



Legal aspects of Tiktok shop closure in Indonesia

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Abstract

Online shopping behavior refers to the process of purchasing products and services via the Internet. So online purchases have become an alternative to purchasing goods or services. Online sales are growing well in terms of. With the spread of the Covid 19 pandemic, all activities are carried out through technology, including buying and selling, increasingly using electronic applications. One of them is TikTok. In 2023, traditional traders will start to complain because turnover is decreasing over time and even some shops are closing on the market. Lifestyle and changes in society using technology in the online shopping process have an impact on traditional traders. This led to requests from Merchants to close Online Stores. Problem formulation: Why is the TikTok online shop closed in Indonesia? What is the policy in Indonesia to close online shops? Discussion in this writing, Discussion The main reason why the TikTok Shop was finally closed was because of the business permits that were valid in Indonesia. TikTok has a permit as an Electronic System Operator from the Ministry of Communication and Information. Not Trading Via Electronic Systems from the Ministry of Trade. Minister of Trade Regulation Number 31 of 2023 is a revision of Minister of Trade Regulation Number 50 of 2020 concerning Provisions for Business Licensing, Advertising, Development, and Supervision of Business Actors in Trading through Electronic Systems. This revision is encouraged to increase protection for Small and Medium Enterprises and domestic business actors.

Keywords: Legal aspect, closure, TikTok shop, Indonesia

Introduction

The development of communication technology systems has an impact on electronic-based trading systems, causing business actors to need to apply information technology in developing their businesses. One of the technological advances in the world of commerce is in the form of e-business and e-commerce. The e-commerce industry, a dynamic sector in today's digital landscape, involves a range of activities^[1]. It includes conducting trade through electronic technology platforms, setting up virtual storefronts in the form of online stores, and developing websites to act as digital showcases for promoting and advertising a wide array of goods and services. This industry leverages the power of the internet to facilitate transactions, connect buyers and sellers, and create a seamless shopping experience for consumers worldwide^[2]. E-Commerce is an abbreviation of Electronic Commerce, which means a marketing system using or using electronic media. Marketplace is an E-Commerce model that functions as an intermediary between sellers and buyers. Marketplace is an electronic product marketing platform that brings together many sellers and buyers to transact with each other^[3]. In this activity, the internet is the main and core thing in the smooth running of this online transaction. The activities that can be carried out by the e-commerce industry are selling goods, sending goods, advertising goods, transactions, paying credit, electricity, and everything that can be done using the internet. In purchasing goods and services carried out in online transactions, this is one of the ways e-commerce works, where these services can be used by all levels of society and agencies in Indonesia. The ordering method is by using the internet, by paying by bank transfer or you can top up via a supermarket that supports these transaction payments^[4].

Online shopping behavior refers to the process of purchasing products and services via the Internet. So purchasing online has become an alternative to purchasing goods or services. Online sales are developing in terms of service, effectiveness, security, and popularity. In this day and age, shopping online is nothing new. Consumers don't need to spend a lot of energy when shopping online, just by looking at the website they can immediately make a purchase transaction. According to Liang & Lai (2002), online purchasing behavior is the process of purchasing products or services via Internet media. The online purchasing process has different steps like physical purchasing behavior. The specificity of the buying process via the internet is when potential consumers use the internet and search for information related to the goods or services they need^[5].

With the spread of the Covid 19 Pandemic, all activities are carried out through technology, including buying and selling, increasingly using electronic applications. One of them is TikTok. The TikTok application is an application for creating and distributing various short videos in vertical format, which are played by simply scrolling the screen up or down. Interestingly, this TikTok application turned out to be the result of the acquisition of ByteDance, a Chinese media company that acquired Musical.ly for 1 billion US dollars in 2018^[6,7].

TikTok, with its unique application that allows users to consume content in a short time, the platform has been widely used not only for video entertainment but also for marketing and online business. With the ability to host short videos and live broadcasts, video content, especially advertising, will be easily broadcast to most TikTok users starting in March 2021. This feature attracts user attention and creates a huge business opportunity for the company.

TikTok has experienced revenue growth of more than 150 percent (TikTok Shop Social Media Application which has made business even higher. The rapid number of creative entertainment video users has increased the market value of the TikTok shop massively. Enables the economic development of economic actors upwards. That's why the TikTok Store offers various products. The Tiktok Store has several product categories such as Mobile Phones, Bicycles, Tablets, Gadgets, Computers, Laptops, Printers/Scanners, Women's Fashion Storage, Men's Fashion, Fashion Accessories, Skin Care, Beauty Products, Electronic Gadgets, Audio & Video, Home Appliances Ladder, Bay Gadget, Boliu Asti or musical instruments etc. TikTok seeks to offer a variety of products by stimulating consumer shopping interest. TikTok is an application derived from the internet based on social media by provides features for creating and sharing content in the form of short videos. TikTok application users can create and share short videos (15 seconds) with comedy content, dancing, singing, or any daily activity, including eating, meeting, and so on. As time goes by, information spreads more quickly via TikTok^[5]. Uniquely, in China itself, TikTok is called Douyin. Then after that TikTok continued to grow slowly and began to go global. With an application that has the advantage of using music without having to worry about the owner's copyright being affected, TikTok's algorithm is also what makes this application increasingly popular. Different from YouTube or Instagram, the TikTok algorithm can spread content from any user without looking at the number of followers by learning the habits of active users more quickly from another application, called "For Your Page"^[8].

