

CHAPTER I

INTRODUCTION

1.1 Background Study

Along with the rapid development of technology, the trade sector is undergoing a major shift to the digital realm. This progress has created new opportunities for business actors to utilize the internet as the primary medium for reaching consumers. One of the significant developments is commerce through digital platforms, which has become increasingly popular among the global community, including in Indonesia. Various social media applications are now not only used for communication or entertainment, but also as transaction platforms.¹ Transactions conducted through digital platforms are referred as electronic transactions as state in Article 1 paragraph (2) of Law Number 11 of 2008 concerning Information and Electronic Transactions, that electronic transactions are legal acts carried out using computers, computer networks, and/or other electronic media.² With all the developments of electronic transactions in Indonesia, various buying and selling activities are can be found on platform such as Shopee, Tokopedia, Lazada, TikTok, and other applications.

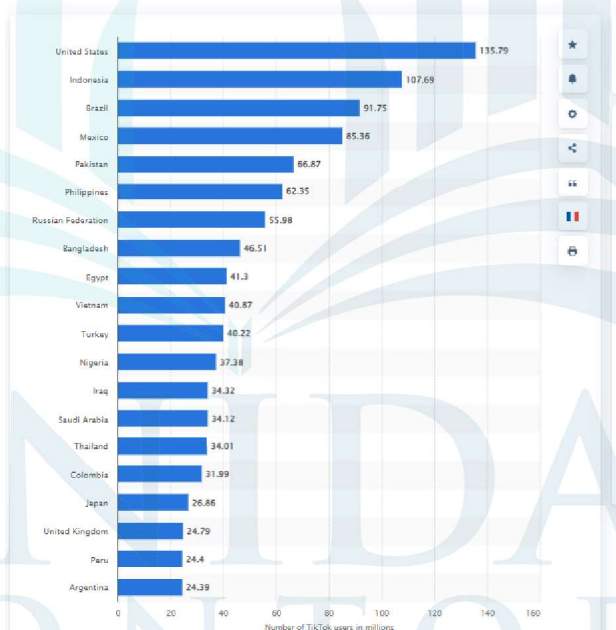
TikTok is one of the social media platforms in the form of a short video hosting service from a Chinese company that was launched in the international market in September 2017. TikTok is designed for creating, discovering, and sharing various short form videos in vertical

¹ Lestari Victoria Sinaga and Jupenris Sidauruk, "Kebijakan Peraturan Menteri Dalam Negeri Nomor 50 Tahun 2020 Dalam Mengatur Ijin Pelaku Bisnis Di E-Commerce Dan Social Commerce (Tiktok Shop)," *Jurnal Ilmiah Penegakan Hukum* 10, no. 2 (2023): 170.

² Kholifatul Muna and Budi Santoso, "Regulation of TikTok Shop Trade Permits as an Additional Feature of the TikTok Application in Indonesia," *USM Law Review* 7, Number 1 (2024): 413.

format.³ From 2018 to 2019, the TikTok application began to expand rapidly in Indonesia, especially when people's mobility declined in the midst of a pandemic. Based on research conducted by Statista in a report entitled "Countries with the Largest TikTok Audience as of February 2025", Indonesia occupies the second position as the country with the largest number of TikTok users in the world. The United States ranks first with 135,79 million users, followed by Indonesia with 107,69 million users, furthermore, Brazil has 91,75 million users, Mexico 85,36 million, as shown in figure 1.1. Meanwhile, the countries with the least number of TikTok users are the United Kingdom (24,79 million users), Peru (24,4 million users), and Argentina (24,39 million users).⁴

Figure 1.1 List of Top 20 TikTok User Countries
Countries with the largest TikTok audience as of February 2025
(in millions)



Source: Statista

³ Zakia Zahra A, Risma Ayunda P, and Mareta Nabila Nabén, "Analysis of 'Predatory Pricing' TikTok Shop in the Midst of Social Media Utilization for Indonesian MSMEs," in *National Seminar of the State University of Surabaya* (Surabaya, 2023), 1023.

⁴ "Countries with the Largest TikTok Audience as of February 2025," Statista, accessed March 6, 2025, <https://www.statista.com/statistics/1299807/number-of-monthly-unique-tiktok-users/>.

