

## Prohibition of Doing Commercial Transaction Through Social Media Platform

Responding to the business competition polemic that occurs in the retail trade sector, particularly for Micro, Small and Medium Enterprises (MSME), the Indonesian Government through the Ministry of Trade issued Regulation of the Minister of Trade Number 31 of 2023 concerning Business Licensing, Advertising, Development and Supervision of Businesses in Trading Through Electronic Systems ("**MOT Reg 31/2023**").

As a result of the issuance of the MOT Reg 31/2023, one of the Social Media business actors who previously ran an e-commerce business, namely TikTok Indonesia, has announced that it will close the TikTok Shop starting Wednesday, October 4 2023 at 17.00 WIB.

In the MOT Reg 31/2023, Government banned social media businesses to carry out payment transactions for e-commerce business activities. In addition, Marketplace or Social-Commerce businesses are prohibited to act as producers, where the provisions regarding production are regulated by different licenses and hence cannot use Marketplace or Social-Commerce licenses.

Furthermore, Article 1 paragraph (17) of Minister of Trade Regulation 31/2023 has provided a definition of Social Commerce, which basically states that social media platforms can only be used to promote goods and/or services on social media platforms.

Focus of purpose from the ban is to prevent monopolization and unfair competition. Previously, the Minister of Cooperatives and SMEs stated that there was a monopoly in TikTok Shop's business activities through Predatory Pricing. Predatory Pricing in the Law on the Prohibition of Monopolistic Practices and Unfair Business Competition is an activity of supplying goods and/or services by setting very low prices with the aim of eliminating or killing its competitors in the relevant market.

### LEGAL UPDATES



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For Trade Organizers Through Electronic Systems (Penyelenggara Perdagangan Melalui Sistem Elektronik – “PPMSE”) that conduct cross-border electronic trading activities, there is a minimum price of goods directly sold by foreign traders to Indonesia through their platform. Article 19 of MOT Reg 31/2023 stipulates the minimum price of goods as intended at USD 100 (one hundred dollars) per unit, except for certain goods determined by the Ministry.

There are also special requirements for overseas traders in the domestic marketplace. Foreign traders are required to submit to domestic PPMSEs that provide trading facilities, including (1) the identity of the foreign trader; (2) a business permit issued by an authorised institution in the country of origin; (3) proof of fulfilment of standards or technical requirements for the required Goods and/or Services; and (4) the bank account number used for transactions.

The government also implements new administrative sanctions for violations of the provisions of MOT Reg 31/2023 in the form of:

- a. Written warning;
- b. Inclusion in the supervision priority list;
- c. Inclusion in the blacklist;
- d. Temporary blocking of domestic PPMSE and/or overseas PPMSE services by the relevant authorised agencies; and/or
- e. Revocation of business licence

Therefore, the enactment of MOT 31/2003 has brought Indonesia into a new phase of e commerce regulation, particularly for social commerce. It is believed that regulating the actions that can be carried out by social commerce will help MSME, particularly offline traders, to compete with the development of the electronic era. The limitations provided will be able to produce a more rational market in carrying out business competition with an equal position in competition.

**C**ommercial transaction though social commerce is banned by the Indonesian Government to maintain balance in online and offline sales of goods and create fair business competition with competitive market prices.

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