

Legal Review of Tik Tok Shop Re-Operation on The Tik Tok Social Media Application

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ARTICLE INFO	ABSTRACT
<p>Keywords : Tiktok Shop, Payment Transactions, Predatory Pricing</p> <p>Submitted: 2024</p> <p>Last revised: 2024</p> <p>Accepted: 2024</p> <p>DOI : 10.25077/alj..xxxx</p>	<p>The Tiktok application, which initially only focused on entertainment through interesting videos, is starting to introduce a new feature called Tik Tok <i>Shop</i>, which allows users to carry out online buying and selling transactions or <i>E-Commerce</i>. Problems arose when the government issued Minister of Trade Regulation Number 31 of 2023 where there is a prohibition on social media platforms from doing so payment transactions on one social media application that had an impact the closure of the TikTok Shop application feature, even though we have the TikTok Shop feature returned but various issues continue to emerge such as practice monopoly, <i>Predatory Pricing</i>. The research method used is legal research Normative is legal research that places law as a building norm system. The norm system in question is about principles, norms, rules of legislation, court decisions, agreements, and doctrine (teaching). Based on the results of the research conducted, it was found that the application TikTok continues to carry out two types of activities, namely social media and transactions payments as well as monopolistic practices and also <i>Predatory Pricing</i> still found.</p> <p>©2024 SNLR. Faculty of Law Universitas Sembilanbelas November Kolaka</p>

1. Introduction

As time goes by, humans demand practicality in carrying out their activities. This is used by business actors to carry out trading electronically or *E-Commerce*. Currently, business actors prefer internet media as a means to support their business activities. This pattern of business actors is known as *E-Commerce*.¹ *Electronic Commerce* or abbreviated as *E-Commerce* is a business activity that concerns consumers, *service provider*, and intermediary traders using computer networks,

¹ Melisa Setiawan Hotana "Industri *E-Commerce* Dalam Menciptakan Pasar Yang Kompetitif Berdasarkan Hukum Persaingan Usaha" jurnal Hukum Bisnis Bonum Commune, Vol.1 Nomor 1, Tahun 2018, Hlm.28

namely the internet ². *E-Commerce* is a modern business model that does not physically present business people and does not use original signatures. So attendance *E-Commerce* as a transaction medium, it benefits many parties, both producers and consumers.

Initial settings about *E-Commerce* in Indonesia it has been regulated in Law Number 11 of 2008 which has been amended in Law Number 19 of 2016 concerning Electronic Information and Transactions which aims to better regulate law in the Internet realm. Arrangement *E-Commerce* aims to provide legal certainty for business actors and consumers in conducting trade in the electronic realm. ³

Thus, *E-Commerce* is a trade transaction between a seller and a buyer to provide goods, services or take over rights. This contract is carried out using electronic media where the parties are not physically present. Use *E-Commerce* carrying out business transactions will provide convenience for business actors and consumers. One of the reasons why transactions go through *E-Commerce* more popular than conventional trading patterns, including using *E-Commerce* transactions can be done quickly, easily, and at lower costs. Of course, sales through the media *E-Commerce* it will also be beneficial for consumers for economic efficiency.⁴

The success of electronic commerce or *E-Commerce*, making more and more applications use or take advantage of this feature, such as *Shopee*, *Lazada*, *Facebook*, and *Tiktok*, whose users are increasing. Currently, the *Tiktok* application is an application that has a lot of users which are always increasing, so that *Tiktok*, which was originally just a social media, has finally developed into a social media. *E-Commerce* or a feature called *Tiktok Shop*.

Tiktok is an interesting entertainment application that contains various types of videos, including dance, tutorials, comedy and other creative content. *TikTok* is one of the most popular applications in the world and allows users to create videos lasting a few seconds accompanied by music and several other interesting features. The *Tiktok* application tops the list of entertainment platforms with the number of users increasing every year. *Tiktok* initially only focused on entertainment through interesting videos, until finally *Tiktok* introduced a new feature called *Tiktok Shop*, which allows users to carry out online buying and selling transactions or *E-Commerce*.

