

## JURIDICAL STUDY OF CHILDREN WHO WORK AS INFLUENCERS IN RECEIVING ENDORSEMENTS IN SOCIAL MEDIA

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**Abstract**— *Child influencers are a profession that can channel the talents and interests of the child in positive terms, one of which is by receiving endorsements. Endorsement is a support in the form of cooperation between companies and celebrities/influencers by promoting a product produced by the company and bound by a valid agreement. As in Indonesia, many public figures raise their children to become influencers from an early age. In this case, what is the view of the child influencer profession according to positive law in Indonesia, bearing in mind that there are frequent reports of public figures suspected of exploiting children and their legal protection for child influencers in receiving endorsements on social media in the event of data leakage and default, both from the company or from the endorser himself.*

*This study uses normative legal research methods, namely discussing the doctrine of legal facts, principles, norms, and principles in the science of law, which focuses on laws and regulations related to working children, electronic transaction systems, and child protection using a statutory approach. invitation or statue approach..*

*The results of this study explain the legal views regarding the child influencer profession according to positive law in Indonesia, which begins with the position of child influencers as endorsers, forms of legal violations that can occur when receiving endorsements on social media and legal protection efforts for child influencers as a whole. preventive and repressive.*

**Keywords**— *Child Influencer, Endorsement Agreement, Social Media, Legal Protection.*

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## I. INTRODUCTION

The development of the times has brought humans to not be separated from technology. The development of technology has a great influence on human life, one of which is social media. Starting from children to adults also participate in using social media. The development of technology has made social media a place to socialize among human beings in a national and international scope. Social media is a means to communicate and access information digitally connected to the internet without being limited by space and time. We can find social media such as Instagram, Google, Twitter, Facebook, Youtube, WhatsApp, Line [1]. The many features provided by social media make it easier for someone to carry out all their activities, especially in terms of doing business. Based on the results of records contained in regional daily newspapers or wartakota, as many as 45 million people in Indonesia are fond of using the Instagram application and have succeeded in becoming the largest country using Instagram in Asia Pacific. Now, many companies are running their business using Instagram [2]. One of the strategies used by companies to increase their sales is through promotions or endorsements.

Endorsement or what we usually know as Endorsement is an endorsement in the form of a form of cooperation between a company and a famous figure or celebrity by promoting a product produced by the company and bound by a valid agreement. Consumer Buying Interest in the Digital Age, Musdalifa defines endorsement as a support effort aimed at someone who is active and has a large number of followers or followers on social media with the aim of introducing and promoting the product to the wider community. As we know, the rise of endorsements in Indonesia has made some people compete to find lots of followers on social media in order to become influencers [3]. An influencer is someone who has a big impact on society in increasing sales targets or brand awareness of a company through social media. Becoming an influencer is not limited by age, so it can be done by both adults and children. In Indonesia alone, there are well-known child influencers, such as Queen Arsy with 7.6 million followers, Baby Moonella with 1.1 million followers, and Kanaya Mia with 170 thousand followers. The rise of child influencers as described above has made parents flock to make their children a kid influencer, so that these children can easily get offers in the form of endorsements from a company.

Endorsement of children has many advantages and disadvantages. The advantage that can be taken from having endorsements for children is that they can foster a sense of

confidence in children and can explore their potential interests and talents. Endorsement also has a positive influence on children in using social media, namely children become more active in socializing with the outside world. On the other hand, endorsements for children also have drawbacks that have an impact on the psychological side of the child. Children become more easily depressed, because endorsements take quite a long time and are repeated so that the child's balance of time for learning and playing is disrupted. In general, endorsement agreements, a person will be bound in a written agreement, which must comply with the provisions contained in Law Number 19 of 2016 concerning Information and Electronic Transactions. Endorsement is carried out through social media such as Instagram [4]. The endorser will be contacted via Direct Message (DM) on Instagram or email to start the agreement. If the contacted party agrees, then proceed to the payment stage according to the rate set in the agreement (paid endorser) or without payment on condition that the product is given to the endorser free of charge (free endorser). Furthermore, business actors or companies will send goods to endorsers to start uploading and promoting their products through social media. From this endorsement activity, both parties between the company and the endorser will benefit. Sales of company-owned products promoted by the endorser will increase, while the endorser will get wages and commissions as well as free products as a result of the endorsement. Endorsement activities are also inseparable from the terms of the agreement contained in Article 1320 BW, which are clarified in Article 1330 BW.

