

# Implementation of Logistics Partnership Schemes and Good Corporate Governance (GCG) Principles in E-Commerce and Startup Companies

Pidari Sinaga<sup>1</sup>, Yusriyadi<sup>2</sup>, Ana Silviana<sup>3</sup>

<sup>1</sup>Doctoral Program, Faculty of Law, Diponegoro University, Jl. Dr. Antonius Suroyo, Tembalang, Semarang City, Central Java, Indonesia 50275

<sup>2,3</sup>Faculty of Law, Diponegoro University, Jl. Dr. Antonius Suroyo, Tembalang, Semarang City, Central Java, Indonesia 50275

## Abstract

Presidential Regulation Number 74 of 2017 concerning the Roadmap for an Electronic-Based National Trading System aims to encourage the acceleration and development of an electronic-based national trading system (e-Commerce), start-up businesses, business development and acceleration of logistics. Implementing a logistics partnership scheme is one of the strategies in developing electronic-based businesses. However, this partnership scheme often causes problems for its partners. The purpose of this research is to describe whether the implementation of clauses in partnership cooperation contracts is in accordance with legal norms and Good Corporate Governance (GCG) principles in e-Commerce companies. This research uses normative juridical research methods and the results of the research show that this partnership scheme has not been able to provide certainty and guarantee equal welfare for logistics business partners in e-Commerce companies, so that in the practice of partnership cooperation there is a gap between business actors and their partners.

**Keywords:** e-commerce, startup, digital economy, partnership

## 1. Introduction

Economic development is often assessed by the increase in the amount of production of goods and services following market demand, so that the use of resources and the need for investment will also increase as capital to drive a business. The increasing growth of society is also one of the factors in the increasing need for goods and services, making society consumerist, especially in this era, which is supported by technological developments, which has become a major change in the lives of global society and makes all human affairs easier, one of which is in the economic aspect. The impact of technological developments in the economic aspect can be seen from the shift in people's interest in trading which makes things easier for them because of the online marketplace which offers facilities and convenience in the buying and selling process (1)

The rapid development of technology trade is driven by the high level of public interest in meeting their needs. Digital technology is one of the main capital needed by industrial players to develop their

businesses, so that it can provide development in the industrial sector which along with technological developments can bring economic improvements to a country. The government's participation in accelerating healthy growth for the e-Commerce industry in Indonesia is one of the driving factors in the country's economy. Presidential Regulation Number 74 of 2017 concerning the Road Map for an Electronic-Based National Trading System as a map that aims to encourage the acceleration and development of an electronic-based national trading system (e-Commerce), start-up businesses, business development and acceleration of logistics.

In today's business activities, business people rely on internet-based trading activities or what we usually know as e-Commerce. The ease of accessing the internet by people in carrying out online buying and selling transactions is because e-Commerce itself offers many conveniences and advantages for buyers, such as providing various products or services and making it easier for people to make transactions anywhere and anytime. The various services and offers provided by e-Commerce itself, apart from providing convenience, can guarantee security in the delivery of goods. To achieve accelerated growth in a company, business actors are trying to implement business strategies, one of which is by offering a partnership scheme. For example, e-Commerce companies have implemented a logistics partnership scheme in addition to expanding their business network and facilitating access to shipping and delivery of goods to consumers. This partnership offer is based on increasing consumer interest in buying goods, so the company provides opportunities and offers for anyone who is interested in becoming a partner under the auspices of e-Commerce and Start-up companies. As a partnership relationship arises as a result of an agreement made by both parties. This partnership contract is specifically regulated in Article 1618 and Article 1652 of the Civil Code (Civil Code) concerning civil partnerships. A partnership agreement made legally will give rise to legal consequences as regulated in Article 1338 paragraph (1) of the Civil Code which states that "All agreements made legally apply as law for those who make them". So that the partnership agreement becomes law for both parties (1). The agreement between the e-Commerce startup company as the system owner and its partners is a standard agreement. The standard agreement in question is a form of freedom for individual entrepreneurs or company owners to express their wishes in running their company, so that the partnership agreement becomes law for both parties.

This legal relationship occurs between the two parties who have stated an agreement, then rights and obligations arise based on the clauses stated in the partnership contract itself. The logistics partnership contract offered by the e-Commerce startup company which also holds the control of the application system, is a horizontal legal relationship between the provider of online-based land road transportation services and service users, as well as a vertical legal relationship with the Government (1). This kind of work relationship allows everyone to get a decent income and work as regulated in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states "Every citizen has the right to work and a living that is worthy of humanity". And the provisions of Article 28 D paragraph (2) which states that "Everyone has the right to work and receive fair and appropriate compensation and treatment in employment relationships. In a work relationship or partnership like this, legal protection is also required to create an equal position for both parties.

