

## Legality of Protection of MSME Business Actors In Online Buying and Selling Activities In The Digital Era

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### ABSTRACT

**Keywords:**

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The digital revolution has changed various aspects of life, including the trade sector. The development of information & communication technology (ICT) gave birth to renewable business models, such as e-transactions in buying and selling. However, online transaction activities in purchasing and vending also present various challenges, one of which is related to legal certainty for MSME business actors. This research aims to identify legal certainty problems MSME business actors face in online purchasing and vending. The method used in the study is a normative juridical approach that examines legislation. Data was collected through literature studies related to regulations when carrying out online buying and selling transactions, the rights of MSME business actors, and dispute resolution mechanisms. The data analysis method employed in this study is a qualitative analysis using deductive approaches. The research results show that legal clarity for MSME business actors involved in the online buying and selling process in the digitalization era is important in ensuring that trade transactions carried out via digital platforms occur with transparency, security, and by applicable legal provisions. The law governing online purchasing and vending is based on principles stipulated in Article 34(1) of the 1945 Constitution. It is embodied in Legislation No. 20 of 2008 regarding Micro, Small, and Medium Enterprises (MSMEs). This regulation is the basis for all legal regulations governing MSMEs to provide adequate protection for MSME actors.



### Introduction

The digital era has produced important transformations in several lifelines, including trade. Information and communication technology (ICT) development has given birth to a new business model, namely online trading activities. This activity is the same as traditional trading as usual; it is only supported by internet networks on electronic media. The form is a contract to sell or buy goods and services online (Ritonga & Yarham, 2023). With the existence of e-commerce platforms, business people can sell products or

services online via the Internet without being limited by geographical restrictions. This allows consumers to make transactions more effectively and efficiently. In addition, online buying and selling also facilitates interaction between business people and consumers through various features such as chat, reviews, and ratings that improve the overall shopping experience (Rahayu, Irvan, Anggraini, Wulandari, & Friyatmi, 2021).

Although buying and selling online has opened up great opportunities for MSME businesses to expand the market and increase income, there are many obstacles, including legal certainty. One of the main challenges is the lack of clarity in the legal framework governing online transactions, which can confuse MSME business actors regarding compliance and legal protection. This can be a serious obstacle for them, especially regarding consumer protection, data security, and dispute resolution issues. Therefore, further efforts are needed from both the government and other related parties to strengthen a clear and adequate legal framework for online buying and selling so that MSME business actors can operate more confidently and legally protected.

Previous research conducted by (Sukardi, Alie, Wengrum, & Dwi, 2023) confirmed that national economic growth is one of the important roles of MSME actors. Reviewing this crucial role, MSMEs are faced with demands to understand and master the ongoing modernization of the digital economy. However, adequate legal protection has become essential amid the complexity of modernizing this digital economy. In essence, the existence of the principle of legal certainty is the most important thing for MSME actors to be able to exercise all their rights under the law. With legal certainty, MSME businesses can be safer, and this can encourage economic progress through the MSME sector.

Another study conducted by (Maulidah et al., 2022) stated that electronic commerce is regulated in Indonesian law, namely in Law No. 11 of 2008 related to the ITE Law, then revised through Law No. 19 of 2016 related to changes to Law No. 11 of 2008, along with other relevant rules. Related to alternative solutions to problems in buying and selling online, several alternatives can be taken, both through the litigation process in court and through alternative dispute resolution channels outside the courtroom.

The novelty of this research is the analysis of problems using the theory of legal certainty by Gustav Redbruc, which has never been studied before regarding legal certainty faced by MSME business actors in buying and selling online. The findings of this study can make a valuable contribution to improving existing regulations or developing new rules that are more adaptive to the needs of MSME business actors in the era of digitalization. Better regulation can increase legal certainty and support the growth of MSMEs in the online market. This study aims to identify problems related to legal certainty for MSME entrepreneurs in buying and selling online.

