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Balancing State Revenue and Fair Competition in Social Commerce Platforms

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Abstract

Indonesia's growing population has contributed to the expansion of e-commerce, but state revenue stagnates. Meanwhile, social commerce platforms have created harmful rivalry, threatening MSMEs' sustainability. The study seeks to identify legal issues in social commerce platforms, including taxation and fair competition, and provide a regulatory framework that maximizes digital sector state revenue while protecting domestic firms. This study uses legal research methodology, focusing on a statutory and comparative approach. The finding reveals that insufficient tax compliance among e-commerce participants, inadequate oversight of foreign social commerce businesses, and predatory pricing practices are the main causes of structural inequality. Additionally, uneven government policies reduce domestic enterprises' competitiveness. This study recommends mandating foreign social commerce platforms to establish a permanent presence in Indonesia to comply with national tax regulations, allocating a minimum of 30% of social commerce tax revenues to empower MSMEs and support digitalization programs, implementing cross-ministerial big data monitoring for transaction oversight, and strengthening the Business Competition Supervisory Commission to combat predatory behavior. A comprehensive regulatory reform is expected to balance governmental interests, MSMEs, and the global digital economy.

I. Introduction

The prospective revenue from trade transaction taxes has consistently garnered significant interest from various nations (Baker et al., 2009). As time progresses, the electronic commerce (hereinafter written to e-commerce) sector may also accept it, and in its most recent version, commerce through social media and platforms (social commerce)(Huang & Benyoucef, 2013). Electronic trading, particularly mobile-based e-commerce, has demonstrated the capacity to generate new business revenue streams (Nayati Utami et al., 2019). Especially for countries with a large internet and smartphone user base, such as Indonesia.

Data from the Indonesian Central Bureau of Statistics (BPS) indicates that Indonesia's population will reach 275 million by 2022. Of this total, 212.9 million, almost 77% of the population, have actively utilised the Internet for diverse purposes, including electronic and social media-based commerce (Fitriani et al., 2023). Statista ranked Indonesia as the fourth greatest internet user in the world in 2023, which makes sense given this statistic (Nurhayati, 2024).

Since 2020, census data reveal that Generation Z constitutes the majority of Indonesia's population, comprising 74.93 million individuals, which accounts for 27.94% of the nation's entire populace. The Millennial generation followed with 69.38 million individuals (25.87 per cent), succeeded by Generation X, which consists of 58.65 million individuals (21.88 per cent). These three generations are the most proficient in digital technology compared to other generations (Dabija & Lung, 2019). Data from the APJII (Indonesian Internet Service Providers Association) poll indicates that by 2024, the millennial generation will exhibit the greatest internet penetration rate among all age groups in Indonesia, at 93.17%. Generation Z, born between 1997 and 2012 (ages 12-27), occupies the second position, with an internet penetration rate of 87.02% throughout the same timeframe. Third place is held by Generation X, which comprises individuals born between 1965 and 1980 (ages 44–59), with an internet penetration rate of 83.69% (APJII, 2024).

Given these demographic factors, one might anticipate the substantial potential of Indonesia's e-commerce business. Despite the resurgence of offline retail activity, e-commerce constitutes 77% of the overall digital economy. The Bank Indonesia (BI) said that e-commerce transactions 2023 amounted to IDR 453.75 trillion. BI Deputy Governor Filianingsih reported that 3.71 billion electronic transactions were documented. This figure has risen compared to the 2022 forecast of 3.49 billion. According to the SEA economy study (2022), Indonesia's digital commerce market is projected to have a 17% compound annual growth rate and a gross merchandise value (GMV) of USD 95 billion by 2025 (Google et al., 2023). This circumstance is expected to result in a 78 per cent growth in the value of electronic commerce in Indonesia, positioning it as the biggest global market.

Reports from the ECDB indicate that the projected GMV volume will surpass USD 82 billion in 2025, with the Indonesian market expected to grow to USD 160 billion by 2030. This inclination is driven by the rapid advancement of digital transformation and the growing popularity of livestream shopping (ECDB, 2023).

However, due to the rapid expansion of electronic commerce and substantial transaction values, the government cannot maximise state revenues in the electronic commerce taxation domain. Effective July 1, 2020, pursuant to Regulation No. 48/PMK.03/2020, issued by the Minister of Finance, the Tax Directorate General has reported that value-added tax (VAT) on commerce conducted through electronic systems (PSME), also referred to as digital tax, has totalled IDR 13.87 trillion over the last three years, concluding in July 2023 (detiknews, 2023). Detail the VAT receipts from PMSE amounting to IDR 731.4 billion in 2020, escalating to IDR 3.90 trillion in 2021, and further increasing to IDR 5.51 trillion in 2022, with IDR 3.73 trillion in deposits as of July 2023, all sourced from 139 PMSE business entities. This figure is relatively modest, given that researchers from the Centre for Welfare Studies project the potential tax revenue from e-commerce activities could reach IDR 10–15 trillion annually.

