



UMPurwokerto Law Review

Faculty of Law – Universitas Muhammadiyah Purwokerto
Vol. 2 No. 1, February 2021

This work is licensed under a Creative Commons Attribution 4.0 International License (cc-by)

Trade Supervision Through the Government Electronic System Based on Law No. 7 Of 2014 Concerning Trade And Government Regulation No. 80 of 2019 Concerning Trade Through Electronic Systems

Ailsa Salma Indrasari

Faculty of Law, Universitas Muhammadiyah Purwokerto

Email: ailsasalmaindrasari@gmail.com

Abstract

The rapid development of technology changes people's lifestyles, including trade transactions. This research discusses the regulation of trade through electronic systems based on Law No. 7 of 2014 on Trade and Government Regulation No. 80 of 2019 on Trading Through Electronic Systems as well as preventive and repressive efforts by the government in order to supervise the implementation of trade transactions through electronic systems or e-commerce based on PP No. 80 of 2019 on Trading Through Electronic Systems. The methods used are arranged systematically, logically, and rationally. In the sense that the entire data obtained will be connected adjusted to the subject matter examined. Regulation on trading through electronic systems or e-commerce under the mandate of Article 66 of Law No. 7 of 2014 on trade is contained in Government Regulation No. 80 of 2019 on Trading Through Electronic Systems. In Government Regulation No. 80 of 2019 concerning Trade Through Electronic Systems, the government seeks guidance as a preventive effort and implements administrative sanctions as a repressive effort on perpetrators of violations of applicable rules and regulations. The government should make trade arrangements through electronic systems to not overlap with other rules and conduct further guidance on trading businesses through electronic systems.

Keywords: Regulations, Supervise, E-commerce

Abstrak

Pesatnya perkembangan teknologi mengubah gaya hidup masyarakat termasuk dalam bertransaksi dagang. Penelitian ini membahas mengenai pengaturan perdagangan melalui sistem elektronik berdasarkan pada Undang-undang No. 7 Tahun 2014 Tentang Perdagangan dan Peraturan Pemerintah No. 80 Tahun 2019 Tentang Perdagangan Melalui Sistem Elektronik serta upaya preventif dan represif oleh pemerintah dalam rangka pengawasan pelaksanaan transaksi perdagangan melalui sistem elektronik atau e-commerce berdasarkan pada PP No. 80 tahun 2019 Tentang Perdagangan Melalui Sistem Elektronik. Metode yang digunakan disusun secara sistematis, logis dan rasional. Dalam arti keseluruhan data yang diperoleh akan dihubungkan satu dengan yang lainnya disesuaikan dengan pokok permasalahan yang diteliti. Pengaturan mengenai perdagangan melalui sistem elektronik atau e-commerce sesuai dengan amanat pasal 66 Undang-undang No. 7 Tahun 2014 Tentang Perdagangan terdapat pada Peraturan Pemerintah No. 80 Tahun 2019 Tentang Perdagangan Melalui Sistem Elektronik. Dalam Peraturan Pemerintah No. 80 Tahun 2019 Tentang Perdagangan Melalui Sistem Elektronik, pemerintah mengupayakan pembinaan sebagai upaya preventif serta menerapkan sanksi administratif sebagai upaya represif pada pelaku pelanggaran terhadap ketentuan dan peraturan yang berlaku. Pemerintah hendaknya membuat regulasi mengenai pengaturan perdagangan melalui sistem elektronik agar tidak tumpang tindih dengan aturan yang lainnya dan melakukan pembinaan lebih lanjut terhadap pelaku usaha perdagangan melalui sistem elektronik.

Kata kunci : Pengaturan , Pengawasan, E-Commerce

Copyright©2021UMPurwokertoLawReview. All rights reserved.

I. Introduction

Global technological developments have contributed to changing various lifestyles in this modern era. The development of technology and information in Indonesia also impacts the development of the economy in Indonesia. Based on the results of the Penetration & Behavioral Profile of Internet Users in Indonesia survey conducted by the Indonesian Internet Service Providers Association (*Asosiasi Penyelenggara Jasa Internet Indonesia*, APJII) together with the Indonesian Polling, in 2018 out of a total population of 264,161,600 people, there was a growth in internet users of 27,916,716 people so that the figures were obtained. The percentage growth of internet users in Indonesia is 10.12%. Total internet users in Indonesia reached 171,176,716 people from the entire population in Indonesia, so that the percentage of internet user penetration in Indonesia was 64.8%.¹ The growth of internet users in Indonesia has an indirect impact on Indonesia's economic development, including developing trade transactions in Indonesia. The forms of trade transactions in Indonesia are currently of various types. Even with sophisticated technology and information, trade transactions are possible without meeting directly between sellers and buyers (face to face) or through an electronic system.

