



State Authority In The Digital Society And E-Commerce Regulation

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ARTICLE HISTORY

Received: 01.04.2025

Accepted: 05.06.2025

Published: 29.06.2025

ARTICLE LICENSE

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ABSTRACT

This study critically analyzes the role of the state in the digital society through e-commerce policy, focusing on Indonesia's Minister of Trade Regulation No. 31 of 2023. Using a normative juridical method with regulatory inventory, systematic legal norm analysis, legal interpretation, and normative evaluation approaches, the research examines how this regulation addresses the transformation of trade activities in the digital era. The findings reveal that the regulation affirms the state's dual role as regulator and protector within the digital ecosystem by stipulating business licensing requirements for domestic and foreign actors, enforcing consumer protection, implementing affirmative policies for MSMEs, regulating electronic advertising, and strengthening law enforcement against violations. The study's novelty lies in its integrative analysis combining juridical and public policy perspectives, highlighting that effective e-commerce governance requires synergy between digital law frameworks, business actors' digital literacy, and strengthened institutional capacity of the state to ensure an inclusive, fair, and sustainable digital ecosystem. It recommends enhancing business actors' literacy on digital legal compliance and bolstering state institutional capacities in supervision and enforcement to maximize the strategic objectives of e-commerce policies, thereby supporting Indonesia's digital sovereignty and economic transformation.

Keywords: E-Commerce, Digital Society, Business Licensing

1. Introduction

The development of digital technology has shaped a new social reality known as the digital society, which fundamentally transforms how individuals, communities, and institutions interact and operate (Azizah, 2023). This transformation has had a significant impact across various sectors of life, with the economic sector experiencing some of the most profound changes through the rapid expansion of electronic commerce (e-commerce). In Indonesia, the swift growth of e-commerce is driven by multiple factors, including the widespread adoption of the internet, increasing penetration of digital technologies in everyday life, and government initiatives aimed at accelerating the digitalization of the national economy to keep pace with global developments.

One of the most critical regulatory instruments that reflect the state's presence in managing this transformation is the Minister of Trade Regulation Number 31 of 2023 concerning Business Licensing, Advertising, Development, and Supervision of Business Actors in Trade through Electronic Systems. This regulation represents a milestone in Indonesia's regulatory landscape, as it seeks to govern various aspects of digital trade activities, ranging from licensing requirements and consumer protection to advertising standards and the supervision of both domestic and foreign business actors operating within Indonesia's digital market.

Although the government's introduction of this regulation demonstrates a proactive step towards formalizing the digital environment, it also brings to light several persistent problems. A central issue is how the state can create and put into practice a regulatory system that is not only adaptable and inclusive of public input but

also quick to react to the fast-changing nature of digital society (Firdaus & Panjaitan, 2024). This is particularly challenging because the digital economy is defined by its global reach, rapid technological advancement, and the continuous appearance of new business models that frequently move faster than current legal provisions can accommodate (Xia, Baghaie, & Mohammad Sajadi, 2024).

Indonesia faces significant policy dilemmas due to several critical issues in its digital transformation. Despite regulation, consumer protection remains weak, largely because many people lack digital literacy and awareness, making them vulnerable to personal data misuse, online fraud, and unfair business practices. Moreover, unequal access to technology persists, with a notable divide in internet infrastructure and digital skills between urban and rural areas. If not addressed through inclusive policies, this gap could worsen socio-economic disparities (Sri Lestari Poernomo, 2023). These challenges highlight the urgent need for more effective and equitable digital governance.

Another challenge involves the enforcement of fair business competition law in the digital marketplace. A major issue is ensuring fair competition, especially with dominant global platforms and multinational digital corporations that can overshadow local business and harm national economic interests. These challenges are magnified by cross-border e-commerce, where many foreign digital companies operate in Indonesia without clear legal presence, making it difficult for the government to enforce tax obligations, consumer protection, and other regulations (Nur Hayati, 2021). Additionally, personal data security remains a critical concern. Data breaches and misuse of user information can severely erode public trust and compromise national digital sovereignty (Sun, Zhang, & Fang, 2021). These interconnected issues highlight the complexity of governing the digital space effectively in Indonesia.

Considering the complex challenges at hand, it's increasingly critical for the state to actively regulate the digital ecosystem. This is essential to guarantee that the advantages of digital transformation are equitably and sustainably distributed. Beyond mere regulation, the state must also enable market competitiveness while protecting the rights and interests of its citizens and domestic enterprises (Nurhayati, Rustyono, Farid, & Suryadi, 2025).

