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THE DOMINANT POSITION OF MARKETPLACES IN COOPERATION AGREEMENTS WITH MICRO AND SMALL ENTERPRISES REFERRED TO THE PRINCIPLE OF BALANCE

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ABSTRACT

As one of the pillars supporting the economy in Indonesia, Micro and Small Enterprises (MSEs) are an instrument of economic development and equitable distribution of community welfare. MSEs have a very important role in moving the wheels of the national economy. Currently, MSEs in running their business cannot be separated from information technology facilities, one of which is through the marketplace. However, in the implementation of transactions through the marketplace, there are problems in terms of making agreements between the marketplace and MSEs where there is a dominant position of one of the parties. The research method used in this research is normative juridical by focusing on library law research. The results show that in electronic transactions there is an imbalance in the position between the marketplace and the seller, including MSEs, which causes the position of MSEs to be vulnerable and the position is not balanced. In the cooperation agreement, there are terms and conditions that force MSEs to agree to all agreements determined unilaterally by the marketplace. Therefore, the role of the government is needed to assist and protect MSEs so that they are not disadvantaged by certain parties and can play an optimal role in the national economy.

Keywords: MSEs; marketplace; cooperation agreement; dominant position.

INTRODUCTION

Marketplace is a platform that is a means for sellers to be able to sell their products to buyers through electronic media without face-to-face meetings. Marketplace offers a wide selection of products that can be purchased practically and efficiently without having to spend more money to visit offline stores. Consumers are increasingly accustomed to buying goods online that are packaged in digital content which is more attractive and easy to choose. The use of the marketplace in its development, in addition to being a means to conduct buying and selling transactions, can also be a means to develop Micro and Small Enterprises (MSEs).

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The process of globalization has an impact on the digital economy to create a borderless world that includes the digital economy. In the recent past, Indonesia has focused on building a digital-based economy and wants to become a digital economy country that aims to increase the rate of economic growth.¹ The growth potential of the digital economy in Indonesia cannot be underestimated. According to research conducted by Ernst & Young, the value of online business sales growth has increased every year by 40% with a total industry business value of USD 12 Billion. Meanwhile, there are 83.4 million internet users in Indonesia and 71 million smartphone users in Indonesia and among these users are MSE's.²

MSEs have a big role in fulfilling the needs of buyers in the marketplace and a strategic role in general in national economic development. MSEs are one of the business actors that can survive in various situations including the national and global economic crisis. The number of MSEs in 2021 based on data from the Ministry of Cooperatives and SMEs (Kemenkopukm) reached 64.19 million with participation in gross domestic product (GDP) of 61.97 percent or IDR 8.6 trillion.³ The number of MSEs is the majority of business actors in the national economy, with a proportion reaching 99% of all business units. The MSE business sector also has a role in improving the Indonesian economy after the pandemic, which can absorb 97 percent of the workforce and integrate investment of 60.4 percent.

After the covid 19 pandemic era, MSE's has begun to get used to using the internet and has experienced significant progress with adaptation and innovation and moving all offline activities online using the marketplace.⁴ MSMEs in Indonesia today are certainly looking at the opportunities that emerging from digital marketing activities. They are starting to move towards more widespread sales with the help of internet access and digital devices to market their goods.⁵ With the New Normal, which is the situation after the pandemic, MSE's has challenges regarding the sustainability of its business

¹ Ramli, Tasya Safiranita, (2021). Inovasi Standardisasi Marketplace dalam Merespon E-Commerce Sebagai Upaya Menuju Caveat Venditor. *Jurnal Legislasi Indonesia*. Vol. 18 No. 2, p. 273

² Kominfo. (2015). Indonesia Akan Jadi Pemain Ekonomi Digital Terbesar di Asia Tenggara. https://www.kominfo.go.id/index.php/content/detail/6441/Indonesia+Akan+Jadi+Pemain+Ekonomi+Digital+Terbesar+di+Asia+Tenggara/0/berita_satker (accessed December 28, 2023).

³ Kompas. (2022). Pentingnya Peran dan Kontribusi UMKM dalam Pemulihan Ekonomi Indonesia. <https://money.kompas.com/read/2022/02/04/070800426/pentingnya-peran-dan-kontribusi-umkm-dalam-pemulihan-ekonomi-indonesia?page=all> (accessed February 3, 2023).

⁴ Fiona, Febzi, dan Rahmayanti, Dewi. (2022). Analisis Dampak Pandemi Covid-19 Bagi UMKM dan Implementasi Strategi Digital Marketing Pada UMKM Indonesia. *Managament Insight: Jurnal Ilmiah Manajemen* Vol. 17, No. 2, p. 299

⁵ Hilmiana, dan Kirana, Desty Hapsari. (2022). Digitalisasi Pemasaran dalam Upaya Untuk Meningkatkan Pendapatan UMKM SEGARHALAL. *Kumawula* Vol. 5, No. 1, p. 75.

since the pandemic era but can be overcome by the process of business digitization which eliminates regional boundaries and brings buyers directly to sellers.⁶

MSEs are regulated in Law Number 20 of 2008 on Micro, Small and Medium Enterprises (MSMEs Law). MSEs in the MSMEs Law are divided into several business scales, namely micro businesses, small businesses, and medium businesses. In its development, there are new regulations that revise the MSME Law, namely through Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (Job Creation Law) and its implementing regulations, namely Government Regulation Number 7 of 2021 on Ease, Protection, and Empowerment of Cooperatives and Micro, Small and Medium Enterprises (Government Regulation on MSEs Development).

The grouping of MSEs criteria or scale is based on several aspects as stipulated in Article 87 of the MSMEs Law as revised by the Job Creation Law, namely, among others, based on business capital, turnover, net worth indicators, annual sales results, or investment value, incentives and disincentives, application of environmentally friendly technology, local content, or the number of workers in accordance with the criteria for each business sector. The business capital criteria will be used for the establishment or registration of business activities as stipulated in Article 35 paragraph (2) of the Government Regulation on MSEs Development.

The division of MSEs based on business capital criteria as contained in the Job Creation Law, among others, consists of micro businesses having a business capital of up to a maximum of IDR1,000,000,000.00 (one billion rupiah) excluding land and buildings for business premises; small businesses having a business capital of more than IDR1,000,000,000.00 (one billion rupiah) to a maximum of IDR5,000,000,000.00 (five billion rupiah) excluding land and buildings of business premises; and medium-sized enterprises have a business capital of more than IDR5,000,000,000.00 (five billion rupiah) to a maximum of IDR10,000,000,000.00 (ten billion rupiah) excluding land and buildings of business premises.

The division of MSEs criteria based on annual sales results is micro businesses have annual sales results of up to a maximum of IDR2,000,000,000.00 (two billion rupiah); small businesses have annual sales results of more than IDR2,000,000,000.00 (two billion rupiah) to a maximum of IDR15,000,000,000.00 (fifteen billion rupiah); and medium-sized enterprises have annual sales of more than IDR15,000,000,000.00 (fifteen billion rupiah) to a maximum of IDR50,000,000,000.00 (fifty billion rupiah). Apart from being based on the criteria or scale of capital and annual sales results, the criteria for

⁶ Saribu, Sylvia Dolok. (2022). Tantangan dan Solusi Bisnis UMKM di Era New Normal. *Pascasarjana Universitas Tanjungpura*, p. 210.