In order to ensure the survival of the company, it is necessary to implement good performance to gain the trust of the public, business partners and investors who can safely invest their capital in the company. Thus, implementing the principles of Good Corporate Governance (GCG) is a demand for every company so that it can continue to compete in the global era, because in principle it is to maintain the credibility of a company. The implementation of Good Corporate Governance (GCG) principles is also very important

for e-Commerce startup companies, where the fundamental principles that can be found in GCG are transparency, accountability, justice and responsibility which are practiced in combination with legal regulations (1). In a problem that arises in e-Commerce startup companies, namely regarding the relationship between logistics partnerships and unequal companies, because in practice the work pattern of the logistics partnership scheme offered in the contract does not include a clause stating that partners will have the same access rights. especially in work safety as a form of legal protection for drivers as logistics partners.

Good Corporate Governance (GCG) can be interpreted as a series of mechanisms for a public company to be directed and controlled in accordance with the expectations of its stakeholders. This mechanism reflects a company management structure and determines the distribution of rights and responsibilities among various participants in the company (2). The role of logistics partners is one of the drivers of a company's growth, especially in electronic commerce activities in this era. As the principles of Good Corporate Governance (GCG) are closely related to trust in both the company and the business climate in a country. Implementation of GCG can boost the creation of healthy competition and a conducive business climate, company growth and sustainable economic stability.

### **Methodology**

This research uses a normative juridical research method with a qualitative approach which can provide an overview of the symptoms that occur related to this problem. The purpose of this research is to describe how the logistics partnership scheme in the cooperation contract offered is in accordance with the legal norms contained in the legislation and the principles of Good Corporate Governance (GCG) in e-Commerce and startup companies, so that it can produce a relevant argument to uncover the problem. The type of approach used is a legal and conceptual approach with literature study and deductive logic analysis techniques.

### **Results and Discussion**

#### **Logistics Partnership Scheme for E-commerce and Startup Companies in Indonesia**

The term partnership comes from the English translation, namely partner contract, while in Dutch it is called *samenwerkingsovereenkomst*. The principles that must be considered in this partnership are: (2)

1. Need each other;
2. Trust;
3. Strengthen; And
4. Profitable

Partnership is a business strategy step carried out by two or more parties within a certain period of time to achieve mutual benefits with the principle of mutual benefit and mutual benefit between the partnering parties. Partnership is a form of business activity that can be established with capital, expertise and operating capabilities. According to Government Regulation Number 44 of 1997 concerning Partnerships, basically partnerships are carried out in order to accelerate the realization of an independent and reliable national economy as a joint effort based on the principle of kinship, so that more concrete efforts are needed to create a climate that is able to stimulate the implementation of strong business partnerships. among all actors in economic life based on the principle of mutual benefit (2). Based on Article 1 paragraph 13 of Law Number 20 of 2008, what is meant by Partnership is cooperation in business relationships, both direct and indirect, based on the principles of mutual need, trust, strengthening and

benefit involving Micro, Small and Business actors. Medium with Large Business. Based on Article 26 of Law no. 20 of 2008 in conjunction with Article 11 PP No. 17 of 2013, partnerships are implemented with the following pattern:

1. nucleus-plasma;
2. subcontracting;
3. franchise;
4. general trading;
5. distribution and agency;
6. and other forms of partnership such as profit sharing, operational cooperation, joint ventures, and outsourcing.

Government Regulation Number 17 of 2013 concerning the Implementation of Law Number 20 of 2008 states that the implementation of the partnership itself is supervised in an orderly and regular manner by an institution that was formed and tasked with supervising business competition as regulated in statutory regulations. This was then strengthened by Government Regulation Number 17 of 2013 concerning the Implementation of Law Number 20 of 2008 concerning MSMEs in Article 31 which mandates the KPPU to supervise the implementation of partnerships in accordance with the provisions of applicable laws and regulations. Apart from that, Article 32 states the authority of the KPPU to impose administrative sanctions on the implementation of partnerships (2).

