

**PROBLEMS OF IMPLEMENTING GOVERNMENT POLICY
REGARDING E-COMMERCE TRANSACTIONS WITH SOCIAL MEDIA
PLATFORMS THROUGH THE *PERATURAN MENTERI PERDAGANGAN
NOMOR 31 TAHUN 2023* POLICY**

Muzdalifa Van Gobel

Public Administration Departement,
Padjadjaran University
muzdalifa22001@mail.unpad.ac.id;

Asep Sumaryana

Public Administration Departement,
Padjadjaran University,
asep.sumaryana@unpad.ac.id;

Didin Muhafidin

Public Administration Departement,
Padjadjaran University,
d.muhafidin@unpad.ac.id;

ABSTRACT

This research aims to deepen our theoretical understanding of buying and selling activities through online platforms, specifically e-commerce. From a practical perspective, Indonesia lacks comprehensive laws and regulations concerning electronic transactions. This research will involve a qualitative approach centered on a literature review that examines books, literature, notes and reports relevant to the research problem. Researchers can access and utilize data directly without conducting fieldwork by leveraging existing library resources. The *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023* was enacted in response to concerns raised by local MSMEs about a decline in their business turnover due to the presence of *TikTok Shop*, a social-commerce platform. The government needs to continue to monitor and evaluate the implementation of this regulation and understand the impact between business actors and the government so that it becomes an effective tool to encourage growth and innovation in Indonesian digital trade. The contents of the *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023* concerning prohibiting *TikTok Shop* and other social media only from operating as online shop services are clear.

Keywords: *E-commerce, regulation, Policy*

A. INTRODUCTION

Indonesia's digital economy is witnessing rapid growth across three key sectors: on-demand services, financial technology (fintech), and e-commerce. On-demand services, exemplified by *Gojek*, cater to immediate consumer needs

ranging from transportation and deliveries to food and ticket orders. Fintech, such as the widely-used Go-Pay, leverages technology to offer financial solutions. E-commerce involves electronic buying, selling, and marketing, with platforms like *Tokopedia*, *Bukalapak*, and *Shopee* leading the way. Through e-commerce, companies can broaden their market presence and expand globally. Online businesses offer distinct advantages over traditional models, with technology facilitating easier entry into entrepreneurship and enabling new business owners to grow and scale their ventures effectively. (Utami et al., 2022)

E-commerce emerges due to advancements in modern information technology and the increasing integration of global economies. Essentially, it represents a novel type of commerce facilitated by the utilization of electronic information technologies within the realm of trade. The swift progress of e-commerce has the potential to disrupt traditional retail sectors, prompting businesses to swiftly adapt to evolving consumer behaviours in today's digital age. Moreover, the rapid pace of technological advancements and the shift toward the digital era are poised to impact the global trade landscape substantially. (Simanjuntak, 2019)

The e-commerce sector in Indonesia is expanding swiftly despite the country's economic slowdown, with most businesses being small to medium-sized enterprises (SMEs). SMEs, known for their resilience during economic downturns, dominate the e-commerce landscape in Indonesia. The potential of this industry in the country is immense, with Ernst & Young's analysis indicating a 40 percent yearly growth in online sales value. Indonesia boasts around 93.4 million internet users and 71.0 million smartphone users, who are increasingly turning to the Internet for information and communication and e-commerce, integrating it into their urban lifestyles. (Sugianto et al., 2021)

Utilizing electronic platforms for trade processes brings numerous advantages to businesses and consumers, leading to a growing preference for e-commerce transactions, particularly among internet users in contemporary society. The popularity of trade activities conducted via e-commerce platforms is rising, potentially replacing traditional face-to-face transactions with online modes due to its rapid evolution. One of the primary reasons driving individuals towards e-commerce transactions is its considerable benefits, coupled with the convenience of not requiring a physical retail location, thereby fostering the increasing trend of online buying and selling within the public sphere. (Beny et al., 2021)

Legal challenges emerge during electronic transactions, often causing harm to parties engaged in international dealings. Contracts involved in electronic purchases and sales mirror those in traditional transactions, differing primarily in the medium employed. While conventional transactions occur face-to-face, electronic transactions are facilitated through the Internet or other electronic platforms, forming agreements and contracts online.

