

Government Supervision on Live-selling by Producers in TikTok Live Towards the Survival of MSMEs in Economic Globalization

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Government Supervision on Live-selling by Producers in TikTok Live Towards the Survival of MSMEs in Economic Globalization

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ABSTRACT

This special issue looks at how the role of government supervise the action of live-selling using TikTok platform by producers towards the survival of Micro, small, and Medium Enterprises (MSMEs). Which will be reviewed from Law of Convenience, Protection and Empowerment of Cooperative and MSMEs and the Law of Business Licensing, Advertising, Guidance and Supervision of Business Actors in Electronic Transaction Systems. This research aims to find the answer to legal regulations regarding the action of live-selling using TikTok platform by producers and the legal protection MSMEs due to the entry of producers / manufactures into the electronics market. Researchers use the type of normative juridical legal research with a conceptual and statutory approaches. By reviewing and analyzing the role of government, we will be able to answer the problems towards the survival of MSMEs in the economic globalization era. The government has a pivotal roles to support the empowerment of micro, small, and medium enterprises, as well as the electronic system business actors, and to protect consumers also encourage the development of transactions through electronic systems. The government have to pay attention to dynamic technological developments and to prevent all forms of unfair business competition practices or manipulation practices both directly and indirectly that could lead to potential monopoly business in electronic transaction systems.

Keywords: Producers, *TikTok Live*, MSMEs, Electronic Transaction Systems.

INTRODUCTION

In recent years, Indonesia is currently focusing on national development in the digital sector that is about to become digital economy country. Of course, this is a priority aimed to increase the rate of economic development. Along with the development of digital disruption, economic is slowly changing from offline to online which is very dependent on the internet network. Internet is a medium that can fulfill the need to interact and transact in cyberspace or virtual space (Asmadi, 2018).

Electronic commerce industry in Indonesia are continues to develop and is expected to support the digital economy era. Along with the proliferation of marketplace users, there is a feeling of worry about the displacement of small business by the marketplace platform on the transactions contained therein, remembering its growth is increasingly massive. Currently, the existence of a marketplace is the main actor of value in online commercial electronic. Due to both micro and business enterprises small, medium and large businesses have migrated into marketplaces (Ding et al., 2017).

As business through e-commerce continues to grow rapidly, social media also sees the opportunities to gain profits by adding sales features to its applications such as Tiktok which offer it users the ability to transact and promote products. This phenomenon is known as social commerce (s-commerce), namely business carried out through social media, where initially social media was only used as a means for communication and interaction between users, shifting into the feature for selling and promoting products, so that it is an evolution and shift from electronic commerce into social commerce (Wu et al., 2023).

The phenomenon of the presence of social commerce has made large producers start to take advantage of this feature to offer and sell their products directly via social commerce, especially the Tiktok Live. TikTok Live offers a unique experience by combining a fun and entertaining content to drive a business revenue and bring merchants (producers), buyers and influencer closer together. TikTok Shop accommodates the need for producers to be able to communicate two-way with buyers directly, a concept that is not common on e-commerce platforms. With the presence of the TikTok Live feature, it creates high competition in the business competition chain between business actors. Business actors are competing to market their products with attractive prices and offers. Large producers as the most influential business actors also open official shops and sell goods directly on social commerce which is TikTok. A lot of producers also use the services of influencers to promote their products. Influencers or artists have a strong influence in influencing people's purchasing power for a product, this will increase sales significantly (Nada et al., 2023).

Viewers who join in live-streaming will interact directly with producers or what are called sellers who are offering their products. Producers will adjust to the needs sought by the audience and there will be an agreement process for selling and buying in the live-streaming.

Producers will also provide many discount offers and attractive prices for viewers who buy during the live-streaming. This will influence buyers to buy right away because there are attractive price offers that cannot be found outside of live-streaming.