Problems that often occur with partners of e-commerce startup companies, especially logistics partners, are about ensuring the amount of income, safety and guaranteeing decent work for their partners. One example of a problem occurs with Shopee partners as an international network e-commerce company, where the term partner should provide equal benefits in this logistics business scheme. But in reality, the work pattern with this partner scheme does not provide certainty between couriers as logistics partners and service providers or system owners who take responsibility for security, health and welfare, including ensuring the maintenance of their partners' operational facilities. This has caused disappointment for couriers as partners with the schemes and work systems offered by Shopee. And in the end, the courier's relationship as a partner is the same as the status of a worker in the company (3). The implementation of the partner scheme carried out like this is based on a work contract where the partnership work relationship system is guided by Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises (MSMEs) where this rule is very general in nature and applies to the partnership concept itself. However, if we examine it further to describe the relevant partnership pattern between e-commerce companies and their courier partners, namely the profit sharing partnership system, as stated in Government Regulation Number 17 of 2013 concerning the Implementation of the MSME Law. In this regulation, the explanation of the clause regarding the responsibility of large businesses towards their partners in profit sharing partnerships has not been clearly explained, it is only emphasized on the contribution and profits or losses borne by each party according to the agreement or work contract agreed to by both parties. It is believed that a partnership concept like this means that the e-commerce company does not feel the need to fulfill its obligations in providing workers' rights as stated in Law Number 13 of 2003 concerning Employment and Law Number 11 of 2020 concerning Job Creation. Based on Article 34 paragraph 1 of Law Number 20 of 2008, Article 29 paragraph 4 of Government Regulation Number 17 of 2013, states that the contents of the contract or Partnership Agreement as outlined in a written agreement contain the following provisions:

1. business activities

2. rights and obligations of each party
3. form of development
4. time period
5. dispute resolution

To implement a partnership agreement, it is mandatory to be guided by the principle of equality and balanced legal position between the two parties. In addition, the partnership agreement must fulfill the basic principles of independence of Micro, Small and Medium Enterprises and not create dependency of Micro, Small and Medium Enterprises on Large Enterprises. In this problem, it shows that there is a legal vacuum, employers consider employing someone not in terms of a work relationship but a partnership relationship where the concept of partnership has no legal clarity and without clear definitions regarding partners and their rights, then the company, service providers, and Application owners can impose sanctions or dismiss their partners without being given wages or compensation. This partnership work scheme is considered less feasible because there is no certainty for partners who may become objects of exploitation.

For this reason, a logistics partnership scheme like this must have legal standing based on a contract or work agreement. In fact, based on this case, it is necessary to monitor the implementation of the Partnership, which is regulated in Article 34 of Law Number 20 of 2008, which is then strengthened by Article 31 of Government Regulation Number 17 of 2017, that in monitoring partnerships, the KPPU can coordinate with the relevant agencies. The role of the Government is very necessary to improve the legal umbrella by reorganizing the forms of work partner relationships, especially in this digital era, because apart from clarifying and protecting work partner relationships, the applicable legal basis is not yet sufficient to accommodate and resolve the problems of work partners in the technological era. . In the flow of good business development, of course it is followed by strengthening regulations as the main foundation for achieving shared prosperity by not only prioritizing companies, so the principle is clear that everyone has the right to get a decent job while also getting legal protection and legal certainty in carrying out their work.

### **Principles of Good Corporate Governance (GCG) in E-Commerce and Startup Companies**

The definition of Good Corporate Governance (GCG) according to the Indonesian Corporate Governance Forum (FCGI) is "a set of regulations that regulate the relationship between shareholders, company administrators, creditors, government employees and other internal and external stakeholders relating to their rights and obligations or in other words a system that controls the company" (2). In general, the term Good Corporate Governance is a company control and regulation system that can be seen from the relationship mechanisms between the various parties managing the company (hard definition), as well as from the "values" contained in the management mechanism itself (soft definition) (3).

Corporate Governance is a series of structured processes used to manage and direct or lead business and corporate efforts with the aim of increasing company values and business continuity. There are several understandings of the meaning of Corporate Governance issued by several parties, both from a narrow perspective (shareholders) and a broad perspective (stakeholders, but in general they lead to the same purpose and understanding (3).