The existing phenomenon illustrates the disparity between the substantial number of internet users and the public's interest in online shopping, alongside the minimal tax revenue the government has collected. Digital commerce is projected to rise consistently to US$82 billion by 2025, positioning Indonesia as the foremost Southeast Asian country in digital economic growth (Melati & Nur Komala Dewi, 2020). By 2045, the OECD, an international organisation of industrialised nations, projects that Indonesia will attain an economic worth of US$8.89 trillion, positioning it as the fourth-largest economy globally (Sultan, Samina; Kunath, Gero; Förster, Henrik; Matthes, 2024). This prediction is based on the assumption that Indonesia is expected to experience a demographic dividend during the period of 2030 to 2040.

The OECD forecast corresponds with the Ministry of National Development Strategy and the BPS study, which estimates that 2045 will signify the onset of Indonesia's demographic bonus, coinciding with the nation's centenary. The Indonesian Inhabitants Projection for 2015 to 2045, issued by the Ministry of National Development Strategy and the Central Statistics Bureau (BPS), estimates the population would reach 318.96 million by 2045. The working-age population (15–64 years) is projected to comprise approximately 207.99 million individuals, representing an average of 70% of the total population (Mas'ul, 2023). This situation implies that the workforce will nearly quadruple, with Generation Z prevailing. This indicates that nearly the entire population of Indonesia is poised to become active Internet users, positioning the country as the largest e-commerce participant globally.

This requirement requires that Indonesia's human resources represent a significant asset and may catalyse the nation's economy. The government has acknowledged this and has formulated a roadmap for Indonesia to achieve 'Golden Indonesia' by 2045, encompassing four principal pillars: (1) enhancement of human capital and technological proficiency; (2) sustainable economic growth and development; (3) equitable growth and development; and (4) strengthening national resilience and administrative efficiency. The four objectives derive from Pancasila and the 1945 Constitution of the Republic of Indonesia, serving as the foundation of the state, which seeks to protect all Indonesian citizens and every region of the homeland, promote public welfare, and enhance national education. Nonetheless, if this demographic dividend is not leveraged effectively, it will have adverse societal consequences, including poverty, inadequate health, unemployment, and elevated crime rates (Teguh, 2019).

In digital trade, Indonesia's substantial human resources may serve as consumers or target markets for foreign nations. At the same time, the country fails to derive any benefits from the burgeoning global electronic commerce. Conversely, the present surge in digital commerce enhances general economic performance and sustains company entities. Survival is contingent upon the ability to adapt to technological advancements and digitalisation. Numerous traditional business entities struggle to transition to the digital ecosystem, resulting in their obsolescence and eventual closure. (Li, 2020). The occurrence of numerous vacant stalls at Tanah Abang Market and Glodok Electronics Market in Jakarta (Dewi & Lusikooy, 2024).

Numerous previous studies have emphasised the issue of social trade from a legal policy standpoint. Recent studies investigate policies governing social commerce in Indonesia, emphasising the government's initiatives to safeguard local enterprises and consumers. Supriyadi argues that the prohibition policy on specific social commerce platforms, intended to avert monopolistic behaviours and protect small and medium enterprises (SMEs), has been contentious, adversely affecting the national economy (Supriyadi, 2024). While some emphasize the need for stronger regulations to protect SMEs from unfair trade practices (Isal & Sidik, 2023) Despite the security and trust issues in transactions via social commerce, Muzakki & Suraji conclude that the growing internet user base in Indonesia provides a strong foundation for e-commerce development (Muzakki & Suraji, 2024). This study aims to assess the primary issues in social commerce and offers several significant recommendations to mitigate the effects of the rapid advancement of the digital commerce industry. This study emphasizes that reconciling technology advancement with the objectives of government and MSMEs is a primary challenge for policymakers in the dynamic digital economy.

In light of the aforementioned problem analysis, the study seeks to identify issues within legal policy in the electronic commerce sector and to propose proposals that enhance state revenues while preserving a competitive business environment. This study identifies two significant issues: What are the primary challenges facing the social commerce sector in Indonesia? Secondly, what policy recommendations may be made to mitigate the effects of social commerce on state revenue and promote healthy corporate competition? The proposals from this study provide insights into alternative policies that the government might implement to maximise revenue potential from growing entities in the electronic commerce sector, particularly social commerce. This sector has predominantly avoided tax responsibilities, considerably impacting the sustainability of MSMEs. The suggested policies aim to produce new state money through taxation, which can subsequently be allocated to promote a competitive and equitable business climate for all entrepreneurs in Indonesia.

II. Insufficient Understanding Among Corporate Stakeholders, Transition to Social Commerce, and Detrimental Business Competition

The adoption and collection of revenues from digital services, such as e-commerce, have been comparatively sluggish in developing nations. (Molla & Heeks, 2007). During a period of almost four years, the government has succeeded in collecting value-added tax revenue amounting to IDR 13.87 trillion from 139 enterprises. Several primary factors contribute to diminished tax collections in the internet commerce sector. The Indonesian Entrepreneurs Association (Apindo) reports that many online transactions do not meet tax responsibilities, despite an average annual transaction value of 100 trillion rupiahs. A 2014 survey by the Directorate General of Taxation indicated that the compliance level of e-commerce entrepreneurs with tax responsibilities remained inadequate. Incorporating the minimal interest and awareness among commercial entities in Indonesia to register as taxpayers and acquire a taxpayer identification number (Pramita & Yuliani, 2021; Suherman, 2020).

