



## Supervision of Business Actors in Trade Through Electronic Systems According To Minister of Trade Regulation No. 31 Of 2023

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**Abstract.** *The issuance of Minister of Trade Regulation Number 31 of 2023 concerning Business Licensing, Advertising, Guidance, and Supervision of Business Actors in Electronic Commerce is the Indonesian government's effort to regulate digital trading activities, including those conducted through social commerce platforms like TikTok Shop. This regulation aims to create a balanced trade ecosystem, ensure fair competition, and protect micro, small, and medium enterprises (MSMEs) in the midst of rapid technological advancements. However, the implementation of this regulation also raises challenges, particularly for MSME actors who rely on social commerce platforms as a marketplace. This paper aims to analyze the impact of the regulation on TikTok Shop and its implications for MSME development in Indonesia. The analysis is conducted by examining the content of the regulation and its effects on various stakeholders in the e-commerce ecosystem.*

**Keywords:** *Minister of Trade Regulation Number 31 of 2023, TikTok Shop, social commerce, MSMEs, trade ecosystem.*

### 1. INTRODUCTION

Online buying and selling is a mutually binding agreement via the internet between the seller as the party selling the goods and the buyer as the party paying the price of the goods sold. Online buying and selling implements an internet buying and selling system. There is no direct contact between the seller and the buyer. Buying and selling is done through a network that is connected using a cellphone, computer, tablet, and others. Online buying and selling activities are currently increasingly widespread, especially since the sites used to carry out online buying and selling transactions are getting better and more diverse. However, as we know that in the online buying and selling system, the products offered are only in the form of an explanation of the specifications of the goods and images that cannot be guaranteed to be true. Electronic System The peak of the industrial revolution gave birth to massive digital technology in human lifestyles throughout the world. Massive digital technology is able to connect millions of people to communicate, transport, and trade transactions at their place of existence through an online system, so that it can make it easy, fast, and flexible to do anywhere and anytime. The positive impact brought by digital technology has a significant influence on the development of countries including Indonesia, because all human activities depend on technology. This has led to a change in the economic sector that is able to follow

and balance the wheels of development from the industrial revolution era with the presence of a digital economy in the social order. However, the existence of the TikTok Shop Electronic System also raises concerns for major e-commerce players in the Southeast Asian region, such as Shopee and Lazada. TikTok Shop is said to be a platform that threatens major e-commerce players in the Southeast Asian region, so the Indonesian government has banned the existence of social commerce such as TikTok Shop. TikTok Shop has experienced rapid development in Indonesia. However, its existence also raises concerns for micro, small, and medium enterprises (MSMEs) in Indonesia. TikTok Shop has caused many micro, small, and medium enterprises (MSMEs) to go bankrupt, resulting in unfair trade competition. This certainly attracts the attention of the government, so the Indonesian government has issued a new regulation, namely *Permendag No. 31 of 2023 concerning Business Licensing, Guidance, and Supervision of Business Actors in Trading Through Electronic Systems*.

Minister of Trade (Mendag) Zulkifli Hasan announced that the Regulation of the Minister of Trade (*Permendag*) Number 50 of 2020 concerning Provisions on Business Licensing, Advertising, Guidance, and Supervision of Business Actors in Trading Through Electronic Systems has been officially revised and enacted as *Permendag Number 31 of 2023 concerning Business Licensing, Advertising, Guidance, and Supervision of Business Actors in Trading Through Electronic Systems*. The background to the revision of *Permendag 31/2023* includes, among others, the need for standardization of goods on the Trading Through Electronic Systems (PMSE) platform, indications of unfair trade by foreign business actors, the still weak competitiveness of micro, small, and medium enterprises (MSMEs) and domestic products, the still lack of equal competition in the Trading Through Electronic Systems (PMSE) ecosystem, and the emergence of new business models that have the potential to disrupt the Trading Through Electronic Systems (PMSE) ecosystem.

