

Maintaining Ethical Commerce: Fiqh Perspective on Prohibiting Social Transactions in Tiktok Shop

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Abstract

This study explores Indonesia's efforts to tackle unfair competition in cross-border e-commerce, particularly on platforms like TikTok, from a fiqh perspective. Using a normative juridical approach and descriptive analytical methods, it examines regulations prohibiting direct sales of foreign goods. Qualitative data from literature reviews supports the permissibility of these measures under fiqh, promoting market stability and protecting sellers' interests. Prohibiting social commerce on TikTok aligns with Sharia principles, fostering economic fairness and well-being. Additionally, a minimum price requirement of US\$100 per unit aims to ensure fair competition and safeguard local markets.

Keywords: Unfair Competition Prevention, Cross-Border E-commerce, TikTok, Social Commerce.

Introduction

The rapid evolution of information technology plays a crucial role in modern business, evident in innovations like TikTok Seller or TikTok Shop, which streamline transactions and offer convenience to users. Information systems, fueled by technological advancements, are vital for accurate data generation and dissemination, especially highlighted during the COVID-19 pandemic (Asriansyah, 2022; Wibowo, 2022; WHO, 2021; UNICEF, 2021). The COVID-19 pandemic led to widespread economic challenges, prompting numerous business closures. As early as 2019, the shift to remote work spurred a surge in online activities, including shopping. E-commerce platforms, including TikTok, became vital for both entertainment and commerce. TikTok's introduction of new features aimed to offer cost-effective products, attracting users for both creativity and trade, particularly among Indonesian millennials. However, the Indonesian government recently banned TikTok Shop,

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citing concerns about its integration of social media with e-commerce. Despite compliance with existing regulations, the ban raises legal and ethical questions, including freedom of speech and the distinction between social and e-commerce. Some contend that implementing bans may infringe on constitutional freedoms, while others view them as essential for upholding Islamic values and maintaining economic equity (Arifah et al. 2022; Shafi, Liu, and Ren 2020; Kaya 2022; Huang, Loo, and Axhausen 2023; Karina and Afrianti 2023; NU Online 2023).

The prohibition of social commerce on TikTok Shop app from an Islamic legal perspective highlights the importance of upholding fairness and justice. Islamic business ethics stress adherence to Sharia principles, focusing on fair transactions. This research employs a normative juridical approach, examining Indonesian laws and regulations governing online transactions, with an emphasis on Sharia compliance. Using a descriptive analytical method, the study aims to elucidate the legal and ethical dimensions of banning social commerce on TikTok Shop in Indonesia, drawing insights from existing literature and regulatory frameworks (Hanafi and Salam, n.d.; Ahyani 2023). The integration of information technology into modern business landscapes, exemplified by platforms like TikTok Seller or TikTok Shop, has revolutionized transactions and enhanced user convenience. Particularly notable during events like the COVID-19 pandemic, online platforms became essential, reshaping economic and social dynamics, including in Indonesia. With businesses facing closures, the pivot to remote work and online activities surged as early as 2019, amplifying the role of e-commerce platforms like TikTok. Its introduction of cost-effective transaction features attracted a significant user base, particularly Indonesian millennials, drawn to its creative and commercial blend.

The Indonesian government's recent ban on TikTok Shop has ignited debates over its legal and ethical ramifications. Justified on concerns regarding social media integration with e-commerce, it raises issues of freedom of speech and the boundary between social and commercial realms. While some argue it infringes on constitutional rights, others see it as necessary for upholding Islamic principles and ensuring economic justice. From a fiqh perspective, this ban underscores the importance of adhering to Islamic principles of fairness and justice in business. Islamic business ethics prioritize Sharia compliance, emphasizing fairness in all transactions. Research utilizing a normative juridical approach analyzes Indonesian laws on online transactions, emphasizing Sharia compliance. Through a descriptive analytical method, the research aims to illuminate the legal and ethical aspects of the ban, drawing from existing literature and regulations. By examining these issues comprehensively, it seeks to understand the complexities of technology, commerce, ethics, and legality in Indonesia's modern landscape.

Indonesian Government Policy in Regulating Social Commerce Transactions to Prevent Unfair Business Competition

The rise of online business owes to its affordability and convenience, empowering entrepreneurs to operate from home sans physical stores. However, compliance with pertinent regulations is vital for seamless and secure transactions. In Law no. 7, 2014 concerning Trade governs both online and offline commerce, delineating obligations and restrictions for business players utilizing electronic systems. Article 65 stipulates precise data provision, adherence to technical standards, price transparency, and dispute resolution mechanisms. Violations could result in administrative penalties, including license revocation. Consumer Protection Law acts as a crucial shield for consumer rights, obligating businesses to maintain promised standards, adhere to halal production, and provide transparent labeling, including expiry dates. Compliance is pivotal for consumer satisfaction and legal adherence. This adaptation accommodates electronic transactions effectively. In TikTok user transactions in Indonesia, adherence to Regulation of the Minister of Trade (Permendag) Number 31 of 2023 is mandatory, governing licensing, advertising, guidance, and supervision in electronic trading systems, and prohibiting certain TikTok Shop transactions. Compliance aligns with broader legal frameworks governing e-commerce. In summary, online businesses navigate a complex regulatory landscape, requiring careful adherence to ensure legal compliance and consumer protection, fostering trust and contributing to a thriving digital economy.

