



ACCOUNTABILITY OF INFLUENCERS CREATING ONLINE GAMBLING PROMOTIONAL CONTENT ON INSTAGRAM

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Abstract

Easy technological advancements offer advantages and disadvantages. The rise of online gambling through internet media in the community is one of the negative impacts. It is impossible to separate the role of influencers in promoting online gambling sites from the evolution of online gaming. Although there are strict rules prohibiting the promotion of online gambling in Articles 27 and 45 paragraph (2) of Law Number 19 of 2016 concerning Electronic Information and Transactions and their amendments, there are still many influencers who actively support online gambling. Determining the function of influencers in online gambling promotion as well as the obligations of these influencers is the purpose of this study. The normative juridical approach is the research methodology used. The study's findings suggest that influencers may play a more varied role in promoting online gambling than those who actively advocate. Influencers can act as plegen, doen plegen, medeplegen, medeplichig or uitlokker. Influencers. An influencer must also be responsible for the content he promotes. Suppose the content created is not in accordance with existing regulations. In that case, the influencer can receive penalties that can be based on the terms of the user from Instagram such as termination of the account and even deletion of the account and based on laws such as imprisonment and fines.

Keywords: influencer, online gambling, accountability, promotion.

A. Introduction

The world now no longer knows borders, distance, space, and time because advances in information and communication technology today have an impact on increasing productivity and efficiency of life. Based on a poll conducted by the Indonesian Internet Service Providers Association

(APJII), 78.19 percent of Indonesians, or 215,626,156 people, out of 275,773,901 total Indonesian population, will be online by 2023. The rapid development of digital technology such as the internet has created many social media that have replaced conventional media because social media is



faster in delivering the latest news and information.¹

Modern technology has now changed the pattern of life or order of people's behavior because the internet can be accessed by everyone easily without conditions. Simple technical progress offers both advantages and disadvantages. One of the weaknesses of technical progress is the spread of online gambling through the media, which has had a major impact on society. Online gambling refers to gambling games played using electronic devices such as smartphones and internet connections. Gambling is a game that only chooses one choice from the many choices in the game.

Those who win will get the prize of the bet that is being played by the losing side.²

Before the existence of Online gambling is actually conventional gambling has spread a lot in society.³ Despite the fact that some laws and regulations expressly prohibit gambling *offline* and *Online*, in fact both types of gambling are increasingly common in society. Since the law was created, many have questioned whether the law should be enacted because it seems that the law is just a piece of paper that does not impose any obligations on the party who violates it.⁴

Article 303 of the Criminal Code contains provisions regarding gambling in Indonesia. Then, Law Number 19 of 2016

¹ Ignasius Yosanda Nono, Anak Agung Sagung Laksmi Dewi, and I Putu Gede Seputra, "Law Enforcement Against Celebrities Who Promote Online Gambling Sites," *Journal of Legal Analogy*, Vol. 3 No. 2, 2021, pp. 235–239.

² Pande Putu Rastika Paramartha, A.A. Sagung Laksmi Dewi, I Putu Gede Seputra, "Criminal Sanctions Against Installers and Promotion of Ads Containing Online Gambling Content", *Journal of Legal Preferences*, Vol. 2 No. 1, 2021, p. 158.

³ Vanda Affan, Yusuf Saefudin, "A Criminological Review of Influencers Advertising Online Gambling", *Amerta: Journal of Social Sciences and Humanities*, Vol. 3 No. 1, 2023, p. 13.