A critical element in governmental regulation of e-commerce pertains to licensing requirements. Registration and licensing processes are essential to establish legal clarity, delineate the legal obligations of business entities, exercise technological oversight, and facilitate public reporting and complaint mechanisms. The primary goal of the government in mandating registration for e-

commerce participants is to safeguard all involved parties, encompassing economic actors and consumers. Furthermore, the electronic registration system is a proactive measure against online fraud, enabling consumers to verify commercial entities through official government platforms readily. (Zahra et al., 2023)

The evolution of electronic transactions in Indonesia is evident through various platforms like Instagram, Facebook, *Shopee*, *Tokopedia*, *Lazada*, *Bukalapak*, *TikTok*, and others, offering multiple products through digital channels. These platforms facilitate transactions between buyers and sellers without needing in-person interactions. Among these, *TikTok* stands out, featuring *TikTok Shop*—a fusion of social media and marketplace functionalities. However, the rise of predatory pricing practices, where companies sell below production costs to eliminate competitors before raising prices, particularly threatens local micro, small, and medium businesses. This dynamic can lead to detrimental business competition, underscoring the importance of upholding ethical business practices to ensure fairness and justice within the commercial sphere. The *Peraturan Pemerintah Nomor 71 Tahun 2019* addresses the oversight of e-commerce operators, while the *Peraturan Pemerintah Nomor 80 tahun 2019* focuses explicitly on electronic trade.

The *Peraturan Menteri Perdagangan Nomor 50 tahun 2020* regarding Digital Trade stipulates that various e-commerce and social commerce platforms must acquire two permits and register with the Ministry of Trade. This directive aims to streamline businesses operating in trade through electronic platforms, encompassing both individual and corporate entities, whether domestic or foreign, engaging in trade activities via electronic means. Establishing trade through electronic systems can include e-marketplaces, which serve as platforms facilitating electronic trade transactions. Consequently, those looking to develop an e-commerce platform akin to existing marketplaces in Indonesia must establish a Limited Liability Company; otherwise, they risk non-compliance with legal provisions, often due to financial constraints or similar reasons. (Victoria Sinaga & Sidauruk, 2023)

The closure of *TikTok Shop* on October 4, 2023, marked the end of sales transactions on the platform, following a government mandate that banned social media platforms from offering sales services. This decision responded to updated trade licensing regulations outlined in the *Peraturan Menteri Perdagangan Nomor 31 tahun 2023*, focusing on business licensing, advertising, and supervising electronic trading activities. This study assesses the potential of these regulations by the Minister of Trade to address challenges, particularly those encountered by social media organizers, in the fast-changing landscape of technology and e-commerce.

Multiple previous studies indicate different policies pertaining to e-commerce trade and how governments regulate electronic transactions. Sinaga and Sidauruk's (2023) research reveals that *Permendag Nomor 31 Tahun 2023* revises the *Permendag Nomor 50 Tahun 2022*, with several key modifications including goods information and standardization, regulations on goods standards, minimum prices for imported goods, prohibition of marketplaces becoming

producers, and restrictions on social commerce for promoting and transacting domestic products. This policy serves as the foundation for prohibiting producers from selling or promoting their products through e-commerce platforms, excluding e-commerce shopping. Consequently, it is evident that this government policy serves as a regulation for social media platforms to facilitate the promotion of goods and services.

According to data from the Ministry of Cooperatives and Micro, Small, and Medium Enterprises (*UMKM*) (2020), there are 65.47 million business units in Indonesia that contribute to 61.97% of the national GDP, equivalent to Rp.8,574 trillion. In 2020, there will be 34 million business units with a contribution of 37.3%. MSMEs are a crucial sector for the country's economic growth as they employ up to 97% of the total workforce in the business sector and attract 60.4% of the country's investment. However, the Covid-19 pandemic has severely impacted MSMEs in Indonesia, with 50% of business units closing down and 7 million employees losing their jobs, according to the Chairman of the Indonesian Association of Micro, Small, and Medium Enterprises (*UMKM*). (Ikhsan et al., 2022)

Sinaga and Sidauruk (2023) conducted research on government policies regarding e-commerce trade and found that *Permendagri Number 31 Tahun 2023* amends the *Permendag Nomor 50 Tahun 2022*. The revised policy includes regulations on goods information and standardization, restrictions on marketplace platforms becoming producers, and limitations on social commerce for domestic products. This regulation aims to control the promotion and sale of goods through e-commerce platforms, excluding e-commerce shopping. In other studies, Ramdhani and Musthofa (2023) discussed the positive and negative effects of social commerce in Indonesia. They found that while social commerce has been beneficial to MSMEs and content creators, it has also led to fraudulent practices by some imported products. As a result, the government has issued new regulations, including the separation of social commerce from social media applications, to create a level playing field between offline and online markets.