According to ⁴ Article 1 Number 6 of Minister of Trade Regulation Number 32 of 2023 (hereinafter referred to as ⁹ Permendag No. 32/2023), Domestic Business Actors are Indonesian citizens or business entities established and domiciled in the legal territory of the Unitary State of the Republic of Indonesia that carry out business activities in the PMSE sector. Every citizen, whether business entity or individual, can carry out PMSE activities, including large producers who participate in PMSE. TikTok Live is a promotional or marketing tool with a wide reach and sophisticated algorithms that determine the right target consumers. On the one hand, Tiktok as social commerce helps in improving Indonesia's economy, but on the other hand, there are parties who are affected by the existence of TikTok Live. Not all business actors feel the benefits. Business actors who have minimal knowledge about ²⁶ technology and e-commerce has to lose in the business competition. The entry of large producers to sell directly using TikTok Live into the electronic market accounts for most of the losses for reseller or MSME (Mumtahana et al., 2017).

Even though the TikTok Shop feature has officially closed on October 4 2023, TikTok has other certain features or menus or facilities namely TikTok Live, which facilitates the sellers to promote their goods. TikTok Live are used to promote a product. Sellers have the option to divert the payments to other e-commerce. So the closure of the TikTok Shop have no significant impact on the survival of the sellers (Yanto & Sukanta, 2020).

Large producers as domestic business actors can also sell directly via the TikTok Live platform. Article 13 paragraph 3 of Minister of Trade Regulation No.32/2023 regulates that in carrying out PMSE activities, PPMSE must play an active role in providing equal business opportunities for merchants; and maintain prices of goods and/or services free from price manipulation practices, either directly or indirectly. However, the same freedom to do business for traders has other impacts of its own. Large producers can participate in marketing products directly, whereas generally in the offline market, the distribution chain that generally applies is that large producers sell their products to wholesaler and distributors as intermediaries between

large producers and consumers. These reseller and distributors will benefit from the sales results (Jain et al., 2021).

The s-commerce mechanism also uses the help of affiliates or affiliate sellers. An affiliate seller (affiliated seller) is someone who joins to work with a manufacturer or distributor to offer products by creating interesting short video content in a scheduled and structured manner in exchange for a commission for each sale per order. The affiliate seller's only job is to create interesting short video content and every product that is successfully sold by the affiliate seller will receive a commission from the manufacturer. This mechanism is not found in e-commerce, so this is what differentiates s-commerce from e-commerce. This affiliate seller mechanism cuts advertising costs that must be incurred by producers, where with advertising the producers have to incur large costs. Only by working with affiliate sellers can increase profits for producers because the advertising reach is wider and producers provide compensation in the form of commissions to affiliate sellers.

The freedom for domestic business actors to enter PMSE threatens small enterprises who have little knowledge of the use of technology. Limitations in using the available features mean that small enterprises who have just entered the TikTok are left far behind. The entry of large producers into the electronics market chain and participating in direct marketing will certainly be detrimental to small sellers. Influencing factors include differences in capital owned, influence owned, knowledge related to social media and marketing which are the main causes of the elimination of small sellers. Large producers have large capital to produce their own products, and the presence of TikTok Live reduces the marketing/distribution costs they have to incur. Large producers only need to pay for the services of influencers or artists to expand market share with the influence that the artist has. Large producers also open official shops or official accounts belonging to the producers themselves, which of course means that consumers will prefer to shop directly from the official shop rather than shopping through resellers/distributors. Assuming that buying directly from producers who produce goods is more reliable and of course has a guarantee at prices that are not much different from retailers / small traders. The strong influence of large producers is slowly eliminating small sellers little by little (Oliva et al., 2003).