As a child influencer in receiving endorsements, children still need representation from their parents, especially regarding the children's rights needed and legal protection which can lead to child exploitation in the economic field. The number of cases of reporting against a number of artists in Indonesia who were reported for the exploitation of children through endorsement services. If the endorsement is carried out beyond reasonable limits, it will affect the child's lack of freedom of time to study and play, besides that it can threaten the privacy of the child, such as data theft for the perpetrator's benefit. Article 11 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection provides the understanding that every child has the right to get a break and take advantage of free time, associate with peers, have recreation and be creative according to their interests and talents. and develop yourself. Then it is clarified in Article 13 that parents are strictly prohibited from carrying out economic exploitation of children. It is also necessary to pay attention to the protection of children's rights as endorsers, such as

regulating the security of children's personal data, the types of products to be promoted according to the age of the child, and the time limit for making endorsements [5].

In our country there are no provisions governing children as endorsers in receiving endorsements, but if we look at Article 46 of Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions, transactions will be valid if the parties agree and are of legal age, or are under guardianship. and far from the norms of decency. Considering that regulations in Indonesia only regulate electronic transactions in general, they do not regulate the technical implementation of endorsements, especially for child influencers in receiving endorsements on social media. For this reason, legal instruments are needed related to endorsement agreements, especially for child influencers to find legal protection from all forms of legal violations and defaults that occur on social media. Based on the description above, the author will take the title "JURIDICAL STUDY OF CHILDREN WHO WORK AS INFLUENCERS IN RECEIVING ENDORSEMENTS IN SOCIAL MEDIA"

## II. METHOD

This study uses the normative legal research method, which discusses the doctrine of legal facts, principles, norms and principles in the science of law. This research will focus on laws and regulations related to working children, electronic transaction systems, and child protection. This study aims to provide a legal view of children who work according to statutory regulations and find out how the legal protection of a child influencer is in receiving endorsements from all forms of legal irregularities and defaults that can occur. In this study using a statutory approach or statue approach. This statutory approach is used to analyze and review laws and regulations and regulations that are related to the legal issues being studied.

## III. RESULT AND DISCUSSION

### 3.1 The Position of Child Influencers as Endorsement Actors

An agreement is an action or deed of a person with another person to promise to do things that are mutually agreed upon. As with Endorsement, it is a company product promotion that is carried out through social media based on the existence of a legal relationship between the company and the endorser (famous figure or Influencer) [6]. The endorsement agreement is carried out by the parties who agree in accordance with Article 1313 of the Civil Code, which reads "An agreement is an act in which one or more people bind themselves to one or more other people." Endorsement is an interpretation of the

existence of an electronic agreement, even so the endorsement must meet the requirements given in Article 1320 of the Civil Code, namely:

- a. There is an agreement between the two parties to carry out the endorsement
- b. There is age capability when making an agreement and not someone who is under guardianship
- c. There is a certain thing, such as endorsement which is the object of the agreement regarding the goods to be promoted, time, and payment transactions
- d. The object of the agreement must be lawful, that is, during endorsement activities it must not conflict with the norms of decency and violate what has been regulated in the legislation.

From Article 1320 of the Civil Code, we can see that the first two conditions are subjective requirements and the last two conditions are objective requirements. The strength of an agreement is contained in Article 1338 of the Civil Code which states that a valid agreement becomes law for the parties who make it. This contains the element that there is a person's right to freedom in making an agreement as long as the parties can be mutually responsible and do not violate public order and decency.