Starting from the combination of social media and e-commerce as a platform for sellers to market their products online. Social commerce has become one of the means of buying and selling that has many fans in Indonesia. One of the social commerce platforms is *TikTok*. There are several complaints from offline traders regarding the social commerce system. Several parties stated that social commerce has caused major losses to offline sales. And complaints came from MSMEs who operate offline. Offline traders complained about the decline in the amount of turnover obtained due to social commerce. On the one hand, the government has not made a policy to specifically regulate the use of social commerce as a platform for buying and selling transactions.

B. LITERATURE REVIEW

A number of studies have investigated the shortcomings of the policy on regulating e-commerce in Indonesia. In a study conducted by Sinaga and Sidauruk (2023), it was found that this government policy restricts producers from selling their products if they choose to use e-commerce for selling or promotion

purposes, as opposed to traditional shopping. This indicates that the government policy functions as a regulation for organizing social media and facilitating the promotion of goods and services. It is important for the government to monitor and evaluate the implementation of this regulation, as well as understand the impact on businesses and the government itself. This will enable the policy to effectively stimulate growth and innovation in the digital trade sector in Indonesia. The content of the *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023*, which prohibits *TikTok* Shop and other social media platforms, focuses solely on operating as online store services.

In a study titled "Analysis of the Response of MSMEs and Content Creators to the Social Commerce Policy Through the *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023*" conducted by Ramdhani and Musthofa in December 2023, it was found that social commerce is a widely used online platform for buying and selling activities. However, the use of digital media has its pros and cons. In Indonesia, social commerce has gained significant popularity and has even impacted traditional markets like *Tanah Abang* Market, which experienced a decrease in turnover as more people moved to digital platforms. On one hand, there were negative effects on some MSMEs that relied on offline marketing. On the other hand, some MSMEs were able to grow their businesses through social commerce, and content creators earned high salaries from product promotions on these platforms. However, there were challenges such as fraudulent practices by importers selling their products, such as cross-border sales and predatory pricing, which disadvantaged Indonesian businesses. As a result, the government implemented new regulations, including the *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023*, which aims to separate social commerce from social media applications in order to create a level playing field for offline and online markets.

In a previous study conducted by Mahran and Sebyar in 2023, it was observed whether the *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023* had any impact on the development of E-commerce in Indonesia. The study concluded that while the regulation had certain effects on sellers and buyers, it also provided them with the opportunity to enhance their business operations and protect consumer interests. The introduction of the *TikTok* Shop feature played a role in the issuance of this regulation, as the feature was operating without an official permit as an e-commerce platform. By adhering to the existing regulations, businesses can take advantage of the opportunities presented by the e-commerce ecosystem and contribute towards establishing a fair and legally protected digital business environment.

Researchers also discuss the issue of legal certainty in social commerce in Indonesia, referring to a study conducted by Anhar and Kurniawan (2024). This study highlights the legal uncertainties surrounding *TikTok* Shop, particularly its non-compliance with regulations, such as the prohibition on including payment transaction features (checkout) in social commerce platforms. The findings of this study aim to enhance the understanding and legal awareness of *TikTok* Shop users and provide recommendations to relevant parties on how to improve the security and trustworthiness of transactions conducted on this platform.

According to a study conducted by Hasanah et al. (2024), it was found that there are two regulations in Indonesia governing the implementation of electronic transactions. These regulations are *Peraturan Pemerintah Nomor 71 Tahun 2019* and *Peraturan Pemerintah Nomor 80 Tahun 2019*. The *Peraturan Pemerintah Nomor 71 Tahun 2019* focuses on trade through electronic transactions, while *Peraturan Pemerintah Nomor 80 Tahun 2019* specifically imposes restrictions on the issuance of permits in the PMSE sector. Traders engaged in online retail, PMSE facilities, markets, platform providers, online classifieds, price comparison platforms, and daily offers are subject to these restrictions. The unique aspect of the author's research compared to previous studies is their focus on identifying issues related to government policies, specifically the *Peraturan Menteri Perdagangan Nomor 31 tahun 2023*.

