



Free Markets Supervision in Trade through Electronic Systems: An Economic and Law's Perspective

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Abstract— Regulations can impact how the economy functions, as demonstrated by market mechanisms that demand freedom of action and oppose government interference. Disparities in marketing goods and services give rise to inequality due to the industrial revolution and globalization. When the Indonesian government chose to regulate an electronic purchasing and selling system to protect conventional MSMEs, this led to legal issues. TikTok Shop trading was restricted. This article aims to evaluate the efficacy of this policy's implementation and the future evolution of the country's economic structure. Doctrinal methods, bolstered by conceptual approaches, instances, and regulations, were employed in the research. Posner's theory of economic law analysis demonstrates that reasonable decisions are made to bolster the economy. The study's findings indicate that Tiktok Shop is a thriving hub for developing the digital economy. Nonetheless, the government defends established commercial players by prohibiting purchases made through this channel. Undoubtedly, this state impedes the unrestricted movement of resources. Because it cannot maximize opportunity costs and adjust to changes in demand, this could impede Indonesia's economic development. According to this research, the government should quickly amend this policy and support traditional MSMEs to adapt to shifting market demands.

Keywords— Economic Law, Digital Trade, Globalization.

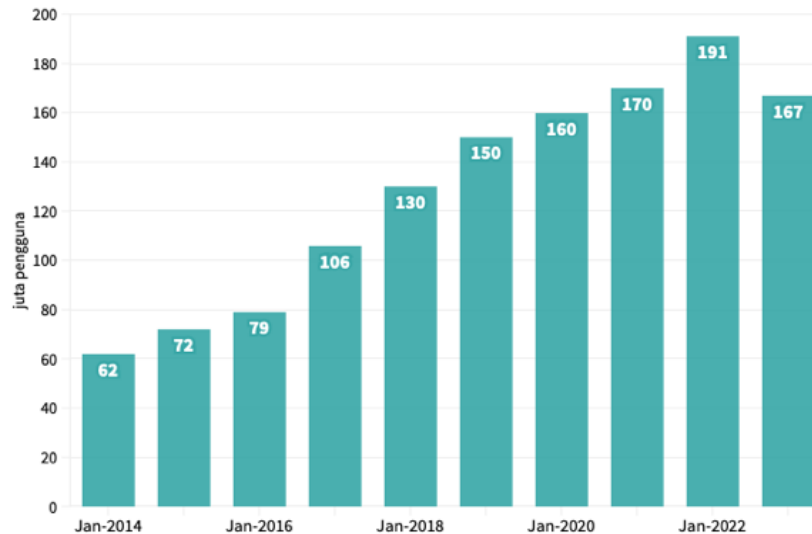
I. INTRODUCTION

People are encouraged to become more consumptive by the advancement of technology 4.0 and society 5.0, which offers a wide range of transaction conveniences and product options. This can occasionally result in several economic issues, particularly in Indonesia's traditional marketplaces. Then, the government limited trading through electronic systems with the Minister of Home Affairs Regulation on PMSE (Permendagri PMSE). The TikTok Shop-sponsored digital trading platform was shut down due to this policy. To safeguard traditional traders who cannot compete with digital platforms, the government established the PMSE Minister of Home Affairs Regulation. This regulation is predicated on the idea that since TikTok accounts are only registered as social media, they cannot be utilized for online shopping.[1]

Thus, the authorities asked that internet platforms refrain from allowing direct transactions via the TikTok Shop. The study was carried out with the assistance of conceptual frameworks, legislative regulations, and doctrinal methodologies. Posner's legal, economic analysis theory is the foundation for his argument. This theory was selected because Posner's indicators can demonstrate the fundamental rationality required by the government in reacting to the free trade phenomenon. It will be observed whether the government's policies have promoted Indonesia's economic growth in light of these factors. This report is essential to provide Indonesian business actors with legal clarity. The ability of the domestic economic system to compete in international trade will also be impacted, as will trade patterns.[2]

There is a pressing need to research Indonesian digital trade. We Are Social presented statistical data showing that 77% of Indonesians have accessed the internet. Over seven hours a day are spent on the internet by the 213 million Indonesians who use it. According to this data, Indonesian society represents a potential market for any content disseminated via digital media channels. Furthermore, most Indonesians who are computer literate will connect through social media. The rise in social media users is accompanied by many advances provided by digital platform providers, as illustrated in Figure 1. Initially intended for short messages, social media has become indispensable to modern life. Innovations in information technology that are developing quickly have made room for a change in the purpose of social media. Sharing stories through photos, short videos, or files containing work-related data is now possible, enabling smooth operations rather than just short messages. Education-focused services are widespread and have started to use video on social media and other digital platforms.

