia ’, Yustisia Tirtayasa : Jurnal.”

goods, materials used and the usefulness of goods or services; b. Deceiving in the warranty of a good or service; c. Providing false or incorrect information about goods or services; d. Not providing risks arising from a good or service; e. Providing information that is false or incorrect. Not providing risks arising from goods and services; e. utilizing and exploiting a person without the permission of the authority or the person concerned, violating ethics or violating advertising laws and regulations.⁶

Criminal sanctions are a way to be used in achieving the purpose of criminal punishment, the imposition of criminal sanctions can only be carried out if someone makes a mistake for violating a provision of laws and regulations, criminal sanctions with criminal liability have the same context as criminal liability, where criminal sanctions apply absolutely to someone who has violated a provision of laws and regulations, and there is no reason to apologize for the actions that have been taken on that person, in contrast to criminal liability, In the context of criminal liability, a person can only be subject to criminal liability if the person is declared eligible to be subject to criminal liability based on the age and mentality of the person, in other words, in the context of criminal liability there are excuses for someone who will be subject to criminal liability.⁷

In the previous article 303 of the Criminal Code, the object of the criminal offense lies in providing opportunities and offering gambling games to others either individually in a closed room in accordance with number 1, or carried out in a public place in accordance with number 2. Meanwhile, in Article 303 bis, the object of the criminal act lies in using the opportunity to play gambling which is regulated in Article 303 both in closed and public places. Gambling conducted using the internet network is not regulated in the Criminal Code, but is specifically regulated in a more specific law, namely in the Electronic Information and Transaction Law in article 27 paragraph (2), namely: every person intentionally and without the right to distribute and / or transmit Electronic Information and / or Electronic Documents that have gambling content. The phrase gambling content in the article means that anything related to gambling. In the Electronic Information and Transaction Law, all content related to gambling can be charged with the same article including gambling endorsements. The context of gambling content is any type of action related to distributing, transmitting or making accessible gambling content, so this has fulfilled the elements in this article. So if it is proven to have committed an unlawful act in Article 27 paragraph (2) of the Electronic Information and Transaction Law, the consequences are contained in Article 45, namely (1) Any person who fulfills the elements as referred to in Article 27 paragraph (1), paragraph (2), paragraph (3), or paragraph (4) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah).⁸

According to Andi Hamzah, law enforcement is referred to in the language of Law Enforcement, Dutch rechtshandhaving. He quoted Handhaving milieurecht, 1981, Handhaving is the control and application (or by threat) of the use of administrative, criminal or civil instruments to achieve the structuring of legal provisions and regulations that apply generally and individually. Handhaving includes a law enforcement phase which means repressive law enforcement and a compliance phase which means prevention. This is in line with the current situation, with the rise of online slot gambling promotions that are increasingly occurring on social media and this incident is very difficult to eradicate.⁹

2. Constraints on Law Enforcement Against Influencers who Promote Online Gambling Sites

Law enforcement in Indonesia is now allegedly experiencing difficulties in dealing with criminal acts in the online or internet world such as the case that the author is researching now, namely on influencers who promote online gambling. Sumadi stated that the obstacles to law enforcement who understand the ins and outs of information technology, limited facilities and infrastructure, lack of public legal awareness in efforts to overcome criminal acts of information technology. Public awareness and attention to report cases of cyber crime on the internet to the police is still very minimal. Some people feel that it does not need to be a problem because they think that if it is brought to court it will require more funds than the losses suffered. In fact, the public should still report to the police if cybercrime occurs in order to help law enforcers to eradicate the perpetrators who have been roaming in cyberspace. Weak supervision of internet usage has the potential to create opportunities for cybercrime. Because crimes using technology occur if there is adequate internet access. Currently, internet facilities in a number of major cities in Indonesia can be said to be adequate both in terms of access speed and ease of installation

⁶ Adi Permana Agung, Ida Ayu Putu Widiati, and Ni Made Puspasutari Ujian, "Akibat Hukum Bagi Selebgram Yang Melakukan Periklanan Menyimpang Dari Ketentuan Peraturan Perundang-Undangan."