MSEs for certain purposes can also use other criteria such as turnover, net worth, investment value, number of workers, incentives and disincentives, local content, and/or application of environmentally friendly technology in accordance with the criteria of each business sector.

The development of MSEs currently leads to switching and adapting by utilizing the presence of digital technology.⁷ Based on data from the Indonesian E-commerce Association (IDEA), in 2021 there were 20.5 million MSEs that began to enter the digital ecosystem in general. In 2024, according to the Ministry of Cooperatives and SMEs, it is targeted that 30 million MSEs will have gone digital with an annual addition target of 3-5 million digital MSEs. The transformation of MSEs from conventional to go digital is regulated in the Job Creation Law which encourages the strengthening of the MSE and e-commerce ecosystem through various facilities. The facilities for MSEs in the Job Creation Law include licensing, certification, financing, market access, training, digital infrastructure, implementation of electronic systems and transactions, and the business climate in the e-commerce sector. The Job Creation Law also regulates the strengthening of the e-commerce ecosystem, which can support MSE digitalization efforts, including accelerating the expansion of broadband infrastructure development, where the central and regional governments facilitate and facilitate building telecommunications infrastructure.

Currently, MSEs in Indonesia are critical to stimulating growth in employment opportunities and income growth.⁸ Nonetheless, MSEs as one of the business actors in the economic market experience several problems such as management, organization, technology, capital, operational and technical in the field, limited market access, licensing constraints, and non-technical costs in the field that are difficult to avoid. Based on data from the Ministry of Cooperatives and SMEs, MSEs that experience business difficulties reach 72.47% and the biggest problem faced is capital with a percentage of 51.09%.⁹ In addition to being a means to develop the business capacity of MSEs, the marketplace can also overcome the problems being faced by MSEs both in terms of capital and limited market access. But on the other hand, the utilization of the marketplace by MSEs in their business activities also creates problems. One of the problems that arise in the marketplace is related to the provisions made by the marketplace and directly harms its users, including MSEs.

⁷ Ayodya, Wulan. (2020). *UMKM 4.0*. Jakarta: PT Elex Media Komputindo. p. 1.

⁸ Murwadi, Tarsisius. (2020). Telaah Yuridis Penerapan Konsep Quadruplehelix Pada Pelaksanaan CSR Bagi UMKM. *Jurnal Legislasi Indonesia*, Vol. 17, No. 1, 2020. p. 41.

⁹ Kemenkopukm. (2020). *Rencana Strategis Kementerian Koperasi dan Usaha Kecil dan Menengah Tahun 2020-2024*, Kementerian Koperasi dan Usaha Kecil dan Menengah. p. 28.

One of the provisions that is detrimental to MSEs in the marketplace is the imposition of costs that can burden MSEs. The fees in the marketplace can be in the form of service fees, application development fees, commission fees, and so on. The current marketplace not only charges a commission for each transaction made, but also charges a platform fee or platform fee on its application, such as Gojek in mid-2021 imposing a platform fee which over time has increased in nominal value and is followed by Tokopedia which also charges an application service fee. Problems in the marketplace related to the imposition of fees for MSEs arise due to the dominant position of the marketplace which can unilaterally determine things that can be profitable for the marketplace even though it is detrimental to other parties including MSEs. Dominant position is a situation where a business actor has no significant competitors in the relevant market in terms of market share controlled, or a business actor has the highest position among its competitors in the relevant market in terms of financial capability, ability to access supply or sales, and ability to adjust the supply or demand for certain goods or services.

The marketplace has a dominant position over the parties that join its platform, including MSEs. Although basically the imposition of costs in the marketplace refers to the electronic agreement in the marketplace, due to the dominant position of the marketplace, MSEs have no choice but to agree to the stipulated conditions. MSEs that are disadvantaged inevitably have to agree to the provisions in the marketplace due to the dependence of MSEs on the marketplace.

The role of the government in this case is also limited to provide protection for MSEs because the cooperation agreement between MSEs and the marketplace is purely business. However, because MSEs are business actors that are specifically regulated in laws and regulations, they must still be protected. One of the efforts made by the government to overcome this problem is to create a local marketplace that is formed based on public funds.

In principle, both agreements made conventionally and electronically must refer to the applicable treaty principles. One of the principles used as the basis for making agreements is the principle of balance. The principle of balance is a decent or fair principle which is then accepted as the basis for juridical attachment in Indonesian treaty law.¹⁰ The principle of balance is also interpreted as an effort to achieve a balanced state, which therefore must bring about a mutually beneficial agreement.¹¹ The principle of balance must be applied in all forms of agreements including electronic agreements in

¹⁰Badruzaman, Mariam Darus. (2014). *Aneka Hukum Bisnis*. Bandung: Alumni. p. 22.

¹¹Boediono, Herlien. (2015). *Asas Keseimbangan Bagi Hukum Perjanjian Indonesia: Hukum Perjanjian Berlandaskan Asas-Asas Wigati Indonesia*, Jakarta: Citra Aditya. p. 316.

the marketplace. Moreover, the parties to the agreement in this case are MSEs that have a strategic role in the national economy and their existence is protected based on applicable laws and regulations.

One example of an agreement whose clauses are not balanced is what happened in Nagrog Village, Cicalengka District, Bandung Regency. The Village-Owned Enterprise (VOE), which fosters many MSEs in the village, conducts online marketing. However, in practice, online marketing through the marketplace incurs additional costs that burden MSEs. Through terms and conditions, MSEs have no choice but to agree to what has been determined unilaterally by the marketplace. Seeing this phenomenon, Article 7 of the UMKM Law states that the Government and Regional Governments must be able to foster a business climate by establishing laws and policies, one of which is related to mutually beneficial partnerships.

RESEARCH METHODS

The research method used in this article is descriptive analytical using a normative juridical approach. The normative juridical approach is carried out by examining and interpreting theoretical matters concerning principles, conceptions, doctrines and legal norms relating to MSEs and marketplaces. The normative juridical research focuses on library legal research by examining library materials or secondary data. The research specifications used in this research are descriptive analysis, namely research to obtain a complete picture of the state of the law that applies at a certain place and time, regarding juridical symptoms or legal events that occur in society.

DISCUSSION

The Regulation of Protection and Empowerment of Micro and Small Enterprises (MSEs) Against the Dominant Position of the Marketplace is Referred to the Principle of Balance

MSEs as one of the pillars supporting the economy in Indonesia, play a major role in economic development and equitable distribution of community welfare which includes all business activities carried out and run by the community individually or through business entities. MSEs are a form of people's economic activity that has a direct role in economic development in Indonesia. The existence of various regulations formed by the government is a support for the presence of MSEs in the midst of society.

MSE activities are economic activities that cannot be separated from people's lives in meeting the needs of the community and have high flexibility. The number of MSEs in Indonesia, which reaches 99% of the total number of existing business sectors, makes MSEs one of the right means and platforms to accommodate and employ unskilled labor.

According to data processed by the Ministry of Cooperatives and SMEs together with BPS, MSEs have absorbed 97% of the workforce in Indonesia or 138.22 million people.