This research is urgent because it aims to create a strong analytical framework. This framework will explain how specific e-commerce policies, particularly Minister of Trade Regulation No. 31 of 2023, can serve as effective tools for strengthening Indonesia's digital governance. Furthermore, the research aims to evaluate the regulation's effectiveness in addressing critical digital society challenges, including promoting digital literacy, building secure digital identities, and enforcing robust consumer protection measures.

Previous research has provided useful insight into how the state supports the e-commerce sector, but it also has clear limitations that this study aims to address. For instance, Yuniza's (2022) work offers a broad look at the digital ecosystem, highlighting the importance of strengthening digital lifestyle, commerce, and connectivity, and suggesting inclusive digital education. However, her study is mainly interdisciplinary and sociological, lacking a specific focus on actual legal and regulatory frameworks (Yuniza & Inggarwati, 2021). This gap in examining concrete regulatory mechanisms is what our current research intends to fill.

Bahtiar (2020) also emphasized the government's key role in developing the digital economy, outlining six core strategies like fostering knowledge, setting standards, and building an innovative ecosystem. However, while conceptually valuable, Bahtiar's study doesn't deeply analyze how these strategies are put into practice through concrete policies, such as the implementation of Minister of Trade Regulation No. 31 of 2023 (Bahtiar, 2020). Meanwhile, Kaffah and Badriyah's (2024) research used a legal approach, analyzing various Indonesian laws to understand the legal framework for protecting digital businesses. Though important for highlighting legality, fair competition, and consumer protection in the digital sphere, their work primarily focuses on legal provisions and doesn't extensively explore how these regulations interact with the rapid changes in digital society and their broader socio-economic impacts (Kaffah & Badriyah, 2024). This indicates a gap in understanding the practical application and wider implications of specific digital economy regulations like Minister of Trade Regulation No. 31 of 2023.

This research uniquely addresses existing gaps by combining legal studies, public policy, and socio-digital governance. We specifically focus on the legal aspects of Minister of Trade Regulation No. 31 of 2023 to connect theoretical regulatory frameworks with the practical realities of the digital market. Our study goes beyond just analyzing the legal text; it also explores the socio-legal implications for businesses, consumers, and the broader goals of digital economic development. This comprehensive approach fills the void left by previous research, which

was often more conceptual, sociological, or limited to normative analysis without examining the regulation's full implementation.

This study will also critically evaluate how the government's regulatory strategy aligns with the principles of fair digital governance, specifically focusing on transparency, accountability, inclusiveness, and sustainability. We will explore whether current regulations are robust enough to address new risks, adapt to rapid technological changes, and promote equitable digital growth.

The main goal of this research is to critically analyze the state's role in the digital society through the lens of e-commerce policy, specifically using Minister of Trade Regulation No. 31 of 2023 as a case study. By combining a normative juridical approach with policy analysis, this study aims to produce evidence-based recommendations. These recommendations will guide policymakers in improving Indonesia's digital governance framework, leading to a more resilient, inclusive, and competitive digital economy that benefits everyone. The insights gained are expected to enrich academic discussions and directly inform policy development.

2. Method Research

2.1. Type of Approach

This research employs a normative juridical approach, which emphasises the study of prevailing positive legal norms (Ibrahim, 2010). This method is selected because it is most suitable for examining the role of law as both an instrument of social control and a tool of social engineering, particularly in the context of the rapid and complex development of information technology. It allows for a comprehensive understanding of how existing laws function in regulating societal behaviour and facilitating social change, which directly aligns with the objective of assessing the effectiveness of e-commerce regulation in the digital era.

2.2. Data Sources

The data used in this research are secondary data collected through literature study. The main sources include (1) National legislation, particularly Minister of Trade Regulation No. 31 of 2023, (2) Scientific articles from national and international law journals, (3) Relevant legal news articles to strengthen the empirical and normative context.

2.3. Data Analysis Techniques

The analysis in this study was carried out through several stages. First, a regulatory inventory was conducted to identify and compile all regulations and legal norms related to e-commerce governance in Indonesia. Second, a systematic analysis examined the substance of the norms within Minister of Trade Regulation No. 31 of 2023, focusing on aspects such as business licensing, consumer protection, obligations of foreign business actors, and supervisory mechanisms. Third, legal interpretation was applied to interpret the meaning and purpose of these norms, assessing their consistency with the principles of digital governance law. Finally, a normative evaluation assessed the extent to which this regulation addresses practical issues in digital trade practices and supports the development of a fair, inclusive, and sustainable digital ecosystem.