In addition, a survey conducted by Populix in a report entitled "The Social Commerce Landscape in Indonesia" revealed that 86% of respondents had made a purchase through social commerce. TikTok Shop is the most used platform (45%), followed by WhatsApp (21%), Facebook Shop (10%), and Instagram Shop (10%). The most frequently purchased products through social media are clothing (61%), followed by beauty products (43%), food and beverages (38%), and mobile phones and accessories (31%).⁵

Figure 1.2 List of Most Used Social-Commerce in Indonesia



Source: Populix

By continuing to innovate, TikTok introduced the TikTok Shop feature in 2021 allowing users to make direct transactions. Through the comment column provided in the *live stream* along with the presence of a yellow basket, it is very easy for consumers without having to move or leave

⁵ Populix, "The Social Commerce Landscape in Indonesia," 2022, <https://info.populix.co/articles/report/the-social-commerce-in-indonesia/>.

the platform. This feature has transformed TikTok from merely social media to *social-commerce*, combining aspects of entertainment with e-commerce.⁶

The emergence of TikTok Shop in Indonesia has triggered various reactions, especially related to unfair business competition, predatory *pricing* practices, and weak consumer protection. The price of goods offered on TikTok Shop is often much cheaper because they come from abroad or across countries. TikTok allegedly carries out *predatory pricing* practices against electronic commerce in Indonesia, which in turn interferes with competition with conventional merchants.⁷ This makes some conventional stores and markets suffer losses and very slow money turnover due to not being able to compete with prices that fall from market prices. One of the real examples affected by TikTok Shop is the *offline traders* in Tanah Abang Market, Jakarta.⁸

Very unrealistic selling prices due to *predatory pricing* not only harm conventional business actors, but also increase the risk of fraud to consumers. Consumers should have the right to get goods according to the description given by the business actor. Because Law Number 8 of 1999 concerning Consumer Protection (UUPK) requires sellers to be honest in describing the goods sold, for example: color, size, use, weight, material, method of production, condition of the goods and so on.⁹

⁶ Febyola Nada, Ana Ramadhayanti, and Usran Masahere, "The Influence of Content Marketing and Live Shopping on Fashion Product Purchase Decisions in TikTok Shop Users," *Antarctica Business Economics Journal* 1, Number 1 (2023): 9.

⁷ Nathania Alwi Ramdhani and Imron Musthofa, "Analysis of the Response of MSMEs and Content Creators to Social Commerce Policies Through the Regulation of the Minister of Trade Number 31 of 2023," *Economics & Business* 11, Number 3 (2023): 434.

⁸ Rena, Ifitah Dian Humairoh, and Mia Rosmiawati, "Normative Problems in the Regulation of the Minister of Trade Number 31 of 2023 Regarding the Prohibition of Social-Commerce on Tiktok Shop," *Crepido 05 Journal*, no. November (2023): 187.

⁹ Reggiannie Christy Natalia, "Legal Protection for Online Store Consumers on Social Media," *Law Review* XVIII, no. 3 (2019): 81.

In addition, Law Number 7 of 2014 concerning Trade also regulates the national trade system, including electronic-based trade. Article 65 of this Law emphasizes that the Government has the authority to regulate trade through electronic systems in order to create healthy business competition and protect national interests. In this context, the existence of TikTok Shop, which previously operated without a permit as a marketplace, raises regulatory issues that need to be ordered in accordance with applicable trade policies.¹⁰

As a follow-up to the Government's response to this, the Minister of Trade Regulation Number 31 of 2023 concerning Business Licensing, Advertising, Coaching, and Supervision of Business Actors in Trade Through Electronic Systems (PMSE) was born. In the new regulation, which is a revision of MOT Number 50 of 2020, the Government only allows social media to be used for promotional facilities, not for transactions.¹¹ It is known that TikTok Indonesia only has a business license as a social media, not as a *marketplace*. As a result, on October 4, 2023, TikTok Shop was officially closed for violating the new regulations. Although the closure of TikTok Shop provides benefits for offline merchants, the impact also harms many parties, especially business actors in TikTok Shop who have to lose their source of income.¹²

During its closure period, TikTok sought to take care of its licensing and adjust to the regulations in order to continue operating in Indonesia. Until approximately 2 months, TikTok collaborated with Tokopedia (PT.

¹⁰ State Secretariat of the Republic of Indonesia, "Law of the Republic of Indonesia Number 7 of 2014" (2014).

¹¹ Public Relations of the Secretariat of the Republic of Indonesia, "Government Revision of Trade Regulation 50/2020, Social Media Only Facilitates Promotion, Not Transactions," *Cabinet Secretariat of the Republic of Indonesia*, September 2023, <https://setkab.go.id/Pemerintah-revisi-permendag-50-2020-medsos-hanya-fasilitasi-promosi-bukan-transaksi/>.