C. METHOD

This research will involve a qualitative approach centered on a literature review that examines books, literature, notes and reports relevant to the research problem. Researchers can access and utilize data directly without conducting fieldwork by leveraging existing library resources. The literature research process includes selecting a topic, exploring information, defining the research focus, gathering data sources, organizing data presentations, and preparing reports. The data collection technique for this study will be documentation, which involves sourcing and compiling information from sources like notes, books, papers, articles, and journals.

D. EXPLANATION

The multitude of e-commerce definitions doesn't always seamlessly translate into actual trading practices. In the Indonesian context, numerous companies operate outlets that embody the one-stop shopping concept, offering products through their websites in five primary patterns. These patterns include direct payment and sale transactions at physical stores, cash on delivery (COD) transactions where consumers pay upon receiving their goods, online ordering with in-store payment and pickup, online ordering with advance payment followed by in-store pickup, and online ordering with advance payment for delivery to the customer. In contrast, direct in-store transactions and distant delivery options can be classified as either conventional or e-commerce transactions; COD and similar methods present challenges in categorization, leading to varying interpretations regarding their classification as conventional commerce or e-commerce. (Wahyu Hermawan et al., 2020)

The marketplace positively impacts business owners who establish online stores, such as providing consumers with a sense of security for electronic transactions. This sense of security stems from the marketplace's role as an intermediary in every transaction between sellers and buyers. All buying and selling activities within the market are legally binding because they involve agreements between the seller and the buyer. Therefore, these transactions must meet the requirements to be considered valid under *Article 1320 of the Civil Code*, which include agreement, skill, a specific item, and lawful reasons.

Indonesia has yet to establish specific legislation for cross-border trade in cross-border e-commerce. The current regulation for cross-border trade is Government Regulation (*Peraturan Pemerintah Nomor 80 Tahun 2009*) on Trading Through Electronic Systems (ITE). Further provisions will only be addressed in a government regulation that needs to be expedited for completion. Furthermore, the requirements for conducting cross-border trade are still based on export-import requirements and must adhere to the ITE Law. Considering the rapid progression, e-commerce trading needs a more robust legal foundation to address all loopholes and regulate occurrences of fraud in the trading system. (Sabirin et al., 2022)



The rapid increase in online shopping has significantly impacted the country's economy. According to data from Katadata.co.id on March 27, 2018, it was revealed that the number of Indonesian digital buyers is expected to reach 31.6 million in 2018, accounting for approximately 11.8% of the total population. These statistics indicate a high level of penetration and the introduction of new trends in digital e-commerce transactions. Indonesian society is currently transitioning from conventional methods to online platforms. During this transition, common challenges have emerged, including security, trust, and educational issues related to human resources. (Luthfan & Aldrin, 2019)

Numerous nations are facing challenges in creating and executing laws that safeguard consumers. An emphasis on services and digitalization is needed in consumer protection laws. The effectiveness of consumer protection law enforcement largely hinges on the judiciary's role. Despite previous findings suggesting the effectiveness of consumer protection law enforcement, several areas still require improvement, including limited consumer awareness, insufficient involvement of consumer protection agencies, inadequate funding,

and the absence of a fair and ethical resolution mechanism. In implementing e-commerce consumer protection laws, an issue arises with coordinating pertinent ministries and agencies, such as the central bank and consumer protection agency. (Mubarok, 2021)

E-commerce businesses face several legal challenges that need to be taken seriously. As a trading system that relies on technology and electronic transactions, several important aspects must be updated and developed to overcome these challenges (Rosmayati & Ganesha, n.d.)

a. Data Security and Privacy

One of the main challenges in e-commerce is consumer personal data security and privacy. Insecure data handling can result in privacy violations and identity theft. Therefore, clear and strict regulations on data protection and privacy must be enforced to ensure that consumers' sensitive information is not misused.