Trading through electronic systems or e-commerce offers convenience for businesses and consumers in transactions without the need to meet face to face. However, this convenience does not always benefit the consumer and carries risks that can harm consumers involved in the transaction. Press Release of the Indonesian Consumers Foundation (*Yayasan Lembaga Konsumen Indonesia*, YLKI) in the context of World Consumer Day on March 15, 2018, reinforces the opinion that e-commerce does not fully benefit consumers for several reasons, namely: Weak sectoral regulations that protect consumers; E-commerce producers, including application providers, have not altogether had good faith in making transactions; There is no protection for personal consumer data; Many providers insert standard agreements that consumers do not understand; The aspects of consumer literacy and empowerment are still low.²

Based on these problems, it is deemed necessary to analyze the existing regulations whether they are sufficient in regulating trade through electronic systems or e-commerce and how to monitor trade through electronic systems or e-commerce. There is a statement of the novelty of the scientific study conducted. The statement of novelty is reinforced by a review of the literature from previous studies. State of the art sources is recommended from primary sources, namely relevant journal reference sources and the latest international and national journals.

II. Research Problems

Based on what has been stated above, the problems that will be discussed in this scientific paper are:

1. How are trading arrangements through electronic systems or e-commerce based on Law No. 7 of 2014 concerning Trade and Government Regulation No. 80 of 2019 concerning Trading Through Electronic Systems?
2. How to monitor trade transactions through electronic systems or e-commerce based on Government Regulation no. 80 in 2019?

III. Research Methods

The author's type of research in the preparation of this scientific paper is normative legal research. Normative legal research essentially examines laws conceptualized as norms or rules that apply in society and become a reference for everyone's behavior.³ In the legal literature, the source of data in normative legal research is called legal material. Legal materials are materials

¹ Asosiasi Penyelenggara Jasa Internet Indonesia, *Penetrasi & Profil Perilaku Pengguna Internet di Indonesia*, 2018, terbit pada 18 Mei 2019, accessed on 7 March 2020 from <https://apjii.or.id/survei>

² Ylki.or.id. 2019. "Siaran Pers YLKI: Konsumen Belum Terlindungi di Era Ekonomi Digital". <http://ylki.or.id/2017/03/siaran-pers-ylki-konsumen-belum-terlindungi-di-era-ekonomi-digital/>. Accessed on July 20, 2020

³ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, (Jakarta: Raja Grafindo Persada, 2010), 13-14.

that can be used to analyze applicable laws. The legal materials used for analysis in normative legal research consist of: Primary legal materials consist of laws and regulations, namely Law no. 7 of 2014 concerning Trade, Government Regulation No. 80 of 2019 concerning Trade Through Electronic Systems (*Perdagangan Melalui Sistem Elektronik*, PSME). Secondary legal materials are legal materials related to primary legal materials. They can help analyze and understand primary legal materials, including Books, Journals, Articles, the Internet, etc., as well as tertiary legal materials, namely materials that provide information about primary and secondary raw materials, such as Legal Dictionary, Encyclopedia, KBBI.

This research is descriptive, which provides an overview of the juridical review of trade supervision through electronic systems by the government based on Law No. 7 of 2014 concerning Trade and Government Regulation No. 80 of 2019 concerning the *PMSE*. Presentation of data in the preparation of this study is presented in the form of descriptions. Methods arranged systematically, logically, and rationally. In the sense that the overall data obtained will be linked to one another according to the subject matter under study, it is a complete unit based on legal norms or legal principles and legal doctrine relevant to the subject matter. The analysis used is qualitative data analysis, namely data that cannot be directly measured or assessed by numbers. Thus, after the primary data and secondary data in the form of documents are obtained, they are analyzed with regulations related to the problem under study.