¹² Fitria Damayanti, Setyaning Wida N A, and Endriyani Lestari, "Fulfillment of the Principle of Legal Usefulness in PERMENDAG No. 31 of 2023," *Legislative* 7, no. 1 (2023): 23.

GoTo Indonesia) as an official *marketplace* partner. Through this collaboration, TikTok invested a total of 1.5 billion US dollars or around IDR 23.4 trillion and held a controlling stake of 75.01%.¹³ Precisely on the national online shopping day a.k.a Harbolnas 12.12 in 2023, TikTok Shop officially reopened.

The implementation of MOT Regulation Number 31 of 2023 in the regeneration of TikTok Shop has a significant impact on the e-commerce ecosystem in Indonesia. On the one hand, this policy is expected to create fairer competition for MSMEs and local traders. However, the existence of TikTok Shop in collaboration with Tokopedia also raises questions about the effectiveness of regulations in limiting market dominance and ensuring legal certainty for business actors.¹⁴

On the other hand, the Regulation of the Minister of Trade Number 69 of 2018 concerning the Supervision of Circulating Goods and/or Services emphasizes the importance of supervision of goods traded in Indonesia, including in digital trade. Article 2 of this regulation states that supervision is carried out to ensure that the goods traded meet security, safety, health, and environmental (K3L) standards. With cross-border trade on TikTok Shop, there are concerns about the entry of imported products that do not meet national standards and unfair competition for domestic products.¹⁵

Thus, regulations related to trade, both in Law No. 7 of 2014 and MOT (Ministerial of Trade) Regulation No. 69 of 2018, are an important legal basis in regulating trade through electronic systems. This regulation is increasingly relevant to the enactment of MOT Regulation No. 31 of 2023 which aims to reorganize the digital trade ecosystem in Indonesia. Therefore, this study will examine how the implementation of the policy

¹³ Muna and Santoso, "Regulation of TikTok Shop Trade Permits as an Additional Feature of the TikTok Application in Indonesia," 424.

¹⁴ Muhammad Ahdaf Amali, "TikTok and Tokopedia United, What is the Impact?," 2023.

¹⁵ Menteri Perdagangan Republik Indonesia, "Peraturan Menteri Perdagangan Republik Indonesia Nomor 69 Tahun 2018 Tentang Pengawasan Barang Beredar Dan/Atau Jasa," 21 (2018).

affects the regeneration of TikTok Shop and its impact from the perspective of Islamic law.

Against this background, this study aims to analyze the implementation of Ministerial Trade Regulation Number 31 of 2023 in the regeneration of TikTok Shop from the perspective of *Saddu Żara'i*. This research is expected to provide new insights into how government regulations can adapt to technological advancements while remaining aligned with sharia principles.

1.2 Problem Formulation

Based on the background that has been presented, the research problems can be formulated as follows:

1. How are the challenges of implementing MOT 31/2003 in electronic commerce through the TikTok Shop platform in Indonesia?
2. How is the perspective of Islamic law on implementing Ministerial Trade Regulation Number 31 of 2023 regarding the regeneration of the TikTok Shop platform in Indonesia?

1.3 Research Objectives

Based on the problem formulation mentioned above, this study aims to:

1. To find out more about the challenges in implementing Ministerial Trade Regulation Number 31 of 2023 in online trading activities through the TikTok Shop platform in Indonesia.
2. To identify the perspective of Islamic law on the implementation of Ministerial Trade Regulation Number 31 of 2023 related to the regeneration of the TikTok Shop platform in Indonesia.

1.4 Research Benefits

After this research is completed, it is hoped that it can make a real contribution, including:

1.4.1 Theoretical Benefits

- a. Contributing to the development of legal theories related to the context of technology-based trade regulations.
- b. It is a reference for further research on the regulation of electronic commerce and *social-commerce* in Indonesia from the perspective of Islamic law and national law.
- c. Adding academic insight into how electronic trade regulations can be linked to sharia values to achieve the benefit of society.

1.4.2 Practical Benefits

- a. Providing input to policymakers on how regulations such as MOT No. 31 of 2023 can be implemented more effectively to support local and digital business actors without sacrificing the principle of fairness.
- b. Enhance the reputation of the faculty through the publication of relevant and actual research.
- c. Helping business actors, both MSMEs and TikTok Shop users, understand legal restrictions and how they can adapt to existing regulations.

