

INTISARI

PENGATURAN PEMBLOKIRAN ELEKTRONIK KEPADA *MARKETPLACE ONLINE* OLEH PEMERINTAH DITINJAU DARI HUKUM PERSAINGAN USAHA (STUDI PERBANDINGAN INDONESIA DENGAN AMERIKA SERIKAT)

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Penulisan hukum ini dilatarbelakangi permasalahan hukum terkait dasar pengenaan dan rumusan sanksi pemblokiran elektronik yang diatur dalam Permendag 31/2023 kepada *marketplace online* dengan salah satunya, yakni TikTok Shop. Pengaturan tersebut dapat berdampak pada persaingan usaha di sektor *marketplace online*. Selain itu, tindakan pemblokiran elektronik juga menjadi praktik yang dilakukan oleh pelaku usaha dalam persaingan di sektor digital yang berdampak pada persaingan usaha tidak sehat.

Penulisan hukum ini bertujuan untuk menganalisis dan melakukan penilaian pengaturan dasar pengenaan dan rumusan sanksi pemblokiran elektronik dalam Permendag 31/2023 yang ditinjau dari hukum persaingan usaha. Penelitian hukum ini merupakan penelitian hukum yuridis normatif dengan jenis data sekunder. Pengumpulan data dilakukan dengan studi kepustakaan yang selanjutnya dilakukan analisis melalui metode kualitatif dan deskriptif melalui pendekatan perundang-undangan, kasus, konseptual, dan komparatif Indonesia dengan Amerika Serikat.

Hasil penelitian ini menemukan bahwa penilaian tindakan pemblokiran elektronik dalam kasus-kasus persaingan usaha dilakukan melalui penilaian pembuktian, keterkaitan, dan dampak tindakan pemblokiran elektronik dengan pelanggaran UU Antimonopoli. Sementara itu, penilaian pengaturan pemblokiran elektronik kepada *marketplace online* oleh Pemerintah dilakukan dengan penilaian dampak pengaturan terhadap kondisi dan intervensi terhadap pelaku usaha atau pasar bersangkutan. Berdasarkan analisis melalui Peraturan KPPU 4/2023 dan pedoman OECD, ketentuan perizinan model bisnis *marketplace online* yang bersifat tertutup dan mengandung *grandfather clauses*, ketentuan aspek persaingan, dan rumusan sanksi pemblokiran elektronik keseluruhan sistem dalam Permendag 31/2023 dapat berdampak persaingan usaha tidak sehat terhadap pelaku usaha *marketplace online*.

Kunci: hukum persaingan usaha; *marketplace online*; pemblokiran elektronik; sanksi; model bisnis.

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ABSTRACT

THE REGULATION OF ELECTRONIC BLOCKING IMPOSED ON ONLINE MARKETPLACES BY THE GOVERNMENT REVIEWED FROM THE PERSPECTIVE OF ANTITRUST LAW (A COMPARATIVE STUDY BETWEEN INDONESIA AND THE UNITED STATES)

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This legal writing is motivated by the legal issues surrounding the basis for the imposition and the formulation of electronic blocking sanctions stipulated in the Minister of Trade Regulation No. 31 of 2023 on online marketplaces, focusing specifically on TikTok Shop. This regulation impacts business competition in the online marketplace sector. Furthermore, electronic blocking actions are also a practice implemented by business actors in digital sector competition, which may result in unfair business competition.

This study aims to analyze and assess the regulatory framework concerning the basis for the imposition and the formulation of electronic blocking sanctions within the Minister of Trade Regulation No. 31 of 2023, reviewed from the perspective of antitrust law (business competition law). This research employs normative legal research using secondary data. Data collection was conducted through a literature review and subsequently analyzed using qualitative and descriptive methods with statutory, case, conceptual, and comparative approaches between Indonesia and the United States.

The findings of this study indicate that electronic blocking actions in business competition cases require an assessment of evidence, correlation, and the impact of the electronic blocking action on violations of the Anti-Monopoly Law. Meanwhile, the Government's assessment of electronic blocking regulations imposed on online marketplaces is conducted by evaluating the regulation's impact on market conditions and the intervention toward business actors or the relevant market. Based on the analysis using KPPU Regulation No. 4 of 2023 and OECD guidelines, the provisions regarding the licensing of closed online marketplace business models, the inclusion of grandfather clauses, the competition aspects provisions, and the overall formulation of electronic blocking sanctions in Minister of Trade Regulation No. 31 of 2023 may lead to unfair business competition for online marketplace business actors.

Keywords: *antimonopoly law; online marketplace; electronic blocking; sanctions; business models.*

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