The government faces a challenge as it must ensure that tax rules do not hinder business operators, particularly within the MSME sector. The government cannot persist in depending on taxes by exerting pressure on corporate entities. The Indonesian E-commerce Association (idEA) has requested the Minister of Finance to defer and reassess the implementation of Ministerial Regulation No. 210 concerning the taxation of digital commerce, which is perceived to have numerous deficiencies. Ignasius Untung, Chairman of iDEA, evaluated that Minister Regulation No. 210 could impede the expansion of MSMEs and potentially extinguish nascent micro companies. Several studies have even concluded that e-commerce taxpayers face obstacles caused by a weak compulsion to fulfill tax obligations and a lack of understanding (Timothy & Abbas, 2021), distrust in the government (Albab & Suwardi, 2021), and negative perceptions about taxes (Agung et al., 2022).

This condition affects the conduct of commercial entities attempting to evade tax responsibilities (tax evasion or avoidance). Business entities are transitioning from marketplace platforms to social media. This engenders a novel paradigm, transitioning from social media to social commerce. Many definitions characterise social commerce. Constantinides & Fountain characterise it as "a discernible trend in online marketplaces where enterprises utilise social media as a direct marketing instrument to facilitate customers' decision-making processes and purchasing behaviours" (Constantinides & Fountain, 2008). Article 1 (17) of Trade Minister Regulation Number 13 of 2023 defines social commerce as a social media platform that provides particular features, tools, and/or capabilities enabling merchants to showcase and sell goods and/or services.

There are fundamental differences between e-commerce, which is commonly carried out in marketplaces, and social commerce, both in terms of business structure, value delivery, customer relations, system interactions, design elements, and platform use (Wigand et al., 2008). Within the framework of e-commerce, generally, the interaction in seller–buyer relationships is not the main aspect. However, social media users not only allow buyers to express their opinions regarding products or services (feedback) but also on business processes and recommendations (Liao et al., 2021). Social commerce users become more connected, knowledgeable, participatory, and collaborative voluntarily, resulting in new perceptions and behaviors in each user (Abdelsalam et al., 2020; Hughes, 2010).

This elucidates why social media-based markets like Facebook, Instagram, and TikTok are equally popular as e-commerce platforms such as Tokopedia, Bukalapak, and Shopee. Incorporating the TikTok shop phenomenon has astonished the media in Indonesia. The TikTok program, renowned for its engaging short videos, aspires to be more than a social networking platform. In recent years, they transitioned into online commerce by launching the TikTok Shop function. This tool enables merchants and users to showcase their products through brief movies, enhancing the buying experience with greater engagement and personalisation (Hariyanto & Wahyudi, 2023).

Nonetheless, this accomplishment raises numerous inquiries and apprehensions. A critical consideration is whether integrating social networking and internet commerce into a singular platform is a judicious choice. One of the most notable effects of social commerce, such as TikTok Shop, is its influence on micro, small, and medium enterprises (MSMEs), which today serve as the foundation of Indonesia's economy. Micro, Small, and Medium Enterprises (MSMEs) remain characterised by constrained resources and rely on conventional sales of local products for their sustenance. Conversely, social commerce is a substantial multinational corporation endowed with significant financial resources and extensive global connections. It enables it to provide equivalent items at considerably lower prices than local MSMEs. This engenders unfairness and detrimental competition, resulting in the marginalisation of MSMEs in the struggle for market share.

The TikTok shop case in Indonesia has given rise to a phenomenon known as predatory pricing for MSMEs (Effiyaldi et al., 2023). Predatory pricing itself is a Market strategy carried out by market actors by setting very low prices for the goods or services they produce over a long period (Wibowo et al., 2022). They do this to eliminate other business actors who are their competitors. market or prevent other economic actors from entering the market. Among business actors, this action is commonly called the "selling at a loss" method. Products sold at the TikTok Shop at very cheap prices generally come from abroad or across countries. This step makes local business sectors such as MSMEs unable to compete. This action is categorized as a practice that leads to a trade monopoly (Nurcahyawan et al., 2020).

In a conventional economic perspective, a monopoly is a situation where, in the market, there is only one seller of a good and no other party competes (Steinbaum, 2022). Monopolistic practices in commerce are outlawed under Law Number 5 of 1999, which addresses the prohibition of monopoly and unfair competition in business (hence referred to as the Anti-Monopoly Law). According to Article 1, Number 2 of the Anti-Monopoly Law, a monopolistic practice entails the concentration of economic power by one or more entities, leading to dominance in the production and/or distribution of specific goods or services, which promotes anti-competitive conduct and jeopardises public welfare. Predatory pricing, or selling at a loss, has been specifically regulated. Article 20 of the Anti-Monopoly Law prohibits business entities from engaging in predatory pricing, defined as selling goods and/or services below cost or at excessively low prices, with the intentional objective of eliminating competitors in the relevant market, as this behaviour can result in monopolistic practices and disrupt fair competition.