1.5 Literature Review

Efforts to add references and explore the intensity of this research are carried out by reviewing research with similar themes, including:

Dzacky Agustian Anhar and Shelly Kurniawan, “Ketidakpastian Hukum dalam Kembalinya TikTok Shop sebagai Platform *Social-Commerce* di Indonesia.” The method used in this research is normative juridical. This study employs a statutory approach. Based on the results and discussion, it is found that there is indeed legal uncertainty, as TikTok Shop does not comply with Minister of Trade Regulation Number 31 of 2023, particularly regarding the provision stating that social commerce is not allowed to include a payment transaction (checkout) feature. Both studies

discuss the Ministerial of Trade Regulation Number 31 of 2023 concerning electronic trade and its impact on TikTok Shop. However, the key difference lies in their analytical approach. The journal examines the issue from the perspective of positive law, highlighting legal uncertainty in digital trade regulations. Meanwhile, the researcher applies Philip Nonet's responsive law theory and *Saddu Żara'i* to analyze how this regulation affects the digital trade ecosystem and MSMEs. The researcher also provides a more in-depth evaluation of the effectiveness of the regulation and the balance between small business protection and digital economic growth.¹⁶

Nathania Alwi Ramdhani and Imron Musthofa, "Analisis Respons UMKM dan Konten Kreator Terhadap Kebijakan Social-Commerce Lewat Peraturan Menteri Perdagangan Nomor 31 Tahun 2023." This research is included in qualitative research using literature studies or literature studies. Local products cannot compete because of the significant price gap. Besides that, people certainly prefer products with more affordable prices. The revision of the Minister of Trade's Regulation on social-commerce has created pros and cons in society. Because many elements feel they benefit from social commerce. Especially content creators who use promotional features and MSMEs who have built businesses from this platform. The Minister of Trade revised regulation Number 31 of 2023 to create a middle ground for prosperity between offline and online services. Both researcher and the journal by Nathania Alwi Ramdhani and Imron Musthofa discuss Minister of Trade Regulation No. 31 of 2023 and its impact on social commerce, particularly TikTok Shop. Both recognize that the regulation has sparked pros and cons in society, as it affects various stakeholders, including MSMEs and content creators who rely on digital platforms for business and promotion. Additionally, both studies highlight the economic challenges faced by MSMEs, particularly their inability to compete with significantly

¹⁶ Dzacky Agustian Anhar and Shelly Kurniawan, "Ketidakpastian Hukum Dalam Kembalinya Tiktok Shop Sebagai Platform Social Commerce Di Indonesia," *UNES Law Review* 6, no. 3 (2024): 8963–76.

lower prices offered through social commerce platforms like TikTok Shop. Using a qualitative research approach, both studies rely on literature analysis to examine the effects of the regulation on digital trade and local businesses in Indonesia. The researcher provides a deeper legal analysis, incorporating Islamic law and qualitative field data to assess the effectiveness of the regulation. Meanwhile, the journal focuses on the reactions of MSMEs and content creators, emphasizing economic and social aspects without a legal or Islamic framework.¹⁷

Zakia Zahra A., Risma Ayunda P., and Mareta Nabila Nabén, "Analisis 'Predatory pricing' TikTok Shop di Tengah Pemanfaatan Media Sosial Bagi UMKM Indonesia." The launch of TikTok Shop, a feature combining social media and e-commerce, has caused concern among MSME traders in Indonesia. The predatory pricing practice of TikTok Shop, where products are sold below market prices, has attracted many consumers, leading to declining sales for small traders. This issue escalated to the government level, prompting Trade Minister Zulkifli Hasan and President Joko Widodo to intervene. As a solution, the government issued a regulation prohibiting TikTok from operating as an e-commerce platform, restricting it to social media functions only. As a result, on October 4, 2023, at 17:00 WIB, TikTok Shop was officially shut down, enforcing the ban on integrating social media with e-commerce. They are more focused on the monopoly and predatory *pricing phenomenon* on TikTok Shop.¹⁸

Aida Nur Hasanah, Uswatun Hasanah, and Cahya Permata, "Analisis Yuridis Penerapan Peraturan Kementerian Perdagangan Nomor 31 Tahun 2023 Tentang Ketentuan Perizinan Usaha PMSE". The study methodology used is juridical-normative research, which focuses on analysing the legal norms outlined in legislation. Both the thesis and the

¹⁷ Ramdhani and Musthofa, "Analisis Respons UMKM Dan Konten Kreator Terhadap Kebijakan Social Commerce Lewat Peraturan Menteri Perdagangan Nomor 31 Tahun 2023," 433.