The Endorsement Agreement has a positive impact on the company in increasing its sales, for this reason the parties who are bound to each other in an endorsement agreement need to pay attention to the conditions listed in Article 1320 of the Civil Code. In the second point, Article 1320 of the Civil Code explains that in making an agreement, the parties must be capable of acting legally, except for those who are declared incompetent in law as written in Article 1329 of the Civil Code. This explanation is supported again in Article 1330 of the Civil Code relating to people who are incompetent in law [7]. Considering that this discussion is related to minors who are involved in making agreements and have violated the legal terms of the agreement Article 1330 of the Civil Code, namely that they are not competent in carrying out legal actions, then things that can happen are:

- a. Children who are not competent in law will affect every legal action they take, so that in making an agreement it has legal consequences, namely the agreement is canceled due to not fulfilling the requirements of 1330 of the Civil Code and the agreement can be canceled.
- b. Agreements made by children who are not yet competent in carrying out the law can be canceled at the request of the child which leads to Article 1446 of the Civil Code which reads "an agreement made by an immature person or a person who is under guardianship is

null and void for the sake of law on demands from the third party. them” in conjunction with Article 1331 of the Civil Code, namely “a person declared incompetent in law can sue for the cancellation of the agreement.” This means that as long as the agreement has not been canceled, the agreement can still be implemented by the parties.

- c. Agreements that are canceled due to incompetence in legal action, the parties to the agreement must reverse the agreement as it was when the agreement was not made, so the agreement is deemed to have never existed.
- d. If it violates the objective conditions or does not pay attention to the halal clause, then the agreement can be canceled by law and never existed.

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An endorser who is a minor does not comply with the legal requirements as the subject of the agreement listed in Article 1320 of the Civil Code on the grounds that he is not competent in carrying out legal actions. As a result of the condition of the subject of the agreement being invalid, the agreement can be canceled on the grounds that it is not capable of age. However, there is a condition that the agreement can still be implemented. In this case, parents or guardians play an important role as a representative of a child, so that the position of the parents becomes the subject of the contents of the endorsement agreement. This explanation is regulated in Article 47 paragraphs 1 and 2 of Law Number 1 of 1974 concerning Marriage, that children in all their legal actions must still be represented by their parents or guardians, so that it can be concluded that the position of a child in the agreement is only as an endorser, namely carrying out achievements [10]. as a form of obligation from the contents of the agreement, while the subject of the endorsement agreement is the parent or guardian as a form of legal representation of the child himself.

### **3.2 The Profession of Child Influencers According to Positive Laws in Indonesia**

The influencer profession nowadays is everyone's dream. By becoming an influencer, someone certainly gets income through an endorsement or promotion of goods and services on social media. An influencer will be selective in choosing photos or images for interesting content so that his followers or followers on social media glance at him. The popularity of an influencer is not only seen from the number of likes or comments, but also how easily the influencer appears in the search column. The rise of the influencer profession has made parents flock to encourage their children to be active in using social media to find a large number of followers and make them child influencers. In Indonesia itself, there is no law that regulates the profession of child influencers through social media. In the absence of regulatory laws, parents are increasingly used to exposing their children on social media,

which allows followers to find out the interests and talents that stand out from the child. In general, children's lives are filled with playing with their peers to fulfill their happiness. Children are given time to be able to play freely and develop their potential. Article 28B paragraph 2 of the 1945 Constitution says that every child has the right to live, develop and have the right to protection from various forms of violence and discrimination and is supported in Article 28C which states that every child has the right to education and acquire knowledge in order to improve quality of life and social welfare. However, some parents encourage their children to work to provide for the family. Whereas in this period a child must be prepared for his future.

