

## **Analysis of Legal Protection for Consumers in Trading Through Electronic Systems Based on Minister of Trade Regulation Number 31 of 2023**

I Made Rai Buda Tantra Yoga Suarsawan<sup>1</sup>  
I Nyoman Prabu Buana Rumiarta<sup>2</sup>  
Ni Putu Adhya Pradnyaswari<sup>3</sup>

### **Abstract**

Trading Through Electronic Systems (PMSE) is a type of trading that is different from conventional trading because it uses an electronic systems. With the rapid advancement of technology, PMSE continues to grow with the emergence of various types of electronic trading. The purpose of this research is to analyze the types of trading through electronic systems and the legal protection provided to consumers engaging in PMSE based on Minister of Trade Regulation Number 31 of 2023. The method used in this research is normative legal research. Normative research involves a literature review with a statutory approach. The results of this study identify various types of PMSE according to Minister of Trade Regulation Number 31 of 2023, as well as several forms of legal protection for consumers participating in PMSE. However, the legal protection offered under this regulation still refers to the Consumer Protection Act. This aspect requires updating, considering the diverse types and forms of PMSE that have emerged.

**Keywords: Consumer Protection, Trading Trough Electronic Systems, Trading**

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<sup>1</sup> Student, Faculty of Law, Udayana University, Indonesia, e-mail: raiade57@gmail.com

<sup>2</sup> Lecturer, Faculty of Law, Udayana University, Indonesia, e-mail: rbp.prabu@gmail.com

<sup>3</sup> Student, Bachelor of Commerce, Deakin University, Australia, e-mail: pradnyaswariadhya@gmail.com

## **1. Introduction**

The rapid advancement of technology has driven changes across various sectors. One of the sectors impacted by technological developments is the trade sector. The utilization of technology has provided convenience for people in carrying out daily activities, one of which is trading. (Wulandari, 2018) Initially, trading only took place directly at specific locations, involving face-to-face interactions between sellers and buyers. However, with these developments, trading can now be conducted solely through electronic systems without any physical interaction between sellers and buyers.

According to Article 1, point 2 of the Minister of Trade Regulation Number 31 of 2023 (Permendag 31/2023), Trading Through Electronic Systems (PMSE) is a trading that is different from conventional trading because it uses an electronic system. Through electronic systems, individuals are facilitated in purchasing goods via a platform without spending significant time. The presence of electronic systems in trade offers many advantages, making complex processes simpler and faster. PMSE has become a new business opportunity in Indonesia. This opportunity is further enhanced by data from the Indonesian Internet Service Providers Association (APJII), which shows that the number of internet users in Indonesia reached 210 million people, or about 77.02%, in 2021-2022. (Santoso, 2022) This figure represents a substantial number that can significantly enhance product marketing through electronic systems.

PMSE can be conducted through various platforms as outlined in Permendag 31/2023. The PMSE process involves trading activities that occur between sellers and buyers using electronic media, without the physical presence of the parties involved in the transaction. The existence of PMSE encourages a shop or company to increase all business values it has. The use of electronic systems in trade provides advantages for both parties sellers and buyers. For buyers, PMSE offers several benefits, such as the ability to search for products with a wide range of options. Additionally, buyers can make selections without having to visit physical stores, saving significant time. They can also access the latest information about trending products in real time. For sellers, the advantages of PMSE include not needing to rent a physical store to sell their products, which simplifies the selling process. This allows sellers to reduce costs, enabling them

to offer products at lower prices. As a result, sellers can compete effectively and provide affordable prices to all buyers.

PMSE is generally used by people in urban areas. The density of each individual activities encourages everyone to do things in an instant way. One example the instant way is searching for items without wasting a lot time. This can be done because the impact of internet developments. The development of the internet in the business sector can be seen from the existence of various types of world wide web. That matter form a container as a means to carry out buying and selling transactions. PMSE is not only done through one website but also through various websites with various types. The existence of various forms of PMSE due to the differences in the forms each type of PMSE itself.

The existence of PMSE does not automatically benefit all parties involved. On the contrary, there are shortcomings in PMSE that specifically affect buyers. These short comings pose significant risks, such as violations of consumer rights. Such violations may include discrepancies in the type and quality of goods, delays in delivery, security issues during payment transactions, and other concerns that could even lead to fraud. Therefore, to address these issues, buyers or consumers must be provided with legal protection. With legal protection in place, legal certainty will be created, allowing PMSE transactions to be conducted safely.