Tiktok Shop used for transactions in product sales *fashion*, food, cosmetics, and service offerings. This can create opportunities to increase sales. The *Tiktok* social media platform has great potential to help business people increase product sales, especially for online businesses that do not have physical outlets and depend on social media as the main sales channel. Therefore, business people need to design effective marketing strategies to increase their sales volume. One example is creating interesting content that focuses on the products they offer.

² Elisa Tris Gultom "Perlindungan Transaksi Elektronik Commerce Melalui Lembaga Asuransi" Jurnal Legislasi Indonesia, Vol.5 No.4 Tahun 2008, Hlm.56

³ Rahmanda Friska Adenia "Aspek Hukum Bagi Pelaku Usaha *E-Commerce* Yang Tidak Memiliki Siup Berdasarkan Hukum positif Indonesia" Jurnal Ilmiah, Tahun 2020, Hlm.4

⁴ Melisa Setiawan Hotana, Op. cit

Popularity Tiktok *Shop* as a medium *E-Commerce* It turns out that it has received a lot of criticism from both the government and conventional traders in the market. Many traders in the market complain that they have lost almost all their buyers due to Tiktok *Shop*. The provision of vouchers, free shipping costs and promising discounts has made some people switch from conventional buying and selling to digital buying and selling, so that buying and selling activities in the conventional market are threatened with fading. Until October 4, 2023, Tiktok *Shop* finally closed.

But after a few months Tiktok *Shop* closed, on Monday 12 December 2023, Tik Tok users will again be able to carry out buying and selling transactions in it. TikTok *Shop* returned to operations in Indonesia after joining Tokopedia which is under the auspices of PT. Gojek Tokopedia (GOTO). It is known that this collaboration is considered to bring business growth for Tokopedia and profits for GOTO. So, through this agreement, Tiktok and GOTO are expected to expand benefits, especially for users and MSMEs in Indonesia.

However, the Return of the Tiktok feature *Shop* on the Tiktok application, it has also attracted a lot of controversy. After alleged policy violations by Tiktok *Shop* until it finally reopened, it also raised a question mark as to whether Tiktok would be present *Shop* which was closed was in accordance with regulations or policies issued by the government and did not harm various parties. Based on this, the author is interested in conducting research on how to review the law of re-operating the TikTok shop using the Tiktok application.

2. Method

Research is a process of scientific investigation through collecting, processing, analyzing and compiling data based on certain approaches, methods and techniques to answer a problem.⁵ Legal research is a scientific activity based on certain methods, systematics and thinking, which aims to study one or several general phenomena of certain laws by analyzing them. Apart from that, an in-depth examination of the legal facts is also carried out and then attempts to find a solution to the problems.⁶

The type of research used by the author is normative research. According to Mukti Fajar and Yulianto Achmad, normative legal research is legal research that places law as a building system of norms. The norm system in question is about principles, norms, rules of legislation, court decisions, agreements, and doctrines (teachings). Normative legal research (*Normative Law research*) using case studies in the form of legal products, for example reviewing laws. The subject of the study is law which is conceptualized as norms or rules that apply in society which serve as a reference for everyone's behavior. So normative legal research focuses on positive legal inventories of legal principles and doctrine, legal findings in this case *concrete*, legal systematics, synchronization rates, comparative law and legal history.⁷

There are 2 (two) approach methods that the author will use in this research, namely the statutory regulation approach (*statute approach*), where the researcher will review all the rules or regulations that are related to the legal issue at hand, and the conceptual approach (*conceptual approach*), namely by studying concepts, understandings and doctrines related to the issue at hand which will become a basis for the writer to be able to solve the problem being studied. By using these two concepts, the goals to be achieved can be relevant.