As a highly protected legal subject, a child who becomes an influencer can develop his interests and talents. Article 9 paragraph 1 of Law Number 23 of 2003 concerning Child Protection states that every child has the right to receive education and teaching to develop his personality and level of intelligence according to his interests and talents. Furthermore, Article 60 of Law Number 39 of 1999 concerning Human Rights also states that every child has the right to receive education and instruction in personal development according to interests, talents and level of intelligence [11]. Through the influencer profession, the child can channel his confidence to appear positive in front of social media, so that followers or followers who see him also appreciate the child influencer. Becoming an influencer can foster a child's creativity if it is adapted to the child's world, and is not part of the education set by the government. In addition, work must be light in nature and approved by parents or guardians and does not interfere with the child's time for growth and development. A child can develop his talents and interests through work if he follows the conditions listed in the Decree of the Minister of Manpower Number 115/MEN/VII/2004 concerning Protection for Children Who Do Work to Develop Talents and Interests, including:

1. Work can be done by early childhood
2. Jobs are in demand by children. This means pure work of the will of a child without any coercion from other parties.
3. Work must be in accordance with the ability of the child
4. Work is able to develop the creativity of the child's world

The contents of this article are also supported by Article 26 Paragraph 1 of Law Number 23 of 2002 concerning Child Protection, that parents also have the obligation and responsibility to:

1. Nurturing, educating, and providing protection for children



2. Encourage and support children to develop their talents and interests
3. Prohibit and prevent their children from early marriage

The role of parents is the most important thing in supporting the ideals of the child. However, parents in guiding their children also still have to pay attention to the child's mental health condition. Several points are described in Article 52 paragraphs 1 and 2 of Law Number 39 of 1999 concerning Human Rights, which says that children have the right to receive protection from the time they are in the womb [12]. This refers to child influencers. Work must correspond to the world of activity of the child. Parents or guardians do not have the right to force children to do work that is outside the will of the child. Parents who encourage their child to become an influencer must not reduce the rights attached to the child, which results in economic exploitation of the child. Parents need to be responsible for guiding working children, such as:

1. Provide work that is light and does not interfere with the development, physical and mental health of children
2. Parents have the right to supervise children's activities
3. Give enough time, do not disturb time for learning and playing and create working conditions that make children comfortable and safe
4. Giving wages as a form of appreciation for children for the work they have done. Wages can be saved as income for children for their future needs

Furthermore, in Article 71 paragraph 2 of Law Number 13 of 2003 concerning Manpower, it provides time for children to work for a maximum of 3 hours during the day and does not interfere with the child's educational process, so that children can rest and spend their time playing in accordance with Article 11 of the Law. Law Number 23 of 2002 concerning Child Protection and Article 61 of the Human Rights Law.

As a form of protection for working children, the state provides regulations contained in Article 66 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, Articles 64 and Article 65 of Law Number 39 of 1999 concerning Human rights [13]. The contents of these articles provide the core that the state in dealing with economic exploitation of children will involve the government, companies, trade unions and non-governmental organizations by means of outreach in the context of disseminating information related to child protection. Furthermore, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection Article 88 provides for sanctions that those who are proven to have exploited children economically or

sexually will be subject to imprisonment for a maximum period of 10 (ten) years or a fine of Rp. 200,000,000.00 (two hundred million rupiah). Therefore, child influencers are quite easy jobs for children to do. Influencers are not jobs that Work From Office (work in an office) but everyone, especially parents, must still pay attention to children's rights. Parents must continue to guide their children in positive ways for the development of the child's creativity, and pay attention to health, and provide psychoeducation to children. Parents must be able to control their children and provide good views, don't let children only care about viewers and followers without seeing the benefits of the content they make. Make sure the child can be responsible for what he has started, and always support his child in achieving his desires so that he continues to feel the attention of his parents.