⁴ Laily Noor Ikhsanto, Criminal Liability of Parties Involved in Online Gambling, *Thesis*, Faculty of Law, Universitas Islam Indonesia, Yogyakarta, 2020, p. 8.



concerning Information and Electronic Transactions along with its amendments Article 27 paragraph (2) and 45 paragraph (2) became the legal basis for prohibiting the promotion of gambling. Article 27 paragraph (2) of the ITE Law stipulates: "Everyone intentionally and without rights distributes, transmits, and/or makes accessible information or electronic documents that have gambling content. with a criminal threat in Article 45 paragraph (2), namely 6 years in prison and or a maximum fine of 6 billion rupiah".⁵

A total of Rp 190 trillion worth of online gambling transactions took place in Indonesia between 2017 and 2022, according to data compiled by the Financial Transaction Reporting and Analysis Center. Based on the

chart above, it can be seen that the number of people gambling online is increasing. In 2017, there were 250.7 thousand online gambling transactions worth a total of 2 trillion rupiah. In 2022, the number of transactions reached an all-time high of 104.4 trillion rupiah.⁶

Due to technological advancements, social media is now used to promote businesses. One way is by partnering with someone, such as an artist or public figure, or by giving *Endorsement* to them. This can increase sales of the product or service being promoted because it will be seen by other social media users.⁷ Endorsement or promotion is usually done by *influencers* With the number of followers that can reach millions of followers by using his social

⁵ *Ibid.*

⁶ "Online Gambling Trend in Indonesia Continues to Increase, Value Exceeds Rp100T in 2022", <https://databoks.katadata.co.id>, accessed on November 29, 2023.

⁷ Muhsinul Anam, Criminal Responsibility of Online Gambling Perpetrators Based on Law Number 19 of

2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, *Thesis*, Faculty of Law, Islamic University of Malang, Malang, 2022, p. 7.



media which aims to promote and invite others to use the product or service being promoted. In promoting online gambling through Instagram *influencers* It has 2 ways they can do it. First, there is content promotion, where an influencer uses images and videos or *Streaming* to display or promote gambling gaming sites *Online* thus influencing people's interest in playing gambling *Online*. The second method involves the incorporation of advertising into the material. This is done by including a "download" or "download" button in the content, which makes it easy for viewers or followers to access online gambling sites.⁸ Some *influencers* conduct promotions or *Endorsement* which is distorted and misleading. Gambling marketing *Online* that

invites social media users to sign up for gambling sites *Online* is one example of deceptive and illegal promotion.

Role or position *influencers* in gambling promotion *Online* also needs to be ensured because it is still there *influencers* who don't know what products or services they are promoting. Some *influencers* Those who promote online gambling claim that they don't know that what they promote is gambling *Online*, What they knew was an ordinary game. Such a confession is clearly not necessarily believed and thus requires further investigation.⁹

One example of gambling promotion *Online* namely Risa Musfita from Pemalang who is an influencer with 700 thousand followers on Instagram, Risa Musfita is

⁸ Sinta Bella, Dewi Haryanti, Ayu Efridadewi, "Criminal Liability for Advertisers and Promotions Containing Online Gambling Through Youtube", Student Online Journal, Vol. 3 No. 1, 2022, p. 873.

⁹ Syakinah Dwi N, Dkk (2023) Analisis Yuridis Peredaran Obat Sirup Yang Menyebabkan Gagal Ginjal Akut Berdasarkan Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen, *Jurnal Equitable*, Vol. 8. No.3 Pp. 161-180



involved with gambling promotion services *Online* on his Instagram since 2021 on an international scale. Risa Musfita promotes online gambling by spreading links to gambling business websites *Online* on her instagram. From the promotional services she did, Risa Musfita claimed to get paid 7 million as a down payment, the money was received from her manager. The gambling business site promoted by Risa Musfita has servers in Southeast Asian countries namely Cambodia and Thailand. Risa Musfita admitted that she was initially contacted by her manager to spread gambling links *Online* which he himself did not know in detail the system. For her actions, Risa Musfita faces a criminal penalty of 10 years in prison or a fine of 1 billion rupiah

Gambling *Online* is one of the social problems that has a negative effect, especially for the younger generation, which will make them not work because they are

lulled by the big prizes offered by gambling sites *Online*. This is obviously very dangerous for the nation and country because the younger generation is a valuable asset for the future. Based on the description above, in this research the author is interested in carrying out research with the title: **Accountability *Influencers* Gambling Promotion Content Creator *Online* On Instagram.**

B. Problem Statement

1. What is the role of *influencers* in online gambling promotion?
2. What is the legal responsibility of *influencers* who promote *online gambling*?