¹⁸ A, P, and Nabén, "Analisis 'Predatory Pricing' TikTok Shop Di Tengah Pemanfaatan Media Sosial Bagi UMKM Indonesia," 1022.

journal by Aida Nur Hasanah, Uswatun Hasanah, and Cahya Permata examine MOT Regulation No. 31 of 2023 analyzing the legal framework surrounding electronic commerce regulations. Both focus on the legal aspects of business licensing in digital trade, highlighting the regulation's implications for social commerce platforms like TikTok Shop. The key difference is that the researcher incorporates both positive law and Islamic law perspectives, using Responsive Law and *Sadd Żara'i* to evaluate the regulation's adaptability and ethical considerations. Meanwhile, the journal strictly analyzes the legal norms within the legislation itself, without integrating broader theoretical or religious perspectives. Additionally, the thesis includes interviews which is making it more empirical, whereas the journal remains purely normative and document-based.¹⁹

Moody Rizqy Syailendra and Inayah Fasawwa Putri, "Tinjauan Hukum Mengenai Perlindungan UMKM serta Efektivitas Permendag No. 31 Tahun 2023 terhadap Social-Commerce Tiktok Shop". The research method is qualitative with a literature review of relevant regulations and policies. The results show that MOT 31/2023 has a significant contribution in protecting MSMEs in TikTok Shop, especially in protecting them from unfair competition and improving consumer protection. However, there are still challenges in implementing the regulation, such as improving digital literacy and technological skills among MSMEs, and improving law enforcement. Both thesis and the journal by Moody Rizqy Syailendra and Inayah Fasawwa Putri analyze MOT Regulation No. 31 of 2023 and its impact on MSMEs and social commerce, particularly TikTok Shop. Both studies acknowledge that the regulation aims to protect MSMEs from unfair competition and enhance consumer protection, while also recognizing challenges in its implementation. The key difference is that the thesis

¹⁹ Aida Nur Hasanah et al., "Juridical Analysis of the Implementation of Ministry of Trade Regulation Number 31 of 2023 concerning PMSE Business Licensing Provisions," *Journal of Science and Social Research* VII, Number 2 (2024): 393.

integrates Islamic law perspectives using Responsive Law and *Sadd Żara'i*, while the journal focuses on a general legal review of MSME protection. Additionally, the researcher incorporates field data from interviews, whereas the journal relies solely on a literature review of regulations and policies.²⁰

Taufiq Aulia Rahman, “Analisis Regulasi E-Commerce Terhadap Perlindungan Konsumen Pada Transaksi Jual Beli Online Dalam Perspektif Hukum Islam”. The method used by researchers is a normative juridical approach and the specifications in this research are descriptive analytical. The sources and types of data in this research are secondary data obtained from literature studies. The data is analysed qualitatively using legal protection theory and legal effectiveness theory. Government regulations on e-commerce transactions are crucial in protecting consumers, who are often at a disadvantage. Laws such as Consumer Protection Law No. 8 of 1999, Electronic Transactions Law No. 19 of 2016, and various government regulations on electronic commerce provide legal certainty for consumers. However, despite these regulations, many business operators still violate their obligations, harming consumer rights. From an Islamic law perspective, online transactions are generally permissible and can be compared to as-salam contracts. However, if businesses lack transparency in their sales, leading to consumer losses, such transactions fall under gharar (uncertainty) or fraud, which is prohibited (haram) in Islam. Both researcher and Taufiq Aulia Rahman’s thesis analyze e-commerce regulations and consumer protection from the perspective of Islamic law. Both emphasize the importance of government regulations in ensuring fair digital transactions. Additionally, both discuss fraud in online transactions, highlighting how lack of transparency in sales can make a transaction haram

²⁰ Moody Rizqy Syailendra and Inayah Fasawwa Putri, "Legal Review Regarding the Protection of MSMEs and the Effectiveness of Permendag Number 31 of 2023 on Social Commerce Tiktok Shop," *Innovative: Journal of Social Science Research* 3, Number 31 (2023): 5087.

in Islam. The key difference lies in focus and theoretical framework. Researcher specifically examines MOT Regulation No. 31 of 2023, using Responsive Law and *Saddu Żara'i* to assess its effectiveness and impact on MSMEs, whereas Rahman's thesis broadly analyzes e-commerce regulations with legal protection and effectiveness theories, focusing more on consumer rights rather than MSMEs and market regulation.²¹