### **3.3 Forms of Legal Protection for Child Influencers on Social Media**

Social media does not always have a positive impact on everyone, especially children. The internet now provides a lot of content that certainly violates the ITE Law, such as pornography, cybercrime, and violence. It is very easy for children to see content that is not suitable for viewing which can damage a child's mind [14]. According to the Indonesian Child Protection Commission (KPAI) there have been 5,066 cases of violence against children since 2014, including pornography and cybercrime. The State of Indonesia has ratified covenants related to privacy rights or personal rights. However, related to children's privacy rights have not been clearly regulated in regulations in Indonesia. The right to privacy of children is still being debated because of their incompetence due to being still in the power of their parents, especially like this child influencer practice which means that all activities and approvals are in the hands of their parents. This sometimes makes some parents not aware of the boundaries between parental rights to provide content related to children and children's privacy rights, even though they provide something good for their children. Parents play a very important role in guiding their children when they become influencers. Parents have responsibility for the child's personal information as well as being the narrator of the child's personal story on social media [15]. The personal data of a child that is very prominent on social media, especially child influencers, is easily spread, and can be used by others for bad purposes, namely child trafficking, pedophilia, bullying, pornography, child identity theft, and others

Protection of children's privacy is very important. All children's behavior in activities and growth and development is a child's privacy space, which sometimes parents

unknowingly violate the privacy of their own children. The following are preventive and repressive legal protection efforts for child influencers on social media, including:

#### 1. Preventive legal protection efforts

Preventive legal protection is a prevention carried out by the government to minimize the occurrence of a violation [16]. There are preventive measures in order to protect children's privacy rights, including:

- a. In sharing content that contains children's information, both in photos and videos, parents need to be supervised by the government. Parents as representatives of child influencers are violated for sharing content that is detrimental to their children that contains negative things. If it is violated, then the government's role is to provide sanctions, both criminal and civil, against parents.
- b. The government provides standardization limits for parents as representatives of child influencers regarding content that is worth sharing and not. With this there is a clear measure regarding content that is the privacy of the child.
- c. Establishing a library as a place to provide literacy for parents and children in the field of providing information services in line with the Ministry of PPPA, so that it can provide insight to parents and children in dealing with the use of social media and be selective in filtering information on social media

#### Preventive legal protection efforts

Repressive legal protection is an effort made by the government as a final measure when violations have occurred to provide protection for victims. If there is a data leak, you can file a lawsuit for the losses incurred. In Article 26 of Law Number 19 of 2016 concerning Electronic Information and Transactions, it is explained that Electronic System Operators in protecting children's privacy rights, provide a mechanism for deleting irrelevant electronic information or electronic documents at the request of the person concerned based on a court order, and imposing administrative sanctions based on provisions in Article 36 of Ministerial Regulation Number 20 of 2016 concerning Protection of Personal Data in Electronic Systems [17]. Then, in accordance with Law Number 11 of 2008 concerning Information and Electronic Transactions jo. Law Number 19 of 2016 concerning Electronic Information and Transactions, if proven to have misused personal data and caused harm, a maximum imprisonment of 12 (twelve) years and/or a maximum fine of Rp. 12,000,000,000.00 (twelve billion rupiah) can be imposed.

Consumer Protection also mentions:

- a. Business actors are responsible for providing compensation for violations that have occurred
- b. Compensation in the form of a refund or replacement of similar and equivalent goods/services
- c. Compensation is made within a period of 7 (seven) days after the date of the transaction and there may be criminal charges if proven to have violated the law.

### **3.4 Forms of Legal Protection for Child Influencers in Receiving Endorsements Through Social Media**

As we know, child influencers are professions that can channel their children's talents and interests in positive terms, one of which is by receiving endorsements. However, sometimes there are obstacles when receiving endorsements, such as defaults. Default is a condition in which one of the parties is negligent and does not carry out the agreed performance, for example:

- a. The product delivered is not in accordance with what has been agreed upon, which can cause losses for the endorser because it affects his followers on social media and companies that experience a decline in sales.
- b. Payment or fee that is not in accordance with the agreement
- c. from the endorser can also commit defaults such as not carrying out his duties to promote products on his social media by giving reasons that have passed the agreed time limit.

For this reason, forms of legal protection are needed for child influencers in receiving endorsements through social media.