The rise of online businesses offers affordability and convenience, enabling entrepreneurs to work from home. However, ensuring smooth transactions requires strict adherence to rules and regulations. In Indonesia, the Trade Law governs both online and offline trade, mandating accurate data provision, price disclosure, and dispute resolution mechanisms. Compliance is essential for consumer satisfaction and legal adherence. Specifically, concerning transactions permitted by TikTok users in Indonesia, adherence to Regulation of the Minister of Trade (Permendag) No. 31, 2023 is mandatory. This regulation regulates licensing, advertising, guidance and supervision in electronic trading systems, and prohibits certain transactions by TikTok Shop. Compliance with them is crucial for online businesses to effectively navigate the complex regulatory landscape. So, one form of compliance with relevant regulations, this not only builds consumer trust, but also contributes to the growth of the digital economy through fair and safe transactions.

TikTok Shop Ban in Indonesia: An Overview of Sharia Compliance and Economic Justice

In Indonesia, despite not being an Islamic state, the incorporation of Islamic legal values into its legal framework is feasible. Civil law forms the foundation of

Indonesia's legal system, inherited from its colonial past, while customary law reflects the indigenous traditions and practices of various ethnic groups across the archipelago. Additionally, Islamic law, known as Sharia, coexists within Indonesia's legal landscape, predominantly applied in matters concerning family law and certain aspects of commerce in regions with a significant Muslim population. This diverse legal framework allows for the integration of Islamic principles into various aspects of Indonesian law, fostering a legal environment that accommodates the country's cultural, religious, and ethnic diversity. The closure of TikTok Shop is attributed to social commerce, where transactions are prohibited to safeguard business interests and adhere to Minister of Trade Regulation No. 50, 2020. The regulation, revised in September 2023, prohibit platforms that are supposed to be for trading from being used for transactions, it can only be used to promote goods and services (Ahyani, Slamet, and Tobroni 2021; Ahyani, Surasa, and Suryani 2021). Last year, Bytedance, owner of the Chinese social media giant TikTok, launched "TikTok Shop" in the UK, marking its expansion beyond Asia and aiming to offer QVC-style shopping to its extensive global user base. Brands and influencers on the platform host live selling sessions, allowing users to make purchases through clickable yellow baskets. TikTok has become a sought-after platform for brands, competing with rivals like Snapchat, Instagram, and YouTube. Brands leverage TikTok's marketing services, including promotional hashtags and takeover video ads, to effectively engage users (Mordecai 2023; Joiner et al. 2023; Taylor and Brisini 2024).

The closure of the TikTok Shop reflects the concept of social commerce which focuses more on promotions than transactions, in accordance with Minister of Trade Regulation Number 50 of 2020 which was updated in September 2023, which prohibits social commerce platforms from facilitating transactions, emphasizing promotion of goods and services only. TikTok Shop, introduced by Bytedance in the UK last year, expands globally, aiming to offer QVC-style shopping experiences. Brands and influencers conduct live selling sessions on the app, utilizing clickable yellow baskets for purchases. TikTok has become a preferred platform for brands, competing with US counterparts like Snapchat, Instagram, and YouTube, enhancing user experiences and fostering a vibrant community. Brands leverage TikTok's marketing features, including promotional hashtags and video ads, to broaden their reach and engagement.

TikTok comes from China, but why can't it be accessed in China. The application in China is called Douyin. TikTok and Douying are owned by a company called ByteDance which is based in Beijing. Douying launched before TikTok existed. Its strong algorithm is the foundation for TikTok and is the key to its global success (Shaofeng Wang et al. 2023). TikTok is "an application that is most popular in the world and allows users to create videos with a duration of 15 seconds accompanied by filters, music and several other interesting features (Kauffman, Weisberg, and Fishman 2022). This TikTok application is an application that entertains everyone and

is installed on devices that provide entertainment videos and not only that, TikTok is a place for businesses or people who have businesses to promote their products such as food (Shoukat et al. 2023), drinks (Shoukat et al. 2023), fashion (Y. Wang and (William) Feng 2022), cosmetics (Indrawati, Putri Yones, and Muthaiyah 2023), and also promote services (Pretorius, McCashin, and Coyle 2022). TikTok can be used as an effective promotional medium (M. Zhang and Cheng 2022).