⁵ Zainal Arifin, *Penelitian Pendidikan Metode dan Pradikma Baru*, PT Remaja Rosdakarya, Bandung, hal.2

⁶ Zainal Ali, *Metode Penelitian Hukum*, Sinar Grafika, Jakarta, Hal. 18

⁷ Abdulkadir Muhammad, (2004) *Hukum Dan Penelitian Hukum*, PT Citra Aditya Bakti, Bandung

3. Result and Discussion

The development of the world of trade, whether in the form of goods or services, has now entered a more modern era, if previously trade in goods and services was carried out face to face or offline by visiting a shop or shopping center, we are in line with the development of the era of technology and information which is increasingly fast and easy to mark. with the emergence of E-commerce or electronic commerce. This triggers business actors to participate in selling online.⁸

Online Shopping is a buying and selling process that occurs between a consumer and a business actor which occurs directly by offering various kinds of goods, services and others via the internet without any face-to-face meeting. Consumers can see directly the feedback or ratings given by other consumers on the goods being sold or the shop.⁹

In the development of sales *Online Shopping* carried out through E-commerce applications which are focused as online markets such as Shopee, Tokopedia, Lazada and Blibli, now social media applications such as TikTok are starting to spread to the world of online sales through the Tiktok shop. The presence of Tiktok Shop has become a trend in society and has had a significant impact on the economy, but on the other hand it has given rise to various new problems, polemics have arisen in the process of Tiktok shop's journey in Indonesia, the most widely circulated issues include consumer data privacy, trade monopoly and taxation issues.

In Indonesia, Minister of Trade Regulation Number 31 of 2023 is currently in effect, which has the aim of supporting the empowerment of micro, small and medium businesses, as well as trading businesses through domestic electronic systems, protecting consumers, encouraging the development of trade through electronic systems, and paying attention to technological developments. dynamic, it is necessary to re-arrange provisions regarding business licensing, advertising, guidance and supervision of business actors in trading through electronic systems.

The closure of the Tiktok shop which occurred in October was allegedly due to the large number of imported goods being sold very cheaply which resulted in unhealthy market competition and regarding existing regulations in Indonesia. Tiktok licensing in Indonesia is as a social media, not as E-commerce, but in fact the operation of Tiktok in Indonesia carries out two activities, namely as social media and also as E-commerce. If we look back, in fact no regulations were violated by the TikTok application until mid-2023 because based on Minister of Trade Regulation Number 50 of 2022 concerning Business Licensing, Advertising, Guidance and Supervision of Business Actors in Trading Through Electronic Systems, it does not specifically regulate prohibitions against social media to carry out sales and payment transactions on social media, so that what TikTok does does not actually violate existing regulations in Indonesia.

After the issuance of Minister of Trade Regulation 31 of 2023, regulatory changes occurred in the e-commerce trading system in Indonesia and began regarding the term Trading Through Electronic Systems, hereinafter abbreviated as PMSE, namely Trading where transactions are carried out through a series of electronic devices and procedures. in carrying out PMSE activities, Business Actors are required to comply with the provisions of laws and regulations in the field of Business Licensing, proof of compliance with standards or technical requirements for required Goods and/or Services, and Goods and/or Services whose trade is prohibited and/or restricted, distribution of Goods, and taxation.

⁸ Gelora Martanti, "Perlindungan Konsumen Bagi Penyandang Disabilitas Pada Sektor Perdagangan Online Berbasis Aplikasi Marketplace," Jurnal USM Law Review 6, no. 1 (2023): 242–59, <https://doi.org/http://dx.doi.org/10.26623/julr.v6i1.6387>

⁹ Hergiyanti, 2016, "Dampak Belanja Online" E-Journal, Universitas Atma Jaya

Article 5 of Minister of Trade Regulation 31 of 2023 explains that foreign traders (Merchants) who carry out trading activities via electronic systems (PMSE) at Trade Operators via Electronic Systems (PPMSE) which provide facilities for Overseas Traders (Merchants) are required to submit the trader's identity, business license, proof of compliance with the required standards or technical requirements for Goods and/or Services as well as the bank account number used for transactions, to the domestic PPMSE which provides facilities for the overseas Merchants in question. This is something that is not found in the trading system at the Toktok shop, business actors from abroad can freely sell at the Tiktok shop without any regulatory compliance, even the goods sold are much cheaper than the prices on the Indonesian market.