The demographic bonus factor owned by Indonesia is a supporting factor for the role of MSEs in the national economy. Based on BPS data, the ratio of productive age groups is expected to continue to increase from 67.4% in 2010 with a population of 237.6 million to 69.7% in 2025. Based on the population census held in 2020, there was an increase in the number of people of productive age and in the same period the working age population of 15 to 64 years increased from 53.39% to 70.72%. Based on the National Socio-Economic Survey (SUSENAS) conducted in 2018, it explains that Indonesia is home to 63.82 million young people, which is a quarter of the total population or 24.15% (twenty-four point fifteen percent) of the 265 million Indonesian population.

When combined with 64.19 million (sixty-four point nineteen million) units of MSEs, it can make a very large contribution to the national Gross Domestic Product (GDP). With an increase in demographics, developments in economic sectors such as technology, entertainment, trade, consumption, and commerce will experience significant growth. The growth in these sectors is expected to reduce problems and reduce the unemployment rate and can absorb labor in several industrial sectors. Labor absorption by MSMEs in 2019 was 96.9% (sixty-six point nine percent). Contributing to reducing the number of unemployed and reducing poverty levels.

In practice, MSEs are based on business development based on regional potential and therefore each MSE has different business characteristics from other MSEs because the potential in each region is different and has its own characteristics and uniqueness. So that it can be an added value for the diversity of product variations produced and offered and can increase competitiveness. In addition, in its implementation, MSEs must be designed with structured planning and control so that their quality is maintained. In this case, as a government commitment to help MSEs, the Government has an obligation to empower MSEs.

Empowerment is an effort made by the government, local governments, the business world and society synergistically in the form of climate growth. And business development for MSEs and medium-sized enterprises so that they are able to grow and develop into strong and independent businesses. The objectives of MSE empowerment are to realize a balanced, developed and equitable national economic structure, grow and develop the ability of micro, small and medium enterprises to become strong and independent businesses, increase the role of micro, small and medium enterprises in regional development, job creation, income distribution, economic growth, and alleviation of people from poverty.

To support MSEs, the Government in this case has made several policies that facilitate MSEs such as ease of business licensing which is categorized into three levels of business risk in the form of a Business Identification Number for low-risk business activities, Business Identification Number and Standard Certificate for low and medium-high risk business activities and Business Identification Number and license for high-risk business activities and managed by an institution that manages integrated Business Licensing electronically. In addition, the Government also conducts coaching and registration for MSEs to facilitate licensing. In the case of coaching, it is carried out to MSE businesses that have obtained a business identification number. MSE assistance is carried out to increase knowledge of the application of Indonesian national standards and halal product guarantee certification for MSEs and is carried out through the facilitation of technical guidance, consultation or training.

In addition, the Government provides convenience, assistance and facilitation for the implementation of integrated management of Micro and Small Enterprises which includes establishment or legalization in the form of registration of business licenses for Micro and Small Enterprises in an electronically integrated Business Licensing system, facilitation of standardization and certification in the context of exports for Micro and Small Enterprises that have obtained a business identification number and facilitate ownership of domestic intellectual property rights and for export activities. Because many MSEs experience financing problems, the government provides ease of financing in the form of increasing access to financing for Micro and Small Enterprises, providing guarantee fees and interest subsidies, lending working capital loans, channeling revolving funds, capital assistance and other forms of financing.

In addition to convenience, the Government also provides protection to MSEs in the form of legal assistance and assistance services which include legal counseling, legal consultation, mediation, document preparation and out-of-court assistance. To obtain legal assistance and assistance services, MSEs must meet the requirements in the form of submitting a written application to the Central Government or Regional Government, having a Business Identification Number and submitting documents relating to the case.

The government provides financial assistance to MSEs requesting legal assistance and assistance services provided by other parties consisting of individuals licensed to practice as advocates, legal aid providing institutions or universities. Legal assistance and assistance services provided by other parties include legal consultation, mediation, preparation of legal documents, out-of-court assistance and assistance in court. This protection is a commitment by the government to MSEs because MSEs are a form of small-scale economic activity that grows in the midst of society. The existence of MSEs causes the channeling of the potential that exists in the community by maximizing

existing resources and is expected to reduce poverty. This protection does not only protect in the conventional market, but protects in the digital market so that MSEs can run according to the times.

In carrying out the empowerment of MSEs, the government must be guided by the principles of empowerment which consist of fostering independence, togetherness, entrepreneurship to work on their own initiative, realizing public policies that are transparent, accountable, and fair, developing regional potential-based and market-oriented businesses in accordance with the competence of MSEs, increasing competitiveness, organizing integrated planning, implementation and control. In addition, as a form of empowerment and appreciation of MSEs, the Central Government or Regional Governments can give appreciation or awards to business entities that provide a place for promotion and development of MSEs in accordance with the allocation of government funds. Incentives from the Government can be in the form of subsidies, regional levy fee waivers, convenience facilities or other awards in accordance with the provisions of laws and regulations.

In facing the digital era, MSEs must be able to develop their business by using the marketplace as an intermediary, so that MSEs must be able to adapt to the development of the current digital world. Marketplace is the development of electronic commerce, where the marketplace becomes an intermediary that connects sellers with buyers. The marketplace allows customers to find offers of a wide variety of products by different providers of goods or services. In this case, the marketplace as a service provider for meeting between sellers and buyers acts as a party that regulates the course of transactions and trade in it. Therefore, it is necessary to regulate in detail what happens in it, especially in relation to the protection of local goods in the marketplace. The marketplace has a relationship with the law of the agreement, namely regarding the characteristics and character of the marketplace which is subject to the rules of agreement law. Article 1 number 2 jo Article 9 of the Law Number 11 of 2008 on Electronic Information and Transactions (ITE Law) states that electronic transactions are legal actions carried out using computer technology, computer networks and other electronic media. These provisions explain the scope of the marketplace which is a legal action and is carried out with the use of computer media or in cyberspace based on advanced technology and has reformed conventional trade and the resulting interaction is an indirect interaction.¹²

The regulation of the marketplace is also seen from Article 9 of the ITE Law which says that every business actor offering products through an electronic system must

¹²Barkatullah, Abdul Halim. (2009). *Perlindungan Hukum Bagi Konseumen dalam Transaksi E-Commerce Lintas Negara di Indonesia*, Yogyakarta: FH UII Press. pp. 33-34.

provide complete and correct information relating to the terms of the contract, producers and products offered. The formulation of Article 9 explains that transactional activities carried out in the marketplace must prioritize the principle of the right to obtain information or the right to obtain truthful and detailed information about the things offered to consumers and business actors are obliged to convey this information to consumers. Then in Article 17 of the ITE Law regulates the scope of electronic transactions which can be carried out in the public and private spheres and the principle of good faith in conducting an electronic transaction. Meanwhile, the private scope relates to electronic transactions between business actors, between individuals related to private elements. Article 17 paragraph 2 states that the parties to an electronic transaction must act in good faith in exchanging electronic information during the transaction. It can be said that Article 17 paragraphs (1) and (2) are an important basis in conducting an electronic transaction carried out in the public and private spheres carried out with the principle of good faith.