#### **1. Preventive legal protection efforts**

- a. Because it is an endorser who is not old enough, the product sent must be according to the child's age and be safe. Parents or guardians have the right to request SOPs from the company and conduct trials on the product to be endorsed to find out how safe the product is.
- b. The endorser and the company have the right to make a statement if there is a violation of the product or the endorsement service. So that one of the parties who commit violations is able to be responsible for the mistakes that occur, usually in the form of compensation. If there is a default from the endorser, then in this case the parent or guardian must be responsible for compensating for the loss.

c. The government provides preventive legal protection efforts in the form of regulations governing the abuse of transactions through electronic media. This is then included in Article 40 paragraph 2 of the ITE Law, which clearly states that the government protects all forms of public interest from misuse of transactions or information through electronic media that disturbs public order and is not in accordance with the laws and regulations in Indonesia.

## 2. Efforts to protect the law in a repressive manner

Article 1365 of the Civil Code, which provides a statement that all actions that violate the law, both objectively and subjectively in this case cause harm to children, the party causing the loss is required to provide responsibility in the form of compensation as a result of the mistake [18]. Article 19 of Law Number 8 of 1999 concerning Consumer Protection also states:

If one of the parties to the endorsement agreement, both the company and the endorser, does not keep his promise in terms of promotional/endorse services or product delivery that is not in accordance with the agreement, then he has violated the provisions of Article 16 of Law Number 8 of 1999 concerning Consumer Protection. As a consequence, in accordance with Article 62 Paragraph 2 of the Consumer Protection Act, a party who has committed a default may be subject to a criminal sanction of a maximum of 2 (two) years in prison or a maximum fine of Rp. 500,000,000.00 (five hundred million rupiahs). Alternative dispute resolution for civil differences of opinion can also be resolved through mediation, consultation, negotiation, conciliation which refers to Article 6 Paragraph 1 of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.

## IV. CONCLUSION

Child influencers are an easy profession that can be carried out by a child with the aim of developing self-confidence and determining talents and interests in children in positive terms, which is supported by Article 9 Paragraph 1 of the Child Protection Law and Article 60 of the Human Rights Law. Decree of the Minister of Manpower Number 115/MEN/VII/2004 concerning Protection for Children Who Do Work also provides conditions for children who want to develop their talents and interests through work. Influencers generally have an important meaning for companies in promoting their products in the form of endorsements. In Indonesia itself, there are no regulations governing endorsement agreements. Even so, the parties contained in the endorsement agreement must

still be guided by Article 1320 of the Civil Code. The endorsement agreement made by the child influencer is invalid and can be canceled by law, because of his incompetence in carrying out the law. Therefore, it requires the role of parents or guardians as representatives of child influencers in making agreements, so that the position of parents or guardians is the subject of the agreement. Bearing in mind that the position of the child influencer is only as an endorser, namely carrying out the achievements of the agreement. These provisions are regulated in Article 47 paragraphs 1 and 2 of the Marriage Law. Parents also have an important role in child protection. Parents must pay attention to the child's health condition, so that economic exploitation does not occur, in accordance with Article 26 Paragraph 1 of the Child Protection Law, which is supported by Article 11 of the Child Protection Law and Article 61 of the Human Rights Law. If parents or guardians are proven to have exploited children, they will be subject to Article 88 of the Child Protection Law.

There are problems that can occur with child influencers in receiving endorsements on social media, such as data leaks, defaults, discrepancies when paying fees, or from the endorser himself who does not carry out his achievements according to the contents of the agreement. So there are efforts to protect the law against child influencers that are formed in a preventive and repressive manner. Preventive legal protection efforts can be in the form of providing SOPs to influencers as endorsers. The protection provided by laws and regulations refers to Article 40 of the Electronic Information and Transaction Law. Furthermore, repressive legal protection efforts refer to Article 1365 of the Civil Code, Article 19, and Article 62 paragraph 2 of the Consumer Protection Act. Related to mediation Article 6 Paragraph 1 of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.

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