C. Research Objectives

1. Know and analyze the role of *influencers* in online gambling promotion.



2. Know and analyze the responsibilities of *influencers* who promote *online gambling*.

D. Research Methods

Normative Juridical Technique is the approach used in this study. The legal research method called the Normative Juridical Method seeks to investigate and evaluate relevant laws and regulations regarding a particular subject or issue.¹⁰ Applicable law and legal theory were used in this study. By using a statutory approach.¹¹ This journal is descriptive, this journal is done by looking through library sources or secondary data as a starting point of inquiry

and by looking at relevant literature and regulations.¹²

E. Research Results and Discussion

1. The Role Of Influencers In Online Gambling Promotion

The world of business and marketing both depend on promotion.¹³ Promotion is a collection of actions aimed at increasing the existence of certain goods, services or products. The purpose of promotion is to give a good picture of a good product or service to the intended target, because a positive reputation will increase the attractiveness of a product or service in the eyes of many people.¹⁴

¹⁰ Peter Mahmud Marzuki, *Legal Research*, Fourteenth Printing, Kencana, Jakarta, 2011, p. 167.

¹¹ Satria Unggul Wicaksana Prakasa, Al-Qodar Purwo, "Analysis of Historical Traditional Fishing Right in Indonesia's Exclusive Economic Zone (Zee)", *Legality: Legal Scientific Journal*, Vol. 27 No.1, 2019, p. 83.

¹² ZF Attamimi & Shaleh, A.I. Politik Hukum Regulasi Hukum Ekonomi Syar'iah pada Lembaga Keuangan Syari'ah di Indonesia, *Jurnal Hukum Ekonomi Islam*, Vol. 2 No.02, 2018.

¹³ Hariyanti, N. T., Wirapraja, A, "The Influence of Influencer Marketing as a Modern Era Digital Marketing Strategy (A Literature Study)", *Executive Journal*, Vol. 15 No. 1, 2018, p. 134.

¹⁴ Zainab Ompu Jainah, Dera Meidiansyah, Andi Dermawan, and Deemas Tiandri Ferhan, "Law Enforcement Against Celebrities Who Promote Online Gambling Sites Based On Law Number 11 Of 2018 Concerning Electronic Information And Transactions", *Journal Ilmu Hukum Prima*, Vol. 6 No. 1, 2023, p. 126.



Gambling promotion Online cause very bad effects because of gambling promotion Online plays an important role in herding or getting new players into the sitegamble Online and retain existing customers or players. In the fierce competition in the gambling industry Online roleNotable artists Or influencersbecome a key factor to attract the attention of more people. Influencers It has a lot of fans, and when they promote gambling sites Online, They brought a significant impact. With Endorsement from the influencers, gambling sites Online It can reach more people and gain the trust of fans or followers influencers aforementioned.

Role influencers in promoting gambling Online not always received positively by society. Controversies often

arise when artists are involved in gambling site promotion Online that is illegal or does not comply with applicable regulations.¹⁵ Some influencers it has even been involved in legal action, as happened to Risa Musfita who was reported to the police after promoting a gambling site Online via his Instagram account. Influencers who are involved in the gambling industry Online usually change the phrase of the sentence they use in their promotion They replace the sentence of "Gambling Online" to "Online Games." They also often mention that "Online Games It already has a license and is safe to play," although it does not always go into detail about the license.