b. Authenticity of Transactions

In an e-commerce environment, concrete measures must be taken to ensure the authenticity of transactions and prevent online fraud. Advanced security systems, such as two-factor authentication and the use of blockchain technology for transaction traces, can help reduce the risk of fraud.

c. Electronic Trading Arrangements

Electronic commerce laws must continuously update with technological developments and new business models. These arrangements must cover aspects such as the validity of online contracts, consumer protection, and the legal responsibility of e-commerce platforms for transactions that occur within them.

d. Tax and Fiscal Compliance

Tax issues in e-commerce become complicated because transactions can easily cross national borders without being detected. International cooperation and clear regulations are needed to overcome this issue and ensure e-commerce businesses comply with tax obligations.

e. Protection of Intellectual Property Rights

E-commerce makes it easier to spread digital products and content. Therefore, copyright, trademark, and patent protection in the digital environment must be strengthened to prevent infringement of intellectual property rights.

Expanding geographical markets should be a possibility for e-commerce. However, numerous obstacles exist, such as language, taxation, regulations, roadblocks, shipping, and the absence of secure payment systems. Additionally, challenges exist in identifying participants, enforcing contractual rights, and dealing with regulatory complexities arising from differing national laws regarding price reductions, advertising, RPM (Resale Price Maintenance), and exclusive territories. These obstacles have a greater impact on *B2C* relationships compared to *B2B* relationships.

In Indonesia, e-commerce platforms are governed by several regulations, including the *Undang-Undang Nomor 19 Tahun 2016*, amending the *Undang-Undang Nomor 11 Tahun 2008* on Information and Electronic Transactions (*UU ITE*), the *Peraturan Pemerintah Nomor 71 Tahun 2019* on the Implementation of

Electronic Systems and Transactions (*PP PSTE*), and the *Peraturan Menteri Keuangan Nomor 210/PMK.010/2018* on Tax Treatment of Electronic Commerce Transactions (e-Commerce) (*Permenkeu PTPSE*). These regulations provide a framework for defining marketplaces explicitly and implicitly. The implicit definition in the *UU ITE* and *PP PSTE* describes a marketplace as an electronic system organizer that provides and manages electronic systems for various users. Specifically, article 2, Paragraph (2) of the *Peraturan Pemerintah Nomor 71 Tahun 2019* classifies electronic system organizers into two categories: those with public scope, managed by government-appointed bodies, and those with private scope, operated by individuals, businesses, or communities. Marketplaces fall under the latter category since they are typically managed by private individuals or entities, not government agencies. The explicit definition of a marketplace, as outlined in article 1, point 4 of the *Permenkeu PTPSE*, refers to electronic communication platforms for electronic trading activities. (Susanti, 2022)

Electronic trading, in particular, is regulated in the *Peraturan Pemerintah Nomor 80 Tahun 2019* concerning Trading through Electronic Systems (TTES). The *PP No 80/2019*, among others, regulates:

1. Parties conducting TTES;
2. Requirements in TTES;
3. Implementation of TTES;
4. Obligations of Business Actors;
5. Proof of TTES transaction;
6. Electronic Advertising;
7. Electronic Offer, Electronic Acceptance, and
8. Electronic Confirmation;
9. Electronic Contracts;
10. Protection of personal data;
11. Payment in TTES;
12. Delivery of Goods and Services in TTES;
13. Exchange of Goods or Services and cancellation
14. of purchases in TTES;
15. Settlement of disputes in TTES; and
16. Guidance and supervision.

This rule also governs resolving conflicts in TTES as outlined in Article 72, Paragraph (1). This provision allows disputing parties in TTES to resolve their issues through judicial processes or alternative dispute resolution mechanisms. Additionally, Paragraph (2) permits electronic dispute resolution (online dispute resolution) under the conditions of the law. Furthermore, Paragraph (3) delineates the process for resolving disputes between a Domestic Business Actor and a Consumer, specifying that the consumer can pursue legal action against the Business Actor via the Consumer dispute settlement agency or resort to a court in the consumer's jurisdiction. (Mubarak, 2021)

With the issuance of the *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023* concerning Business Licensing, Advertising, Guidance, and Supervision of Business Actors in Trading via Electronic Systems, business actors are deemed unsuitable for fulfilling the principles of making statutory regulations. In the