*Permendag No. 31 of 2023* is a regulation issued by the Ministry of Trade of the Republic of Indonesia concerning Business Licensing, Advertising, Guidance, and Supervision of Business Actors in Electronic Trading. The purpose of *Permendag 31/2023* is to create a healthy PMSE (Electronic Trading) ecosystem, by taking into account dynamic technological developments, domestic micro, small, and medium enterprises (MSMEs) and domestic Electronic Trading (PMSE) business actors, as well as increasing consumer protection domestically. *Permendag 31 of 2023* also aims to separate the functions of social media and e-commerce, and prevent monopolization of business flows that can harm micro, small, and medium enterprises (MSMEs). Several important points regulated in *Permendag Number 31 of 2023* include the Main Points Regulated by *Permendag 13 of 2023*, there are

six important points regulated in Permendag Number 31 of 2023, namely, First, related to the definition of the business model of the organizer of Electronic System Trading (PMSE) such as marketplaces and social commerce to facilitate guidance and supervision. In Article 1 paragraph 13 of Permendag Number 31 of 2023, a marketplace is a provider of facilities where part or all of the transaction process is in an electronic system in the form of a website or application commercially as a place for traders (merchants) to be able to place offers for goods and/or services.

Meanwhile, Article 1 paragraph 17 explains that Social-Commerce is a social media organizer that provides certain features, menus, and/or facilities that allow merchants to post offers of goods and/or services. Article 21 paragraphs 2 and 3 explain that Trading Through Electronic Systems (PPMSE) with a marketplace business model and/or social-commerce is prohibited from acting as a producer in accordance with the provisions of laws and regulations in the field of distribution of goods.

With the above considerations, Team III Community Service of Lecturers of the Faculty of Law, Sunan Bonang University conducted Socialization and Education to strengthen understanding regarding Supervision of Business Actors in Trade Through Electronic Systems According to the Regulation of the Minister of Trade No. 31 of 2023 in Kedungjambe Village, Singgahan District, Tuban Regency.

## **Problems And Solutions**

### **Priority Issues**

1. Online buying and selling activities are currently increasingly rampant that in the online buying and selling system the products offered are only in the form of product descriptions and images, a very popular video sharing social media platform, where users can create, edit, and share short videos with various creative effects. which cannot be guaranteed to be true so that it can harm consumers.
2. The rapid development of information and communication technology has an impact on the monopoly of business flows which can be detrimental to micro, small and medium enterprises (MSMEs) and also the existence of platforms that have the ability to control the market, unfair pricing, different treatment and discriminatory pricing.
3. The TikTok Shop application has experienced rapid development in Indonesia. However, its existence has also raised concerns for micro, small, and medium enterprises (MSMEs). TikTok Shop has caused many micro, small, and medium enterprises (MSMEs) to go bankrupt, thus creating unfair trade competition.

## **Solution**

1. Education and Socialization regarding Online Buying and Selling Activities and Strengthening Understanding Regarding Supervision of Business Actors in Trading Through Electronic Systems According to Regulation of the Minister of Trade No. 31 of 2023.
2. Education on legal aspects of online buying and selling.
3. Education on the importance of playing an active role in monitoring and reviewing online buying and selling platforms, especially as rational consumers in purchasing products.

## **2. METHOD**

The method of implementing community service activities is as follows:

1. Participatory and Descriptive Approach: The Community Service Team went directly to the field using primary data by providing legal counseling (Education and Socialization) to correspondents in the Kedungjambe Village Government, Singgahan District, Tuban Regency.
2. Explanation of Legal Aspects of Consumer Protection.
3. Explanation of Legal Aspects of Business Actors in Trading Through Electronic Systems According to the Regulation of the Minister of Trade No. 31 of 2023.
4. Exposure to the active role of society as selective, intelligent and rational consumers

## **3. RESULTS AND DISCUSSION**

### **General Conditions for Implementing PkM (Community Service):**

The community service activity was carried out on Thursday, January 9, 2025 at the Kedungjambe Village Hall, Singgahan District, Tuban Regency. The community service activity was attended by 15 participants who were invited based on the direction of the Kedungjambe Village Head and coordination with the BUMdes (Village-Owned Enterprise) of Kedungjambe Village. The participants were quite happy and enthusiastic about the community service program from the Community Service Team (PkM) of the Faculty of Law, Sunan Bonang University in the form of legal counseling for socialization and education by delivering material related to Supervision of Business Actors in Trade Through Electronic Systems According to the Regulation of the Minister of Trade No. 31 of 2023. The results of the activities in general can be seen according to several components as follows:

### **1. Success of Target Number of Training Participants**

The success of the target number of training participants can be said to be very good, of the 15 participants who were invited based on the direction of the Head of Kedungjambe Village and the BUMdes of Kedungjambe Village, all of them were able to attend the community service activities (100%).