Figure 1. Social Media Users in Indonesia



This study will mainly cover the government's decision to shut down the TikTok Shop's online trading application platform. This case was selected to illustrate the market potential in Indonesia's e-commerce endeavors. TikTok is a social media platform that has become widely used worldwide. After the United States, Indonesia has some of the second-largest user bases. TikTok has a substantial market share, with over 99 million subscribers. The TikTok app-only offers capabilities for editing and posting short videos, per the terms of the social media network it uses. Information is available for users to view, and content creators can publish or produce content to share with other TikTok users. TikTok's role started to change due to its tendency to mirror user interest trends. Following this modification, creativity resulted in the establishment of the TikTok Shop.

Traditional MSME traders have begun to oppose digital technology because of its many benefits when it comes to shopping and selling items. The government became concerned about the vast disparity between the prices of goods and their selling prices in traditional markets. As a result, the Minister of Home Affairs Regulation of PSPE was published. This rule formally restored TikTok's role on social media, and was no longer used as a provider of e-commerce transaction services.[3] Only through TikTok may traders and content producers advertise the goods they sell. Customers will receive a link to take them to e-commerce apps working with TikTok if they wish to complete a purchase. In addition, the list of items that can be directly imported from overseas is strictly limited by the Minister of Home Affairs PMSE Regulation. The government developed this policy to defend MSME vendors at regional marketplaces. The yellow shell program, which served as the Tiktok Shop menu until now, was instantly removed by Tiktok without any opposition.

Therefore, a thorough investigation of the government's choice to restrict the area where digital transactions can be conducted is required, utilizing Richard Posner's legal and economic analysis theory. Posner provides several theoretical frameworks for examining the content of government laws and their effects on the nation's economy. Posner contends that government rationality will turn the law's actual content into an outside force influencing the dynamics of the domestic economy. The law can thus be applied to maximize economic growth, but it can also have the opposite effect.[4] The government should base its economic sensitivity on the free flow of resources, opportunity cost, and the law of demand to ensure that rationality is followed while creating the optimal legal framework.[5] The analysis will then be focused on determining if the government's considerations for the PSPE Ministerial Regulation and the actual regulations align after Posner's description of the indicators is provided.

II. RESEARCH METHOD

The doctrinal research method tests the theory used to determine the ideal form of the case raised. Statutory, case and conceptual approaches will support this study strategy.[6] In particular, the legislative process in this study will examine the set of rules that the government uses to uphold the legitimacy of the activities of digital platforms that offer e-commerce and social media services. This study's conceptual approach will examine Richard Posner's theory of legal economic analysis. This theory provides a comparatively broad view of the elements the government should consider when creating policies to resolve contentious situations involving traditional and modern traders. The government's closure of TikTok Shop accounts will be the specific subject of the case discussed in this study. The phenomena of closing digital learning applications—utilized by most Indonesian society—will be examined using a deduction-based analytical technique. Both descriptive and prescriptive formats are used to present the analysis's findings.[7]

The research's analytical procedures are then broken down into multiple sections. First, an introduction outlining the history of the legal concerns raised and the scientific methods followed will be included in the opening section of this study. Second, the study will discuss Richard Posner's legal and economic analysis theory, which is covered in the subtopic "Posner's Perspective on Law and Economic System." Third, the content of the Minister of Home Affairs PMSE Regulation and its effects on Indonesia's digital trading system will be examined using the indicators outlined in Posner's theory. The subtopic "Regulation of the Minister of Home Affairs on Electronic-Based Trading Systems: Termination of TikTok Shop Operations and the Effectiveness of Market Mechanisms in Indonesia" presents this analysis.

III. FINDINGS AND DISCUSSION

Richard Posner's perspective on law and economics has attracted attention to the connections between these academic disciplines. Posner's hypotheses are an analytical tool for determining the effectiveness of a regulation's core provisions. The study's findings will be used as evaluation material to highlight aspects that haven't been fully considered when creating policies. According to Posner, the rationality with which the government assembles laws will indirectly impact economic activity. Externalities will result from the implementation of trade laws, raising the costs of production that producers must pay. According to Posner, examining several circumstances that the law's existence will affect to determine the efficacy of a statutory regulation's content is vital.[8]

For rules to be successful, the government must first consider the law of demand. The requirements and desires of the community will affect a commodity's demand level indirectly. For this reason, for corporate actors to accurately comprehend market demand, the government must implement policies to raise awareness among them. This will majorly affect how long merchants can sustain their companies.[9] In this analysis, the government must consider the impact of globalization and the presence of international accords that create chances for free trade. It is difficult for the government to safeguard the local market regarding the principle of national treatment, which must be applied to all investments and imported goods to prevent any disparity in treatment with domestic goods.[10]