Undang-Undang Nomor 12 Tahun 2011 concerning the Formation of Legislative Regulations, it is stated that there are principles in the formation of reasonable legislative regulations, namely clarity of purpose, appropriate institutions or forming organs, suitability between the type and material of content, can be implemented, effectiveness and usability clarity of formulation, and openness.(Dian Humairoh et al., 2023)

The government's way of issuing this policy is inappropriate and seems hasty in passing the Minister of Trade Regulation because, according to new findings, the *TikTok Shop* is still running as usual and has not been completely closed. Suppose the government wants to limit the scale of distributors of imported goods on the *TikTok Shop* application and increase the scale of local goods from MSMEs. In that case, the government must communicate with the *TikTok* company regarding restrictions on distributors of imported goods to Indonesia through *TikTok Shop*. With this, local MSMEs will continue to survive and be able to compete healthily amid this increasingly stringent business climate. The *TikTok* company must adapt to the economic climate conditions in Indonesia by reorganizing the Standard Operating Procedures for sellers in the *TikTok Shop* in Indonesia. Apart from that, the government, through the authority of the Minister of Trade, needs to form supervisory officers for economic activities in social commerce, such as *TikTok Shop* for optimization through the *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023*, which has been in effect since September 26, 2023.(Dian Humairoh et al., 2023)

According to Anhar and Kurniawan (2024), if the regulations surrounding social commerce platforms like *TikTokShop* are not clearly defined, they can pose a danger to users. The lack of legal certainty increases the risk of platform abuse, including the sale of illegal or counterfeit goods, fraud, and infringement of intellectual property rights. This creates insecurity for *TikTok Shop* users, as their personal data, such as platform accounts and payment information, may be at risk. Moreover, the absence of clear regulations can result in a decline in user trust, negatively impacting the number of active users, user loyalty, and the overall brand image of *TikTok Shop*.

The *TikTok Shop* feature is unique because it offers significant product discounts. It provides a convenient platform for entrepreneurs to increase sales, especially for online business owners who rely on social media as their main sales channel. However, *TikTok Shop* is not authorized to operate as an e-commerce platform, as it was originally designed for entertainment rather than online shopping. Despite the attractive prices, this can disrupt the market's price structure and put other businesses at a disadvantage. Due to these concerns, the *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023* was implemented, officially closing *TikTok Shop* for non-compliance with existing regulations.

Social commerce has been instrumental in addressing the challenges posed by the COVID-19 pandemic. With restrictions, people turned to online transactions as a solution since leaving their homes was prohibited. The pandemic also increased individuals' familiarity with digital media and e-commerce platforms, leading to their adoption. Social commerce played a significant role in the growth of micro, small, and medium enterprises (MSMEs) during the

pandemic in Indonesia. Many MSMEs experienced substantial growth and development by utilizing online shopping platforms. Even amidst the pandemic, sellers were able to generate significant revenues. Moreover, the convenience and speed of the online transaction system have further incentivized sellers to embrace online platforms. By simply uploading product information, photos, and videos, sellers can reach a broader customer base across different regions. (Ramdhani & Musthofa, 2023)

The *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023* was promptly established due to local MSMEs' concerns about a significant drop in revenue resulting from the social-commerce concept of the *TikTok Shop*. Urging the government to intervene, local business owners seek to halt economic activities on the *TikTok Shop* platform to revive the conditions for MSMEs and business owners in the declining Tanah Abang market. In response to these concerns, the Rules of trade ministry on September 26, 2023. The government's swift implementation of this policy became apparent when it was revealed that the *TikTok Shop* was still operating as usual and had not been completely shut down. Suppose the government aims to restrict the distribution of imported goods on the *TikTok Shop* and promote local MSME goods. In that case, they must engage in discussions with the *TikTok* company to impose restrictions on the distribution of imported goods in Indonesia via the platform. This action would allow local MSMEs to sustain their businesses and compete healthily within an increasingly challenging business environment.

As e-commerce expands globally, competition between businesses across borders also increases. Competition leads to a higher demand for cooperation between competition agencies as they seek to gather information and align legal regulations with other countries. Defining relevant markets becomes more complex within geographical markets, where products from different countries can interact and serve as substitutes for each other.