## **Research Methods**

The research method used is a normative juridical approach through the study of legislation. The normative juridical method is a research approach to systematically and deeply analyze legal regulations related to the research topic. This method aims to understand and interpret applicable laws and explore the relationship between various

relevant legal norms (Bintarto, 2022). The statutory approach seeks to analyze and interpret multiple legal regulations related to the research topic systematically and in-depth. The research data was collected through a literature study related to online transaction regulations in buying and selling, the rights of MSME entrepreneurs, and dispute resolution mechanisms. Data analysis is carried out through a deductive qualitative analysis process. The collected data is then analyzed by deducing the legal norms in regulations related to online buying and selling and linking them with the rights of MSME business actors.

## **Results and Discussion**

Current developments cannot ignore or avoid the role of the existence of MSMEs because their presence is so important and contributes to the distribution of people's income. The MSME sector is the most important part of the country's economic growth. MSMEs are the largest organizations and have proven adaptable and survive difficult economic times. This shows that the role of MSMEs is very significant in improving people's welfare and their income, thus enabling people to meet their daily needs (Putri, 2020).

MSMEs are the main pillar in Indonesia's economic development because they contribute significantly to the economy and absorb many workers. According to a press release from the Coordinating Ministry for Economic Affairs of the Republic of Indonesia, the MSME sector contributes 61% to the Gross Domestic Product, equivalent to Rp9,580 trillion. It absorbs as much as 97% of the workforce. According to data from the Ministry of Cooperatives and SMEs, the number of MSMEs in Indonesia reaches 65,500,000 units, and 99% are in the country (Coordinating Ministry for Economic Affairs, 2023). Therefore, it is not surprising to state that MSMEs have a very significant contribution to the Indonesian economy

MSMEs are businesses owned by individuals not included in a particular company's branch category and have business capital that meets predetermined criteria (Lindo, Hermawan, & Suharsono, 2023). Meanwhile, digital developments have had a major impact on the economy, including the retail market, and affected MSMEs. So, the obstacles experienced by MSME players include the emergence of the digital era, which encourages online buying and selling activities. According to (Aysa, 2021), MSMEs can compete well if they have the skills and ability to adapt to the digital environment. This encourages business actors to innovate and align consumer habits that originally made conventional transactions into online transactions (Seran, Siki, & Mael, 2024).

Online community activities have become increasingly inevitable, especially because they follow government recommendations related to the pandemic in recent years, such as implementing social or physical distancing. This has led to a shift in consumer activity from offline to online. This shows that MSME entrepreneurs must pay serious attention to this change (Sunarsi, 2020). In the digital age, almost all aspects of life have become computerized, especially in buying and selling. Buying and selling online, in fact, has the same concept as conventional trading. The transaction occurs when

there is an agreement regarding the goods or services offered and the agreed price. The main difference between online and traditional buying and selling is how transactions occur. In conventional buying and selling, parties must meet in person. In contrast, in online buying and selling, transactions are carried out virtually over the internet without the physical presence of the seller and buyer. The price bargaining process can be done virtually, without the need to meet in the same place (Dirgantara, Sembiring, Fahlevy, & Amelia, 2023).

The ease of buying and selling online allows consumers to access the products needed without having to do additional activities, such as going to physical stores that may be far away. In addition, buying and selling online also saves consumers' time because there is no need to visit a physical sales place. The online purchase system greatly impacts consumer convenience in getting the desired product, providing convenience for business actors and consumers with new trading platforms (Kune, Maserre, Saliani, & Putri, 2024). The Internet is the main choice for buying and selling online because of its convenience (Dirgantara et al., 2023). Therefore, buying and selling online offers great potential for MSME players to market their products.