This TikTok application has various types of music support so that users can do the dance or bebab style they want. This can encourage user creativity to create more innovative content (Rein 2023). TikTok is one of the platforms that is currently popular with people (Gao et al. 2023). As a social media, TikTok provides various content facilities that are very varied in terms of songs, dancing, creativity, singing and so on. Therefore, many people use this application so it can provide opportunities or opportunities as a means of promotion. The TikTok application has launched a new feature, namely the TikTok Shop application feature (Mulyana and Afrianti 2023). TikTok Shop is the newest innovative feature of the TikTok application (Gao et al. 2023). TikTok Shop is a feature that functions as a marketplace or online shopping place (Shanshan Wang and Guo 2023). On TikTok there is also an Engagement Rate feature which can be used by business people or influencers as an indicator in assessing audience participation in published content (W. Zhang, Yu, and Wang 2023), so this feature can be used as insight in selling on the TikTok Shop (Xu et al. 2023).

TikTok Shop is an e-commerce that functions as a business information system because transactions are carried out electronically, providing and storing information about buying and selling or business (Vecchi and Brennan 2022). Actually, TikTok Shop is the same as marketplace and E-Commerce, but TikTok Shop provides very affordable prices where the prices offered are much lower than existing marketplaces or E-Commerce and provide attractive promotions and even quite large discounts. thereby encouraging consumers to buy products promoted in the TikTok application (Nijman et al. 2023). Social media platforms like TikTok are very useful for business people to increase product sales, especially for those who only operate online without physical outlets, relying on social media as a place to sell (Dwivedi et al. 2022; W. Zhang, Yu, and Wang 2023).

Indonesia, despite not being officially Islamic, integrates Islamic legal values into its legal framework alongside civil and customary laws. Its legal system encompasses civil, customary, and Islamic law. The closure of TikTok Shop in Indonesia is linked to the concept of social commerce, where transactions are restricted to protect business interests and comply with Minister of Trade Regulation Number 50 of 2020. This regulation, revised in September 2023, prohibits social commerce platforms from facilitating transactions, limiting their role to promoting goods and services. ByteDance, TikTok's owner, introduced "TikTok Shop" in the UK to provide QVC-

style shopping experiences as part of its global expansion strategy. Brands and influencers conduct live selling sessions on the app, utilizing features such as clickable yellow baskets for purchases. TikTok has become a prominent platform for brands, competing with social media giants like Snapchat, Instagram, and YouTube. Brands leverage TikTok's unique features, including promotional hashtags and video ads, to engage users effectively and expand their reach.

TikTok, originating from ByteDance in China, allows users to create short videos and has become a platform for businesses to promote products and services. TikTok Shop, its e-commerce marketplace, offers competitive prices and promotions. Social media platforms like TikTok provide opportunities for sales growth through effective marketing. The prohibition of TikTok Shop in Indonesia aims to ensure economic justice and fair competition in e-commerce. Minister of Trade Regulation Number 31 of 2023 restricts social media platforms from conducting transactions within the app, aligning with efforts to uphold economic equity and Sharia compliance, fostering a healthy e-commerce environment.

Sharia Compliance and Economic Justice: TikTok Shop in Indonesia

Islamic law, rooted in the Quran and Sunnah, forms the basis of Sharia principles. Sharia compliance entails adherence to these principles, covering various aspects of life including finances, business, and religious practices. It involves following rules formulated by authorized institutions to emulate charitable legal products. Sharia compliance prohibits practices like Riba (Interest), which involves giving or receiving interest in financial transactions (Ribadu and Wan Ab. Rahman 2019; Diesel 2021; Zouaoui and Rezeg 2021; Hassan et al. 2023). In Islam, usury is viewed as exploitative and is strictly prohibited. Conversely, Islamic economic ideals aim to alleviate poverty, ensure equitable wealth distribution, and foster employment opportunities. Concepts like *maslahah mursalah*, which consider public interest, are integral to determining Islamic law in countries like Indonesia (Koyama 2010; J. A. Aziz 2017; Mulyo et al. 2023; Abidin et al. 2023).

Next is like Prohibition of *Gharar* (Uncertainty), *Gharar* is uncertainty or ambiguity in a transaction. Islam teaches that contracts or transactions should be carried out clearly and without excessive uncertainty (Novitarani and Setyowati 2018), (Zain 2018). In relation to Tiktok Shop, there is no problem playing TikTok as long as it doesn't violate the rules. This means that Islamic rules and state regulations must be maintained. Next is like Prohibition of *Maysir* (Gambling), *Maysir* is a form of gambling or speculation that is considered unethical and prohibited in Islam (F. A. Aziz 2020). Next is like Rights and Obligations in Contracts (Riaz, Burton, and Fearfull 2023), business transactions must be fair and mutually beneficial for both parties. Unfairness or exploitation in contracts is not permitted (Kalimullina and Orlov 2020). Next is like Prohibition of Use of *Haram* Items, transactions or business

involving haram (forbidden) items or activities in Islam are also considered not to meet sharia compliance standards (Kabir Hassan et al. 2021). Next is like Ethics in Business and Transactions (Alwi, Parmitasari, and Syariati 2021; Ahyani 2023).