Article 21 paragraph 2 of Minister of Trade Regulation 31 of 2023 explains that PPMSE with a Marketplace and/or Social-Commerce business model is prohibited from acting as a producer in accordance with the provisions of laws and regulations in the field of Goods distribution, while paragraph 3 explains PPMSE with a Social-Commerce business model Commerce is prohibited from facilitating payment transactions on its Electronic Systems. Based on this, the government has the argument that Tiktok Shop has committed a violation in carrying out its business activities in Indonesia, where the Tiktok application opens the Tiktok Shop service and facilitates payment transactions through the Tiktok application.

The closure of the TikTok shop has had a big impact on sellers and consumers. From the seller's side, the closure of the TikTok Shop will certainly have a negative impact resulting in a decrease in sales, this is because many sellers have lost access to the online market. Based on the We Are Social report, the estimated number of TikTok users in the world will reach 1.09 billion as of April 2023 and 38.5% of users are aged 18 – 24 years. Indonesia is in second place as the country with the largest number of Tik Tok users in the world, namely 113 million users with an average age of 18 years and over. Apart from the decline in sales, sellers also experience limitations in finding alternative e-commerce platforms because the features offered by TikTok Shop are different from other platforms. From a consumer perspective, closing the TikTok shop has had the impact of decreasing people's interest in carrying out online transactions, the COD feature *cash on delivery* or the process of purchasing goods where payment is made in cash when the goods are received, which has been introduced by TikTok Shop, has disappeared, apart from that, the impact felt by consumers is decreasing the choice of e-commerce platforms for making purchases.¹⁰

If we look at the impact from a legal perspective, closing TikTok can be said to have had a good impact in terms of providing legal certainty to the entire community. one of the tasks of law is to create legal certainty because with legal certainty in society there will be legal order in society, legal certainty is a characteristic that cannot be separated from legal norms, especially positive legal norms. According to Fence M. Wantu, law without the value of certainty will lose its meaning and cannot be used again as a guideline for behavior in society.¹¹

Entering December 2023, the Indonesian government has again given permission to Tiktok to open a Tiktok shop service with several provisions that must be followed, especially Minister of Trade Regulation Number 31 of 2023, This Minister of Trade Regulation gives TikTok four months to divert trade transactions from going through the TikTok shop and can only carry out promotions on the TikTok application. Payment transactions must be transferred to Tokopedia as TikTok Shop's new collaboration partner.

¹⁰ Faesal, Nada Muna Luqyana dkk, 2024, Dampak Penutupan Tiktok Shop Dalam Penjualan Produk (Studi Kasus Pedagang Tiktokshop Di Desa Ambokembang, Kedungwuni), Inisiatif: Jurnal Ekonomi, Akuntansi dan Manajemen.

¹¹ Fence M. Wantu, Antinomi Dalam Penegakan Hukum Oleh Hakim, Jurnal Berkala Mimbar Hukum, Vol. 19 No.3 Oktober 2007, Yogyakarta: Fakultas Hukum Universitas Gadjah Mada, hlm. 388.

The formation of a collaboration partner between TikTok and Tokopedia is in line with Article 18 of Minister of Trade Regulation 31 of 2023 which states that every overseas PPMSE is obliged to appoint a representative domiciled in the jurisdiction of the Unitary State of the Republic of Indonesia who can act as and on behalf of the PPMSE in question. Until now, Tiktok does not have a PPMSE representative office in Indonesia, so to carry out activities for organizing electronic transactions, Tokopedia uses a partnership system, so that Tokopedia is not included in the foreign PPMSE category but rather domestic PPMSE.

the return of the tiktok shop which collaborates with tokopedia also received objections from Ministry of Cooperatives and SMEs, because the business model system that TikTok Shop is still running is still carrying out payment transactions in the TikTok application. Even though not directly, the appearance of the TikTok Shop menu in the TikTok application will encourage people to make transactions on the TikTok Shop application, not the pedia store.