Any attempts by the government to safeguard indigenous products will undoubtedly be hampered by public knowledge that is freely available on social media and other digital platforms. Customers can now look through catalogs to find the needed products without restrictions. In addition to evolving to meet customer needs, freight forwarding services are a thriving industry promoting free trade. Delivery of items from all regions of Indonesia and overseas is now available to everyone. It follows that the competition between economic actors will only get more intense. The range of facilities that resulted from technical advancements at that time greatly affected economic actors' capacity to enhance services and draw in customers.[11]

Second, the government must design regulations to optimize the opportunity costs associated with this phenomenon in light of the evolving global trade system and the emergence of diverse technologies capable of facilitating economic transactions. Opportunity expenses are mainly employed to optimize any possible profit. The government and corporate entities must map societal wants and seek viable alternatives in this situation. This procedure will thoroughly explain what must be ready and completed for every endeavor to raise customer desire.[12]

In the framework of this study, changes in the pattern of societal wants and expectations have been brought about by globalization, free trade, and technological advancements. Because of this, it takes awareness to recognize the opportunities to raise public demand for particular goods. Utilizing this opportunity cost, seller service guidelines can be found to increase customer comfort and enthusiasm for business dealings. Economic actors won't be able to optimize possible profits if opportunity costs aren't considered. They also require the chance to increase their market share to advance their business products.

Third, laws that interact with the economy must guarantee that the unrestricted flow of resources won't be hampered. This element is crucial to ensuring the correct operation of market systems. Let's say the government implements laws allowing for the manipulation of resource distribution. In that scenario, there is concern that this may alter the constructive competition that develops throughout business dealings. A monopoly may develop

when all economic actors cannot access the flow of resources through equitable channels. One entrepreneur's dominance will threaten the survival of numerous MSMEs.

National borders have been more consolidated as a result of globalization, and this has led to the emergence of a single global civilization. Economics is among the areas where globalization has had the most significant impact. Under the discourse to construct a free trade system, the influence of international organizations like the World Trade Organization (WTO) and the International Monetary Fund (IMF) has developed a global economic node. An accessible Trade Area (FTA) was established to create free trade agreements for products, services, and investment to achieve these ideal conditions.[13] Because the destination country no longer imposes import taxes, producing countries can increase the efficiency of product pricing thanks to the goods trade mechanism protected by the free trade agreement. Furthermore, in a free market, openness may imply that the government has consented to regulations that treat foreign and domestic goods equally. Quota rates or limitations are no longer in effect. Thanks to this condition, customers will be able to choose from a broader range of options to meet their everyday needs.

Aside from that, information technology innovation also supports a range of convenience services that promote free commerce. The Industrial Revolution 4.0, which prioritizes using computers and the Internet, is the foundation for this phenomenon. It follows that the expanding dynamics of the world economy are not surprising. Maintaining the job and revenue streams that have been established thus far requires adapting to contemporary advances. As a reaction to these requests, many traders started to use information technology advancements to offer the commodities they dealt with. This tendency also extended to other social media platforms, beginning with creating community groups between buyers and sellers on platforms like BlackBerry Messenger (BBM). You may find several social media apps that eventually evolved into the first marketplaces using Line, WhatsApp, Instagram, Facebook, and, more recently, TikTok, which offers marketplace services.

Applications like Facebook, Instagram, WhatsApp, Line, BBM, and Facebook allow traders to market the goods and services they sell freely. On the other hand, transaction processing tools are not immediately provided by social media. In this scenario, social media discussion is the only communication between buyers and sellers. Nonetheless, the conversation in the forum will include the procedure they currently use for purchasing and selling transactions. In this instance, the social media provider guarantees neither the transaction process security nor the accepted payment methods. This contrasts with the marketplace, which originated as an online "marketplace" where vendors could provide the goods and services they were selling, and consumers could use programs to look for the required goods and services.

Among the marketplaces well-liked by Indonesian customers are Tokopedia, Shopee, Mataharimall.com, Lazada, and Blibli. According to the Trade Law, every trading business needs a permit in the trade sector, even if it works in the sales services sector on digital platforms. The Government law on Trading Through Electronic Systems (PP PMSE), which mandates explicit registration for PMSE actors, further strengthens this law. The government launched a registration service to track these business actors and ascertain their Standard Classification of Indonesian Business Fields (KLBI) status. The government uses KLBI data as a foundation to assess economic activity and output. Marketplace service providers will be classified as trading organizers via electronic systems in PP PMSE. Subsequently, the ITE Law permit was granted by the Minister of Trade. The outcomes of the buying and selling transactions will also be liable to tax to guarantee that trading is done according to the regulations. Business players must also provide a digital contract with product details and payment options.