In Indonesia, to retarget customers with high purchase intent and high value, Philips uses a combination of optimization objectives from the TikTok Ads solution, including Broad Audience Targeting and complete Payment Optimization in addition to Custom and lookalike Audience from their activity on the TikTok Shop. Ad creative highlights key product features in a home setting with a clear call-to-action to click the purchase link. As a result, Philips saw a 476% increase in ROAS, 80% lower CPA (Cost-per-Action), 113% higher conversion rate, and 15% higher AOV (Average Order Value) compared to Video Shopping Ad campaigns they previously used only broad audience targeting^[9].

In 2023, traditional traders will start to complain because turnover is decreasing over time and even some shops are closing on the market. Lifestyle and changes in society using technology in the online shopping process have an impact on traditional traders. This causes the Merchant's request to close the Online Shop. In 2023, the TikTok shop will be closed by the Indonesian government, but several online shops such as Lazada, Shoppe, Tokopedia, and Instagram shops still exist in online shop sales. Based on this description, it is necessary to conduct a study, namely: first, why the TikTok Online Shop was closed in Indonesia and second how the government policy closed the Online Shop.

Method and research

The research conducted falls within the domain of normative juridical research, which primarily involves a thorough examination of the application and compliance with positive legal rules or norms pertaining to the closure of TikTok Shop in Indonesia. This type of research delves

into the legal framework and regulations governing the operation and shutdown of such online platforms, aiming to provide a comprehensive understanding of the legal aspects involved in this specific case^[10]. The nature of this research is prescriptive research, namely determining what is wrong and what is right. In other words, normative studies examine law in books. The normative study of the world is *das sollen* (what should be)^[10].

Results and discussion

TikTok Shop closed in Indonesia

Businesses trading goods and services that use e-commerce continue to develop marketing strategies at the city level, including Medan. However, the influence of technological advances is increasingly expanding on the various potential challenges faced by business individuals and society^[11].

Indonesia, which has become a business center country, has developed the implementation of e-commerce. Trade marketing through application media must have living laws for the community. Trading through electronic systems uses the green marketing concept so that the implementation of trade marketing in agreements between the parties is legal according to Law No. 11 of 2008 j.o. Law No.19 of 2016 concerning Electronic Information and Transactions.

TikTok is the platform where content and shopping transactions meet, helping consumers discover and make their next purchase TikTok is focused on being the platform where content and shopping transactions happen. TikTok shows how the tools and experiences available on the platform can provide an entertainment-led trading experience, giving users access to discover and make their next purchasing decision. Supported by seamless TikTok Shop integration, consumers don't need to switch platforms to complete a purchase. This is a clear and easier alternative for 85% of consumers who often change applications when shopping online, based on a study entitled Future of Commerce 2022 by TikTok and Boston Consulting Group (BCG)^[11].

Entertaining content on TikTok makes products easier to find. This is a new trend, where the process of product discovery occurs through word-of-mouth, which combines community, entertainment, and shopping. The collaboration of these three elements creates a seamless journey from product discovery to purchase and beyond, where a single piece of content can quickly trend and create demand globally.

According to a BCG study, 81% of TikTok users in Asia Pacific stated that video content influenced their recent purchases. For example, the hashtag phenomenon #TikTokMadeMeBuyIt, which was created online during the pandemic, has introduced users to new ways to discover new products on TikTok. With over 60 billion views, #TikTokMadeMeBuyIt shows tremendous potential for consumer experience needs that brands can leverage. By utilizing the hashtag #TikTokMadeMeBuyIt, Maybelline Vietnam succeeded in increasing sales of their Superstay products by 790%. For your information, social commerce is a platform that combines social media and e-commerce services. If you look at TikTok, the social commerce model is present through the "Shop" menu, aka TikTok Shop. The existence of the TikTok Shop means that users can not only view content and interact with other users on TikTok. However, users can also shop for products sold by sellers on TikTok directly through the TikTok Shop service.