The effectiveness of enforcing laws that regulate competition in business will largely depend on how well the agencies responsible for enforcement carry out their duties. The regulation includes defining their tasks and functions, organizing their structure, and establishing procedures for their work. In Indonesia, the Business Competition Supervisory Commission (*KPPU*) is the sole institution responsible for enforcing competition laws. Remarkably, there have been no reported cases of unfair competition in cyberspace in the 18 years since its establishment. However, there are several obstacles to enforcing competition laws in e-commerce. These include language barriers, taxation concerns, regulatory challenges, difficulties identifying the parties involved, and legal disparities between countries. Competition agencies worldwide must cooperate and harmonize their approaches to overcome these challenges. Ideally, an international convention focused specifically on competition in e-commerce should be established to promote a shared understanding and approach.

The Minister of Trade has enforced regulations regarding e-commerce, specifically buying and selling through social media platforms. The regulation is stipulated in *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023*, which outlines provisions for business licensing, advertising, guidance, and supervision

of business activities conducted via electronic systems. One particular social commerce platform, *TikTok Shop*, has been explicitly prohibited from engaging in trading activities. This prohibition has consequences for sellers and affiliate creators associated with this platform. The government advises these individuals to transition to e-commerce, believing that numerous alternative platforms are still available for buying and selling transactions. The government reassures micro, small, and medium-sized enterprises (MSMEs) that the new regulations will not adversely impact them, as there are other viable options for their business activities.

The government has implemented this regulation in response to the increasing number of transactions of imported products at low prices, which can potentially harm local brands and MSMEs in Indonesia. The *TikTok* platform has been singled out for engaging in predatory pricing practices, where products are sold at significantly low prices and then returned to normal after a few months. This strategy is aimed at attracting customers with lower prices. These predatory practices have made online platforms, including *TikTok*, popular among consumers due to their perceived affordability. Beauty businesses are often cited as examples of brands that frequently adopt predatory pricing practices.

Additionally, offline traders face challenges competing with the *TikTok Shop* platform due to the influx of cross-border transactions. Cross-border transactions involve the illegal entry of imported goods into a country without undergoing proper inspection. The *TikTok Shop* platform facilitates such practices, resulting in the availability of imported goods in Indonesia at relatively low prices. This situation negatively impacts MSMEs as foreign brands are the primary beneficiaries, while local products suffer due to being sold at lower prices.

The *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023* aims to create a fair, healthy, and beneficial electronic commerce ecosystem by paying attention to dynamic technological developments and supporting the empowerment of micro, small, and medium enterprises. Social commerce cannot facilitate payment transactions on its electronic systems but can promote and offer goods and services. The regulation means that all e-commerce activities online are bound by legal rules established in civil law. Specifically, Article 4 letter c of the *Undang-Undang Nomor 8 Tahun 1999* concerning consumer protection explicitly states this. The *Peraturan Menteri Perdagangan Nomor 31 tahun 2023* is a revision of the *Peraturan Menteri Perdagangan Nomor 50 Tahun 2022* and introduces several changes. These revisions include providing information and standardization of goods, specifications for standard goods, minimum prices for imported goods, prohibition of marketplaces acting as producers, and restrictions on transactions and promotions in social commerce for local products. This policy aims to support the government in ensuring marketplaces or e-commerce platforms cannot alter algorithms created by producers. It also facilitates the sale of *TikTok Shop* products, which must adhere to the regulations and standards of their respective countries. The policy also prohibits distributors and agents from directly selling to consumers, further protecting buyers' rights.

The introduction of the *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023* has several ramifications for sellers and buyers. This regulation mandates that all e-commerce businesses obtain government permission, ensures that all products sold via e-commerce platforms meet Indonesian National Standards (*SNI*) and other benchmarks, and forbids e-commerce platforms and their affiliates from exerting control over user data. Additionally, this regulation establishes a minimum price of \$100 per unit for foreign-made finished goods sold directly to Indonesia via cross-border e-commerce platforms. It restricts the entry of certain foreign-made goods into Indonesia through e-commerce platforms. Foreign sellers must also use Indonesian in product descriptions and display the product's country of origin. Moreover, social commerce platforms are prohibited from facilitating transactions on social media marketplaces, and social trading platforms cannot act as creators. The monopolization of user data by *PPMSE* and its affiliates is prohibited. (Mahran & Sebyar, 2023)