Predatory pricing is regulated differently across jurisdictions. While some argue that predatory pricing harms competitors and market mechanisms (Faishol et al., 2022). Some argue that not all low-price strategies are predatory, as they may be the consequence of efficient operations (Kurlillah et al., 2024). To establish predatory pricing, it must be shown that it threatens efficient firms, eliminates competitors, and enables the predator to recoup losses by increasing prices later. Malaysia Airlines and AirAsia's price war in Malaysia did not satisfy the criteria for predatory pricing, as there was no indication of intentions to eradicate competitors or cross-subsidisation (Akbar & Tengku, 2010). The Chinese Anti-Monopoly Law prohibits enterprises with market dominance from offering goods at prices lower than production cost without a valid justification, but enforcement remains underdeveloped compared to the US and EU (Emch & Emch, 2010). In China, specific state institutions are designated to monitor and enforce laws addressing predatory pricing. The State Administration for Market Regulation (SAMR) serves as the primary authority responsible for investigating anti-competitive practices, including predatory pricing. Additionally, Provincial Market Supervision Authorities are tasked with implementing law enforcement at the local level, ensuring that businesses adhere to established pricing regulations. Competition authorities worldwide have developed various criteria and tests to assess predatory pricing cases, with the US relying more heavily on classical economic theory than the EU (Sharan, 2023). These differences in approach highlight the complexity of regulating predatory pricing in a global context and the need for ongoing policy development.

Even though the practices of TikTok Shop are deemed to violate extant regulations, the government remains perplexed on this issue. A month following the Minister of Trade's prohibition of TikTok shops, an online sales decline of 30% was observed per Under Minister of Trade Regulation 31 of 2023, which governs the issuance of business permits, promotional activities, and regulatory supervision for e-commerce operators. This is because the TikTok Shop was utilised by over 500,000 active merchants and over 10 million consumers before its closure. The government's decision to revoke TikTok store permits was met with disappointment by a significant number of traders. Nevertheless, government decisions are frequently inconsistent. This is evidenced by the TikTok shop's reopening just one month after its closure. TikTok Shop is currently operating again in partnership with Tokopedia, one of the e-commerce service providers in Indonesia. Even though it is committed to supporting local business actors, it is feared that the return of TikTok shops, with greater powers by collaborating with e-commerce platforms, will continue to threaten the existence of MSMEs in Indonesia. In sum, Indonesia's regulations on predatory pricing are considered weak, particularly for foreign businesses, necessitating reforms to address e-commerce challenges in the digital economy.

On the other hand, the emergence of social commerce also raises issues of injustice (Naisabur et al., 2024), including actors providing e-commerce platforms. Basically, e-commerce companies are just service providers that bring together traders and buyers online. If the number of traders decreases due to the shift to social commerce, then the e-commerce business will also be threatened. Apart from that, social commerce, which is generally conducted by multinational companies such as Facebook, TikTok, and Twitter, that benefit from the Indonesian market, is still exempt from being a taxpayer. This is because they are providers of over-the-top (OTT) services, which refer to services that deliver content—such as data, information, or multimedia—via internet-based networks.

One of the ways OTT works to earn income can be seen in the Google Adsense service, which provides calculations based on the number of visitors and "clicks" per day. Social media sites such as Facebook also provide income from advertising on an account's page if the number of followers of that account exceeds a predetermined number of followers. Even though the OTT mentioned above obtains income from the Indonesian market, until now, Google, for example, has only paid income tax borne by employees and not corporate tax (Katadata.co.id, 2016). This causes many social media companies to gain profits from digital services, advertising, and now electronic commerce or social commerce services, but they cannot be subject to income tax as foreign taxpayers.

The problem that often arises is: who has the authority to collect taxes on multinational companies in the OTT business model? This is related to determining the permanent establishment of an OTT entity. The cross-border nature of the social commerce service model means that it does not require intermediaries or representative bodies (permanent establishments) in the countries where it operates (Hoang & Giang, 2020). On the other hand, there is not yet a unified understanding in global forums regarding tax policy models in the digital economy, especially on the concepts of the source country and country of domicile, and on the issue of determining the type of income as an indicator for determining who has the right to tax multinational companies (Latif, 2021). Meanwhile, Nailul Huda from the Institute for Development of Economic and Finance (INDEF) also explained that the government had to face pressure from large countries, such as the United States, due to its efforts to tax OTT companies through Law No. 2 of 2020 and Minister of Finance Regulation Number 48 of 2020 (Huda & Febriani, 2022). As a result, the government is once again faced with a difficult position to increase potential state revenues and the need to maintain good economic and diplomatic relations with other countries

III. Several Recommendations: The Importance of Permanent Establishment and Budget Allocations for Empowering MSMEs

As mentioned earlier, the description highlights critical dilemmas within Indonesia's electronic commerce sector, specifically the low e-commerce tax attributed to insufficient awareness among business operators and the rise of social commerce, which, while fostering online trade transactions, poses the risk of fostering unhealthy competition for local MSMEs. It also engenders inequity for e-commerce enterprises in Indonesia that comply with relevant tax legislation. Conventional trading, e-commerce, and social commerce should be subject to taxation in accordance with relevant tax regulations and compliance mandates. The authorities, via the Directorate General of Taxation, have affirmed that e-commerce entities must comply with their tax obligations as outlined in Administrative Circular Number SE-62/PJ/2013 and the Letter Number SE-06/PJ/2-2015 regarding the Withholding and/or Collection of Income Tax on E-commerce Transactions. Both are founded on Law Number 36 of 2008 stipulations regarding income tax and Government Regulation Number 1 of 2012 on the implementation of value-added tax on goods and services and sales tax on luxury items.