GCG principles are regulated in Law Number 40 of 2007 concerning Limited Liability Companies, Law Number 8 of 1995 concerning Capital Markets, Law Number 10 of 1998 on Banking, Law Number 19 of 2003 concerning BUMN, Law Number 25 of 2007 concerning Capital Investment. However, in this



discussion the focus is on GCG in Law Number 40 of 2007 concerning Limited Liability Companies because e-Commerce companies and startups are large companies with legal entities. There are 5 (five) principles that must be implemented by companies according to the National Committee for Governance Policy (KNKG, 2006), namely as follows: (2)

1. Transparency, namely that companies must provide material and relevant information in a way that is easily accessible and understood by stakeholders.
2. Accountability, namely that the company must be able to account for its performance in a transparent and fair manner. For this reason, companies must be managed correctly, measurably, and in accordance with the interests of the company while still taking into account the interests of shareholders and other stakeholders.
3. Responsibility, namely that companies must comply with statutory regulations and carry out responsibilities towards society and the environment so that they can run the company in the long term and receive recognition as a good corporate citizen.
4. Independence, namely that the company must be managed independently so that each company organ does not dominate each other and cannot be intervened by other parties.
5. Fairness and Equity, namely that the company must be able to pay attention to the interests of majority and minority shareholders and other stakeholders based on the principles of fairness and equality.

Apart from the five principles above, in implementing GCG, companies must also have basic principles in the form of company moral values which describe the company's moral attitude, business ethics agreed upon by company organs and employees, as well as behavioral guidelines that can be understood and applied (2). Problems regarding the implementation of Good Corporate Governance (GCG) in digital-based companies such as e-Commerce and start-ups are expected to be driven by ethics and regulations, namely the encouragement of ethics (ethical driven) comes from the awareness of individual business actors to carry out business practices digital technology at this time prioritizes company survival, stakeholder interests, and avoids ways of creating profits alone. Then the push from regulations "forces" (regulatory driven) companies to comply with applicable laws and regulations. The existence of awareness based on these incentives will be very effective in its implementation in digital-based companies in order to avoid problems such as bankruptcy in start-up companies because they are unable to keep up with the dynamics of global economic changes and unequal partnership relationships between logistics partners and large e-commerce companies. Commerce. Therefore, the application of GCG principles must be realized that the implementation of good Corporate Governance will only be effective if there is a principle of compliance in daily business practices, first implemented by management and then followed by all employees. Through consistent, firm and continuous implementation from all business players. (3)

As for the factors for implementing GCG principles in companies, according to those quoted by Dedi Kusmayadi, et al from ([www.madaniri.com](http://www.madaniri.com)), the requirements for successful implementation of GCG have two factors that play a role as follows: (4)

#### **a. External Factors**

1. There is a good legal system.
2. Support for GCG implementation from the public sector/government institutions.
3. There are examples of appropriate GCG implementation (best practices).
4. Establishment of a social values system that supports the implementation of GCG in society.
5. A growing anti-corruption spirit in the public environment where the company operates, accompanied by improvements in the quality of education and expansion of employment opportunities.

**b. Internal factors**

1. There is a corporate culture that supports the implementation of GCG.
2. Various regulations and policies issued by the company refer to the implementation of GCG values.
3. The company's risk control management is also based on standard GCG principles.
4. There is an effective audit (inspection) system in the company.
5. There is openness of information to the public.

Implementation of Good Corporate Governance cannot be separated from companies having valid legal entities in accordance with the provisions of the Law. The enactment of laws cannot be separated from the legal system which does not mean combining the meaning of system and law as they are, the legal system is a set of legal institutions, procedures and legal rules that operate (2). Good company management is based on legal provisions and rules as well as moral or ethical rules. Good company behavior will be clearly reflected in the behavior of business actors, if in practice this behavior can violate provisions in the Criminal Code or Civil Code as well as other laws and regulations. The role of logistics partners is one of the drivers of a company's growth, especially in electronic commerce activities in this era. The dynamics of trade in the technological era present so many new opportunities for workers and if the existence of the existing legal umbrella is not able to accommodate every problem, especially those related to this problem, then office holders need to re-evaluate existing regulations so that similar companies do not have loopholes. to indirectly exploit these partner status workers. So this will be very sustainable in the application of GCG principles in e-Commerce and Start-up companies, which need to express their attitudes by implementing good business ethical values so that they become a policy and standard of behavior that is required for digital-based business actors, attitudes and The actions carried out and/or prohibited actions are guided by the provisions that have been regulated in the statutory regulations, as well as provisions that are not formally regulated in the statutory regulations.