The TikTok Shop transaction service in Indonesia has officially been closed since Wednesday (4 October 2023 starting at 17.00 WIB. The closure of the TikTok Shop has been conveyed directly by TikTok Indonesia to users and sellers). "We will no longer facilitate e-commerce transaction services at the TikTok Shop Indonesia starting October 4, 2023, at 17.00 WIB," said TikTok Indonesia via e-mail. Since it was officially closed, the TikTok Shop menu can no longer be found. As a result, users can no longer shop on TikTok via TikTok Shop. Likewise, with sellers, you can no longer make transactions on the TikTok Shop, as before. So, what is the reason why the TikTok Shop is closed in Indonesia and how does the problem arise?

TikTok Shop Officially Closed, the Menu was Missing and No More Yellow Baskets Closed after the ratification of the new Ministerial Regulation. TikTok Shop was closed after the revision of Minister of Trade Regulation Number 50 of 2020 was completed and promulgated in Minister of Trade Regulation Number 31 of 2023. This regulation is effective from 26 September 2023. This regulation generally regulates licensing, advertising, guidance, and supervision of business actors in trading via electronic systems. In Minister of Trade Regulation Number 31 of 2023, TikTok with the TikTok Shop service is included in the category of Electronic System Trading Organizers (PPMSE) or platforms that provide electronic communication facilities for trade transactions. Based on these rules, PPMSE is categorized based on several business models, one of which is social commerce. This has given rise to a lot of negative speculation from the public, especially those who have been selling and promoting their products to sell them on the market. Many people say this decision is unfair because if it closes they will have difficulty finding customers.

The main reason why the TikTok Shop was finally closed was because of the business permits that were valid in Indonesia. TikTok has a permit as an Electronic System Operator from the Ministry of Communication and Information. Not Trading Via Electronic Systems from the Ministry of Trade.

In e-commerce, if something non-concrete occurs, the intermediary provider is obliged to be responsible to the consumer for communicating the electronic contract that has been formed by the intermediary provider to the consumer. Operators of intermediary facilities who have acted as business actors should have a business license and have obligations to consumers when offering trade through an electronic system. Fairness in trading through electronic systems (e-commerce) must have 2 (two) aspects ^[12], namely:

1. Substantive justice

Fair substantive legal criteria are divided into 6 (six) categories:

- a. That the law is based on moral principles to prevent unlawful acts.
- b. That the law contains the binding jurisdiction of legislators, with limitations of authority by the nature of the society entrusted to its management and the ideals of the general welfare.
- c. That the law must be able to distribute burdens and privileges equally among legal subjects based on the abilities of each subject.
- d. That the law must not hinder human rights, except for certain rights.

- e. That the law can be implemented both physically and morally.
- f. That the law must be useful and bring benefits to the general welfare.

2. Procedural justice Procedural legal criteria, in 4 (four) categories, namely

- a. That the law must be promulgated (principle of publicity).
- b. That the law must not be retaliatory (retroactive).
- c. That the law must be coherent, there must be no contradiction in it.
- d. That the law has continuity

Meanwhile, to provide justice and benefit to business actors, the government, and consumers, they must refer to the principles of honesty, trust, and impartiality. So it has implications for increasing economic and entrepreneurial activities, as well as community welfare ^[13].

Indonesian Government policy to close TikTok Shop

The very rapid development of technology has given rise to a new style in the trading system. In recent years, trading via Internet media has become increasingly common in Indonesia. Even buying and selling transactions on the internet use social media such as Facebook or mobile phone communication tools as the main marketing tool as a communication medium. In the current era of globalization in a modern free market society, there are almost no national boundaries. At a time when countries have almost no borders, it affects human travel traffic and international trade transactions. In communication, the speed of information and technological advances that are present in society require the presence of law in global society. The function of law in the global community is of course as rules that interact with each other ^[14].

E-commerce is regulated by Law of the Republic of Indonesia Number 19 of 2016 concerning Information and Electronic Transactions, Law of the Republic of Indonesia Number 7 of 2014 concerning Trade, Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection, Government Regulations of the Republic of Indonesia.

The Ministry of Trade (Kemendag) held a socialization of Minister of Trade Regulation (Permendag) No. 31 of 2023. This regulation discusses new rules for carrying out buying and selling activities in online stores.

Minister of Trade Regulation Number 31 of 2023 is a revision of Minister of Trade Regulation Number 50 of 2020 concerning Provisions for Business Licensing, Advertising, Development, and Supervision of Business Actors in Trading Through Electronic Systems. This revision is encouraged to increase protection for Small and Medium Enterprises and domestic business actors.