The study suggests that the government revise legal regulations in the e-commerce sector to encompass social commerce, based on analysing several prior problem descriptions. The government must enhance the tax regulations for social commerce entities (the social commerce statute). The government's actions in promulgating Government Regulation Number 80 of 2019 regarding electronic trading merit commendation, particularly the stipulations of Article 7, which mandate that every foreign PMSE entity designate a representative residing within Indonesian jurisdiction to act on behalf of the respective business entity. This clause remains deficient due to the ambiguous nature and location of the intended representation, particularly in international social commerce service enterprises utilising an over-the-top (OTT) system. Moreover, the content of Minister of Trade Regulation Number 13 of 2023 remains vague in its restrictions on social commerce, categorising it solely as a service provider rather than a commodities manufacturer. This section fails to address the issue of economic inequity and taxation, as social commerce corporations are mandated solely to collect value-added tax while evading other tax obligations, such as corporate income tax, exemplified by platforms like Facebook and TikTok.

The European Union has been modifying its fiscal policies to address the challenges of expanding online commerce and digital services. New regulations have been established to guarantee accurate VAT collection on cross-border transactions, with the taxation location for electronically supplied services determined by the customer's location (Dale & Vincent, 2017). Large online marketplaces are now responsible for collecting taxes on business transactions outside the EU for EU customers. The EU is also looking into new ways to tax the income of digital enterprises, and profit split methods are being looked at as a possible option (Jurušs et al., 2019). Nevertheless, tax authorities encounter difficulties establishing jurisdiction for taxation and monitoring financial transactions, particularly cryptocurrency-related ones. Countries including the UK, Australia, India, and Japan have investigated alternative taxation methods for foreign Over-The-Top (OTT) service providers.

The Diverted Profits Tax (DPT) was implemented in the UK. This tax is separate from corporate income tax and does not contravene the Double Taxation Avoidance Agreement (DTAA). It is applicable when an OTT firm creates a Permanent Establishment (PE) in a jurisdiction with an income tax rate below 80% of the UK's corporate tax rate. According to this rule, Google was obligated to remit £130 million (about Rp2.2 trillion) in tax liabilities accrued since 2005 (CNN Indonesia, September 20, 2016). Australia enacted the Multinational Anti-Avoidance Law (MAAL). Australian Treasurer Scott Morrison stated that the nation anticipates generating up to A$2 billion (about Rp20.5 trillion) in supplementary revenue from corporations such as Google following the enactment of the MAAL in late 2015 (Ardhiansyah & Nurhidayati, 2019).

In light of the issues mentioned earlier, the government must revise Government Regulation 80/2019 and Minister of Trade Regulation 13/2023 by mandating that all foreign companies, encompassing both e-commerce and social commerce sectors, establish a permanent presence in accordance with legal standards. Legislation on General Tax Provisions and Income Tax. The permanent establishment must be a branch of the company that legally and formally constitutes a single entity, rather than a distinct entity, with tax subjects abroad or its parent company. Consequently, every social commerce enterprise functioning in Indonesia, irrespective of its external location, must be prepared to register as a foreign taxpayer. Regarding tax requirements, social commerce collects value-added tax on goods and services from transactions between sellers and purchasers on its platform and remits corporate income tax. This aligns with the source principle, which dictates the jurisdiction entitled to levy taxes on taxpayers' income. In addition, according to Arvid A. Skaar, businesses derive significant advantages from accessible infrastructure; hence, they must persist in contributing through tax payments (Arvid Aage Skaar, 2020). In the social commerce business, business activities, the period of activity, and the profits generated are strong reasons for granting taxation rights to the source country (Cavelti et al., 2017). In terms of security for users, the existence of social commerce, which has a representative office or permanent establishment in the country, will facilitate legal accountability if there is a misuse of social commerce user data in Indonesia.

Nonetheless, it is undeniable that the aforementioned regulatory alternatives may exacerbate political tensions in nations that serve as bases for social commerce enterprises offering OTT services. The government must proactively establish bilateral agreements with interested nations to consent to these measures. Nonetheless, legislation mandating the creation of permanent establishments for foreign social commerce enterprises demonstrates the government's resoluteness and coherence as a sovereign nation. This approach will enhance legal certainty and justice from an economic standpoint. Apart from that, this is in line with the formulation of Article 5 paragraph (1) of the OECD, which defines a permanent establishment as a fixed business location used by an enterprise to carry out its operations, either in full or in part. In this case, the government must ensure that existing regulations do not discriminate between conventional and digital-based business actors, as well as between e-commerce and social commerce service providers.

Given the intensifying and imperfect competition among commercial entities, the principles of fair business competition require heightened emphasis within Indonesia's economic structure. In this instance, tax-imposing measures alone are insufficient to ensure the sustainability of local MSMEs in competing with social commerce. Consequently, opposing and engaging with e-commerce or social commerce platforms is an unwise decision. Consequently, governmental regulations must guide local corporate entities to be adaptable and receptive to contemporary advancements, particularly in digital technology.