Ermi Suryani Harahap and Nurhotia Harahap, "Implementasi *Saddu Dzariah* Dalam Memberikan Keamanan, Perlindungan Konsumen Pada E-Commerce Lazada Di Indonesia." This research is a type of field research, the data collected is analysed qualitatively descriptive. The results of the implementation of the saddu dzariah methodology in the perspective of Islamic law prohibits transactions from leaving the system available on the Lazada platform because it causes crimes that are difficult to control and can rarely be overcome without harming platform business owners, platform owner users (store owners, expeditions and consumers). Incompatibility of goods out of the e-commerce system occurs via FB, WhatsApp, Instagram and telephone media. Both the researcher's thesis and the journal by Ermi Suryani Harahap and Nurhotia Harahap apply Saddu Żara'i in analyzing consumer protection in e-commerce from an Islamic law perspective. Both studies emphasize the importance of regulations in preventing harm (*mafsadat*) in digital transactions and ensuring fair and safe trade practices. The key difference is that researcher focuses on MOT Regulation No. 31 of 2023 and its impact on TikTok Shop and MSMEs, using Responsive Law alongside *Saddu Żara'i*. Meanwhile, the journal examines Lazada's e-commerce system, specifically discussing how transactions outside the platform (via FB, WhatsApp, or calls) create risks that violate *Saddu Żara'i* principles.²²

²¹ Taufiq Aulia Rahman, "Analisis Regulasi E-Commerce Terhadap Perlindungan Konsumen Pada Transaksi Jual Beli Online Dalam Perspektif Hukum Islam" (Universitas Islam Sultan Agung, 2024).

²² Ermi Suryani Harahap and Nurhotia Harahap, "Implementasi Saddu Dzariah Dalam Memberikan Keamanan, Perlindungan Konsumen Pada E-Commerce Lazada Di Indonesia," *Yurisprudencia: Jurnal Hukum Ekonomi* 8, no. 2 (2022): 226–37.

Fitria Damayanti, Setyaning Wida N.A., and Endriyani Lestari, “Pemenuhan Asas Kebermanfaatan Hukum Pada Permendag No. 31 Tahun 2023.” This journal applied a normative method that placed law as the norm system. MOT Regulation No. 31 of 2023 replaces MOT Regulation No. 50 of 2020 to create a fair e-commerce ecosystem, support MSMEs, protect consumers, and regulate technological advancements. It aims to stabilize the economy by controlling imported goods. Effective implementation requires government support, public awareness, and higher-level regulations for consistency. MSMEs must adapt to digital platforms for economic growth. Both the thesis and the journal by Fitria Damayanti, Setyaning Wida N.A., and Endriyani Lestari analyze MOT Regulation No. 31 of 2023 and its role in creating a fair e-commerce ecosystem, supporting MSMEs, and protecting consumers. Both emphasize the need for effective implementation, government support, and legal consistency to ensure economic stability. The key difference is that the researcher incorporates an Islamic law perspective, using Responsive Law and *Sadd Zāra’i* to assess the regulation’s impact, while the journal focuses on legal benefits (asas kebermanfaatan hukum) using a normative legal approach. Additionally, the thesis includes field research with interviews, whereas the journal is purely literature-based.²³

Zahra Afina Mahran and Muhammad Hasan Sebyar, “Pengaruh Peraturan Menteri Perdagangan (PERMENDAG) Nomor 31 Tahun 2023 terhadap Perkembangan E-commerce di Indonesia.” This journal uses normative research methods, which include analyzing problems by processing data obtained from statutory regulations (statute approach) as the basis of research. E-commerce businesses must register and obtain permits for electronic transactions to ensure consumer and business protection. Permendag No. 31 of 2023, issued by Trade Minister Zulkifli Hasan, replaces Permendag No. 50 of 2020 to support MSMEs and regulate

²³ Damayanti, A, and Lestari, “Pemenuhan Asas Kebermanfaatan Hukum Pada PERMENDAG No. 31 Tahun 2023.”