### **2. Achievement of Educational and Socialization Goals and Targets**

The achievement of educational and socialization objectives can be said to be good (75%), this is due to an increase in participants' knowledge regarding Supervision of Business Actors in Trade Through Electronic Systems According to the Regulation of the Minister of Trade No. 31 of 2023. In addition, it also includes an understanding of the legal aspects of Consumer Protection.

### **3. Participants' Ability in Understanding Educational Materials and Socialization.**

Participants are mostly from Business Actors (MSMEs) who are relatively new, therefore, it is indeed to target (MSMEs), in addition there are also participants who have been in the world (MSMEs) for a long time, of course, to balance the composition of participants with the hope that there is a contribution/reciprocity in delivering material for understanding between each actor (MSME). Therefore, the delivery of material is carried out using a lecture method with straightforward language and implementing an interactive pattern that can support the ability of participants to absorb the material presented by the Resource Person so that the ability of participants in mastering the material can be said to be good with a percentage of 75%.

### **Delivery of Community Service Material**

The main discussion material for the extension is regarding the Effectiveness of the Minister of Trade Regulation Number 31 of 2023 with several aspects regarding Trade through electronic systems and consumer protection.

The first material regarding the Legal Aspects of Sales and Purchase Transactions is generally regulated in the Civil Code hereinafter referred to as the Civil Code, in Book III concerning Contracts, especially Chapters I to V, but specifically this electronic sales and purchase transaction is regulated in Law Number 11 of 2008 concerning Information and Electronic Transactions as amended by Law Number 19 of 2016. Sales and purchases are "an agreement, by which one party binds himself to hand over an object, and the other party to pay the promised price. The rapid changes in the era have made developments in the field of trade increasingly unavoidable. This is calculated from 2018 to 2019, the TikTok application began to be widely known in Indonesia. In fact, this application is included in the list of the

top 10 most downloaded applications in Indonesia. Likewise, the educational aspect of participants related to other negative things that often occur in the buying and selling process, explained about the legal protection rights of consumers, and how to distinguish between legal and illegal products and selectively sort products that can be legally accounted for and provide opportunities for business actors both from large, medium, small scale. In addition, in the Consumer Protection Law, they have full rights to choose goods or services that will be used or consumed.

It is hoped that through the delivery of this material, counseling participants will understand the Regulation of the Minister of Trade Number 31 of 2023 which has been in effect since September 26, 2023. With the supervision of business actors in social-commerce, it will minimize overlapping for local Micro, Small, and Medium Enterprises (MSMEs) through strengthening through Article 65 of Law Number 7 of 2014 concerning Trade, so that the legality including identity will be clearly visible which can then reduce the number of business actors from outside the local Micro, Small, and Medium Enterprises (MSMEs) sector.

Then regarding, Permendag 50 of 2020 has not clearly regulated the business licensing requirements for business actors both domestically and abroad. This is clarified in Article 3 to Article 22 of Permendag Number 31 of 2023. Permendag 50 of 2020 has not regulated the prohibition of marketplaces and social commerce from acting as producers. This has been regulated in Article 21 Paragraph (2) of Permendag Number 31 of 2023. Furthermore, Permendag 50 of 2020 has not regulated the prohibition of social commerce to facilitate transactions in its electronic system. This has been regulated in Article 21 Paragraph (3) of Permendag Number 31 of 2023. Permendag 50 of 2020 has not regulated the minimum price for goods originating from abroad that are sold to Indonesia through cross-border E-commerce platforms. This has been regulated in Article 19 of Trade Ministerial Regulation Number 31 of 2023. In addition, Trade Ministerial Regulation 50 of 2020 has not regulated the fulfillment of standards for goods that are required, prohibited, restricted in trade, distribution of goods, and taxation. This has been regulated in Article 21 Paragraph (1) of Trade Ministerial Regulation Number 31 of 2023. Furthermore, Trade Ministerial Regulation 50 of 2020 has not regulated in detail the fulfillment of standardization for goods and services that contain clear information such as goods registration numbers, halal certificate numbers, product registration numbers for goods related to security, safety, health and the environment, and permit numbers for cosmetic, drug, and food products in accordance with the provisions of laws and regulations. This has been regulated in Article 11 Paragraph (1) of Trade Ministerial

Regulation Number 31 of 2023.