There is a potential for unhealthy business competition in the field of social commerce. Basically it is very possible for it to happen. It can be illustrated such as a large company scale

will have power market so as to control the market and user (lock-in). In addition, large companies scales also tend to have positions higher bargaining position compared to retailers or small seller so the partnership potentially creating a relationship which is not comparable. Minister of Trade regulations regulate guidance and supervision regarding the protection of MSMEs and to prevent price manipulation. However, how effective are these regulations in reducing gaps in social commerce? This regulation does not strictly regulate who can enter into transactions via the electronic system, because if it is not limited, then price manipulation regulations cannot regulate effectively, because if large producers or manufacturers still promote via TikTok live, then small sellers or MSME even small ones will still lose out in terms of purchasing influence (Xiao, 2022).

Apart from that, the influence of large producers is very strong where consumers believe in buying directly from producers. The product guarantees provided and guarantees for the quality of goods make consumers prefer to shop directly at the official shops of large producers. Examples can be seen in domestic skincare products, smartphone products, and fashion products which are currently starting to open their respective official shops to sell directly without involving reseller/wholeseller.

In this article the author would discussed about :

1. What's the Government's role in supervising direct sales by large producers on the survival ability of MSMEs in the era of globalization?
2. What is the legal protection for MSMEs regarding the entry of large producers into the business via electronic systems?

RESEARCH METHOD

The type of legal research used is normative legal research with conducting research that is still related to written legal regulations or positive law that exists in the territory of Indonesia regarding government supervision of the implementation of trade via electronic systems carried out by producers via TikTok Live. The aim of this study is to find legal regulations related to protection for MSMEs. By using legal principles and legal doctrines related to. This research journal is to answer the legal issues written about. This research uses the approach method consisting of the statutory approach (statute approach), conceptual (conceptual approach) and

case approach. Conceptual approach is a research using existing legal regulations or referring to applicable regulations by referring to, understanding and identifying concepts from legal principles and the legal doctrine that applies to transactions via electronic systems. This research used an approach method namely the legislative approach in which the process is implemented using the methods of analyzing the related legal norms with a discussion of the legal issues raised.

RESULTS

Humans carry out production activities to meet needs, seek profits, and produce goods that have selling value. Production is defined as an activity that provides value to certain objects or creates new objects for consumer needs. All activities carried out in production require humans as initiators and controllers, although they still require the help of tools. Producers or manufacturers play an important role in economic activities where producers are tasked with producing and providing goods needed by the market. If interpreted linguistically, a producer is a body or person who produces goods and services for use by the market (Hapsari et al., 2023).

Every producer wants to increase sales and income. If producers want the sale of their products to be successful, producers must actively participate in the distribution process until the product reaches consumers. This activity requires the help of a dealer who is usually referred to as a distributor. Distributors are referred to as distributors, which means parties in the form of people or entities who buy products from producers to distribute to consumers or retailers. Distributors not only distribute trade products to final consumers but also to lower retailers for further distribution.

Apart from trade, the types of small businesses that are often found in Indonesia are production businesses or the process of making goods. With abundant natural wealth and increasing needs, production activities promise abundant profits. Industry is market-oriented, meaning that people make goods that sell on the market. For this reason, producers must actively observe market trends. Production activities include the necessary equipment, production processes, maintenance of production facilities, quality control, and research. Thus, production is intended as an effort to achieve product quantity and quality.

Market demands are basically always changing and dynamic in line with the development and growth of society. Distribution channels have an important role in maintaining a balance between market demand and production. An effective program needs to be prepared based on the market situation and integration between the product, packaging, price, promotion and distribution channels. Each stage of production always pays attention to market demand. Production activities require information about what must be produced, what its characteristics and requirements are, what the demands are, and how much is produced. The marketing system must be able to provide information and determine market and consumer demand trends. Here, the producer chooses an agent as the distributor. Producers carries out large trading activities, within existing distribution channels. The sales target is mainly aimed at large retailers.