The presence of the influencers in the gambling industry Online raises questions about legal and security

¹⁵ "Artists and Influencers in Online Gambling Ads", <https://jurno.id>, retrieved November 29, 2023



repercussions. Some of the influencers This is not only limited to promoting it, but may also engage in activities that further in the operation of the online gambling site. According to M. Natsir Kongah, Coordinator of PPATK Public Relations Substance Group, the influencers It may not only be at the promotion level, but also can be involved at a higher level in the operation of the gambling house online

According to Prof. Dr. Wirjono Prodjodikoro, S.H. it is known that there are five groups of participants in criminal acts, namely:¹⁶

- a. The person who does the deed
(plegen, dader)
- b. The one who tells to do the deed
(doen plegen, middelijke dader)

- c. People who participate in doing actions (medeplegen, mededader)
- d. The one who persuades to do the deed (uitlokken, uitlokker)
- e. People who help deeds
(medeplichtig zijn, medeplichtige)

Influencers that promotes gambling Online can play a role more than just the promoting party. The role of a influencers In promoting online gambling can be as plegen, doen plegen, medeplegen, medeplichig Or uitlokker. Influencers can play more than one role. This role will affect what sanctions will be given to influencers that promotes gambling Online.

Influencers In addition to being influential in gambling promotion Online Also influential in the pattern of people's

¹⁶ Tommy J. Bassang, "The Accountability of Deelneming Offenders", *Lex Crimen*, Vol. 4 No. 5, 2015, p. 125.



lives, especially the life patterns of their followers because an influencer will be an example or role model of his followers.¹⁷ This event is very dangerous, said one influencers has great potential to influence his followers. Especially when it comes to the hero, many people immediately believe what they see on social media. Examples Influencers young people who influenced many generation z children were Indra Kesuma and Doni Salmanan.

Indra Kesuma or known as Indra Kenz has succeeded in influencing many people ranging from teenagers to adults. Indra promotes gambling Online under the guise of investing in the Binomo application which has succeeded in leading hundreds of thousands of players to join. Similar to Indra, Doni Salmanan

also managed to influence and harm many people. The difference is how to promote it and the application used. Indra promoted by showing off his wealth, being arrogant and saying everyone can succeed at a young age so that people who see him will be interested and want to have treasures like Indra. Unlike Indra, Doni promotes by being friendly and likes to share his money which is the result of the products he promotes.

From what has been explained above, this proves that people easily believe what is seen on social media without finding out more information obtained. People also still lack literacy so they can't distinguish what is seen on gambling social media or not, they don't care what they play, all they have in mind

¹⁷ "The Rise of Artists and Influencers Promoting Online Gambling on Social Media, This is the Response of UM Surabaya Lecturers",

<https://www.um-surabaya.ac.id/>, retrieved November 29, 2023



is to want to get rich in an instant way like their idols. Challenging economic circumstances also contributed to the high number of casualties Game internet. Even in a slumped economy, there is always a chance that someone will succumb to temptation if they see an immediate increase in money or assets. Expectations that do not match the anticipated outcome will lead to new crimes including theft, attempted suicide, and deep grief.

2. Legal responsibility of influencers who promote online gambling

When producing promotional materials, an influencer must be prepared to accept accountability for both the content they produce and any consequences that may arise. Promotional materials created by influencers must

comply with applicable laws to avoid financial loss. Indonesian influencers need to be very careful and educate themselves about the goods and services they support. In Indonesia, there are several examples of influencers who are not aware of the things they promote. Influencers often ignore the impact of marketing and only consider lucrative offers of cooperation. Online gambling endorsements made by influencers can be categorized as promotional content. Usually influencers invite their followers through the content they create, content created to promote online gambling sites can be in the form of videos or photos which are then spread through Instagram accounts or other social media.¹⁸

¹⁸ Fasya Ilma A.N, Berliantha, Anne Shavira, Ghita Rhakasiwi, "Violation of Advertising Ethics: The Paradigm of Influencers' Legal Responsibility for

Endorsement Acts", MAHUPAS Journal: Unpas Law Students, Vol. 1 No. 2, 2022, p. 94.



Instagram itself already has a policy Terms of Use. Under this clause, Instagram users are not allowed to engage in unlawful, misleading, or deceptive behavior, or behave for other illegal or prohibited purposes. Instagram reserves the right to remove content and may disable or terminate an account if a user violates these terms of us.