The government promptly shut down the TikTok Shop due to this policy. The government is urging an end to the buying and selling of transactions on social media accounts by the Trade Law and PP PMSE. The government formally released a PMSE Ministerial Regulation that distinguishes between permissions for social media and e-commerce. This research will examine how well government policies worked to shut down the TikTok Shop application service in light of this phenomenon. Reviewing the content of the policies that address PMSE activities is essential if we follow Posner's theory of legal economic analysis. The legal dimensions of demand that will impact and influence the policy must first be examined. As a social media platform, TikTok possesses technological capabilities that enable the analysis of large amounts of user data. This information will be used to present people with content that interests them. It follows that users of this program may find themselves glued to their smartphone screens as they take in the available content.[14]

People are becoming more interested in buying online after noticing the current trends. Next, TikTok attempted to launch a marketplace by using the application's yellow basket button. Because the content available met the needs of Tiktok users, the Tiktok Shop gained popularity with the general public. Many Tiktok users started to take advantage of this chance to unite as content creators and consumers based on the innovation offered by Tiktok. Post-COVID conditions, which have made individuals more habituated to purchasing through applications, further promote this tendency. Online shopping provides lower pricing and saves money and time traveling to a mall. This method was then perceived as a source of turnover loss for conventional traders.[15]

The government issued a Minister of Home Affairs PMSE Regulation banning TikTok Shop from functioning due to pressure from traditional market sellers. This evaluation is predicated on the stipulation that TikTok is registered under PP PMSE regulation as a social media platform rather than an e-commerce business. Let's say it

is evident in the government's deliberations. If that is the case, it might be claimed that the government only considers complaints from conventional traders without solid proof supporting the decision to close the TikTok Shop. However, according to Posner's reasoning on the law of demand, all e-commerce-related digital sales platforms ought to be the cause of the traditional market MSME dealers' lost revenue. The government can identify a shift in consumer demand trends, though, from conventional dealers' demands to application-based service providers. Online services are more convenient and cheaper, so customers are moving to e-commerce application platforms.

The taxes that ought to be levied on online retailers may also impact TikTok Shop's capacity to reduce production costs. It might make more sense to close the TikTok Shop after considering this. The monthly transaction value of over \$1 trillion will significantly affect state taxes. Furthermore, if TikTok Shop had handled licensing as part of e-commerce, the Minister of Trade would also have to consider whether the business could continue. It is undeniable that traditional merchants' complaints regarding the reduction in sales brought on by the TikTok Shop service will go unanswered if permission is handled by the TikTok provider in the future. This service is a promotional tool by government regulations; transactions can be completed through e-commerce in partnership with dealers.

Second, the development of Industry 4.0 is essential to understanding the opportunity cost component of commerce in the globalized world. Traditional dealers cannot use digital platforms' latest client data and technological advancements. There is little doubt that the market for vendors who set up shop in real locations will be small. Things are different for vendors who offer their goods through digital application services. E-commerce merchants have a far more extensive potential market reach when cross-border connections are strong and trading barriers are absent. They can then take full advantage of the opportunity costs of using digital platform services to optimize their gains.

The government could use the rise in customer demand and turnover discovered by analyzing the opportunity costs of platforms offering digital shopping services to incentivize traditional traders' companies to follow suit. Not everyone is content, though, and they constantly want to shop online. For example, visitors will still like to stop by the souvenir shop, which sells standard local goods. Customers in urgent need of an item will also notice a shopping center. Digital platform services, however, will need delivery time. Many e-commerce companies are now beginning to offer same-day services as they realize how important it is to analyze these elements. Conventional traders will need to be more adept at recognizing and capitalizing on opportunity costs to stay competitive and updated with emerging trends.

Third, the government's policy, which divides social media from e-commerce and forbids TikTok Shop from operating due to the Minister of Home Affairs, may impede the free movement of resources. Rather than imposing laws requiring TikTok Shop to shut down right now, the government might make them finish the e-commerce license paperwork immediately. Closing access to the TikTok Shop will hurt traders and content providers because of the high demand factor and the opportunity to optimize earnings for business actors by trading via social media platforms like TikTok. The government's new policy could be utilized to monopolize online sales and purchases and prevent the proper operation of market mechanisms. However, legal clarity is crucial in the business sector.[13]

IV. CONCLUSION

Human trafficking has grown to be a worldwide problem that affects everyone, irrespective of social class, age, or gender. Because the victims of human trafficking are deprived of their right to security and often even abused inhumanely, it is considered a crime against humanity. To ensure that the number of victims of human trafficking does not rise, specific preventative measures and rigorous prosecution of perpetrators are necessary. In addition to contemporary inspection, the PLBN's position is strengthened by overseeing the traditional PLBs inside its work area. When all traffic in both persons and things passes via the closest PLBN, there must be a synergy between the responsibilities and functions of PLBN in traditional posts. There is an urgent need for collaboration among the nations in the Southeast, especially in bolstering bilateral ties between Indonesia and its neighbors. Institutions and neighborhood organizations may cooperate in this way, making it possible to enforce the law against people trafficking.

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