According to A.Z. Nasution, consumer protection law is a part of consumer law that contains principles or norms that are regulatory in nature and aim to protect the interests of consumers (Fista, Machmud, & Suartini, 2023) Consumer law, on the other hand, is the law that regulates the relationships and issues between one party and another concerning consumer goods or services in everyday life. Regulations regarding electronic trade are aimed at enhancing human resource development and national economic growth. The main priority using the internet is trust and security. Everyone wants this to ensure certainly in the use of PMSE. The existence of risks such as fraud, data theft, and non-conforming products are obstacle to the use of PMSE. The relationship between trust and security also related to conculmer protection in the use of PMSE. Whit thus, it has implications for the sustainability of the use of PMSE itself.

The development of globalization encourages individuals to continuously adapt to the various technologies available. This advancement also impacts the economic sector. The existence of PMSE allows everyone, especially Indonesian citizens, to conduct buying and selling transactions through existing domains, free from territorial boundaries and specific

requirements of a particular area. In other words, both sellers and buyers can easily transact across countries. As markets in various countries open up through electronic media an effect of globalization there must still be guarantees regarding the quality, quantity, and security of the goods or services being traded. Economic development in the era of globalization should support the growth of businesses, enabling the creation of various goods and services that ultimately contribute to the welfare of society.

PMSE is a form of trade with its own characteristics, allowing sellers and buyers to transact without needing to meet face-to-face. PMSE occurs not only in Indonesia but also enables individuals to conduct transactions that cross national borders solely through electronic media. This, of course, presents its own challenges and issues. Therefore, consumers must have awareness, knowledge, and the ability to remain vigilant when engaging in PMSE. Additionally, the government needs to address the problems associated with PMSE by establishing policies that provide protection to consumers during these transactions. This way, the community will have legal assurances when conducting PMSE.

In PMSE, fraud is very prone to occur, so to anticipate this, a guarantee is needed for consumers in PMSE. Technological developments do not always have a positive impact. The fulfillment of consumer protection is to provide guarantees to consumers. The existence of consumer protection is to fulfill consumer rights in the buying and selling process. Consumer protection will provide security guarantees for consumers. This is also in line with the assumption that the law must provide justice and legal certainty for every individual. The importance of consumer protection is to prevent the negative impacts of PMSE.

The government, through the Ministry of Trade, has issued Regulation Number 31 of 2023 on September 26, 2023 which concerns several things, one of which is trading through electronic systems. This regulation was created to support business empowerment and provide consumer protection, in addition to the previously enacted Consumer Protection Law and the Electronic Information and Transactions Law (ITE). However, Permendag 31/2023 still needs to be analyzed regarding what constitutes PMSE and how the regulation guarantees protection for consumers in the event of undesirable occurrences during PMSE. To address this, this research aims to analyze the various forms of platforms that fall under PMSE. Additionally, this study focuses on how consumer protection is provided for those engaging in PMSE based on

Permendag 31/2023. The existence of legal certainty will create security and assurance for every citizen when engaging in such activities.

## **2. Problem Formulation & Methode Research**

Based on the background of the problem described earlier, the formulation of the problems in this study is to identify the types of PMSE according to Permendag 31/2023 and to examine the legal protection for consumers in PMSE based on Permendag 31/2023. The type of research employed in this study is normative legal research. Normative research involves a literature review that includes bibliographic materials related to the objects being studied. (Rosidi, Zainuddin, & Arifiana, 2024) This study utilizes a legislative approach. The use of normative methods in this research is aimed at analyzing the legal protection for consumers in trading through electronic systems.

## **3. Analysis and Discussion**

### **Types of Trading Through Electronic Systems**

The development of science, technology and the era of globalization are things that cannot be separated today. This development encourages various sectors to innovate to produce change. One of the sectors affected by this is the trade sector. These changes resulted in a medium for cross-border transactions in an easy and efficient manner. This progress brings convenience to both sellers and buyers in trade. Sellers can easily offer goods for sale without having to look for a place and incur high costs. Meanwhile, buyers can easily buy goods without having to spend time visiting a place just to look for one item. The results of these developments in the business sector have produced a system known as PMSE.

Universally, electronic trade refers to all commercial transactions that involve individuals or organizations through electronic processes. (Purnastuti, 2004) The existence of electronic trade, or PMSE, began with the advancement of technology. The rapid development of technology, particularly in the field of information technology, seems to be relentless. This advancement provides convenience for individuals to conduct their business activities (Rehatalanit, 2021) As a result of this technological advancement, businesses that utilize technology are closely interconnected. The use of technology has driven rapid business growth. (Lukito, 2017) As a result of this technological advancement, businesses that utilize technology are closely interconnected. The use of technology has driven rapid business growth.