Sharia compliance in Islamic economics entails adhering to religious teachings in economic and financial behavior, including practices like fair distribution of wealth through zakat and sadaqah. Economic justice, emphasizing fair distribution of resources and opportunities, ensures equal access to economic prosperity. Principles such as fair distribution of wealth and income aim to prevent excessive suffering or benefit among individuals or groups (Bhuiyea et al. 2022; Widiastuti et al. 2022; Wijaya and Moro 2022; Ahyania et al. 2022; François, et al. 2023; Aslan 2023; Marzuki, et al. 2023; Saada 2023).

Likewise, in terms of fairness in Equal Access to Economic Opportunities, economic justice seeks to ensure that all members of society have the same opportunity to access economic resources, education, training and the labor market. Furthermore, economic justice in the context of protection against exploitation and smuggling, economic justice also seeks to protect individuals or groups from exploitation, including unfair practices in the world of work or in business transactions. In other cases, the State's role in correcting injustice is also a necessity, meaning that the Indonesian government has an important role in ensuring economic justice through economic and social policies that correct inequality and provide protection for vulnerable groups. Furthermore, it is economically fair in terms of increasing social welfare and sustainable development, so economic justice is also related to efforts to improve overall social welfare and encourage sustainable economic development. It can be concluded that economic justice is an important principle in economic theory and is also a value that is upheld in many legal and social systems. In practice, achieving economic justice can be a complex goal involving economic policy, legislation, and joint efforts from various parties.

In the context of economic justice, the government's decision to restrict certain practices within the TikTok Shop application is framed as a measure to uphold public order. This prohibition aims to maintain fairness and equity within the economic landscape. By intervening in the operations of TikTok Shop, the government seeks to safeguard the interests of both sellers and buyers in Indonesia. Furthermore, from the standpoint of Islamic law, the government's authority to regulate activities within the TikTok Shop application aligns with the principle of *maslahah*, which emphasizes the promotion of public welfare and the prevention of harm. Specifically, this prohibition is motivated by the desire to mitigate the risks associated with transactions involving *gharar*, or uncertainty and ambiguity, which are considered detrimental to economic stability and individual well-being within an Islamic framework. In summary, the government's actions regarding the TikTok Shop application reflect a dual commitment to economic justice and the principles of Islamic law, aiming to foster a

fair and secure marketplace for all participants while upholding moral and ethical standards.

In this case, Syatibi explains that the legal rules established by Allah have no other purpose than for the benefit of humans alone (Syatibi, n.d.). The same thing was also expressed by Jasser Auda that in Islamic law public interests (mashlahah) and needs (daruriyat) are the basic rules and as a system analysis in determining a legal intention (Harisudin and Choriri 2021).

Islamic law, rooted in the Quran and Sunnah, forms the basis of Sharia principles, which encompass various aspects of life, including behavior, finance, business, and religious practices. Sharia compliance, also known as Islamic law compliance, entails adhering to these principles and laws regulated by Sharia, covering areas such as economic transactions, contracts, and ethical conduct. One fundamental aspect of Sharia compliance is the prohibition of Riba (Interest), as usury is considered exploitative and unethical in Islam. Principles like the Prohibition of Gharar (Uncertainty), Prohibition of Maysir (Gambling), and fair contract enforcement emphasize ethical conduct and transparency in business. Islamic economics aims to eradicate poverty, distribute wealth fairly, and create employment, aligning with economic justice principles. The Indonesian government's ban on TikTok Shop aligns with economic justice and Sharia compliance, aiming to maintain market stability, protect interests, and ensure fairness and transparency. From a Sharia perspective, it serves *maslahah* by avoiding uncertainty and promoting ethical conduct. Scholars like Imam Syathibi stress Sharia's role in human welfare, while Jasser Auda emphasizes considering public interests in law. In essence, the ban on certain TikTok Shop practices promotes ethical conduct, fairness, and social welfare in Indonesia.

Conclusion

The author concludes the overall discussion above, that in expanding the study of: the ban on social trading on TikTok Shop from a *fiqh* perspective, it is important to explore the principles of Sharia compliance and economic justice. This prohibition is rooted in *maslahah*, ensuring market stability and fair distribution of profits. This is in line with *maqasid sharia*, namely protecting religion, life, reason, lineage and property. By not engaging in social trading, users uphold high ethical standards and support fair economic practices, thereby improving the overall well-being of society.

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