In addition, the oversight of electronic trading practices requires enhancement through the engagement of cross-sectoral government entities, including the Ministry of Trade, the Ministry of Cooperatives and MSMEs, and the Ministry of Communications and Information Technology, coordinated by the Business Competition Monitoring Agency. The Business Competition Monitoring Agency must adopt a more proactive and assertive position as an arbiter in the commercial sector. Particularly given that this institution is an autonomous entity legally protected from interference by any authority (Rinaldy Bima & Ramadani, 2020). The Commission, endowed with super body jurisdiction akin to judicial power, shall be able to impose diverse administrative punishments on monopolists or entities engaging in predatory pricing (Ramadani & Arifin, 2023). The Business Competition Supervisory Commission must not hesitate in making decisions or be passive by first waiting for decisions from the government and ministries.

Apart from that, to further support the existence of local MSMEs, social commerce law reformulation should ideally not only touch on tax impositions through the obligation to establish permanent establishments for OTT companies but also require the government to allocate a budget for the development and empowerment of local MSMEs (Ilyas & Ramadani, 2022). The government can set a policy of at least 30% of tax revenue from the e-commerce and social commerce sectors to be allocated to MSME empowerment programs, such as capital assistance and business development, including to support business digitalization programs such as the U-FinE (UMKM Financing Empowerment) program. Empowerment programs still need to be encouraged, especially in the microbusiness category, so that they continue to develop through the use of science and technology such as digital accounting (Hasbolah, 2021), digital promotion and marketing (Kawira et al., 2019), and adapt to the digital payment ecosystem (Mustafa, 2024).

A further issue regarding diminished tax revenues in the e-commerce and social commerce sectors is the government's suboptimal capacity to accurately disclose the number of transactions in alignment with actual reality. The government requires extensive data aggregated by the number of transactions and commodities sold in each district or city in Indonesia. This is a legitimate criterion for the government to establish and assess the taxes collected. The government must develop cross-institutional policies for the disclosure, collection, monitoring, and oversight of transactions for tax purposes. This initiative can be executed through collaboration among e-commerce and social commerce service providers, utilising resources from the Ministry of Finance, the Ministry of Trade, and the Ministry of Information and Communication, under the coordination of the Tax Oversight Committee.

IV. Conclusion

Social commerce can significantly contribute to Indonesia's economic growth. Nevertheless, it generates substantial issues in practice, including inadequate tax revenues, unequal competition among businesses, and apprehensions regarding the long-term well-being of micro, small, and medium-sized enterprises (MSMEs). Indonesia may be reduced to a mere market for global corporations if this trend persists, resulting in the loss of the most advantageous advantages of its sizable population and robust domestic market. Consequently, it is imperative that the government promptly establishes comprehensive legal policies. These include establishing a permanent office in Indonesia for foreign social commerce companies, enhancing competition law enforcement, and allocating a minimum of 30% of digital sector tax revenue to programs that assist MSMEs in becoming digitalised. The objective of these rule modifications is to establish a balance between preserving MSMEs, enhancing state revenue, and promoting Indonesia's participation in the global digital economy. Furthermore, future research should examine innovative policy frameworks that align state and business objectives and analyse strategic partnership models between social commerce platforms and MSMEs to foster inclusive economic growth.

References:

Abdelsalam, S., Salim, N., Alias, R. A., & Husain, O. (2020). Understanding Online Impulse Buying Behavior in Social Commerce: A Systematic Literature Review. *IEEE Access*, *8*, 89041–89058. https://doi.org/10.1109/ACCESS.2020.2993671

Agung, S., Zuhroh, D., & Apriyanto, G. (2022). Taxpayers' Compliance from the Tax Officers' Perspective: A Grounded Theory Approach. *Universal Journal of Accounting and Finance*, *10*(6), 953–966. https://doi.org/10.13189/ujaf.2022.100604

Akbar, T., & Tengku, A. (2010). Competition and profits in the airline industry: The case of AirAsia and Malaysia Airlines. *Central Asia Business Jpurnal*, *3*(1–2), 57–71. https://doi.org/10.1504/IJRM.2019.103049

Albab, F. N. U., & Suwardi, E. (2021). The Effect of Tax Knowledge on Voluntary Tax Compliance with Trust as a Mediating Variable: A Study on Micro, Small, and Medium Enterprises (MSMEs). *The Indonesian Journal of Accounting Research*, *24*(03), 381–406. https://doi.org/10.33312/ijar.528

Ardhiansyah, H., & Nurhidayati, N. (2019). Perbandingan Alternatif Aspek Pemajakan Bagi Penyedia Layanan Over the Top Asing. *Jurnal Pajak Dan Keuangan Negara (PKN)*, *1*(1), 10. https://doi.org/10.31092/jpkn.v1i1.596

Arvid Aage Skaar. (2020). *Permanent Establishment : Erosion of a Tax Treaty Principle* (Second Edi). Kluwer Law International.

Baker, D., Pollin, R., & Mcarthur, T. (2009). *The Potential Revenue from*. *212*.

Cavelti, L. U., Jaag, C., & Rohne, T. (2017). Why Corporate Taxation Should Mean Source Taxation: A Response to the OECD's Actions Against Base Erosion and Profit Shifting. *World Tax Journal (IBFD)*, *9*(3), 352.