The use of e-commerce is not limited to large companies, it also includes various businesses, including micro, small, and medium enterprises (MSMEs). The utilization of e-commerce benefits not only sellers but also facilitates consumers in purchasing goods. E-commerce represents a modern business model that operates non-face-to-face, without the direct or physical presence of business actors. (Anjani & Santoso, 2018) PMSE differs from conventional trade in several ways. In PMSE, the process begins with searching for information about the required goods, followed by placing an order, and concluding with the electronic payment process. (Purwanto & Faizah, 2020)

PMSE is generally used by people in urban areas. The density of each individual activities encourages everyone to do things in an instant way. One example the instant way is searching for items without wasting a lot time. This can be done because the impact of internet developments. The development of the internet in the business sector can be seen from the existence of various types of world wide web. That matter form a container as a means to carry out buying and selling transactions. PMSE is not only done through one website but also through various websites with various types. The existence of various forms of PMSE due to the differences in the forms f each type of PMSE itself.

PMSE is a trading that is different from conventional trading because it uses an electronic system. Through electronic systems, individuals are facilitated in purchasing goods via a platform without spending significant time. The presence of electronic systems in trade offers many advantages, making complex processes simpler and faster. PMSE covers the scope of electronic commerce. In a broad sense, all trading activities use electronic media or the internet. The wide scope of PMSE makes the scope of PMSE very broad. Therefore, to explain the limitations of PMSE, it can be seen from several things that are included in its scope. (Kuspriatni, n.d.) The first thing that is covered is technology. Technology is the main thing that makes PMSE possible. Without technology, PMSE will never happen. The second scope of PMSE is marketing and new ways of connecting with consumers. The third thing is the existence of electronic linkage. This encourages the existence of a relationship such as a relationship between two different groups such as buyers and consumers or consumers with other consumers. the next thing is the added value. This addition is the basis for the implementation of PMSE. Then the thing that is the scope of PMSE is the existence of market making because it forms a new market through electronic media.

Apart from the things mentioned previously, the last thing that is an important scope of PMSE is supporting infrastructure. The supporting infrastructure includes the mechanisms and containers used in PMSE. This is important because the infrastructure must run PMSE in real time to facilitate the transaction process. The existence of the infrastructure considering that PMSE requires media such as internet access. This is not only a portal for shopping but also a place for various groups to gather to build relationships or build communities and also become an information center. fulfillment of these things will bring benefits in the use of PMSE. For consumers, PMSE is something that helps everyday life especially to buy an item. In addition, the benefits of PMSE are full access all the time, there are many choices, direct price comparisons, and can find various products with innovative distribution processes.

Indonesia is a country based on law. Therefore, all aspects of life in Indonesia are grounded in the applicable laws. Regarding PMSE, it is regulated under Permendag 31/2023. Given that e-commerce has many forms, the types of e-commerce based on this regulation are: (Peraturan Menteri Perdagangan Nomor 31 Tahun 2023)

1. Retail Online

Retail online is a PMSE medium in the form of a commercial website or application that is created, managed, and/or owned by individuals or entities. This form of business describes a business process where consumer can get information about products easily.

2. Marketplace

Marketplace is an application or website that functions as a platform provider and can be accessed publicly. This platform functions as a place for traders to register and offer items or service.

3. Online Classified Ads

Online classified ads are platforms for conducting electronic systems in the form of websites or applications aimed at connecting sellers and buyers, with transactions occurring outside of the platform.

4. Price Comparison Platforms

This platform is an electronic system that appears as a website or application for commercial purposes, displaying price comparisons of goods or services sold on other websites or applications.

## 5. Daily Deals

Daily deals refer to platforms for conducting electronic systems, such as websites or applications, with the commercial aim of selling discount coupons and/or providing other facilities that consumers can use as payment methods for purchasing goods or services from other businesses.

## 6. Sosial-Commerce

This medium involves social media platforms that provide special features, such as menus that enable traders to list or offer goods and services.

The six items mentioned are the types or forms of PMSE outlined in Permendag 31/2023. The presence of PMSE provides exceptional facilities to consumers, as they do not need to travel far to obtain goods. (Putra, 2014) PMSE is a business activity conducted electronically through the exchange of data over the internet, allowing the involved parties to carry out transactions. (Situmorang, 2016) Based on this, the occurrence of PMSE begins from the initiation of the transaction to the payment process, all conducted through the internet or electronic media.

The existence of PMSE encourages a shop or company to increase all business values it has. So as consumers, must be able to properly understand PMSE through the types of that exist based on Permendag 31/2023. Even though there are types or differences in PMSE, they still alive the same principles. For example the existence of a website for products offerings, participation in online market, sales in business to business, the use and storage of contact data or social media, and electronic data exchange. Through PMSE, a business and consumers can reach a wider and easier reach.