However, although MSMEs have significant potential, several factors can hinder their growth, including the difficulty in overcoming legal problems (Riananda, Evendia, & Firmansyah, 2022). Although the ease of selling MSME products or services is important, paying attention to legal certainty is important, especially for business actors, to ensure stable profits. Legal certainty is a concept that refers to clarity and firmness in the application of legal norms so that these norms can be used as guidelines by people who are subject to these regulations. This aims to prevent the occurrence of wrong interpretations of the law. Furthermore, legal certainty is also a guarantee that the law will be applied, that those who have rights by the law can obtain those rights, and that legal decisions can be implemented. Legal certainty also acts as protection for arbitrary activities that make individuals get something expected under certain conditions.

Another opinion, Radbruch, revealed that legal clarity results from laws and regulations. According to this view, legal norms that regulate human interaction in social life must always be respected, even though they have no value in justice. Radbruch believes that the law must contain three elements of identity: First, the principle of legal clarity based on juridical considerations. Second, the principle of legal justice from a philosophical perspective, where justice refers to equal rights for all individuals before the court. Third is the legal expediency or utility principle, where the law must fulfill useful purposes (Yen & Dung, 2023).

According to (Remaja, 2014), legal certainty has a very important position because it is a fundamental legal norm such as justice and equality must be upheld in every regulation made. This is important so that the law feels more fair and ensures the creation of a law-orderly society. In the context of MSME business actors in the digital era, legal clarity is vital. Legal certainty is key to ensuring that every trade transaction through digital platforms is transparent, secure, and based on positive legal regulations. The law on MSMEs refers to the basic principles contained in Article 34 (1) of the 1945

Constitution. The content is in the form of affirmation of the state's responsibility in developing social life and security that protects all levels of society and empowers individuals who are weak and unable to maintain their human dignity (Kusuma, 2023).

Then, this principle is implemented through Law No. 20 of 2008 related to MSMEs, often abbreviated as the MSME Law. The law stipulates the functions and various rights of MSME actors. These rights include empowerment and assistance in multiple aspects, such as financing, facilities, business data, consortiums, licenses, business opportunities, marketing, and institutional aid. Furthermore, this law regulates business growth, financing, guarantees, and partnerships. These rights are given based on Article 3 of the MSME Law, which encourages progress and advances small and medium enterprises (MSMEs) to build a just and democratic national economy by the mandate of the People's Consultative Assembly of the Republic of Indonesia.

According to (Setiawan, Santy, Fitriyani, & Huda, 2023), in consideration of the MSME Law, it is stated that the development of MSMEs is the key to building a fair and equitable national economy. By the mandate of the People's Consultative Assembly of the Republic of Indonesia, MSMEs must be fostered comprehensively to increase their role and potential in realizing economic growth, employment, and ending poverty.

Furthermore, Article 5 of the MSME Law outlines the objectives of MSME empowerment, which are as follows: to achieve a proportional and sustainable national economy, to promote the growth and development of MSMEs so that a strong business is realized, to develop the contribution of MSMEs to develop their regions, the provision of employment opportunities, community economic empowerment, increasing national income, and reducing the unemployment rate. The MSME Law provides a strong legal basis for MSME entrepreneurs to run their businesses.

Under the MSME Law, there are several other forms of legal protection for MSME actors, which are the development and refinement of the basic governing regulations, namely the Job Creation Law, which serves to maintain the country's economic stability, facilitate job creation through efforts to simplify regulations, guarantee legal certainty, increase access to capital for MSMEs, create a conducive investment climate, increase bureaucratic efficiency, and increase government investment, as well as improve coordination between agencies. In research conducted by (Setiawan et al., 2023), several changes in the MSME Law are enhanced in the Job Creation Law, such as:

1. Ease of licensing

Chapter V Article 87 of the Job Creation Law amends the provisions of Article 12 of the MSME Law, aiming to simplify the process and various legal legalities for businesses through one-stop services. This also includes granting waivers or waivers for fees related to licensing for MSME actors. With this change, MSME actors get convenience in the licensing process and simpler services, including clarity of time, cost, security, etc. This allows MSME actors to obtain better information from the application stage to the issuance of the required documents.