The *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023* is designed to provide special protection for micro, small, and medium enterprises (MSMEs) in Indonesia's electronic trading systems (PMSEs). This regulation introduces various important provisions, including defining the PMSE business model, establishing minimum prices for imported goods, and specific requirements for foreign traders in domestic markets. The main goal of this regulation is to foster a healthy PMSE ecosystem, support the growth of MSMEs and local PMSE businesses, and enhance consumer protection in the country. Its focus is on business licensing, advertising, guidance, and supervision of electronic trading platforms. However, the effectiveness of the *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023* in protecting MSMEs is still debatable. Some argue that the prohibition of social commerce platforms like *TikTok Shop* within this regulation may be ineffective due to technological advancements. Instead, they suggest regulating the development of these technologies by ensuring tax compliance, imposing restrictions on imported products, and implementing mandatory halal certification, among other measures. The policy banning the sale of imported goods under US\$100 or approximately Rp. 1.5 million per unit in online marketplaces, a provision in the *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023*, is a step towards protecting domestic MSMEs. However, further examination is necessary before revising this prohibition, particularly considering the readiness of MSMEs to embrace digitalization.

E. CLOSING

Conclusion

MSMEs play a crucial role in the Indonesian economy, especially with the rise of online businesses and social commerce platforms like *TikTok Shop*. However, these MSMEs also encounter various obstacles in the online business realm, such as fierce competition and risks associated with online transactions. In response, the Indonesian government has introduced the *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023*. This regulation aims to establish a clear framework that safeguards the rights and interests of MSMEs in online business while ensuring that transactions on *TikTok Shop* adhere to ethical business

practices. Protecting MSMEs in online business is vital for enhancing economic prosperity, competitiveness, product quality, innovation, and regulation adherence.

Regarding online business, MSMEs face legal issues, limited digital literacy, and operating within legal boundaries. The *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023* encompasses important provisions, such as setting minimum prices, imposing specific conditions for foreign traders, and prohibiting marketplaces and social commerce platforms from acting as producers. The ultimate goal is to create a thriving ecosystem for MSMEs, support their growth, and enhance consumer protection.

The *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023* was enacted in response to concerns raised by local MSMEs about a decline in their business turnover due to the presence of *TikTok Shop*, a social-commerce platform. These MSMEs have requested that the government address this issue and ensure their welfare. As a result, the Minister of Trade, after careful consideration, issued this regulation on September 26, 2023. However, the government's approach to implementing this policy has been somewhat hurried, as the *TikTok Shop* continues to operate without complete closure. It would be more appropriate for the government to dialogue with *TikTok* regarding limiting imported goods distributors and promoting local products from MSMEs. By doing so, local MSMEs will have the opportunity to thrive and compete in a challenging business environment.

Reccomendation

The surge in the number of people using E-commerce during the pandemic has significantly increased. In Indonesia, businesses are gradually shifting from traditional systems to online platforms, thanks to the widespread availability of the internet. However, to successfully transform their businesses, entrepreneurs need to have digital devices and equipment that can offer comprehensive virtual services. Therefore, it is advisable for business owners to use social media platforms to facilitate this transformation. Using technology as a means to sell products is recommended for micro, small, and medium-sized enterprises (MSMEs) today. This will hopefully lead to higher product sales, allowing MSME production to grow and enabling businesses to survive, contribute to economic growth, and recover from the recession caused by the Covid-19 pandemic.

The government plays a crucial role in cultivating a secure and thriving e-commerce environment in Indonesia. With the introduction of updated regulations, such as the *Peraturan Menteri Perdagangan Nomor 31 Tahun 2023*, significant changes have been made to regulate e-commerce operations in the country. The primary objective of these regulations is to safeguard consumers, ensure compliance with established rules, and grant necessary permits for businesses engaged in e-commerce. By doing so, the government aims to maintain economic stability and protect consumers from any fraudulent practices. E-commerce is a continually growing trend both in Indonesia and globally. To address these issues, it is imperative to understand and adhere to the applicable

regulations, maintain consumer trust, and conduct business in an ethical and legal manner.

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