The increasingly advanced development of the internet makes it easier for society in various aspects, for example social, educational and economic. This use of the internet through technology continues to develop rapidly and it able to make life more practical, because people could easily access everything throught social media. The pandemic conditions several years earlier were able to influence deeply into various aspects. To be precise, in 2020, Indonesia and various other countries experienced difficult times when the *Covid-19* virus began to spread and resulting in very serious economic downturn and various businesses collapsing due to the pandemic. This also causes business actors to search for innovation to maximize its use so that the business activities can run. In Indonesia, TikTok is one of the mobile online shopping applications that is currently very popular (Syarief, 2021).

Data obtained from the Databooks survey shows *TikTok* users throughout the world increased 18.8% compared to the previous year. By country, user Most TikToks come from the United States. In 2023, TikTok released its newest feature namely TikTok Live. This feature is useful as a bridge for prospective businessmen and potential consumers. Product purchases currently carried out through social commerce is mostly through Tiktok Live, nearly 45 percent enjoy shopping at TikTok, which is a social feature TikTok commerce. Based on the current phenomenon, business people are required to utilize TikTok technology to open new business fields or develop existing businesses through TikTok (Zhou, 2022).

TikTok is successful in attracting marketing strategist. Consumers are directly influenced to buying a product can be caused by a strategic promotion. One of the factors that motivates

consumers to do is an interacting promotion. This sales promotion activity went successful an added value in increasing sales volume. Strategic of promotion are very diverse. Apart from that, there are suspected factors other things that can strengthen the impulsive buying decisions of TikTok consumers namely perceived enjoyment (PE).

DISCUSSION

Government's role in supervising direct sales by large producers on the survival ability of MSMEs in the era of globalization.

Businesses with digital platforms or E-commerce and social commerce are regulated under Indonesian Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE). Supervision of trading through electronic systems is carried out by the government in coordination with electronic system trading operators. Article 42 of Minister of Trade Regulation No.31/2023 regulates that the Minister of Trade of the Republic of Indonesia is someone appointed to carry out supervision in the field of trade through electronic systems. Supervision is carried out by prioritizing protection and safeguarding national interests from the negative impacts of PMSE. By closing the TikTok Shop, the government has carried out its supervisory function as regulated by regulations to protect the interests of small MSMEs affected by the existence of the TikTok Shop.

However, with access to TikTok Live still open, large producers and distributors still have a place to offer their products and compete with small MSMEs. Apart from that, the trade minister has again opened permits for TikTok Shop to operate and with the merger of TikTok Shop with Tokopedia and Gojek, it provides legal uncertainty for small business actors in trading via electronic systems. TikTok Shop joins forces with Tokopedia so that TikTok Shop's licensing is in line with the application's function as an e-commerce application.

By moving business actors from TikTok Shop to TikTok Live, competition in s-commerce will continue to be controlled by large manufacturers and distributors. With the calculation that the number of MSMEs in Indonesia in 2023 will be 64 million business units which are required to start adapting to social commerce without ready capital, resources and appropriate guidance, MSMEs will not be able to compete in the future era of digital technology

development. TikTok Live, which currently dominates Indonesia, is also not yet fully able to provide space for increasing trade in the MSME sector.

The emergence of business models with new transaction methods will give rise to business competition a new model that will complexly bring together digital-based industry with conventional industry (Soliman & Youssef, 2003). The government must prioritize fair and healthy principles, namely the existence of equality of opportunity and position in business activities between business actors in s-commerce to create a conducive business climate so as to guarantee certainty and equal business opportunities. The government must also ensure that producers and consumers must be careful in carrying out PMSE, where all electronic information must be properly understood.

² The Business Competition Supervisory Commission was formed to directly supervise sales in s-commerce carried out by business actors including producers and MSMEs in carrying out their business activities so that they do not carry out monopolistic practices. Supervision in business competition is carried out by the government to monitor business competition between producers and actors. MSMEs are less effective with s-commerce where producers freely set prices for goods at low prices.