The principle of good faith is used by the parties, which in this case is the relationship between the seller and the buyer. This principle is used by the parties in carrying out activities in the form of electronic transactions that do not aim to intentionally and without rights or against the law cause harm to other parties without the knowledge of other parties so as to protect the parties who carry out transactions using electronic platforms which include marketplace which include marketplaces which include consumer protection rights.¹³ Consumer protection according to the Consumer Protection Law is all efforts that guarantee legal certainty to provide protection to consumers.¹⁴ Consumers need to be protected because they have the right to obtain the information about the goods they sell to consumers completely and correctly. The existence of incomplete information conveyed to consumers is a form of information deficiency that can harm consumers.¹⁵

According to the provisions of Article 18 paragraph (1) that electronic transactions made and set out in electronic contracts are binding on the parties. This article explains the binding force of contracts or agreements made through electronic transactions or electronic contracts. Although there are differences in the form between conventional agreements and electronic agreements, electronic agreements are still agreements as conventional agreements that bind the parties, and give birth to rights and obligations

¹³Desiani, Amilia, et al. (2018). Implementasi Asas Itikad Baik dalam Perlindungan Konsumen atas Pembatalan Transaksi yang Dilakukan oleh Situs Belanja Elektronik. *Acta Diurnal*. Volume 2, Nomor 1. p. 58.

¹⁴Priowirjanto, Enni Soerjati. (2014). Pengaturan Transaksi Elektronik dan Pelaksanaannya di Indonesia Dikaitkan dengan Perlindungan Konsumen. *Padjajaran Journal Ilmu Hukum*. Vol. 1 No. 2. Agustus 2014.

¹⁵*Ibid.*, p. 60.

for each party. The article contains the legal principle of *pacta sunt servanda* when looking at the provisions of Article 1338 paragraph (1) which states that agreements made legally shall apply as laws for those who make them. Article 18 paragraph (1) still recognizes the principle of *pacta sunt servanda* even though the agreement made in the context of e-commerce is carried out through different ways and methods with conventional agreements, especially those related to trade activities.

The regulation of the marketplace is further regulated in Government Regulation Number 80 of 2019 concerning Trading Through Electronic Systems (Government Regulation on PMSE) in the explanation of Article 5 where what is included in the definition of PMSE is all parties that provide services and/or electronic system facilities to enable a transaction for PMSE business activities to be carried out. These business actors organize their services by providing an application system to be used as a means of electronic communication to facilitate trading business activities and/or PMSE settlement, which includes various business models of PMSE implementation systems, one of which is a marketplace or provider or platform as a place where traders can post offers of goods and services. In the provisions of article 11, it explains that marketplaces and business actors are obliged to assist government programs that prioritize trade in domestically produced goods and/or services, increase the competitiveness of domestically produced goods and/or services and are obliged to provide promotional space facilities for domestically produced goods and/or services.

Article 13 of the PMSE Regulation states that every business actor is obliged to provide true, clear, and honest information about the identity of the legal subject supported by valid data or documents, convey true, clear, and honest information about the conditions and guarantees of the goods and services being traded, including the electronic system used in accordance with the characteristics of its function and role in the transaction. Regarding licensing, according to the provisions of Article 15 of the PMSE Regulation, it explains that business actors are required to have a business license in conducting PMSE business activities, but the organizers of intermediary facilities are exempted if they are not parties who benefit directly from the transaction or are not directly involved in the contractual relationship of the parties conducting PMSE. In addition, marketplaces also have an obligation to prioritize using the Indonesian high-level domain name (.id) for electronic systems in the form of internet sites, use internet protocol addresses (IP Address) in accordance with statutory provisions, use server devices placed in data centers in accordance with statutory regulations, meet the provisions of technical requirements stipulated by relevant agencies and obtain reliability certificates in accordance with statutory provisions, submit data or information periodically to government institutions that carry out government affairs in

the field of statistics and comply with the provisions of other sectoral laws and regulations related to licensing PMSE business activities.

The Institute for Developments of Economics and Finance (INDEF) estimates that the total value of transactions in the marketplace in 2021 will increase to a range of IDR 330 trillion to IDR 350 trillion which is influenced by changes in middle-class and upper-class consumption patterns to transactions through the marketplace or online and because after the Covid-19 pandemic changed people's habits from conventional shopping activities to online or using the marketplace. In addition, Indonesia also has a demographic bonus that is seen as using the marketplace more often which makes marketplace market penetration even greater.

Based on this, the contribution of the digital economy to overall economic growth in Indonesia, although not so large, is only 9.5% of overall GDP. This will be even greater if the digital connection in terms of accelerating the development of comprehensive internet access to areas outside Java is addressed. According to data from Statista, the Annual Gross Merchandise Volume (GMV) or the amount of goods sold annually in marketplace markets in Indonesia from 2019 has increased from USD 25 million to USD 62 million and will continue to increase to an estimated USD 160 million in 2030.¹⁶

This unfavorable climate can also be caused by the absence of a balance between the marketplace and sellers, which include MSEs. The marketplace acts as a provider and as a regulator of everything in it is often not in an equal position or has a dominant position. Equal position or bargaining position can be realized by the existence of the principle of balance which is the principle that requires both parties to fulfill and carry out the agreed agreement. In this case, the dominant position owned by the marketplace makes sellers who are MSEs in a vulnerable position. This vulnerable position is caused by the absence of the principle of balance. The principle of balance is a principle that requires both parties to fulfill and carry out the agreed agreement.¹⁷ The principle of balance is a principle that requires both parties to fulfill and carry out an agreement where the creditor has the power to demand performance and if necessary can demand repayment of achievements through the debtor's assets, but the debtor also has the obligation to carry out the agreement in good faith.¹⁸

¹⁶Statista. (2023). *Volume Barang Dagangan Bruto (GMV) Tahunan Pasar E-commere 2019 hingga 2023 dengan Perkiraan untuk Tahun 2030*. https://www-statista-com.translate.goog/statistics/1117608/indonesia-gmv-e-commerce-market/?_x_tr_sl=en&_x_tr_tl=id&_x_tr_hl=id&_x_tr_pto=tc (accessed November 11, 2023)

¹⁷Mulyati, Etty. (2016). Asas Keseimbangan Pada Perjanjian Kredit Perbankan Dengan Nasabah Pelaku Usaha Kecil. *Jurnal Bina Mulia Hukum*. Vol. 1. No. 1. p. 39.

¹⁸Muhtarom, M. (2014). Asas Hukum Perjanjian: Suatu Landasan dalam Pembuatan Kontrak, *Jurnal SUHUF*, Vol. 26, No. 1, p. 54.

The principle of balance is the basis of juridical attachment in Indonesian treaty law, which means that every agreement made must be based on the principle of balance. If it is not based on the principle of balance or does not achieve balance in an agreement, the parties are declared not bound and can be canceled even though there has been an agreement between the parties.

Article 2 of the Anti-Monopoly Law states that business actors in conducting business in Indonesia are based on the principle of economic democracy with due regard to the balance between the interests of business actors and the public interest. The article explains the importance of the principle of balance between the interests of business actors and the public interest, namely the existence of a balanced point or bargaining point between the interests of business actors and the public interest so that a balanced and harmonious situation occurs with the objectives to be achieved by the parties. The principle of balance is a consequence of the equal position of the parties, namely the existence of rights and obligations in the agreement. This principle aims to obtain legal certainty for parties who are equal or balanced in entering into a cooperation agreement in order to fulfill the achievements desired by both parties. In this case, the stronger party can demand its performance while the weaker party is obliged to fulfill the performance in good faith.