IV. Research Results And Discussion

1. Trade Regulation Through Electronic Systems Based on Law No. 7 of 2014 concerning Trade and Government Regulation No. 80 of 2019 concerning Trade Through Electronic Systems

The convergence between computer, telecommunication, media, and information technology has driven rapid business growth. A variety of information can be presented in a sophisticated and easily obtained way began to be known as electronic commerce or electronic commerce (starting now referred to as e-commerce).⁴

E-commerce is a transaction mechanism that uses electronic communication networks such as the internet and developed and developing countries. Geographic boundaries can no longer limit Their activities to increase the efficiency and speed of conducting business.⁵

Buying and selling transactions via the internet are similar to conventional buying and selling mechanisms. What is different is the system/tools used, one done online, the other manually (offline). There is an opinion from Janus Sidabalok, this sale and purchase transaction can also be divided into 3 (three) stages: the pre-transaction stage, the (real) transaction stage, and the post-transaction stage.⁶

Trading through electronic systems is regulated in article 65 of Law no. 7 of 2014 concerning trade. In these laws and regulations, trading business actors through an electronic system are those who trade goods and/or services using an electronic system are required to provide complete and correct data and/or information. The complete and correct data and/or information at least contains identity and legality of business actors as producers or distribution business actors; technical requirements of the goods being offered; technical requirements or qualification of the services offered; price and method of payment for goods and/or services and method of delivery of goods. Entrepreneurs in trading through electronic systems are prohibited from trading goods and/or services inconsistent with the said data and/or information. In practice, business actors in electronic systems must comply with the law's electronic information and transaction provisions. If there is a dispute related to trade transactions through an electronic system, the person or business entity experiencing a dispute

⁴ Arsyad Sanusi, "Teknologi Informasi & Hukum E-Commerce", (Jakarta: Dian Ariesta, 2004), hal. 57.

⁵ Shinta Dewi, "Cyberlaw Perlindungan Privasi Atas Informasi Pribadi Dalam ECommerce Menurut Hukum Internasional", (Bandung: Widya Padjadjaran, 2009), 2.

⁶ Janus Sibalok., *Hukum Perlindungan Konsumen di Indonesia*, (Bandung: Citra Aditya Bakti, 2010), 69.

can resolve the dispute through the court or other dispute resolution mechanisms. Business actors who trade goods and/or services using electronic systems that do not provide complete and correct data and/or information may be subject to administrative sanctions in the form of license revocation.

Article 65 of Law no. 7 of 2014 concerning trade briefly regulates what business actors need to fulfill as their obligations in carrying out trade transactions through an electronic system in the form of realizing consumer protection for trade transactions through electronic systems. One of which is related to the most frequently encountered problem is data and/or incorrect information about business actors and goods and/or services traded in trade transactions through electronic systems. However, that article does not explain where the data and/or information regarding business actors, the traded goods, and/or services need to be conveyed. This matter is further regulated in Government Regulation no. 80 of 2019 concerning Trading Through Electronic Systems (PMSE).

Further regulations regarding trade through electronic systems or e-commerce are under the mandate of Article 66 of Law No. 7 of 2014 concerning trade is contained in Government Regulation No. 80 of 2019 concerning Trade Through Electronic Systems. The scope of the regulation covers: the parties, requirements, administration, obligations of business actors, proof of transactions, electronic advertisements, electronic offers and receipts, electronic confirmation, electronic contracts, protection of personal data, payments, delivery, exchange, cancellation of purchases of goods and/or services, dispute resolution, as well as guidance and supervision in the PMSE. The scope is broader and more detailed than the provisions in Law No. 7 of 2014 concerning trade.

In Government Regulation No. 80 of 2019 concerning Trade Through Electronic Systems (PMSE), business actors in PMSE include: Traders (merchants) are business actors who manage PMSEs either utilizing which they are created and managed directly or through means of PPMSE or other electronic systems that provide PMSE facilities; Electronic Trading System Provider (PPMSE) is a business actor providing electronic communication facilities used for trade transactions; Intermediary service providers are domestic or foreign business actors who provide electronic communication facilities other than telecommunications operators which the only function as intermediaries in electronic communication between sender and receiver.⁷ Domestic business actors are merchants, PPMSE, as well as domestic intermediary facilities providers. Meanwhile, foreign business actors are merchants, PPMSE, as well as foreign intermediary facilities providers.⁸

The passing of Government Regulation no. 80 of 2019 concerning PMSE is undoubtedly a good thing considering the lack of regulation of trade transactions through electronic systems and consumer protection in Indonesia. In article 15 of Government Regulation no. 80 of 2019, Regarding PMSE, business actors must have a business license that is carried out through Electronically Integrated Business Licensing. However, the article is unclear regarding the licensing and is instead regulated in other regulations, namely the relevant ministerial regulations.

Regarding the obligations of trading business actors through an electronic system, in article 21 paragraph (1) Government Regulation no. 80 of 2019 Regarding PMSE, domestic and foreign PPMSE must use the Indonesian high-level domain name (dot id). It certainly creates new problems for business actors who already have other domains, for example, Blibli.com, Bukalapak.com, Tokopedia.com. Changing a domain certainly does not cost a little, considering that if PPMSE in Indonesia is required to change its domain to a high-level domain in Indonesia or (dot id), consumers are also more familiar with the PPMSE website with its old domain.