3. Results and Discussion

3.1 The Role of the State in the Digital Society through E-Commerce Policy

A robust digital state must maintain its sovereignty in cyberspace, including in digital economic activities like e-commerce (Gumati, 2024). In today's digital society, the government's role has shifted from simply facilitating economic growth to becoming the primary regulator and protector that ensures digital transactions are sustainable, fair, and secure (Hanna, 2018). Indonesia's Minister of Trade Regulation No. 31 of 2023 exemplifies this expanded state role in organizing trade through electronic systems (PMSE). This regulation takes a strategic and affirmative approach, demonstrating that the state isn't leaving e-commerce entirely to global free market forces. Instead, it actively regulates the sector to safeguard national interests, legal sovereignty, and public welfare.

Through this regulation, the state adopts an assertive regulatory approach by requiring foreign business actors to establish a permanent representative office in Indonesia (KP3A). This policy strengthens Indonesia's position within the global digital trade constellation by extending national legal jurisdiction over foreign entities that have operated without direct oversight. Such an approach aligns with the concept of digital sovereignty, whereby the state asserts control over its digital space to protect national economic and legal sovereignty.

Moreover, the regulation includes requirements like using Indonesian language, setting product information standards, and mandating halal and SNI labeling. These measures are crucial for protecting domestic consumers from dangerous products and online fraud. The government recognizes that consumers are at a disadvantage due to information gaps in digital transactions. Therefore, this policy goes beyond mere administration; it serves as a powerful tool for legal protection and consumer rights, significantly promoting social justice in digital spaces.

A clear example of this is the Indonesian government's decision in October 2023 to block TikTok Shop. This action was taken because the platform violated trade regulations by combining social media and direct sales without the necessary licensing under Minister of Trade Regulation No. 31 of 2023 (Sari & Pratama, 2023). This decisive move underscores the state's commitment to enforcing digital trade rules to safeguard Micro, Small, and Medium Enterprises (MSMEs) and ensure fair competition..

Another important affirmative policy is the requirement for digital platforms to provide special promotional spaces for domestic products and MSMEs. This represents a positive discrimination policy designed to balance the competitiveness of local products against foreign goods, which generally possess pricing and promotional capital advantages. Here, the state utilises its regulatory power to correct structural imbalances in e-commerce and promote equitable digital economic growth, ensuring that its benefits are not only enjoyed by large corporations or foreign business actors.

The stipulation of a minimum direct import price of USD 100 FOB per unit also demonstrates the state's protective policy aimed at safeguarding the domestic industrial sector (Susanto & Handoyo, 2023). This policy minimises the influx of cheap imported products that could potentially stifle local production. The state does not prohibit imports but regulates them to ensure there is room for domestic businesses to grow within the national digital market.

Beyond technical licensing arrangements, Minister of Trade Regulation No. 31 of 2023 also governs digital ethics, prohibiting advertisements or promotions that are misleading, manipulative, or violate Indonesia's socio-cultural values. This illustrates that e-commerce regulation is not solely economic but also serves as an instrument for fostering morality within the digital realm. The state thus acts as a guardian of values amid the liberal tendencies of global digitalization that often transcend local norms.

Nevertheless, the implementation of this policy faces significant challenges. The digital literacy gap between MSME actors and large corporations remains a fundamental issue, as not all small business operators possess adequate understanding of OSS-RBA-based licensing procedures, administrative obligations, or digital legal protections. This creates a compliance gap that could hinder the realization of regulatory objectives (Evangelista, Agustin, Putra, Pramesti, & Madiistriyatno, 2023). Moreover, weak cross-platform monitoring infrastructure poses practical challenges, particularly in supervising cross-border transactions involving global actors. Limitations in the capacity of law enforcement and supervisory agencies to detect violations in digital spaces increase the risk of inconsistent or ineffective law enforcement (Sitanggang, Darmawan, & Manurung, 2024).

Potential jurisdictional conflicts with foreign entities lacking physical offices in Indonesia also present challenges that require international regulatory harmonization and cross-border law enforcement cooperation. Without integrated digital monitoring systems, institutional collaboration, and strengthened human resource capacity in supervisory sectors, these progressive policies risk stagnating at the textual level without effective real-world enforcement (Wahyudi & Prakoso, 2021). Therefore, strengthening institutional capacity, enhancing MSME digital literacy, and innovating monitoring technologies must become priority agendas so that legal norms are not merely theoretical but possess real coercive power and provide tangible protection for public interests in the digital society era.

Thus, Minister of Trade Regulation No. 31 of 2023 not only represents the state's normative function as a rule-maker but also its strategic role as an actor that intervenes in the digital market structure to achieve social justice, economic sovereignty, and consumer protection. The state emerges as a rule maker, enforcer, and protector within the architecture of the digital society, a role that forms the foundation for realising inclusive, fair, and sustainable digital transformation in Indonesia.