In this case in the marketplace there is no balanced condition or position because in the marketplace there is no neutral third party role, especially in relation to the cooperation agreement between the marketplace and MSEs which is sometimes detrimental to MSEs. Because of this vulnerable position, MSEs must receive protection so that there are no agreements that are unilateral and detrimental to MSEs. According to the Explanation of the MSMEs Law, number I General, the third paragraph explains that MSEs are one of the main pillars of the national economy which must obtain the main opportunity, support, protection and the widest possible development as a form of firm partiality to the people's economic business groups, without neglecting the role of Large Businesses and State-Owned Enterprises. According to the provisions of Article 94 paragraph 1 letter a of the Government Regulation Number 7 of 2021 concerning Ease, Protection, and Empowerment of Cooperatives and Micro, Small, and Medium Enterprises on Cooperatives and MSMEs, the Government in this case must provide protection represented by the Minister of Cooperatives and MSMEs which is tasked with preparing, compiling, determining, and implementing general policies nationally regarding the ease, protection and empowerment of Micro, Small and Medium Enterprises.

To be able to accelerate from micro and small businesses to medium and large businesses, efforts are still needed to minimize violations and exploitation from large

businesses. Large businesses in this case must be supervised when doing business digitally because the tip of the transaction or the most transactions are carried out in micro and small businesses. However, there are also marketplace parties who take seriously the protection of MSMEs, one of which is the Bukalapak marketplace which explicitly supports the existence of MSEs on its platform.

Based on data from the Ministry of Cooperatives and SMEs, as many as 3.79 million MSEs have joined and utilized the marketplace platform. This amounted to 8% (eight percent) of the total MSEs in Indonesia of 59.2 million (fifty nine point two million). The government in this case supports MSEs and protects the existence of MSEs on the marketplace platform and has a target to make 8 million MSEs enter the marketplace from 2019.¹⁹ Several marketplaces such as Lazada, Shopee, MatahariMall.com, Blibli.com, Bukalapak, Tokopedia, and Blanja.com have collaborated with the government to create a conducive climate in the marketplace. To follow up on this collaboration, each marketplace has its own program, for example Bukalapak, which has a ground coffee program in their respective regions to empower the MSE community. Similar to Bukalapak, Tokopedia also applies 100% domestic marketplace that does not allow crossborder or direct imports so that the products sold are all goods originating from within the country.

Therefore, as a marketplace, Bukalapak firmly emphasizes that its platform wants a healthy internet-based business industry and does not want other business actors who have power, more and bigger data, much stronger capital, and unsustainable business models to use their power to suppress and exploit their partners in cooperation agreements. Therefore, Bukalapak wants to empower MSEs and considers the success of MSEs as the success of the marketplace as well. Seeing this condition, the marketplace can be encouraged to jointly provide protection for MSEs as done by Bukalapak. By using the principle of balance, the government can create balance through direct or indirect intervention. The government, in this case, acts as a third party that can create a balance by forcing the marketplace to change its policies to support the existence of MSEs and provide general rules regarding the protection of umk as one of the pillars of the country's economic drive. besides that, the government and the marketplace must work together so that they both support umk to be able to develop for the better.

¹⁹Yuliani, Ayu. *Kemenkop UKM: 3,79 Juta UMKM sudah Go Online*. https://www.kominfo.go.id/content/detail/11526/kemenkop-ukm-379-juta-umkm-sudah-go-online/0/sorotan_media (accessed November 11, 2023).

The Role and Cooperation of the Central Government and Local Governments in Protecting Micro and Small Enterprises (MSEs) in Cooperation Agreements with Marketplaces

MSEs are an important and strategic sector for economic development and at the same time as a pillar of national economic development that has experienced growth from year to year and can even survive the 1998 monetary crisis and the Covid 19 pandemic that has occurred in Indonesia.²⁰ MSEs themselves come from a populist economy where people are aware of the fulfillment of their life needs to create a business on a micro and small scale.

In the Indonesian economy, the role of MSEs can be seen from their position as major players in economic activities in various sectors, large providers of employment, important players in the development of local economic activities and community empowerment, creators of new markets and sources of innovation and their contribution in maintaining the balance of payments through export activities.²¹ The role of MSEs can be seen in aspects of the national economy through Gross Domestic Product (GDP). GDP is the value of goods and services produced by the country in a certain period of one year. GDP has the aim of summarizing economic activity over a certain period of time. Contribution of MSEs in the economic sector.²²

Based on data from the Ministry of Cooperatives and MSMEs in 2013, MSEs contributed Rp.5440 trillion rupiah where micro businesses with a total percentage of 42.4% with a total of IDR 2,306.56 trillion, small businesses with a total percentage of 30.3% with a total of IDR 1,648.32 trillion, medium-sized businesses with a total percentage of 12.8% amounting to IDR 696.32 trillion. Thus, the largest contributor to GDP is Micro Enterprises which is an accumulation of all economic sectors.²³

In addition to contributing to GDP, MSEs also contribute to employment based on data collected by the Central Bank of Indonesia (BI) and the Indonesian Banking Development Institute (LPPI). In 2014, MSEs absorbed a workforce of 114.14 million people with the following details, micro businesses were able to absorb labor with a percentage of 87% amounting to 99.3 million people, small businesses absorbed labor with a percentage of 4% or as many as 4.5 million people. In this case, micro-enterprises are businesses that contribute greatly to labor absorption due to their proximity and attachment to people who have limited capital to carry out business activities.

²⁰ Herwiyanti, Eliada, et.al. (2020). *Riset UMKM: Pendekatan Multiperspektif*. Yogyakarta: Deepublish. p. 1.

²¹ *Ibid.*

²² Indonesia, Bank. (2015). *Profil Bisnis Usaha Mikro, Kecil, dan Menengah*. Jakarta: BI dan LPPI. p. 12.

²³ *Ibid.*

In 2018, there was a GDP formation that reached 61.1 with GDP growth slowing down compared to previous years by 9.6%, in addition, an increase in MSE business units by 99.99% with employment absorption of 97% of the total workforce. In the same year, in terms of exports, MSEs had an export share of 14.4% of total exports. From these statistics, MSEs have an important role in the national economy and have the potential to increase if developed sustainably. Although MSEs have an important role in national economic growth and have quite strategic goals to support the national economy and can overcome problems in the economic sector such as reducing poverty and unemployment, there are problems faced by MSEs. Because of their role and contribution, the Central Government and Regional Governments in this case must protect and empower MSEs in accordance with the provisions of Article 2 of the Cooperative and MSME Government Regulation of 2021.

Based on data collected at the World Economic Forum in 2021 by Evermos, the problems in MSEs can be categorized into two, namely the internal and external sides of MSEs. From the internal side of MSEs, there is limited access to finance or capital, which is one of the main reasons why MSEs are difficult to develop. Capital is important in business activities that are used to run and develop their businesses. The lack of capital is often experienced by MSEs because they rely on capital owned by individuals who have very limited businesses and business owners have difficulty obtaining loans from financial institutions due to administrative problems and methods that cannot be fulfilled by business owners and the lack of investor interest in MSEs is also a fundamental problem.