The government through the KPPU aims ² to create healthy business competition and partnerships and encourage a just and sustainable national economy so that the welfare of society increases. In achieving these objectives, KPPU carries out 4 (four) main functions, namely:

1. Enforcement of business competition law;
2. Harmonization of policies through providing policy recommendations to the government;
3. Monitoring and evaluating merger and acquisition transactions; And
4. Supervision and law enforcement of partnerships between large business actors and MSME actors.

⁵ MSMEs are expected to be more productive and competitive. One way to improve competitiveness, was through the adoption of ICT (information, communication and technology)

including social commerce adoption. This is necessary to keep up with the increasing number foreign investors entering the realm of social commerce and competition with MSMEs. The Indonesian government as one of the stakeholders in e-commerce or social commerce adoption. The government and MSME business actors as the main stakeholders must receive input valid regarding existing conditions and development potential as well as supporting factors and barriers to social commerce for MSMEs in Indonesia (Fathimah, 2019).

Article 21 Paragraph 1 of ¹⁴ Government Regulation of the Republic of Indonesia Number 80 of 2019 concerning Trade Through Electronic Systems (hereinafter referred to as PP No. 80/2019) regulates that in implementing PMSE, PSE is obliged to support ¹⁶ government programs by prioritizing trade in domestically produced goods and/or services, increase the competitiveness of domestically produced goods and/or services, and are also required to provide ¹³ space facilities for the promotion of domestic products and/or services. PSE is required to ¹³ prioritize the use of Indonesian high-level domain names (Dot-IDs) for electronic systems in the form of internet pages, prioritize Internet Protocol (IP) addresses, use router equipment installed in data centers as required by statutory regulations, carry out registration in the system electronically ³ in accordance with the provisions of statutory regulations. A partnership between ³ producers and micro, small and medium enterprises are regulated in the Republic Indonesia's Government Regulation Number 7 of 2021 regarding The Convenience, Protection and Empowerment for Cooperatives and Micro, Small And Medium Business (hereinafter referred to as PP Nomor 7 Tahun 2021). With the ³ supply chain pattern, cooperation between micro, small, medium and large businesses are dependent on the flow of goods and services, which converts raw materials into products in an efficient and economical effort covering various processes from production, product and service development, information systems, as well as product packaging or service delivery to consumers.

The government must know precisely the obstacles that cause low e-commerce penetration for MSMEs. More Furthermore, MSME entrepreneurs/prospective entrepreneurs are expected to know what products are most demanded in market as well as the media used by online consumers in making purchases online (potential and opportunities). Factors that hinder consumers when making online purchases, the government and business actors must also be

aware of this so that creative solutions and strategies can be found to overcome them (Cueto et al., 2022).

Mandated in the Minister of Trade Regulation 31/2023 in order to support ⁶ the empowerment of micro, small, and medium enterprises, as well as business actors, transactions through domestic electronic systems, protect consumers, promote development transactions via electronic systems, as well paying attention to dynamic technological developments, need to re-arrange the provisions regarding licensing business, advertising, coaching, ²¹ and supervision business actors in trading through the system electronic. The aim is to provide easy, protection and empowerment but in fact not yet able to accommodate, supervise, and give optimal law enforcement when confronted with the digital economic phenomenon, especially towards marketplace consumers.

Legal protection for MSMEs regarding the entry of large producers into the business via electronic systems

Direct sales of goods carried out by producers to other parties must be carried out in good faith as regulated in Article 39 PP No.80/2019 which states that electronic offers must contain at least information:

1. Specifications of goods and/or services;
2. Price of goods and/or services offered;
3. Terms of the agreement;
4. Payment mechanisms and systems as well as payment deadlines;
5. Mechanism and system for delivery of goods and/or services;
6. Unexpected risks and conditions; And
7. Limitation of liability in case of unexpected risks.

In addition, producers can advertise their products electronically. ⁴ Electronic advertisements can be found on the for your page. In Article 16 Paragraph (1) Business Actors can create and/or send Electronic Advertisements for marketing or promotional purposes. Electronic Advertisements as intended in paragraph (1) include information conveyed through

electronic media⁴ and/or electronic communication channels. The creation of electronic advertisements includes the creation, publication and dissemination of Electronic Advertisements for marketing or promotional purposes.