In realizing consumer protection, in article 27 of Government Regulation no. 80 of 2019 Regarding PMSE, business actors are required to provide complaint services for consumers, which at least include: address and contact number for complaints; consumer complaint procedure; complaint follow-up mechanism; officers who are competent in processing

⁷ Article 1 number 10,11, and 12 PP No. 80 of 2019 concerning the PMSE.

⁸ Article 5 Government Regulation No. 80 of 2019 concerning the PMSE.

complaint services; and the period for completing the complaint. This article means that not only PPMSE is obliged to provide complaint services for consumers, but traders who manage trade transactions through their electronic system are also required to provide complaint services for these consumers. That is very important considering that before this regulation was passed, business actors other than PPMSE did not guarantee protection for consumers of trade transactions through electronic systems, creating risks for consumers.

Although the regulation regarding trading through electronic systems is in Government Regulation no. 80 of 2019 concerning PMSE is a further regulation regarding trading through an electronic system previously regulated in Law No. 7 of 2014 concerning trade. However, through an electronic system in this regulation, trade regulation still cannot provide a clear picture considering that further regulation is still needed through the relevant ministerial regulations in some articles.

2. E-commerce Supervision According to PP. 80 of 2019 concerning Trade Through Electronic Systems

The development and advancement of technology today have influenced the legal paradigm. According to Richard Susskind, "the paradigm has to be changed, especially information services because the public can quickly get answers to legal problems by merely accessing the internet without having to pay. Besides, to optimize the use of electronic-based economic potential, various efforts must be made to formulate potential sources of solving barriers and challenges to e-commerce today and in the future. In this case, the government's role is needed. Therefore a legal review of research is needed.⁹

The number of problems in trade transactions through electronic systems or e-commerce that impact e-commerce trade consumers' rights is the government's need to issue rules governing the implementation of e-commerce. The implementation of trade supervision through electronic systems or e-commerce is further regulated in Government Regulation No. 80 of 2019 concerning Trade Through Electronic Systems.

Regarding the supervision of trade transactions through an electronic system, it is necessary to take preventive action as a form of prevention of violations committed by parties to trade transactions through an electronic system under the applicable laws and regulations, as well as the need for repressive action against perpetrators of violations of provisions regulating trading through electronic systems. In Government Regulation no. 80 of 2019 concerning Trade through Electronic Systems, the government strives for guidance as a preventive effort and applies administrative sanctions as a repressive effort on perpetrators of violations of applicable rules and regulations.

The preventive efforts that the government is pursuing, in this case, are the related ministries, namely the Ministry of Trade based on article 77 paragraph (1) letter an of Government Regulation No. 80 of 2019 concerning PMSE, the Minister guides by increasing the competence of human resources for domestic business actors. With the existence of new regulations governing trade transactions through electronic systems, it is necessary to improve human resources who play a role in trading transactions through electronic systems as well as an understanding of several new regulations governing trade transactions through electronic systems so that trading through electronic systems can run according to laws and regulations. - applicable legislation. In this case, the Ministry of Trade can cooperate with the relevant authorities to increase trading business actors' competence through an electronic system.

In Article 77 paragraph (1) letter g, the Minister guides by providing a database of domestic business actors and products. Given the lack of data protection, especially in the current era where the development of trade transactions through electronic systems is very rapid, a database that is managed domestically is needed.

⁹ Lukito, Imam. "Tantangan Hukum dan Peran Pemerintah Dalam Pembangunan E-Commerce". *Jurnal Ilmiah Kajian Hukum*. Volume, 11 No. 3, (2017): 349-367.

Apart from the guidance regulated in Article 77 of Government Regulation No. 80 of 2019 concerning PMSE, according to article 77 paragraph (3), the Minister coordinates and collaborates with related agencies under their respective authorities, which is further regulated in article 32 Permendagri No. 50 of 2020 concerning Provisions on Business Licensing, Advertising, Guidance, and Supervision of Business Actors in Trade Through Electronic Systems.

Repressive measures in trade control through an electronic system by the government are the imposition of administrative sanctions against violators as regulated in Article 80 paragraph (1) of Government Regulation No. 80 of 2019 concerning PMSE. Which can be written warning; included in the list of priority supervision; blacklisted; temporary blocking of domestic PPMSE services and/or foreign PPMSE by the relevant competent authority; and/or revocation of business license. Written warnings are given a maximum of 3 times within 14 days from the time the warning is given, which, if not further processed, the business actor who gets the written warning will be included in the priority list. The priority list is not black; the business actors included in the list are business actors with problems and/or potential to violate laws and regulations regarding trade transactions through the applicable electronic system.