Nowadays business matters are gratly influenced by the electronic media. This can be seen through the existence of PMSE. The success of a PMSE can be seen from several factors. (Pradana, 2015) The first factor is system quality of PMSE. These qualities include efficiency, ease of use, and responsiveness of system. Second is a quality of information. This include information about products, content, and consumers can easliy understand what is there. Third factor is quality of service. This factor include about support provided by PMSE service providers. The fourth factor is related to the use of the PMSE. This can be seen from the number of users or visits of PMSE. The fifth factor is related to user satisfacrion with the PMSE system. This can be measured through user ratings. The last thing related to PMSE success factors is



about benefits. These benefits include a balance between various things in PMSE and those related to customers, employees and related parties.

As previously known, there are various types of PMSE. If we look at these types, the PMSE that is often used by the Indonesian people is PMSE with the marketplace type. This is based on the fact that the marketplace meets various requirements for success as a PMSE media. This is a business with a model where there is a website or application that accommodates various sellers to trade. This container not only helps promote merchandise, but also provides facilities for making transactions. With this, the entire buying and selling process is carried out online. Through the marketplace, consumers can easily choose the right products and what they want very easily. Consumers can also choose many stores that are only accessible through one website. Of course, this is everyone's choice because it can be used by all groups very easily and quickly.

The use of electronic media in trade must pay attention to two basic things. The first thing to note is that PMSE is man-made, so it still has shortcomings in various aspects, especially in terms of systems or technicalities. Meanwhile, the second thing that needs to be considered is that because there are many new things in electronic commerce, there are no comprehensive regulations regarding this matter, so there are still several things that do not have legal certainty. These shortcomings can bring losses to various parties. Not only for business actors, but also have an impact on consumers who have trusted the system. The losses incurred do not only include material, but there are still many other factors both directly and indirectly. This will certainly bring discomfort to consumers in using various types of PMSE.

### **Legal Protection for Consumers in Trading Through Electronic Systems**

Indonesia is a state governed by law, as stated in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia. As a legal state, every regulation and legal policy is designed to govern all layers of society. (Nainggolan, 2021) According to Roscoe Pound, law is the most important institution for carrying out social control or social engineering. (Safriawan, 2024) He also stated that the existence of law as a tool for social engineering aims to achieve legal order by recognizing existing interests and setting boundaries around those interests. The presence of law also serves to provide security guarantees for everyone to engage in activities.

Based on this, law becomes a primary basis in life that involves many people. In the affairs of state administration, the government must compile every legal product in accordance

with Pancasila as the basis of the state and the 1945 Constitution of the Republic of Indonesia as the highest legal basis. Every applicable law must meet the legal principles to become a good and appropriate law. According to several experts, these legal principles include basic norms, not concrete regulations but a basis that becomes the rule, has moral values and ethical dimensions, and can be easily found in the applicable regulations.

The existence of law in PMSE serves to provide protection for all parties, particularly consumers. Consumers are individuals who use goods or services to meet their personal needs and do not produce or resell these goods (Nasution, 2006) Consumer protection encompasses all efforts to ensure legal certainty in providing safeguards for consumers engaged in PMSE activities. While consumers benefit from the convenience of PMSE, there are also potential negative impacts. For example, a common issue arises when a person purchases an item from an online store, only to find that the item received does not match the image displayed. (Aprillia, 2021) In fact, the losses incurred by consumers can be even more severe, including the risk of fraud.

The main priority using the internet is trust and security. Everyone wants this to ensure certainly in the use of PMSE. The existence of risks such as fraud, data theft, and non-conforming products are obstacle to the use of PMSE. Security in PMSE is a crucial thing that impacts consumer choices in the selecting a shop or goods on the internet. The relationship between trust and security also related to concumer protection in the use of PMSE. Whit thus, it has implications for the sustainability of the use of PMSE itself. In other cases, consumers must also be careful in using PMSE to avoid unwanted things.

In general, in business matters there is always a contract between the seller and the buyer. This also happens when transacting through an electronic system. However, the contract process in PMSE is different from the contract in conventional trade. The difference can clearly be seen in conventional trade where there is a face-to-face meeting between the seller and the buyer. While in PMSE there is no such thing. Referring to the ITE Law, it is explained that the buying and selling process begins when the goods being sold have been offered and the offer is accepted by the consumer and this process must be via electronic media. So based on this, the contract process in electronic commerce has occurred when the seller makes an offer and the offer is accepted by the buyer. If explained, the processes that occur in PMSE are offering, searching, selecting, purchasing and sending goods.