Legal protection in the economic sector plays an important role in shaping economic activity, encouraging innovation, and ensuring healthy competition. Legal protection contributes to economic growth and Gross Domestic Product (GDP). An effective legal framework enhances economic growth by encouraging entrepreneurship, encouraging startups, and supporting⁶ small and medium enterprises (SMEs). In addition, a strong legal system contributes to GDP growth and overall prosperity (Wibowo and others 2019).

The principle of economic protection involves principles that lead to sustainability and economic prosperity, including (Hapsoro and Bangun 2020).

1. Benefit Principle. Economic protection must provide benefits to society as a whole. Policies and actions must have a positive impact on many people.
2. Principle of Justice. Economic protection must be fair and equitable. No party should be harmed unreasonably.
3. Principle of Balance. Policies must achieve a balance between the interests of various parties, including business actors, consumers and society.
4. Principles of Consumer Safety and Security. Economic protection must ensure safe products and services for consumers. This involves regulations regarding quality, safety and information provided to consumers.
5. Principle of Legal Certainty. Policies and regulations must provide legal certainty for²⁸ business actors and consumers. This ensures that rights and obligations are respected and enforced. Obligation to strive for supervision, prevention and control of all forms of unfair business competition and/or price manipulation practices. Furthermore PPMSE's obligation to coordinate with business competition supervisory institutions on suspicion or indication of unfair business competition between business actors and/or price manipulation.²⁵ The results of the researcher's analysis are based on provisions in the law and theory regarding the practice of selling at a loss, the probability of business actors in TikTok possibilities.

The practice of Live-selling by producers in TikTok Live is small because the market is wide and free in TikTok compared to conventional trading. Live-selling by producers via live streaming on TikTok actually sell far more goods cheaper than reasonable price. That TikTok platform does not supply goods for sale, but the TikTok Live platform aims to be a promotional forum for business actors and it is necessary to prove that the producers in carrying out the practice of selling at a loss the TikTok platform. Furthermore, the regulations prohibits the practice selling at a loss in a market. Weakness what the researches found was that TikTok platform as a means of promotion was not has special regulations on business actors who are limited in their operations.

CONCLUSIONS

Strategy to protect the micro, small and medium enterprises (MSMEs) in Indonesia cannot be separated from government support in restrictions on incoming imported goods and monitoring prices. Government regulations regulate goods at prices below the minimum goods price as intended in article 2 Permendag 31/2023 which is permitted to directly enter the e-commerce, this is to prevent market domination by imported products. The government also provides the same business opportunities for traders while maintaining the price of goods and/or services free from the practice of price manipulation either directly or indirectly. In this way, MSMEs will be protected from the entry of producers or large companies into electronic commerce and the survival of MSME businesses.

Strategy to anticipate increasingly open and competitive market mechanisms especially in the Asean region is market control, which is a prerequisite to increase the competitiveness of MSMEs. In order to dominate the market, MSMEs need to get information easily and quickly, both information about production markets and production factor markets to expand the network marketing of products produced by MSMEs. Information technology applications on Micro, small and medium enterprises will make it easier for MSMEs to expand markets both domestically and overseas markets efficiently. Formation The IT-based MSME Development Center is considered capable of encouraging growth and development of micro, small and medium enterprises in the technological era current information. To increase competitiveness, synergy is needed between the roles of government as policy makers and accompanying institution. Apart from that, the culture of loving domestic production also needs to be fostered so that MSMEs develop and the national economy becomes stronger. MSME's need to actively collaborate and coordinate with the Government and Regional Government to continue carry out coaching and training through increasing capacity building and implementation of information technology (IT) applications,

including making the web more effective. The current regional governments are not optimal as a basis for MSME communication in Indonesia area.

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