2. Financing and guarantee for MSMEs

The Job Creation Law stipulates obligations for the government, SOEs, and large companies, both national and foreign, to provide various forms of financing such as financial assistance, protection, subsidies, and venture capital. This loan source is from the annual profit portion intended to support MSMEs. In addition, the government is also required to provide incentives to MSMEs, including ease in the licensing process, tariff reductions for facilities and infrastructure, and other incentives.

### 3. Changes to partnerships and supply chains

The Job Creation Law removes Article 25 of the MSME Law on partnerships and adds supply networks in Article 26. It also adds new provisions that manage partner implementation through MSME supply networks. These activities include the management of the distribution of goods, the process of making goods and managing the availability and supply of raw materials.

### 4. Cooperation between large businesses and MSMEs

The Job Creation Law revises Article 35 of the MSME Law, which prohibits large companies that partner with MSMEs from taking over the assets or wealth of MSMEs and medium enterprises from taking over MSME assets in partnership relationships.

### 5. Convenience in the form of legality

The Job Creation Law confirms that the government guarantees the efficiency of the business license process to support MSME businesses. Article 91 of the Job Creation Law allows business legality management online or offline by only attaching KTP and SKU from RT. Business actors must obtain SKUs as proof of appropriate residence, and online registration will result in electronic NIB, which includes operational licenses, national quality standards, and halal guarantees for various types of businesses. In addition, MSME actors are required to comply with the requirements to have licenses and certifications. This indicates that the government provides guidelines to achieve quality assurance and halal by what MSMEs need.

Furthermore, as a step to expand the scope of empowerment and facilities desired by the Job Creation Law, the Government has issued two new regulations, namely PP No. 36/2021 concerning Wages and PP No. 7/2021 concerning the Convenience, Protection, and Empowerment of Cooperatives and MSMEs. These two rules provide exceptions to micro and small entrepreneurs regarding setting a minimum wage and providing a minimum wage to their workers. This exemption aims to help micro and small entrepreneurs survive and thrive, protect workers in the micro and small sectors, and improve the competitiveness of micro and small entrepreneurs.

In PP No. 36/2021, precisely article 36, MSME entrepreneurs are given a special exception to determine how much the minimum wage is offered. According to the provision, Wage determination is carried out through agreement between employers and workers; the minimum wage must be 50% above the average consumption of provincial people, and the minimum wage must be 25% above the average provincial poverty line. Exceptions to this rule can be granted if they meet the requirements stipulated in Articles 35 and 36 of PP No. 7/2021. These rules aim to ensure workers earn a living wage, protect workers from low wages, and improve workers' welfare.

Then, in PP No.7/2021, there are regulations to ensure that MSME actors have access to legal aid services provided by the government, in line with Articles 48 to 51. According to Article 51 of PP No. 7/2021, the Government, both central and regional, is responsible for:

1. Understand the legal barriers faced by MSMEs.
2. Disseminating information about legal assistance and assistance services to MSMEs.
3. Increase legal literacy for business actors.
4. Provide a budget for legal aid programs and activities for MSMEs.
5. Cooperate with related parties, such as universities and legal professional organizations, to support MSMEs.

Developing these regulations provides legal certainty for MSME actors and helps them run their businesses. This means that the challenges faced in the digital era will not prevent MSMEs from obtaining the legal certainty needed to transact online. This legal certainty allows business actors to ensure that all trade transactions they carry out through digital platforms are transparently, legally, and legally compliant. Cooperation between the government and MSME actors as regulated legal objects will also facilitate the resolution of various problems that arise during MSME operations. The positive impact of these efforts will be seen in the progress of MSMEs and a greater contribution to the country's economy.

## **Conclusion**

Legal clarity for MSME entrepreneurs involved in online trading activities in the era of digitalization plays an important role. This is because legal certainty is the key to ensuring that every trade transaction through digital platforms is carried out with transparency, security, and compliance with the law. The legal basis for buying and selling online refers to Article 34 (1) of the 1945 Constitution, later manifested in Law No. 20 of 2008 related to MSMEs. This regulation is the basis for all legal regulations governing MSMEs, aiming to provide adequate protection for MSME actors. So, with this regulation, it is hoped that MSME business actors can carry out their business activities more confidently and ensure that their rights and obligations are recognized and protected by applicable law.