What is meant by gambling games is any game, which in general the possibility of obtaining profits depends only on luck, also because the players are more trained or skilled, according to Article 303 paragraph 3 of the Criminal Code which regulates the prohibition. on gambling. This includes any bets on the outcome of contests or other events not played between entrants, in addition to all other bets." Articles 426 and 427 of Law 1/2023, which provide for the revision of the Criminal Code, will come into force

three times. year after enactment, or in 2026. "Everyone intentionally and without the right to disseminate and/or transmit and/or make accessible Electronic Information and/or Electronic Documents containing gambling content" as Article 27 paragraph (2) of the ITE Law) regulates the prohibition of online gambling, Article 27 paragraph (2) of the ITE Law prohibits certain actions, and violators are threatened with six years in prison or a fine of IDR one billion. providing materials including gambling that is prohibited or not allowed under the requirements of the law is the main focus of the application of Article 27 paragraph (2) of the ITE Law.



Meanwhile, what is meant by the explanation has been explained above:¹⁹

- a. Distributing is the act of sending or disseminating electronic information or electronic documents to many people or various parties using electronic media.
- b. Transmitting is sending electronic information or electronic documents addressed to one party using electronic media.
- c. Making it accessible is all actions other than distributing and transmitting using electronic media that cause electronic information or electronic documents to be known to the public.

With the existing legal basis, the promotion of gambling *Online What to do*

by influencers in Indonesia it can be considered illegal.²⁰ This is because of gambling promotions Online will support and publish gambling sites *Online* which clearly violates the provisions of the law. As a result, violations of gambling laws in Indonesia can face serious sanctions, including fines and imprisonment. It's important to remember that laws can change, and enforcement can vary.

Thus, based on Article 27 paragraph (2) of the ITE Law and Article 45 paragraph (2) of Law 19/2016, influencers What Drives Gambling Online may face criminal charges for disseminating and making gambling content accessible. Such violations are punishable by imprisonment for a maximum of six years and/or a maximum fine of IDR one billion.

¹⁹ "Legal Trap of Online Gambling Endorse Celebrities", <https://www.hukumonline.com>, retrieved November 29, 2023

²⁰ Nur Kholis Majid, Ali Maskur, "Review of the Legality and Legal Responsibility of Celebrities in Online Gambling Promotion", *LEX et ORDO Journal of Law and Policy*, Vol. 1 No. 1, 2023. p. 71.



F. Conclusion

Influencers Not only limited to parties who promote gambling Online. But influencers can play more than one role, namely: can be as plegen, doen plegen, medeplegen, medeplichig Or uitlokker. Roles performed influencers This will affect the sanctions given. With the existing legal basis, the promotion of gambling *Online What to do* by influencers in Indonesia it can be considered illegal. Thus, based on Article 27 paragraph (2) of the ITE Law and Article 45 paragraph (2) of Law 19/2016, influencers What Drives Gambling Online may face criminal charges for disseminating and making gambling content accessible. Such violations are punishable by imprisonment for a maximum of six years and/or a maximum fine of IDR one billion.

Bibliography

1. Book

E. Fernando, M. Manullang, *Legisme, Legality and Legal Certainty*, Second Printing, Kencana, Jakarta, 2017.

Hanafi Amrani and Mahrus Ali, *Criminal Liability System*, First Printing, Rajawali Pres, Jakarta, 2015.

Moeljatno, *Criminal Code*, Thirty-third Printing, Bumi Aksara, Jakarta, 2018.

Peter Mahmud Marzuki, *Legal Research*, Fourteenth Printing, Kencana, Jakarta, 2011.

Suratman and H. Philips Dillah, *Legal Research Methods*, First Printing, Alfabeta, Bandung, 2013.

2. Research Results/Final Project.

Laily Noor Ikhsanto, Criminal Responsibility of Parties Involved in Online Gambling, *Thesis*, Faculty of Law, Universitas Islam Indonesia, Yogyakarta, 2020.

Muhsinul Anam, Criminal Responsibility of Online Gambling Perpetrators Based on Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, *Thesis*, Faculty of Law, Islamic University of Malang, Malang, 2022.