The next problem with returning the tiktok shop permit to the tiktok application is that unhealthy business competition is still emerging. Many business actors sell their products at very cheap prices compared to market prices. This often happens to imported goods from abroad. Article 19 of Minister of Trade Regulation 31 of 2019 requires PPMSEs that carry out cross-border PMSE activities to apply minimum goods prices on their electronic systems for traders who sell finished goods directly from abroad to Indonesia.

Law number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition mandates the prohibition of economic activities in unhealthy areas. The government, through this regulation, is obliged to encourage and create a conducive business climate by providing opportunities for business actors, both large, medium and small scale. Apart from that, in consumer protection law, they have the full right to choose the goods or services to be used or consumed.

the return of the TikTok shop still raises unresolved problems, namely the practice of predatory pricing. According to Gunawan Widjaja, predatory pricing is a type of strategy used by business actors by determining very low selling prices for goods or very low prices for services over a long period of time. This aims to kill similar types of businesses that become competition or to prevent other business actors from entering the market with the same type of business.¹²

The practice of predatory pricing will actually benefit consumers in the short term because consumers are presented with many choices and prices are relatively very cheap, but the potential for monopoly will arise if only one party controls the market while other competitors have been eliminated by the market, when this happens then a single business actor will increase the selling price of a product and of course consumers are very afraid of this because it is very detrimental, especially if the goods are goods used in everyday life.¹³

Minister of Trade Regulation Number 31 of 2023 means *social commerce* as a social media organizer that provides certain features, menus and/or facilities for traders to place offers for goods or services. This means that traders can only promote their products without being able to carry out transactions. This rule is contained in article 21 paragraph (3) of trade regulation number 31 of 2023, where *social commerce* It is also prohibited to carry out internal transactions *platform*. In practice, this is certainly not wrong, but the automatic system that occurs in the TikTok application or what is usually called the Titok algorithm system continues to direct TikTok service users to open the TikTok Shop application or continues to advertise/promote business actors so that people are interested in making purchases.

¹² KENTON, W. (2023, July 31). Predatory pricing: Definition, Example, and Why It's Used. From Investopedia: <https://www.investopedia.com/terms/p/predatory-pricing.as>.

TikTok management provided information that the TikTok Shop did not do so *Predatory Pricing*. According to them, TikTok Shop is just a market for business actors and not determining the price of goods sold, determining prices the goods are returned in full by the business actor which is a strategy marketing of each business actor. The existence of cheap sales that are very different from market prices is one of the reasons why Tiktok *Shop* closed by the government. Moreover, most of the products sold cheaply are goods from abroad whose import processes are not in accordance with policies issued by the government coupled with promotions for discounts and free shipping. The business impact of TikTok *Shop* causing similar business actors to suffer losses so that many actors, especially conventional ones, go bankrupt and their businesses are quiet because of the cheap selling carried out by Tiktok *Shop*.

The closure of the TikTok shop on the TikTok application is an important lesson for various platforms that will enter Indonesia to comply with existing regulations in Indonesia. The government has formed an e-commerce task force tasked with monitoring and taking action against e-commerce platforms whose operations do not comply with regulations. Good regulations are very important to protect consumers from various possible risks, such as counterfeit products, fraud or services that do not comply with the description on the e-commerce platform.¹⁴

4. Conclusion

With the enactment of Minister of Trade Regulation number 31 of 2023, the aim is to provide legal protection and certainty to all elements of society, the public must also take part in fighting unhealthy practices in carrying out electronic transaction activities. Especially in terms of *Predatory Pricing*. with the return of the tiktok shop to the tiktok application, hopefully it will be a big lesson for all players Trading Organizers Through Electronic Systems to comply all existing regulations in Indonesia to activate the trading system healthy one.

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¹⁴ Nora Maulana, 2023, Implikasi Penutupan Platform Tiktok Shop Era Disruptif: Evaluasi Konformitas Menurut Perspektif Ekonomi Syariah, SYARAH: JURNAL HUKUM ISLAM DAN EKONOMI. DOI: <https://doi.org/10.47766/syarah.v12i2.2049>.

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