

Pelindungan Hak atas Privasi Anak berdasarkan Konsep Jaminan Usia (Age Assurance) dalam Penyelenggaraan Sistem Elektronik Lingkup Privat di Indonesia = The Protection of Children's Privacy Rights through Age Assurance in Private Sector Electronic Systems in Indonesia

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Abstrak

Kasus pelanggaran terhadap hak atas privasi anak rentan terjadi akibat pengaksesan layanan, produk, dan fitur yang disediakan oleh penyelenggara sistem elektronik, terkhususnya di lingkup privat, tidak sesuai dengan usia mereka. Konsep jaminan usia merupakan langkah alternatif untuk melindungi hak atas privasi anak dengan mengidentifikasi usia pengguna melalui deklarasi diri, estimasi usia, dan/atau verifikasi usia. Penerapan jaminan usia juga harus memperhatikan risiko pengguna sesuai dengan ketentuan perlindungan privasi, termasuk data pribadi. Melalui penelitian doktrinal, penelitian ini menganalisis penerapan jaminan usia dalam penyelenggaraan sistem elektronik lingkup privat di Indonesia. Saat ini, jaminan usia telah diterapkan di luar negeri, seperti Inggris, Uni Eropa, Amerika Serikat, dan Australia. Di Indonesia, Pasal 16A UU ITE mengatur jaminan usia sebagai salah satu kewajiban penyelenggara sistem elektronik lingkup privat dalam melindungi anak. Selain itu, pasal tersebut juga berkaitan dengan ketentuan yang diatur dalam UU PDP. Namun, saat ini belum ada pengesahan terhadap peraturan pelaksanaan dari kedua peraturan tersebut sehingga penerapannya belum efektif. Akibat kekosongan hukum tersebut, maka perlu adanya pengesahan peraturan pelaksanaan dari UU ITE dan UU PDP mengenai mekanisme, batasan, sanksi dari jaminan usia dan persetujuan orang tua dan/atau wali terverifikasi secara jelas. Selain itu, pemerintah, penyelenggara sistem elektronik lingkup privat, orang tua dan/atau wali juga perlu meningkatkan peran dan tanggung jawabnya untuk melindungi hak atas privasi anak dalam penyelenggaraan sistem elektronik di lingkup privat di Indonesia.

.....Violations of children's privacy rights are vulnerable due to access to services, products, and features provided by electronic system providers, especially in the private sector, which are not in accordance with their age. The concept of age assurance is one of the alternative measures to protect children's privacy rights by identifying the age of users through self-declaration, age estimation, and/or age verification. The application of age assurance must also consider the risks to users by the provisions on the protection of privacy rights, including personal data. Through doctrinal legal research, this research analyzes the application of age assurance in the implementation of private electronic systems in Indonesia. Currently, age assurance is also applied overseas, such as the United Kingdom, the European Union, the United States, and Australia. In Indonesia, Article 16A of the ITE Law regulates age assurance as one of the obligations of private sector electronic system providers to protect children. This provision is also linked to the regulations under the PDP Law. However, the absence of implementing regulations for both regulations has hindered effective enforcement. Therefore, there is an urgent need to enact implementing regulations for ITE Law and PDP Law to establish mechanisms, limitations, and sanctions related to age assurance as well as verified parental and/or guardian consent. In addition, the government, private sector electronic system providers, parents and/or guardians also need to improve their roles and responsibilities to protect children's privacy

rights in private sector electronic systems in Indonesia.