All of the above can be delivered by the Community Service (PkM) team of the Faculty of Law, Sunan Bonang University well and clearly to be accepted by legal counseling participants. In the question and answer session, there were questions asked by participants:

1. Regarding consumer rights seen from the legal aspect.
2. Regarding the role of the government if someone violates these rules.
3. This also concerns how the central government will take firm action or punishment.

#### **What is given to the perpetrators who do not comply with the regulations.**

The question and answer session was then continued with answers from the presenter, which were discussed in broad outline in the Solutions and Problem Solving Methods section in letters B and C above.

#### **Changes in Knowledge and Mindset**

Participants can be said to be enthusiastic about the existence of (PkM) which provides a construction of thinking that the use of internet technology has an important role, especially in the fields of business and trade to expand the market for marketing networks and services to consumers. The internet is also used as a means of promotion or offering products to consumers so that an agreement can occur between the two parties.<sup>1</sup> Agreements on the internet can be called electronic transactions as stipulated in Article 1 paragraph (2) of Law Number 11 of 2008 concerning Information and Electronic Transactions, that electronic transactions are legal acts carried out using computers, computer networks, and/or other electronic media. In practice, these electronic transactions are similar to conventional sales transactions in general, the difference is only in the media used, namely the internet.

The speaker provided some understanding related to the reality that occurred through the discussion that the Indonesian government through the Ministry of Trade has made regulations to emphasize every trade activity that takes place in Indonesia so that it is fair and there is no unfair business competition, especially trade through electronic systems. In business licensing through this electronic system, it was previously regulated in the Regulation of the Minister of Trade Number 50 of 2020 concerning Business Licensing, Advertising, Guidance, and Supervision of Business Actors in Trade Through Electronic Systems which was revoked by the Regulation of the Minister of Trade Number 31 of 2023. Business licensing regulated in the Minister of Trade Number 50 of 2020 states that business actors are required to have a business license in carrying out business activities in trade through electronic systems (PMSE), by registering the number, name and issuing agency of the business license from the country of origin that is still valid to the organizer of trade

through electronic systems by submitting a business license application to the OSS institution. The business actors referred to in this provision are for every individual or business entity that forms a legal entity or non-legal entity which can be in the form of domestic business actors and foreign business actors who carry out business activities in the field of trade through electronic systems (PMSE). This is still vague in granting business permits to business actors, especially organizers of trade through electronic systems (PPMSE) because this Minister of Trade Regulation does not explicitly regulate the currently developing PPMSE business model such as the emergence of social e-commerce, marketplaces, online retail, platforms, and others.

Therefore, Permendag Number 50 of 2020 was revoked because it was no longer in accordance with current legal developments and community needs, so it was replaced with Permendag Number 31 of 2023 which has brought significant differences in the governance of trade through electronic systems aimed at facilitating guidance and supervision, such as the definition of trade organizers through electronic systems with business models such as online retail, marketplaces, online classifieds, intermediaries or platforms, daily deals, social commerce.

#### **4. CONCLUSION**

Online buying and selling is a trading activity carried out via the internet with many conveniences, but also poses challenges such as lack of guarantee of product authenticity and unfair competition. Permendag Number 31 of 2023 was issued to create a fair electronic commerce ecosystem (PMSE) and protect consumers and local MSMEs. This regulation replaces the previous regulation by clarifying the PMSE business model, prohibiting platforms such as social commerce from becoming producers, setting product standards, and regulating minimum prices for foreign goods. Educational efforts and socialization of regulations are carried out to increase public understanding, protect consumers, and supervise business actors in order to create healthy competition in the digital economy era.

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