Constantinides, E., & Fountain, S. J. (2008). Web 2.0: Conceptual foundations and marketing issues. *Journal of Direct, Data and Digital Marketing Practice*, *9*(3), 231–244. https://doi.org/10.1057/palgrave.dddmp.4350098

Dabija, D.-C., & Lung, L. L. (2019). Millennials Versus Gen Z: Online Shopping Behaviour in an Emerging Market. In S. Văduva & I. Fotea (Eds.), *Applied Ethics for Entrepreneurial Success: Recommendations for the Developing World* (First Edit, pp. 1–18). Springer. https://doi.org/http://dx.doi.org/10.1007/978-3-030-17215-2_1

Dale, S., & Vincent, V. (2017). The European Union's approach to VAT and e-commerce. *World Journal of VAT/GST Law*, *6*(1), 55–61. https://doi.org/10.1080/20488432.2017.1317945

Dewi, G. D. P., & Lusikooy, A. E. (2024). E-commerce Transformation in Indonesia. *Nation State: Journal of International Studies*, *6*(2), 117–138. https://doi.org/10.24076/nsjis.v6i2.1304

Effiyaldi, Yemima, Wahyudi, Selvanus, As-Syahri, H., & Susanto, H. (2023). Why Social Commerce Tiktok Shop Was Closed By The Indonesian Government. *HUT Business and Management*, *3*(1), 1–10.

Emch, A., & Emch, A. (2010). Predatory Pricing in China: In Line with International Practice? *Legal Issues of Economic Integration*, *37*(Issue 4), 305–316. https://doi.org/10.54648/leie2010023

Faishol, M., Nisak, L. N. S., Najib, M. T. A., Mukminin, M. A. A., & Sadid, M. A. (2022). Praktek Predatory Pricing dalam Perspektif Maqashid Syariah. *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam*, *4*(2), 113–118. https://doi.org/10.37680/almanhaj.v4i1.1580

Fitriani, N., Setiawan, D., Aryani, Y. A., & Arifin, T. (2023). Does social media affect performance in e-commerce business? The role of customer management. *Journal of Open Innovation: Technology, Market, and Complexity*, *9*(4), 100171. https://doi.org/10.1016/j.joitmc.2023.100171

Google, Temasek, & Bain & Company. (2023). e-Conomy SEA 2023 Reaching new heights: Navigating the path to profitable growth. *E-Conomy SEA*, 82.

Hariyanto, S., & Wahyudi, A. (2023). Digital Business Ethics the Role of Government Policy on Tiktok Shop Indonesia License Revocation. *Jurnal Masharif Al-Syariah: Jurnal Ekonomi Dan Perbankan Syariah*, *8*(4), 903–918.

Hasbolah, F. (2021). the Digital Accounting Entrepreneurship Competency for

Sustainable Performance of the Rural Micro, Small and Medium Enterprises (Msmes): an Empirical Review. *International Journal of Small and Medium Enterprises*, *4*(1), 12–25. https://doi.org/10.46281/ijsmes.v4i1.1471

Hoang, L., & Giang, H. (2020). *Challenges To " Permanent Establishment " Concept By Cross-Border Digital Services : Case Study Of Online Advertising*.

Huang, Z., & Benyoucef, M. (2013). From e-commerce to social commerce: A close look at design features. *Electronic Commerce Research and Applications*, *12*(4), 246–259. https://doi.org/10.1016/j.elerap.2012.12.003

Huda, N., & Febriani, D. A. (2022). Tepatkah Penerapan Pajak Digital? *Indef Policy Brief*, *2022*(1), 1–5.

Hughes, J. K. (2010). Supplying Web 2.0: An empirical investigation of the drivers of consumer transmutation of culture-oriented digital information goods. *Electronic Commerce Research and Applications*, *9*(5), 418–434. https://doi.org/10.1016/j.elerap.2010.02.006

Ilyas, M., & Ramadani, R. (2022). The Effectiveness of Legal Policies on Micro and Small Business Empowerment in Pandemic Time. *Sasi*, *28*(2), 244. https://doi.org/10.47268/sasi.v28i2.937

Isal, M. A., & Sidik, R. M. (2023). Jeratan Social Commerce: Matinya Masa Depan UMKM di Indonesia Studi Kasus TikTok Shop di Indonesia. *Commerce Law*, *3*(2). https://doi.org/10.29303/commercelaw.v3i2.3551

Jurušs, M., Ragucka-Ragovska, S., & Sandore, M. (2019). Corporate income taxation: Challenges of E-commerce platforms. *Lecture Notes in Networks and Systems*, *68*, 737–746. https://doi.org/10.1007/978-3-030-12450-2_71

Kawira, K. D., Mukulu, E., & Odhiambo, R. (2019). Effect of Digital Marketing on the Performance of MSMES in Kenya. *Journal of Marketing &Communication*, *2*(1), 1–23.