3. Journal Articles

Fasya Ilma A.N, Berliantha, Anne Shavira, Ghita Rhakasiwi, "Violation of Advertising Ethics: Paradigm of Influencers' Legal Responsibility for Endorsement Acts", *MAHUPAS*



Journal: Unpas Law Students, Vol. 1 No. 2, 2022.

Hariyanti, N. T., Wirapraja, A, "The Influence of Influencer Marketing as a Modern Era Digital Marketing Strategy (A Literature Study)". *Executive Journal*, Vol. 15 No. 1, 2018.

Ignasius Yosanda Nono, Anak Agung Sagung Laksmi Dewi, and I Putu Gede Seputra, "Law Enforcement Against Celebrities Who Promote Online Gambling Sites", *Journal of Legal Analogy*, Vol. 3 No. 2, 2021.

Nur Kholis Majid, Ali Maskur, "Review of the Legality and Legal Responsibility of Celebrities in Online Gambling Promotion", *LEX et ORDO Journal of Law and Policy*, Vol. 1 No. 1, 2023.

Pande Putu Rastika Paramartha, A.A. Sagung Laksmi Dewi, I Putu Gede Seputra, "Criminal Sanctions Against Installers and Promotion of Ads Containing Online Gambling Content", *Journal of Legal Preferences*, Vol. 2 No. 1, 2021.

Satria Unggul Wicaksana Prakasa, Al-Qodar Purwo, "Analysis of Historical Traditional Fishing Right in Indonesia's Exclusive Economic Zone (Zee)", *Legality: Legal Scientific Journal*, Vol. 27 No.1, 2019.

Sinta Bella, Dewi Haryanti, Ayu Efridadewi, "Criminal Responsibility for Advertisers and Promotions of Online Gambling Content Through Youtube", *Student Online Journal*, Vol. 3 No. 1, 2022.

Syakinah Dwi N, Dkk (2023) Analisis Yuridis Peredaran Obat Sirup Yang Menyebabkan Gagal Ginjal Akut Berdasarkan Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen, *Jurnal Equitable*, Vol. 8. No.3 Pp. 161-180

Trisie Fitri Wulandari, Sri Wina Ramadhany, "Criminal Law Provisions Against the Promotion of Online Gambling Content", *Aufklarung: Journal of Education, Social and Humanities*, Vol. 3 No. 1, 2023.

Tommy J. Bassang, "The Accountability of Deelneming Perpetrators", *Lex Crimen*, Vol. 4 No. 5, 2015.

Vanda Affan, Yusuf Saefudin, "A Criminological Review of Influencers Advertising Online Gambling", *Amerta: Journal of Social Sciences and Humanities*, Vol. 3 No. 1, 2023.

Zainab Ompu Jainah, Dera Meidiansyah, Andi Dermawan, and Deemas Tiandri Ferhan, "Law Enforcement Against Celebrities Who Promote Online Gambling Sites Based on Law Number 11 of 2008 concerning Electronic Information and Transactions", *Journal of Legal Sciences Prima*, Vol. 6 No. 1, 2023.

ZF Attamimi & Shaleh, A.I. Politik Hukum Regulasi Hukum Ekonomi Syar'iah pada Lembaga Keuangan Syari'ah di Indonesia, *Jurnal Hukum Ekonomi Islam*, Vol. 2 No.02, 2018.



4. Internet

Artists and Influencers in Online Gambling Ads", <https://jurno.id>, retrieved November 29, 2023

Legal Trap of Online Gambling Endorse Celebrities", <https://www.hukumonline.com>, retrieved November 29, 2023.

The Rise of Artists and Influencers Promoting Online Gambling on Social Media, This is the Response of UM Surabaya Lecturers", <https://www.um-surabaya.ac.id>, retrieved November 29, 2023.

Online Gambling Trend in Indonesia Continues to Increase, Value Exceeds Rp100T in 2022", <https://databoks.katadata.co.id>, accessed on November 29, 2023.

5. Laws and Regulations

Criminal Code Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, Neara Gazette of the Republic of Indonesia of 2016, Supplement to the State Gazette of the Republic of Indonesia Number 251