⁷ Ilmu et al., "MEMPROMOSIKAN SITUS JUDI ONLINE BERDASARKAN."

⁸ Kep et al., "De Jure De Jure."

⁹ (R. JATI BAYUBROTO. <http://e-journal.uajy.ac.id/7862/3/2MIH01201.pdf>)

of internet access networks. However, in the absence of policies and preventive measures, users can freely access certain data which can be misused by irresponsible users.¹⁰

There are limited tools or software or hardware that can be used to support investigations and patrols or it can be said that the technology owned by the Indonesian cyber police is not as good or as many as other countries, besides that to prove that the site which is then endorsed by someone is a gambling site is also quite difficult especially if it turns out that the existence of the site is not in the Indonesian network or server or not made from Indonesia but from other countries that legalize gambling, even though these sites are in Indonesian even though it can be concluded that the creators and consumers of these sites are Indonesian people, the Indonesian police cannot or have difficulty enforcing the law because the creator or location of the web is not in the Indonesian network. The awareness of the Indonesian people themselves who mostly ignore the existence of gambling content even though they often see and appear on social media that is visited by many people because they feel that it does not harm them directly or according to them it is a common thing that has happened, it also causes difficulties in law enforcement because after all the law enforcement cannot move alone without direct assistance from the wider community. Knowledge from the public to the online reporting sites and websites owned by the police is also a real obstacle which certainly has a huge impact on the lack of reports from the public regarding gambling sites or content as the author also explained. The very large amount of content containing gambling or in this case Endorsement can be seen in fact on social media Instagram alone if we search for the hashtag #judionline alone there are more than 1 million posts of photos and videos of gambling Endorsement not to mention those on other social media or other sites. This will certainly make it very difficult for law enforcement to process or enforce existing laws because there is too much content.¹¹

According to Andi Hamzah, law enforcement is referred to in the language of Law Enforcement, Dutch rechtshandhaving. He quoted Handhaving milieurecht, 1981, Handhaving is the control and application (or by threat) of the use of administrative, criminal or civil instruments to achieve the structuring of legal provisions and regulations that apply generally and individually. Handhaving includes a law enforcement phase which means repressive law enforcement and a compliance phase which means prevention. Thus, in line with the problems in the discussion, namely that there are still many law enforcement problems in monitoring influencers who promote online gambling sites.

V. CONCLUSION

Based on the results of research and data analysis, the following conclusions can be drawn:

Not providing risks arising from goods and services; e. utilizing and exploiting a person without the permission of the authority or the person concerned, violating ethics or violating advertising laws and regulations. Criminal sanctions are a way to be used in achieving the objectives of the criminal punishment, the imposition of criminal sanctions can only be carried out if someone makes a mistake for violating a provision of laws and regulations, criminal sanctions with criminal liability have the same context as criminal liability, where criminal sanctions apply absolutely to someone who has violated a provision of laws and regulations, and there is no reason to apologize for the actions that have been taken on that person. In the Electronic Information and Transaction Law, all content related to gambling can be charged with the same article, including gambling endorsements. The context of gambling content is any type of action related to distributing, transmitting or making accessible gambling content, so this has fulfilled the elements in this article. So if it is proven to have committed an unlawful act in Article 27 paragraph (2) of the Electronic Information and Transaction Law, the consequences are contained in Article 45, namely (1) Every person who fulfills the elements referred to in Article 27 paragraph (1), paragraph (2), paragraph (3), or paragraph (4) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah).

The awareness of the Indonesian people themselves who mostly ignore the existence of gambling content even though they often see and appear on social media that is visited by many people because they feel that it does not harm them directly or according to them it is a common thing that has happened, it also causes difficulties in law enforcement because after all the law enforcement cannot move alone without direct assistance from the wider community. Knowledge from the public to the online reporting sites and websites owned by the police is also a real obstacle which certainly has a huge impact on the lack of reports from the public regarding gambling sites or content as the author also explained. The very large amount of content containing gambling or in this case Endorsement can be seen in fact on social media Instagram alone if we search for the hashtag #judionline alone there are more than 1 million posts of photos and videos of gambling Endorsement not to mention those on other

¹⁰ Kep et al., "De Jure De Jure."