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In addition, there are also limited Human Resources (HR) factors because MSE businesses are still classified as traditional in nature and sometimes still rely on hereditary businesses. The limitations in human resources can be seen from the level of formal education, knowledge, and skills that can directly affect business performance and management. In addition, MSEs have problems or obstacles where MSEs have difficulty in using and adapting to technology that is useful for increasing competitiveness and innovation in their products.

The next internal problem is the lack of a business network as explained earlier where MSEs are hereditary family businesses that have a limited business network and a very low ability to understand market conditions. This can have an impact on the quality of the goods produced and the lack of understanding of the market will indirectly affect the business network to be able to market goods or services that can reach a larger market or global market.

In addition, there are also problems regarding the lack of managerial skills, which is an important aspect of running a business. MSEs have good technical skills and practices in production and services, but lack the managerial skills needed to manage the business well. This can affect decision-making in running their business and managing existing resources.

In addition to internal inhibiting factors, there are also external inhibiting factors experienced by MSEs such as limited facilities and infrastructure related to information, product quality knowledge and technology that cause MSE businesses not to develop. This can affect all aspects to support all business activities and have an impact on the target market to be achieved.

²⁴Bizhare. (2022). *Inilah 10 Penyebab UMKM Sulit Berkembang, Yuk Mulai Berbenah!*. <https://www.bizhare.id/media/bisnis/penyebab-umkm-sulit-berkembang#:~:text=Menurut%20data%20yang%20dihimpun%20oleh,dalam%20industri%20dan%20persaingan%20pasar> (accessed November 16, 2023).

²⁵Sofyan, Syaakir. (2017). Peran UMKM (Usaha Mikro,Kecil dan Menengah) dalam Perekonomian Indonesia. *Bilancia*. Vol. 11. No. 1. p. 58-59.

Next is a problem related to the business climate where goods or services produced by MSEs when included in the marketplace will compete with imported goods. In this competition, it is not uncommon for there to still be unhealthy competition between MSEs and large business actors in the same marketplace, which of course makes it possible to monopolize so that MSEs do not have the opportunity to be more free and reach a wider range of markets.

Next is the problem of regional autonomy where the existence of regional autonomy will give regional heads the authority to regulate and manage their people within the regional scope. Changes in the system carried out by regional heads that make an area experience unstable economic conditions can have an impact on MSME businesses and become an obstacle for MSEs to carry out business movements.

The existence of free trade can also be a barrier to the progress of MSEs as an effect of the globalization process where many imported products are found in the country either in the marketplace or offline. These conditions force MSEs to produce products in good condition to match the wishes of the global market with international quality standards. However, the fact is that MSEs cannot compete with products imported from abroad because they are not armed with knowledge about the minimum quality standards used to produce products with international standards to be able to compete through the global market based on good standardization in order to improve the quality of the products produced.

But besides all these external problems, there are also problems regarding the dominant position of the marketplace in relation to cooperation agreements with MSEs. According to the provisions of Article 12 of the PMSE Regulation in PMSE activities, business actors are obliged to assist government programs such as prioritizing trade in domestically produced goods or services, increasing the competitiveness of domestically produced goods and services and providing promotional space facilities for domestically produced goods and services. In this case the marketplace as a space provider for buying and selling goods and services if it does not have a balanced position in relation to the agreement with the marketplace, it cannot protect and will certainly harm the marketplace As happened in Nagrog village, Cicalengka sub-district, Bandung Regency where VOE in Nagrog village did online marketing through the marketplace but with the terms and conditions contained in the marketplace so inevitably agree to all agreements determined unilaterally by the marketplace. In this case MSEs contained in the VOE of Nagrog village are experiencing difficulties with the phenomena that occur in the marketplace and based on the provisions of Article 7 of the MSME Law where the State and Regional Governments must be able to foster and create a business climate by

establishing laws and policies related to mutually beneficial partnerships between MSEs and the Marketplace.

From the problems that exist both internally and externally from MSEs, a government role is needed to help MSEs to get out of their problems. The Central Government in this case sees the need to empower MSEs which is one of the government's commitments. In this case, MSEs are one of the drivers of economic growth, especially since the Covid-19 pandemic and MSEs have an important role in GDP with their contribution reaching 61% (sixty-one percent) and are able to absorb labor as much as 97% (ninety-seven percent) of the total national employment.²⁶

Because of this, synergy between the Central Government and MSEs is needed in order to empower and develop MSEs. The role of the Central Government is very visible in determining policies that favor the existence of MSEs which are expected to increase income, increase employment and contribute to regional and national economic growth and make MSEs in Indonesia more empowered.

Central Government policies that have been carried out in the context of empowering and developing MSEs such as building infrastructure that will help MSEs to increase operational efficiency and market reach. In addition to physical development, development also includes digital connectivity which includes the Palapa Ring Satellite and Base Transceiver Station which will make it easier for MSE businesses in remote areas to be digitally connected.

In this case, improving connectivity or broadband access is something that must be prioritized by the government to develop MSEs. Improved connectivity or broadband and service quality will encourage the adoption and adaptation of digital technology by MSEs that will improve the work of the technology that is already available. The provision of broadband infrastructure must be done in a balanced and innovative manner. Balanced means infrastructure development evenly and innovative such as wireless access points (Wi-Fi) in remote areas.²⁷

The existence of adequate broadband access will lead to the digitalization process of MSEs which brings many benefits to MSEs. These benefits can be viewed from operational efficiency, increased productivity, expanding market reach and increasing competitiveness. Until January 2022, as many as 17.2 million (seventeen point two

²⁶Kementerian Koordinator Bidang Perekonomian Republik Indonesia. (2022). *Dukungan Program Pemerintah dalam Pemberdayaan UMKM untuk Memperkuat Stabilitas Ekonomi Daerah*. <https://www.ekon.go.id/publikasi/detail/3624/dukungan-program-pemerintah-dalam-pemberdayaan-umkm-untuk-memperkuat-stabilitas-ekonomi-daerah> (accessed November 16, 2023).

²⁷Deloitte. (2020). <https://www2.deloitte.com/content/dam/Deloitte/id/Documents/finance/id-fas-sme-powering-indonesia-success-report-bahasa-noexp.pdf> (accessed November 16, 2023).

million) MSEs have been digitized and the central government has a target to penetrate 40 million (forty million) MSEs will be digitized in 2024.

In addition, there is a financing program where 18 million (eighteen million) MSEs do not have access to formal financing and around 46 million (forty-six million) MSEs still need additional financing for their business capital and investment. The central government provides support through the People's Business Credit (KUR) and Ultra Microfinance programs.

In this case, the central government coordinates with local governments to empower and develop MSEs, especially those that are still regional in nature. According to the provisions of Article 7 of the MSME Law, the Central Government and Regional Governments are expected to foster a business climate by establishing laws and policies covering aspects of funding, facilities and infrastructure, business information, partnerships, business licensing, business opportunities, trade promotion and institutional support.

In terms of the funding aspect of Article 8 of the MSME Law, it is proposed to expand funding sources and facilitate MSEs to be able to access bank credit and non-bank financial institutions, multiply financing institutions and expand their networks so that they can be accessed by MSEs, provide convenience in obtaining funding in a fast, precise, inexpensive and non-discriminatory manner in services in accordance with the provisions of laws and regulations. Thus, it is expected that MSEs will find it easier to obtain capital to start and run their businesses.