electronic commerce (PMSE) in Indonesia. The regulation was partly introduced due to TikTok Shop's lack of proper licensing as an e-commerce platform. While it impacts sellers and buyers, it also provides opportunities for business growth and consumer protection. Compliance with this regulation helps create a fair and legally secure digital business environment. Both the thesis and the journal by Zahra Afina Mahran and Muhammad Hasan Sebyar analyze MOT Regulation No. 31 of 2023 and its impact on e-commerce, MSMEs, and consumer protection in Indonesia. Both studies highlight how the regulation replaces Permendag No. 50 of 2020, was introduced due to TikTok Shop's lack of proper licensing, and aims to create a fair and legally secure digital business environment. The key difference is that researcher incorporates Islamic law perspectives, using Responsive Law and Sadd Zara'i to evaluate the regulation's effectiveness and ethical implications. Meanwhile, the journal strictly follows a normative legal approach, focusing on statutory analysis without discussing Islamic law or theoretical frameworks.²⁴

Rena, Ifitah Dian Humairoh, and Mia Rosmiawati, "Problematisasi Normatif dalam Peraturan Menteri Perdagangan Nomor 31 Tahun 2023 Terkait Larangan Social-Commerce pada Tiktok Shop." The research method used is normative juridical, namely research based on secondary library materials and primary legal materials. With the results of the research, the government is expected to repackage the Minister of Trade's regulations carefully in accordance with the results of the objectives of making the regulations and the perceived impact of their implementation. Both the thesis and the journal by Rena, Ifitah Dian Humairoh, and Mia Rosmiawati analyze MOT Regulation No. 31 of 2023 and its impact on TikTok Shop and social-commerce. Both studies highlight legal uncertainties and the need for regulatory adjustments to ensure fairness and

²⁴ Zahra Afina Mahran and Muhamad Hasan Sebyar, "Pengaruh Peraturan Menteri Perdagangan (PERMENDAG) Nomor 31 Tahun 2023 Terhadap Perkembangan E-Commerce Di Indonesia," *Hakim: Jurnal Ilmu Hukum Dan Sosial* 1, no. 4 (2023): 51–67.

effectiveness. The key difference is that the researcher incorporates Islamic law perspectives, using Responsive Law and *Sadd Żara'i* to assess the regulation's impact, while the journal strictly follows a normative juridical approach based on legal materials and literature review. Additionally, the thesis includes field research with interviews, whereas the journal focuses on policy evaluation and recommendations for regulatory improvements.²⁵

1.6 Research Methodology

1.6.1 Type of Research

This research was conducted using an empirical juridical research method through a qualitative descriptive analysis approach. This research method can be interpreted as legal research at the level of norms, rules, principles, theories, philosophies, and legal rules in order to find solutions or answers to problems either in the form of legal vacuums, norm conflicts, or ambiguities of norms.²⁶ It includes analyzing problems by processing legal materials obtained from laws *and regulations (statue approach)*.²⁷ Using the research method, describing the facts related to legal issues in full as well as analyzing laws and regulations based on cases that have been obtained from primary, secondary, and tertiary legal materials to gain an understanding of the regeneration of Tiktok Shop.²⁸

²⁵ Rena, Dian Humairoh, and Rosmiawati, "Problematisasi Normatif Dalam Peraturan Menteri Perdagangan Nomor 31 Tahun 2023 Terkait Larangan Social-Commerce Pada Tiktok Shop."

²⁶ Yati Nurhayati, Ifrani, and M. Yasir Said, "Normative and Empirical Methodology in Legal Perspectives," *Indonesian Journal of Law Enforcement (JPHI)* 2, Number 1 (2021): 8.

²⁷ Rena, Ifitah Dian Humairoh, and Mia Rosmiawati, "Normative Problems in the Regulation of the Minister of Trade Number 31 of 2023 Related to the Prohibition of Social-Commerce on TikTok Shops," *Crepido 05 Journal*, November (2023): 187.

²⁸ Stefany Ismantara and Yuwono Prianto, "Relevansi Hukum Perlindungan Konsumen Indonesia Di Era Ekonomi Digital," in *Serina IV UNTAR 2022: Pemberdayaan Dan Perlindungan Konsumen Di Era Ekonomi Digital*, 2022, 321–30.

1.6.2 Research Object

The object of this study is the consumers of the TikTok Shop Platform, business actors, and policy implementers.

1.6.3 Data Source

The type of research used by the researcher is empirical juridical law research, the data needed in this legal research includes primary data, secondary data, and tertiary data. Among others:

a. Primary Data

Primary data in legal research is obtained from empirical juridical research results through interviews with interested parties or respondents who can provide information related to the problem to be studied.

b. Secondary Data

Secondary data of legal research called by legal materials that functions as a complement or support for primary data. Legal materials in legal research are divided into two, namely primary legal materials and secondary legal materials.