3.2. Legal and Public Policy Analysis of Minister of Trade Regulation No. 31 of 2023

The state has a responsibility to ensure that digital trade is fair, safe, and oriented towards national interests (Rachmat, Alhady, Redra, & Ruslina, 2025). Minister of Trade Regulation No. 31 of 2023 refines its predecessor, Regulation No. 50 of 2020, which governed business licensing, advertising, development, and supervision of business actors in PMSE (Electronic System-Based Trading) (No Authors, 2023). This regulation differentiates two groups of business actors—domestic and foreign—with detailed and strict licensing obligations.

Articles 3–22 regulate domestic business actors, stipulating that all domestic PMSE actors must possess a Business Identification Number (NIB) and an Electronic Trade Business License (SIUPMSE), obtained via the risk-based OSS system. Supporting documents include the NIB, tax identification number (NPWP), business profile, website domain, security certification, and an Electronic System Operator Registration Certificate (TDPSE) from the Ministry of Communication and Informatics. PMSE business models covered include online retail, marketplaces, online classified ads, price comparison platforms, daily deals, and social commerce. Marketplaces and social commerce platforms are prohibited from acting as producers to prevent supply chain domination, and social commerce is only permitted as a promotional medium without payment transaction facilities to distinguish it from conventional marketplaces. Business actors must display complete product information, such as SNI compliance evidence, halal certificates, and cosmetic, medicine, or food registration numbers to ensure consumer protection. Furthermore, PMSEs and their affiliated platforms are prohibited from misusing user data for business interests, upholding fair competition and protecting privacy in the data economy era.

Regarding foreign business actors, the regulation requires them to obtain an STTPSE from the Ministry of Communication and Informatics before applying for SIUPMSE. Article 5 sets obligations to provide full company identity and official address, business licenses from their home country, compliance with Indonesian product standards such as SNI and halal certification, Indonesian language usage in product descriptions, bank account details for Indonesian transactions, and disclosure of the country of origin. Additionally, Article 18 mandates that foreign PMSE actors appoint a permanent representative office (KP3A) in Indonesia if they record at least 1,000 transactions, 1,000 product deliveries, or over 1% Indonesian user traffic annually, reinforcing national digital sovereignty.

In relation to minimum price policy and positive list, Article 19 sets a minimum import price of USD 100 FOB per unit for cross-border e-commerce goods, while the government issues a positive list through inter-ministerial coordination to specify permitted imported goods, protecting domestic MSMEs from an influx of cheap foreign products.

The regulation of electronic advertising and digital ethics is addressed in Articles 23–28, prohibiting deceptive, misleading, or unauthorized advertising practices, requiring clear identity in testimonials or reviews, and ensuring exit (close/skip) functions in ads to protect consumers' digital rights.

Concerning access termination and law enforcement, Articles 29–30 require PMSEs to cut access to violating advertisement materials, and block repeat offenders after three violations. The Directorate General of Consumer Protection and Trade Order holds authority to terminate access or accounts, with administrative sanctions up to business license revocation, as illustrated by the closure of TikTok Shop in October 2023 for non-compliance with e-commerce and fair competition rules.

Finally, the policy implications for the digital economy are significant. The regulation enhances legal certainty and transparency in PMSE operations, strengthens consumer protection, empowers local MSMEs through affirmative policies and import restrictions, and reinforces Indonesia's digital sovereignty by extending jurisdiction over foreign actors. However, challenges remain in MSME digital literacy, supervisory capacity, and inter-agency coordination for effective enforcement.

4. Conclusion

This research aims to critically analyse the role of the state in the digital society through e-commerce policy using a legal and public policy approach to Minister of Trade Regulation No. 31 of 2023. The results indicate that this regulation affirms the transformation of the state's role as both regulator and protector within the digital ecosystem by imposing licensing obligations on domestic and foreign business actors, ensuring consumer protection, implementing affirmative policies for MSMEs, and enforcing adaptive digital law. The novelty of this study lies in its integrative analysis of juridical and public policy aspects, emphasising that Minister of Trade Regulation No. 31 of 2023 is not merely normative and administrative but also strategic in asserting Indonesia's

digital sovereignty. However, the implementation of this policy faces significant challenges, such as the digital literacy gap among MSMEs, weak cross-platform supervision, and potential jurisdictional conflicts with foreign business actors. Therefore, it is recommended that the government strengthen institutional capacity for digital supervision, improve legal and digital literacy among small business actors, and establish cross-border cooperation mechanisms to enforce foreign business actors' compliance. These measures are essential to effectively realize the policy's objective of creating an inclusive, fair, competitive, and nationally protective digital ecosystem. In the future, further research is needed to explore the development of adaptive legal frameworks for emerging technologies such as artificial intelligence and blockchain, to ensure that Indonesia's digital governance remains responsive, innovative, and globally competitive.

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