Furthermore, from the aspect of facilities and infrastructure, the Central Government and Regional Governments hold public infrastructure or public infrastructure that can encourage and develop the growth of MSEs and provide infrastructure rates for MSEs. These facilities and infrastructure include the provision of equipment that will be used to support the productivity of MSEs.

Therefore, Because of this, synergy between the Central Government and Local Governments through agencies is needed in the context of empowering and developing MSEs, in this case the central government as an innovator and local governments as a stabilizer. The role of the Central Government is very visible in determining policies that favor the existence of MSEs which are expected to increase income, increase employment and contribute to regional and national economic growth and make MSEs in Indonesia more empowered.

The central government is committed to helping develop MSEs, which is clearly seen in national-scale programs aimed at helping MSEs to get out of the difficulties they face. The existence of government programs and policies that aim to strengthen economic resilience for quality and equitable growth and are a support for developing

regions and to reduce inequality and ensure economic equity. the Central Government and Regional Governments must formulate technical policies, prepare and stipulate general policies, synergize regional planning, solve problems that arise in the implementation of protection, coordinate development and conduct monitoring and evaluation of implementation. In addition, at the regional level, regents and mayors periodically report the results of implementation and report evaluations to the Governor or Minister as a form of protection of the performance of MSE development and empowerment programs. Apart from the government, the business world and the community must also be actively involved in the protection of MSEs so that in the future they can develop better if all elements of society, the Government and Big Business support and help create a better business climate, one of which is protection in terms of preventing the dominant position of the marketplace against MSEs.

In this case, the government seeks to develop MSEs to make a significant contribution to economic growth, namely MSME GDP and the National Entrepreneurship Ratio as well as job creation and increased competitiveness. Furthermore, the government seeks to strengthen institutions by applying the principles of good governance and gender perspective, especially to expand access to sources of capital, especially formal financial institutions, improve the business environment and simplify licensing procedures and expand and improve the quality of supporting institutions that carry out intermediary functions as providers of business development services, technology, management, marketing and information.

In addition to strengthening institutionalization, the government is also committed to expanding the base and business opportunities as well as the growth of productive entrepreneurs for prospective new entrepreneurs, start-up entrepreneurs, established entrepreneurs, technology entrepreneurs, and social entrepreneurs who are superior to encourage growth, increase exports and import substitution and job creation, especially increasing the combination of educated and skilled labor with the adoption of technology applications. The government will also develop MSEs through a cluster approach in leading commodity sectors such as agribusiness and to play an increasing role in the industrialization process. The program includes providing convenience in business management, developing MSEs, accelerating the transfer of technology, improving the quality of human resources and integrating business development in a regional framework in accordance with the characteristics of entrepreneurs or entrepreneurs and superior business potential in the regions.

Furthermore, the government will develop MSEs so that they increasingly play a role as providers of goods and services in domestic and global markets that have competitiveness with imported products, especially to meet the needs of the domestic

market In addition, the government has a program to realize classless MSEs and be able to compete in domestic and global markets. To realize this, an appropriate strategy is needed through the Transformation of Micro Enterprises from Informal to Formal and the growth of productive entrepreneurs by mapping and developing national entrepreneurship through potential entrepreneurs, developing innovation and business technology. Central Government policies that have been carried out in the context of empowering and developing MSEs such as building infrastructure that will help MSEs to increase operational efficiency and market reach. In addition to physical development, development also includes digital connectivity which includes the Palapa Ring Satellite and Base Transceiver Station which will make it easier for MSEs in remote areas to be digitally connected.

The government also encourages marketplaces to embrace MSEs with various cooperation agreements between marketplaces and the government. For example, the signing of a Memorandum of Understanding (MoU) between Lazada and Bank Bri to increase the scale of MSE businesses in Indonesia. The signing is expected to attract new business actors and can help MSEs to be able to know the needs of the current digital economy market. The cooperation agreement is expected to initiate a system from Business to Consumer (B2C) to Consumer to Consumer (C2C) and therefore the government needs new business actors so that MSEs can develop. Collaboration and cooperation between Lazada and Bank Rakyat Indonesia (BRI) occurs due to a common vision to encourage fostered MSEs which in the future are expected to become technopreneurs in the Marketplace. In general, the growth of the digital economy on a national scale is considered to be very extraordinary, which contains a combination of the 4 largest unicorns in Indonesia, namely, Go-Jek, Tokopedia, Traveloka and Bukalapak. In addition, there are also Shopee, Lazada, Blibli and so on.²⁸

In addition to cooperation with the marketplace, MSEs must be protected by the government because they are one of the people's economic forces that are able to absorb employment, encourage economic activity and can realize a stable national economy. In this case, the government has issued and issued PP Cooperatives and MSMEs which aim to empower, facilitate and protect MSEs and with the enactment of these Government Regulations it is hoped that the empowerment, convenience and protection of MSEs will be more optimal, structured and organized to improve the quality of MSEs.

²⁸Kominfo, *Kerjasama Marketplace dan Bank Tarik Minat Pelaku UMKM*, Berita Kominfo, 2018, https://www.kominfo.go.id/content/detail/12691/kerjasama-marketplace-dan-bank-tarik-minat-pelaku-umkm/0/berita_satker, (accessed on November 23 of 2023).

Furthermore, in the implementation of the cooperation, the government must actively participate in supervision so that the objectives of the cooperation can run well. This supervision is a form of protection of the cooperation agreement which aims to minimize the control of a dominant position by a party in a stronger cooperation agreement such as a marketplace and has the potential to exploit parties who have a weaker position so that if the cooperation agreement between the parties does not have a dominant position, the objectives of the cooperation agreement will be achieved. With comprehensive supervision, it is hoped that MSEs can be protected and play an optimal role in the national economy.

CONCLUSION

MSEs in facing the digital era, must be able to develop their business by using the marketplace as an intermediary so that MSEs must be able to adapt to the development of the current digital world. INDEF states that the total value of transactions in the marketplace in 2021 will increase to a range of IDR 330 trillion to IDR 350 trillion, which is influenced by changes in middle-class and upper-class consumption patterns to transactions through the marketplace. Based on this, the contribution of the digital economy to overall economic growth in Indonesia is 9.5% of overall GDP. In this case, there is an imbalance of position between the marketplace and sellers, including MSEs, which causes the position of MSEs to be vulnerable and the state of a balanced position or bargaining position can be realized by the principle of balance and therefore MSEs must get protection so that there is no agreement that is unilateral and detrimental to MSEs.

The existence of internal problems faced by MSEs such as HR Factors, Technology, Lack of managerial skills, Facilities and infrastructure, Free trade causes limited space for the movement of MSEs to be able to develop in the technological era, especially in the era of free trade which is a barrier to the progress of MSEs, but the most visible is the dominant position in relation to cooperation agreements with MSEs as happened in the case of VOE Nagrog Village, Cicalengka District, Bandung Regency which is experiencing difficulties with the terms and conditions that force MSEs to agree to all agreements determined unilaterally by the marketplace so that the role of the Central Government and Regional Governments is needed to help MSEs get out of their problems in the context of empowerment and protection of MSEs which is a sign of the Government's firm alignment with MSEs as a people's economic group by formulating technical policies, preparing and determining policies that arise in the implementation of protection, coordinating development and monitoring and evaluating implementation. In addition to the Government, the wider community and large

businesses support and help to create a better business climate and can prevent the dominant position of the marketplace against MSEs.