Kurlillah, A., Hisan, S., & Tamam, B. (2024). Predatory Pricing in Buying and Selling Imported Products in E-Commerce According to the Perspective of Business Competition Law and Muamalah Fiqh. *Syarah: Jurnal Hukum Islam & Ekonomi*, *13*(1), 110–134. https://doi.org/10.47766/syarah.v13i1.3154

Latif, L. A. (2021). The Evolving 'Thunder.' *International Journal of Digital Technology & Economy*, *4*(1), 34–50. https://doi.org/10.31785/ijdte.4.1.4

Li, F. (2020). Leading digital transformation: three emerging approaches for managing the transition. *International Journal of Operations and Production Management*, *40*(6), 809–817. https://doi.org/10.1108/IJOPM-04-2020-0202

Liao, S. H., Widowati, R., & Hsieh, Y. C. (2021). Investigating online social media users' behaviors for social commerce recommendations. *Technology in Society*, *66*(July), 101655. https://doi.org/10.1016/j.techsoc.2021.101655

Mas'ul, Z. (2023). Projecting the Future Ageing Population in Post-2045: The Today's Millenials Perspectives. *Jurnal Jamsostek*, *1*(1), 1–31. https://doi.org/10.61626/jamsostek.v1i1.4

Melati, K. R., & Nur Komala Dewi, S. . (2020). *Integrated E-Commerce Ecosystem in China*

and Indonesia's Giant Market. *423*(Imc 2019), 251–269. https://doi.org/10.2991/assehr.k.200325.021
Molla, A., & Heeks, R. (2007). Exploring e-commerce benefits for businesses in a developing country. *Information Society*, *23*(2), 95–108. https://doi.org/10.1080/01972240701224028
Mustafa, J. A. (2024). From Innovation To Stability: Evaluating the Ripple Influence of Digital Payment Systems and Capital Adequacy Ratio on a Bank'S Z-Score. *Banks and Bank Systems*, *19*(3), 67–79. https://doi.org/10.21511/bbs.19(3).2024.07
Muzakki, A. S., & Suraji, S. (2024). *Legal Protection of Consumers in E-commerce Through Social Media in Indonesia in the Industrial Era 4 . 0*. *1*(3), 297–302.
Naisabur, N., Putra, H. M., Ahyani, H., Novita, D., & Kurniati, P. (2024). The Prohibition of Social E-Commerce on TikTok Shop: A Fiqh Examination Based on Sharia Compliance and Economic Justice. *Al-Manahij: Jurnal Kajian Hukum Islam*, *18*(1), 59–78. https://doi.org/10.24090/mnh.v18i1.9674
Nayati Utami, H., Siti Astuti, E., Maulani Ramadhan, H., Trialih, R., & Alief Aprilian, Y. (2019). The interests of small- and medium-sized enterprises (SMEs) actor in using mobile commerce in effort to expand business network. *Journal of Science and Technology Policy Management*, *10*(3), 493–508. https://doi.org/10.1108/JSTPM-08-2018-0081
Nurcahyawan, T., Lewiandy, & Huang, M. V. (2020). *Predatory Pricing in the Online Transportation Platforms: Is It Really Predatory?* *439*(Ticash 2019), 545–552. https://doi.org/10.2991/assehr.k.200515.092
Nurhayati, H. (2024). *Internet usage in Indonesia - statistics & facts*.
Pramita, Y. D., & Yuliani, N. L. (2021). *Taxpayer Perception, Implementation of SME's Accounting, Self Assessment System and Income Level to Compliance with SME's Taxpayers*. *23*. https://doi.org/10.4108/eai.18-11-2020.2311710
Ramadani, R., & Arifin, M. Y. (2023). the Independent State Commission in Indonesia: a Comparative Review of Its Institutional Aspects. *Jurnal Al-Dustur*, *6*(2), 124–138. https://doi.org/10.30863/aldustur.v6i2.4942
Rinaldy Bima, M., & Ramadani, R. (2020). Position of Supervisory Board Organ and Its Implications for the Institutional Corruption Eradication Commission. *Law Reform*, *16*(2), 179–197.
Steinbaum, M. (2022). Establishing Market and Monopoly Power in Tech Platform Antitrust Cases. *Antitrust Bulletin*, *67*(1), 130–145. https://doi.org/10.1177/0003603X211066984
Suherman, J. (2020). The Awareness and Compliance Analysis Taxpayer Identification Number. *Ilomata International Journal of Tax and Accounting*, *1*(2), 41–58. https://doi.org/10.52728/ijtc.v1i2.44
Sultan, Samina; Kunath, Gero; Förster, Henrik; Matthes, J. (2024). *Indonesia : A new Indo-Pacific partner? A new Indo-Pacific partner?* (Issue 9).
Supriyadi, A. P. (2024). Deconstruction of Indonesian Social Commerce Law: The Economic Democracy Perspective in Digitalization Era. *Jurnal Penelitian Hukum*

De Jure, *24*(3), 229. https://doi.org/http://dx.doi.org/10.30641/dejure.2024.V24.229-246
Teguh, W. (2019). Attaining the Demographic Bonus. *PKN Jurnal Pajak Dan Keuangan Negara*, *1*(1), 134–139.
Timothy, J., & Abbas, Y. (2021). Tax morale, perception of justice, trust in public authorities, tax knowledge, and tax compliance: a study of Indonesian SMEs. *EJournal of Tax Research*, *19*(1), 168–184.
Wibowo, A. T., Prihartinah, T. L., & Suherman, A. M. (2022). The Future of Legal Regulation Related to Predatory Pricing Practice in E-commerce Implementation in Indonesia. *Webology*, *19*(1), 2605–2620. https://doi.org/10.14704/web/v19i1/web19173
Wigand, R. T., Benjamin, R. I., & Birkland, J. L. H. (2008). Web 2.0 and beyond: Implications for electronic commerce. *ACM International Conference Proceeding Series*, *August 2008*. https://doi.org/10.1145/1409540.1409550