**Conclusions**

In e-Commerce companies that have implemented a logistics partnership scheme in addition to expanding their business network and facilitating access to shipping and delivery of goods to consumers. This partnership offer is based on increasing consumer buying interest in goods, so the company provides opportunities and offers for anyone who is interested in becoming a partner under the auspices of e-Commerce and Start-up companies. The partnership relationship arises as a result of an agreement made by both parties that creates problems regarding certainty of income, safety and guarantees of decent work for the partners. This kind of work relationship should ensure that everyone gets a decent income and work as regulated in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Thus, the implementation of the principles of Good Corporate Governance (GCG) is a demand for every company to can continue to compete in the global era, because in principle it is to maintain the credibility of a company. Implementing the principles of Good Corporate Governance (GCG) is also very important for e-Commerce companies and startups which in practice have not been implemented well.

The role of the Government is very necessary to evaluate the legal umbrella by reorganizing the forms of work partner relationships, especially in this digital era, because apart from clarifying and protecting work partner relationships, the applicable legal basis is not sufficient to accommodate and resolve the problems of work partners in the technological era. Things that are mutually sustainable in good company management are also based on legal provisions and rules as well as moral or ethical rules. Good company

behavior will be clearly reflected in the behavior of business actors, if in practice this behavior can violate provisions in the Criminal Code or Civil Code as well as other laws and regulations.

### Acknowledgement

The Regional Leadership Council (DPD) of the Association of Indonesian People's Economic Banks (Perbarindo) West Kalimantan & Central Kalimantan, Indonesia.

### References

1. Abdul R. Saliman. (2005) *Hukum Bisnis Untuk Perusahaan*. Jakarta: Kencana Prenada Media Grup
2. Adi Marsiela. (2021). Sekrup Kecil Mesin Big Tech : Kemitraan Tanpa Kesetaraan, url: <https://projectmultatuli.org/sekrup-kecil-mesin-big-tech-kemitraan-tanpa-kesetaraan>, diakses: 14/06/2021
3. Atsna Farihatul Ulya dan Burhanuddin Susamto. (2018). *Perlindungan Hukum Mitra Program Afiliasi E-commerce di Indonesia*. *Journal of Islamic Business Law*. Vol. 2 Issue 2
4. Dedi Kusmayadi, dkk. (2015). *Good Corporate Governance*. Tasikmalaya : LPPM Universitas Siliwangi
5. Galuh Kartiko. (2016). *Analisis Hukum Good Corporate Governance Dalam Pengelolaan Perusahaan Menurut Undang –Undang Nomor 40 Tahun 2007 Tentang Perseroan Terbatas*. Seminar Nasional Hasil Penelitian
6. Hassel Nogi S Tangkilisan. (2003). *Mengelola Kredit Berbasis Good Corporate Governance*. Yogyakarta: Balairung & Co
7. H. Salim, H.S, Erlies Septiana Nurbani. (2014) *Perkembangan Hukum Kontrak Innominaat di Indonesia*. Jakarta: Sinar Grafika
8. Iestyn Kelvianto dan Ronny H. (2018). Mustamu. *Implementasi Prinsip-Prinsip Good Corporate Governance Untuk Keberlanjutan Usaha Pada Perusahaan Yang Bergerak Di Bidang Manufaktur Pengolahan Kayu*. AGORA Vol. 6. No. 2
9. Indrayan Prananta. (2019). *Implementasi Prinsip-Prinsip Good Corporate Governance Terhadap Kinerja Perusahaan (Studi Pada PT. JBA Indonesia Cabang Tipar Cakung Periode 2019)*. Naskah Publikasi STIE Indonesia
10. Novia Choirunnisa. (2019). *Perlindungan Hukum bagi Pelaku Usaha Mikro Kecil dan Menengah Melalui Perjanjian Kemitraan Antara Carrefour dan Pemasoknya*. *Jurist-Diction*: Vol. 2 No. 3
11. Tutik Mustajibah dan Agus Trilaksana. (2021). *Dinamika E-Commerce Di Indonesia Tahun 1999-2001*. AVATARA. *e-Journal Pendidikan Sejarah*. Vol. 10 No. 3
12. Yochi Ayunita, dkk. (2019). *Perlindungan Hukum Terhadap Pengemudi Taksi (Mitra) Berbasis Online Pada PT. Grab Indonesia*. *Jurnal Ilmiah Ilmu Hukum Lex Lata*. Universitas Sriwijaya. Vol. 1 No. 1
13. Widjaya, LG. Rai. (2008). *Hukum Perusahaan Cetakan kelima*. Bekasi: Kesaint Blanc
14. Website KPPU, url: <https://kppu.go.id/pengawasan-kemitraan>