REFERENCES

Books

- Ayodya, Wulan. (2020). *UMKM 4.0*. Jakarta: PT Elex Media Komputindo.
- Badrulzaman, Mariam Darus. (2014). *Aneka Hukum Bisnis*. Bandung: Alumni.
- Barkatullah, Abdul Halim. (2009). *Perlindungan Hukum Bagi Konseumen dalam Transaksi E-Commerce Lintas Negara di Indonesia*, Yogyakarta: FH UII Press.
- Boediono, Herlien. (2015). *Asas Keseimbangan Bagi Hukum Perjanjian Indonesia: Hukum Perjanjian Berlandaskan Asas-Asas Wigati Indonesia*, Jakarta: Citra Aditya.
- Herwiyanti, Eliada, et.al. (2020). *Riset UMKM: Pendekatan Multiperspektif*. Yogyakarta: Deepublish.
- Indonesia, Bank. (2015). *Profil Bisnis Usaha Mikro, Kecil, dan Menengah*. Jakarta: BI dan LPPI.
- Kemenkopukm. (2020). *Rencana Strategis Kementerian Koperasi dan Usaha Kecil dan Menengah Tahun 2020-2024*, Kementerian Koperasi dan Usaha Kecil dan Menengah.

Journals

- Desiani, Amilia, et al. (2018). Implementasi Asas Itikad Baik dalam Perlindungan Konsumen atas Pembatalan Transaksi yang Dilakukan oleh Situs Belanja Elektronik. *Acta Diurnal*. Volume 2, Nomor 1.
- Fiona, Febzi, dan Rahmayanti, Dewi. (2022). Analisis Dampak Pandemi Covid-19 Bagi UMKM dan Implementasi Strategi Digital Marketing Pada UMKM Indonesia. *Managament Insight: Jurnal Ilmiah Manajemen*, Volume 17, No.2.
- Hilmiana, dan Kirana, Desty Hapsari. (2022). Digitalisasi Pemasaran dalam Upaya untuk Meningkatkan Pendapatan UMKM SEGARHALAL. *Kumawula* Vol. 5, No.1.
- Muhtarom, M. (2014). Asas Hukum Perjanjian: Suatu Landasan dalam Pembuatan Kontrak, *Jurnal SUHUF*, Vol. 26, No. 1.
- Mulyati, ETTY. (2016). Asas Keseimbangan Pada Perjanjian Kredit Perbankan dengan Nasabah Pelaku Usaha Kecil. *Jurnal Bina Mulia Hukum*. Vol. 1. No. 1.
- Murwadi, Tarsisius. (2020). Telaah Yuridis Penerapan Konsep Quadruplehelix pada Pelaksanaan CSR Bagi UMKM. *Jurnal Legislasi Indonesia*, Vol. 17, No. 1, 2020.
- Priowirjanto, Enni Soerjati. (2014). Pengaturan Transaksi Elektronik dan Pelaksanaannya di Indonesia Dikaitkan dengan Perlindungan Konsumen. *Padjajaran Journal Ilmu Hukum*. Vol. 1 No. 2. Agustus 2014.

- Ramli, Tasya Safiranita. (2021). Inovasi Standardisasi Marketplace dalam Merespon E-Commerce Sebagai Upaya Menuju Caveat Venditor. *Jurnal Legislasi Indonesia*. Vol 18 No. 2.
- Saribu, Sylvia Dolok. (2022). Tantangan dan Solusi Bisnis UMKM di Era New Normal. *Pascasarjana Universitas Tanjungpura*.
- Sofyan, Syaakir. (2017). Peran UMKM (Usaha Mikro, Kecil dan Menengah) dalam Perekonomian Indonesia. *Bilancia*. Vol. 11. No. 1.

Legislation

- Law Number 20 of 2008 on Micro, Small and Medium Enterprises.
- Law No. 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law.
- Law Number 11 of 2008 on Electronic Information and Transactions.
- Government Regulation Number 7 of 2021 on Ease, Protection, and Empowerment of Cooperatives and Micro, Small and Medium Enterprises.

Other Sources

- Bizhare. (2022). *Inilah 10 Penyebab UMKM Sulit Berkembang, Yuk Mulai Berbenah!*. <https://www.bizhare.id/media/bisnis/penyebab-umkm-sulit-berkembang#:~:text=Menurut%20data%20yang%20dihimpun%20oleh,dalam%20industri%20dan%20persaingan%20pasar> (accessed November 16, 2023).
- Deloitte. (2020). <https://www2.deloitte.com/content/dam/Deloitte/id/Documents/finance/id-fas-sme-powering-indonesia-success-report-bahasa-noexp.pdf> (accessed November 16, 2023).
- Kementerian Koordinator Bidang Perekonomian Republik Indonesia. (2022). *Dukungan Program Pemerintah dalam Pemberdayaan UMKM untuk Memperkuat Stabilitas Ekonomi Daerah*. <https://www.ekon.go.id/publikasi/detail/3624/dukungan-program-pemerintah-dalam-pemberdayaan-umkm-untuk-memperkuat-stabilitas-ekonomi-daerah> (accessed November 16, 2023).
- Kominfo. (2015). Indonesia Akan Jadi Pemain Ekonomi Digital Terbesar di Asia Tenggara. https://www.kominfo.go.id/index.php/content/detail/6441/Indonesia+Akan+Jadi+Pemain+Ekonomi+Digital+Terbesar+di+Asia+Tenggara/0/berita_satker (accessed December 28, 2023).
- Kominfo, *Kerjasama Marketplace dan Bank Tarik Minat Pelaku UMKM*, Berita Kominfo, 2018. https://www.kominfo.go.id/content/detail/12691/kerjasama-marketplace-dan-bank-tarik-minat-pelaku-umkm/0/berita_satker, (accessed on November 23 of 2023).

- Kompas. (2022). *Pentingnya Peran dan Kontribusi UMKM dalam Pemulihan Ekonomi Indonesia*. <https://money.kompas.com/read/2022/02/04/070800426/pentingnya-peran-dan-kontribusi-umkm-dalam-pemulihan-ekonomi-indonesia?page=all> (accessed February 3, 2023).
- Statista. (2023). *Volume barang dagangan bruto (GMV) tahunan pasar e-commerce 2019 hingga 2023 dengan perkiraan untuk tahun 2030*. https://www-statista-com.translate.google/statistics/1117608/indonesia-gmv-e-commerce-market/?_x_tr_sl=en&_x_tr_tl=id&_x_tr_hl=id&_x_tr_pto=tc (accessed November 11, 2023).
- Triyatna, Stefanus Osa, *Kontribusi Besar, Posisi Tawar UMKM Tidak Seimbang*, Kompas. <https://www.kompas.id/baca/ekonomi/2021/07/06/kontribusi-besar-posisi-tawar-umkm-tak-seimbang>. (accessed November 11, 2023).
- Yuliani, Ayu. *Kemenkop UKM: 3,79 Juta UMKM sudah Go Online*. https://www.kominfo.go.id/content/detail/11526/kemenkop-ukm-379-juta-umkm-sudah-go-online/0/sorotan_media (accessed November 11, 2023).