The implementation of trade control through an electronic system is further regulated in Permendagri No. 50 of 2020 concerning Provisions on Business Licensing, Advertising, Guidance, and Supervision of Business Actors in Trade Through Electronic Systems. Supervision is carried out by relevant ministries, namely the Ministry of Trade, which has been delegated to the Directorate General of Consumer Protection and Trade Order (Dirjen PKTN). Entrepreneurs of trading through electronic systems or e-commerce must meet certain conditions in trading via electronic systems and may be subject to administrative sanctions by the Director-General of PKTN.¹⁰

V. Conclusion

Regulations regarding trade through electronic systems or e-commerce are under the mandate of Article 66 of Law No. 7 of 2014 concerning trade is contained in Government Regulation No. 80 of 2019 concerning Trade Through Electronic Systems. These regulations include the parties, requirements, administration, obligations of business actors, proof of transactions, electronic advertising, electronic offers and acceptance, electronic confirmation, electronic contracts, protection of personal data, payment, delivery, exchange, cancellation of purchases of goods, and/or services, dispute resolution, as well as guidance and supervision in the PMSE. However, through an electronic system in this regulation, trading arrangements still cannot provide a clear picture, considering that several articles still require further regulation through relevant ministerial regulations. The government should create regulations that provide a clear picture of trade arrangements through electronic systems and do not overlap with other regulations.

Supervision of trading business actors through electronic systems by the government is carried out in the form of preventive measures as a form of prevention of violations committed by trading transaction parties through electronic systems under applicable laws and regulations as well as repressive actions against perpetrators of violations of provisions regulating trading through electronic systems. In Government Regulation no. 80 of 2019 concerning Trade through Electronic Systems, the government strives for guidance as a preventive effort and applies administrative sanctions as a repressive measure for perpetrators of violations of applicable provisions and regulations. The government needs to maximize further guidance by the Ministry of Trade and/or related agencies for trading business actors through an electronic system to carry out their obligations properly and overcome losses experienced by trading consumers through electronic systems e-commerce.

¹⁰ Article 40 to article 51 Minister of Home Affairs Regulation No. 50 of 2020 concerning Provisions on Business Licensing, Advertising, Guidance, and Supervision of Business Actors in Trade Through Electronic Systems.

References

- Arsyad Sanusi, *"Teknologi Informasi & Hukum E-Commerce"*, (Jakarta: Dian Ariesta, 2004).
- Asosiasi Penyelenggara Jasa Internet Indonesia. 2019. "Penetrasi & Profil Perilaku Pengguna Internet di Indonesia". <https://apjii.or.id/survei>. Accessed on March 7, 2020.
- Government Regulation No. 80 of 2019 concerning Regulation of Trade through Electronic Systems
- Janus Sibalok., *"Hukum Perlindungan Konsumen di Indonesia"*, (Bandung: Citra Aditya Bakti, 2010)
- Law No. 7 of 2014 concerning Trade
- Lukito, Imam. "Tantangan Hukum dan Peran Pemerintah dalam Pembangunan E-Commerce". *Jurnal Ilmiah Kebijakan Hukum*. Volume 11, No. 3, 2017.
- Minister of Home Affairs Regulation No. 50 of 2020 concerning Provisions on Business Licensing, Advertising, Guidance, and Supervision of Business Actors in Trade Through Electronic Systems.
- Nasution, Az. "Revolusi Teknologi Dalam Transaksi Bisnis Melalui Internet". *Jurnal Keadilan*. Volume I No.3, 2001.
- Shinta Dewi, *"Cyberlaw Perlindungan Privasi Atas Informasi Pribadi Dalam E-Commerce Menurut Hukum Internasional"*, (Bandung: Widya Padjadjaran, 2009)
- Soerjono Soekanto, dan Sri Mamudji, *"Penelitian Hukum Normatif Suatu Tinjauan Singkat"*, (Jakarta: Raja Grafindo Persada, 2010)
- Ylki.or.id. 2019. "Siaran Pers YLKI: Konsumen Belum Terlindungi di Era Ekonomi Digital". <http://ylki.or.id/2017/03/siaran-pers-ylki-konsumen-belum-terlindungi-di-era-ekonomi-digital/>. Accessed on July 20, 2020.