## Bibliography

- Aysa, Imma Rokhmatul. (2021). Challenges of Digital Transformation for Indonesia's Economic Progress. *At-Tamwil Journal of Shariah Economic Studies*, 3(2), 140–153.
- Bintarto, Muhammad Al Ikhwan. (2022). Cryptocurrency as a Digital Property in Indonesian Law Perspective. *Jurnal Penegakan Hukum Dan Keadilan*, 3(2), 104–113.
- Dirgantara, M. Riyan, Sembiring, M. Ilham, Fahlevy, Reza, & Amelia, Rizqa. (2023). Market Price Distortions in Islamic Microeconomics. *Sufiya Journal of Islamic Studies*, 1(02). <https://doi.org/10.22219/jcse.v4i3.29432>
- Kune, Debiyanti, Maserre, Hasnawati A. Dg, Saliani, Widia Adisti, & Putri, Jesica Rvani Aulia. (2024). What is the Marketing Strategy for Red Corner Café. *Journal of Management*, 3(1), 27–31.
- Lindo, Arlindo Do Ceu Fatima, Hermawan, Agus, & Suharsono, Naswan. (2023). The Efforts To Improve The Welfare of The Community Through The Utilization of The Role of SMEs (Small and Medium Enterprises). *International Journal of Economics, Business and Innovation Research*, 2(06), 80–89.
- Rahayu, Sri, Irvan, Puji Ananda, Anggraini, Syafrida, Wulandari, Riri, & Friyatmi, Friyatmi. (2021). Kajian Tentang Pemasaran Online untuk Meningkatkan Penjualan di Anne Kamper's Pariaman. *Jurnal Pendidikan Tambusai*, 5(2), 2652–2660.
- Riananda, Martha, Evendia, Malicia, & Firmansyah, Ade Arif. (2022). Legal Framework for Development of Micro, Small and Medium Enterprises by Local Governments as an Effort for Economic Recovery. *Universitas Lampung International Conference on Social Sciences (ULICoSS 2021)*, 604–613. Atlantis Press.
- Ritonga, Yuyun Suhairo, & Yarham, M. (2023). Review Of Islamic Law On The Buying And Buying Of Food By Street Vendors. *Interdisciplinary Journal of Advanced Research and Innovation*, 1(1), 31–35.
- Seran, Marisa Susanty Bette, Siki, Marsela, & Mael, Medan Yonathan. (2024). Optimizing the Role of Micro, Small, and Medium Enterprises in Improving the Welfare of Napan Rural Communities in Indonesia. *Wedy: Journal of Multidisciplinary*, 1(1), 37–43.
- Setiawan, Hery, Santy, Yuyu Jahratu Noor, Fitriyani, Zenita Afifah, & Huda, Khasbulloh. (2023). Digital Technology Mediates Business Strategies And Job Creation Law To Msme Performance In The Culinary Sector. *Jurnal Ilmiah Manajemen, Ekonomi, & Akuntansi (MEA)*, 7(3), 1842–1859.
- Sukardi, Dina Haryati, Alie, Maria Septijantini, Wengrum, Tyas Desita, & Dwi, Puput.

(2023). Modernization of Agreement Legal Renewal in The Digital Convergence Dimension. *Proceedings of the International Conference on “Changing of Law: Business Law, Local Wisdom and Tourism Industry” (ICCLB 2023)*, 804, 415. Springer Nature.

Yen, Nguyen Thi Hong, & Dung, Nguyen Phuong. (2023). Marine pollution management in response to plastic waste under international law and national law—challenges and implications for developing countries: a case study of Vietnam. *Asia Pacific Journal of Environmental Law*, 26(2), 162–193.