Minister of Trade Regulation Number 31 of 2023, the space for trading via electronic systems/PPMSE with social commerce business models such as TikTok Shop is limited. In Article 21 paragraph (3), it is stated that trading via electronic systems/PPMSE such as TikTok Shop is prohibited from facilitating trade transactions on electronic systems. The article reads as follows: PPMSE with a Social-Commerce business model is prohibited from facilitating payment transactions on its Electronic System. The regulations in Minister of Trade Regulation Number 31 of

2023 are the basis for the TikTok Shop service to be closed. Based on these regulations, TikTok Shop is prohibited from facilitating any more trade transactions, it can only accommodate promotional activities. This was also said by the Minister of Trade, Zulkifli Hasan. "Social commerce can only facilitate the promotion of goods/services, no direct transactions, direct payments, no more ^[15]."

TikTok Shop does not yet have a PMSE permit, only a PSE permit. Minister of Trade Regulation Number 31 of 2023 mandates foreign electronic platforms such as TikTok Shop to be required to have a business permit in the field of Trading through Electronic Systems (PMSE), if they want to provide trading services on their electronic system. This obligation is contained in Article 3 paragraph (1) which reads: "Business Actors are required to have a Business License in carrying out business activities in the Trade sector by the provisions of laws and regulations regarding the implementation of risk-based Business Licensing".

For your information, the PMSE permit letter for business actors or electronic platforms from abroad, such as the TikTok Shop, is called the Foreign Trade Company Representative Business Permit in the PMSE Sector. A Foreign Trade Company Representative Business License in the PMSE Sector or SIUP3A in the PMSE Sector is a business permit to carry out business activities as a representative of foreign trade companies in the PMSE sector. To operate in the PMSE sector in Indonesia, foreign electronic platforms are required to have a company representative or Foreign Trading Company Representative Office in the Field of Trading Through Electronic Systems (KP3A in the PMSE Sector), as stated in Article 18 paragraph (1). Overseas PPMSE as intended in Article 2 paragraph (1) letter b which meets certain criteria, is obliged to appoint a representative domiciled in the legal territory of the Unitary State of the Republic of Indonesia who can act as and on behalf of the PPMSE in question. Then, based on Article 38 paragraph (1), the representative is required to have a PMSE Field SIUP3A so that he can operate trading services on his electronic platform in Indonesia. To obtain a business permit in the PMSE sector, representatives of foreign electronic platforms can submit an application for the PMSE sector to the OSS (Online Single Submission) institution, as stated in Article 38 paragraph (2). In terms of business licensing in the PMSE sector from the Ministry of Trade, TikTok Shop has not yet obtained it. Currently, TikTok Shop has just obtained a PSE (Electronic System Operator) permit from the Ministry of Communication and Information (Kominfo). For information, PSE is defined by Kominfo as the use of electronic systems by state administrators, people, business entities, and the public which can be carried out for public and non-public services. This permit allows the company to operate its electronic services in Indonesia. Meanwhile, PMSE is a trading permit where transactions are carried out through a series of electronic devices and procedures (e-commerce). TikTok claims to have an e-commerce operating permit in Indonesia. Because it doesn't have a permit in the PMSE sector, the TikTok Shop ultimately couldn't operate and had to be closed. However, TikTok claimed to have SIUP3A for the PSME Sector from the Ministry of Trade. "We have obtained a Foreign Trade Company Representative Business License in the Field of Trading via Electronic Systems (SIUP3A in the PMSE Sector) from the Ministry of Trade, as mandated in statutory regulations," said TikTok. This

claim was expressed directly by TikTok management in a notification on the TikTok newsroom page entitled "The Truth about TikTok: Distinguishing Fact from Fiction". To recall, based on PERMENDAG Number 31 of 2023, SIUP3A for PMSE is a permit so that foreign electronic platforms can carry out trading or e-commerce activities on their systems in Indonesia ^[15].

TikTok has a permit as an Electronic System Operator from the Ministry of Communication and Information. Not Trading Via Electronic Systems from the Ministry of Trade. Based on Minister of Trade Regulation Number 31 of 2023 Article 1 paragraph 17, social commerce is a social media organizer that provides certain features, menus, and/or facilities that enable traders to place offers for goods and/or services.

Then, Article 21 paragraph 3 states that organizers of trade via electronic systems with a social-commerce business model are prohibited from facilitating payment transactions on their electronic systems.

The government also regulates sanctions if social media and e-commerce business actors do not comply with the policies regulated in Minister of Trade Regulation 31 of 2023. "If you still violate it, first, of course, you will be warned, secondly there are steps in the law. Thirdly, if not, then the permit will be revoked so that strict action will be taken so that a positive ecosystem can occur."

Conclusion

The main reason the TikTok Shop was closed was that it did not have a business operating permit, it was only registered as an Electronic System Operator (PSE) media from the Ministry of Communication and Information. And until now TikTok has not received a Trading via Electronic System (PMSE) permit from the Ministry of Trade. Based on Minister of Trade Regulation Number 31 of 2023, foreign electronic platforms such as TikTok Shop are required to have a business license in the field of Electronic Trading (PMSE).

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