1) Primary legal material is an analysis knife for the object of study raised. Primary legal materials are usually obtained from legislation and legal theories and principles, are in the form of laws and regulations, especially Regulation of the Minister of Trade Number 31 of 2023 which amends the Regulation of the Minister of Trade Number 50 of 2020. Strengthened by Law Number 7 of 2014 concerning Trade, Law Number 19 of 2016 which amends Law Number 11 of 2008 concerning Information and Electronic Transactions.

2) Secondary legal materials refer to literature sources that support legal arguments. Secondary legal materials are also used as references and included in the bibliography such as books, articles in scientific journals, articles in scientific proceedings, research reports, thesis and dissertation research results that are

used as references and several other literature sources that can be used to enrich and deepen research analysis.²⁹

c. Tertiary Data

Tertiary data is data that provides clues and explanations for primary and secondary legal materials, such as dictionaries.

1.6.4 Data Collection Methods

The data collection techniques used in this study are as follows:

a. Observation

Make direct observations of TikTok Shop activities and operations and interactions between sellers and buyers on the platform. Observe how content creators promote products, how users react to products and content, and transaction dynamics that occur on TikTok Shop.

b. Interview

Conduct in-depth interviews with various parties involved in e-commerce, including SEO Specialists, business actors on the TikTok platform, and conventional business actors. As well as policy implementers, namely representatives from the Commissioner of the Consumer Dispute Settlement Agency. The researcher also conducted online interviews with 185 respondents whose data was collected via google form. This interview can provide first-hand insight into the experience, perception, and understanding of the mechanics of e-commerce, especially the regeneration of TikTok Shop.³⁰

c. Document Analysis

²⁹ Nurhayati, Ifrani, and Said, “Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum,” 9.

³⁰ Zuchri Abdussamad, *Metode Penelitian Kualitatif* (Makassar: Syakir Media Press, 2021), 143.

Analyze official documents such as the text of laws and regulations, TikTok Shop policies, and promotional materials or guidelines published by TikTok and Tokopedia.

1.6.5 Data Analysis Methods

In discussing and analyzing this study, the author uses a qualitative descriptive approach with Miles and Huberman model data analysis techniques, as follows:

a. Data Reduction

Reducing data means summarizing, choosing the main things, focusing on the important things, looking for themes and patterns and discarding the unnecessary. Thus the data that has been reduced will provide a clear picture, and make it easier for researchers to collect further data.

b. Data Display

Once the data is reduced, the next step is to present the data. Presenting data, it will make it easier to understand what is happening.

c. Conclusion

The third step in qualitative data analysis according to Miles and Huberman is drawing conclusions and verification. The initial conclusions presented are still provisional, and will change if strong and supporting evidence is not found at the next data collection stage. However, if the conclusions presented at the initial stage are supported by valid and consistent evidence, then the conclusions presented are credible conclusions.³¹

1.7 Systematics of Discussion

³¹ Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif, Dan R&D* (Bandung: Alfabeta, 2012), 338–45.

Judging from the systematics of the discussion in this study, it includes four chapters, where one chapter and the other have a coherent and logical relationship.

Chapter I Introduction

This chapter contains the background of the problem where the author explains the reason why he chose this title based on the author's thoughts and existing literature. In addition, the problem, research objectives, research benefits, research methods, literature review, theoretical framework, and discussion systematics are formulated.

Chapter II Theoretical Foundations

In this chapter, Philippe Nonet and Philip Selznick describe Responsive Law as one of the three legal typologies in their book, *Law and Society in Transition: Toward Responsive Law*. This theory describes law as an adaptive and socially goal-oriented tool. The Saddu Żara'i theory is used to look from the perspective of Islamic law in preventing mafsadat, and the correlation between these two theories to examine the regulation of electronic commerce.

Chapter III Discussion & Research Results

Describe the position, rights and obligations of business actors as enshrined in the UUPK. Examine the analysis of the implementation of MOT Regulation Number 31 of 2023 related to the adaptation of PPMSE law to the community and its review from Islamic law to assess the effectiveness of this regulation in preventing damage and ensuring benefits.

Chapter IV Closing

This chapter contains the conclusions of the research results along with suggestions. After knowing and learning how to implement MOT Regulation Number 31 of 2023 both from positive law and Islamic law on the regeneration of TikTok Shop. The researcher will conclude from the results of the research and this conclusion is the culmination of the research.