The development of trading methods through PMSE has prompted the government to establish regulations to manage these activities. The government, through the Ministry of Trade, enacted Permendag 31/2023 on September 26, 2023. (Kominfo, 2023) This regulation governs PMSE, including provisions related to consumer protection. The importance of consumer protection is to safeguard consumer rights during PMSE activities. Therefore, consumer protection is crucial in PMSE to prevent situations that could lead to fraud. The role of law in the buying and selling transaction process fundamentally aims to transfer rights or services while receiving payment. Upon further examination of Permendag 31/2023, it includes the Directorate General of Consumer Protection and Trade Order (Direktur Jenderal PKTN). This agency is responsible for protecting consumer rights and maintaining trade order. The authority of the Director General of PKTN includes monitoring and evaluating complaints from consumers during transactions.

The establishment of Permendag 31/2023 aims to prioritize protection against the negative impacts of PMSE. In terms of consumer protection, several key aspects are regulated in Permendag 31/2023, including:

The PMSE providers are required to offer or maintain consumer complaint services in accordance with applicable laws and regulations. This is intended as a channel for consumer reports in case of discrepancies during PMSE.

1. PMSE providers and Intermediary Service Providers (PSP) must ensure consumer protection based on the prevailing laws and regulations. This means that PMSE providers or PSPs must pay attention to the Consumer Protection Law to uphold consumer rights.
2. In terms of electronic promotion or advertising, PMSE providers are required to comply with consumer protection regulations.
3. If PMSE providers conduct trade both domestically and internationally, they must fulfill their obligations regarding consumer protection.

Upon reviewing these points, it is evident that Permendag 31/2023 still refers to several other laws concerning various matters. One of these is in consumer protection; Permendag 31/2023 still refers to Law No. 8 of 1999 concerning Consumer Protection (UU PK). According to Article 4 of UU PK, consumers have the following rights: (Landrawati & Rosmaya, 2022)

1. The right to comfort, security, and safety.

2. The right to determine and obtain appropriate items.
3. The right to to obtain original information regarding the condition and guarantee of the items
4. The right to have their complaints heard.
5. The right to receive protection in the resolution of consumer protection disputes.
6. The right to obtain consumer guidance and education.
7. The right to receive compensation for goods that do not meet expectations.
8. Other rights regulated by applicable laws and regulations

However, considering the development of PMSE with its various types, further regulations regarding consumer protection are necessary. Given the numerous forms of PMSE, it is essential to clarify the consumer protection measures to prevent overlaps between different types of PMSE. Additionally, this aligns with the Consumer Protection Law, which states that other regulations may govern consumer rights as long as they do not contradict the Consumer Protection Law.

The fulfillment of consumer protection is to provide guarantees to consumers. The existence of consumer protection is to fulfill consumer rights in the buying and selling process. Consumer protection will provide security guarantees for consumers. This is also in line with the assumption that the law must provide justice and legal certainty for every individual. The importance of consumer protection is to prevent the negative impacts of PMSE. In PMSE, fraud is very prone to occur because buyers and consumers do not meet directly or even know each other. Therefore, to overcome this, it is necessary to guarantee security and legal certainty through consumer protection.

#### **4. Conclusion**

Based on Article 1, paragraph 2 of the Permendag 31/2023, it is explained that PMSE refers to trade transactions conducted through a series of electronic devices and procedures. Thus, this research concludes that:

1. According to Article 1, paragraph 2 of Permendag 31/2023, Electronic System-Based Trade (PMSE) involves transactions conducted through a series of electronic devices and procedures. Permendag 31/2023 includes several types or forms of PMSE, such as online retail, marketplaces, and others.

2. Regarding consumer protection under Permendag 31/2023, the Ministry of Trade has established and granted authority to the Director General of Consumer Protection and Trade Order (PKTN) as the agency responsible for overseeing and evaluating consumer protection. Additionally, in terms of consumer protection, there are four key aspects that must be considered, while still adhering to Law No. 8 of 1999 on Consumer Protection

## 5. Recommendations

Based on the results of this research, it is recommended to further clarify how consumer protection is implemented, considering the various types of electronic trade. The numerous forms of PMSE inevitably lead to differences among each PMSE platform. Therefore, to prevent unwanted incidents that could result in fraud, it is advisable to establish more detailed regulations regarding appropriate consumer protection measures tailored to each type of PMSE. This is very important to prevent the negative impacts of PMSE and provide assurance and comfort for consumers in using PMSE.

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