¹¹ Jendraningrat, "Yustisia Efektifitas Penegakan Hukum Tindak Pidana Cyber Gambling Endorsment Di Indonesia How to Cite : Bintang Artsena Jendraningrat , ' Efektifitas Penegakan Hukum Tindak Pidana Cyber Gambling Endorsement Di Indonesia ', Yustisia Tirtayasa : Jurnal."

social media or other sites. This will certainly make it very difficult for law enforcement to process or enforce existing laws because there is too much content.

REFERENCES

- Los, Unidad Metodología D E Conocimiento D E. *No 主観的健康感を中心とした在宅高齢者における健康関連指標に関する共分散構造分析* Title, n.d.
- Undang-Undang Nomor 19 Tahun 2016 tentang perubahan atas Undang-undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi elektronik
- Undang-Undang No 8 Tahun 1999 tentang Perlindungan Konsumen
- Adi Permana Agung, Ida Ayu Putu Widiati, and Ni Made Puspasutari Ujian. “Akibat Hukum Bagi Selebgram Yang Melakukan Periklanan Menyimpang Dari Ketentuan Peraturan Perundang-Undangan.” *Jurnal Konstruksi Hukum* 3, no. 2 (2022): 358–64. <https://doi.org/10.55637/jkh.3.2.4837.358-364>.
- Ilmu, Jurnal, Hukum Prima, Zainab Ompu Jainah, Dera Meidiansyah, Andi Dermawan, Deemas Tiandri Ferhan, Gusti Weliyansyah, et al. “MEMPROMOSIKAN SITUS JUDI ONLINE BERDASARKAN” 6, no. 1 (2023): 123–29.
- Jendraningrat, Bintang Artsena. “Yustisia Efektifitas Penegakan Hukum Tindak Pidana Cyber Gambling Endorsment Di Indonesia How to Cite : Bintang Artsena Jendraningrat , ‘ Efektifitas Penegakan Hukum Tindak Pidana Cyber Gambling Endorsement Di Indonesia ’, Yustisia Tirtayasa : Jurnal.” *Jurnal Tugas Akhir* 1, no. 1 (2021): 58–68.
- Kep, Akreditasi, Dirjen Penguatan, Risbang Kemenristekdikti, Undang Nomor, Tahun Tentang, and Mata Uang. “De Jure De Jure.” *Jurnal Penelitian Hukum* 19, no. 3 (2019): 339–48.
- Nono, Ignasius Yosanda, Anak Agung Sagung Laksmi Dewi, and I Putu Gede Seputra. “Penegakan Hukum Terhadap Selebgram Yang Mempromosikan Situs Judi Online.” *Jurnal Analogi Hukum* 3, no. 2 (2021): 235–39. <https://doi.org/10.22225/ah.3.2.2021.235-239>.
- Pande Putu Rastika Paramartha, Anak Agung Sagung Laksmi Dewi, and I Putu Gede Seputra. “Sanksi Pidana Terhadap Para Pemasang Dan Promosi Iklan Bermuatan Konten Judi Online.” *Jurnal Preferensi Hukum* 2, no. 1 (2021): 156–60. <https://doi.org/10.22225/jph.2.1.3062.156-160>.
- Zega, Ventry Faomassi, Hernita Aruan, Roni Dear A Purba, and Mazmur Septian Rumapea. “Pertanggungjawaban Pidana Selebgram Dalam Mempromosikan Judi Menurut UU ITE.” *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 5, no. 3 (2021): 494–504. <https://doi.org/10.36312/jisip.v5i3.2194>.
- (R. JATI BAYUBROTO. <http://e-journal.uajy.ac.id/7862/3/2MIH01201.pdf>)