



## New Paradigm of Social Commerce Regulation Towards Indonesia Cyber Era (Comparative Study between Malaysia and South Korea)

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### Abstract

The emergence of Social Commerce in Indonesia raises the need for new, more comprehensive regulations to govern and protect this activity. Social commerce is a combination of social media and e-commerce, in various countries, especially Indonesia, has now developed very rapidly. This development creates new challenges in legal regulation, because social commerce involves various aspects that must be protected. This research discusses the development of social commerce in Indonesia and several countries and the design of regulating social commerce in Indonesia. The type of research used is normative juridical research, with statutory, comparative, and conceptual approaches. This research aims to find out the development of social commerce in various countries, especially Indonesia and design a formulation of social commerce regulation that is suitable to be applied in Indonesia. The results illustrate that Indonesia needs to improve security and add several provisions in the law regarding personal data protection and consumer protection in the realm of electronic commerce, especially in social media and form several institutions that support consumer protection and consumer personal data.

**Keywords:** e-commerce, Malaysia, social commerce, South Korea.

### Abstrak

Kemunculan *social commerce* di Indonesia menimbulkan kebutuhan akan adanya regulasi baru yang lebih komprehensif untuk mengatur dan melindungi aktivitas ini. *Social commerce* merupakan gabungan antara media sosial dan *e-commerce*, di berbagai negara khususnya Indonesia kini telah berkembang dengan sangat pesat. Perkembangan ini menciptakan tantangan baru dalam pengaturan hukum, karena *social commerce* menyangkut berbagai aspek yang harus dilindungi. Penelitian ini membahas mengenai perkembangan *social commerce* di Indonesia dan beberapa negara serta desain pengaturan *social commerce* di Indonesia. Jenis penelitian yang digunakan adalah penelitian yuridis normatif, dengan pendekatan perundang-undangan, komparatif, dan konseptual. Penelitian ini bertujuan untuk mengetahui perkembangan *social commerce* di berbagai negara, khususnya Indonesia dan merancang formulasi pengaturan *social commerce* yang sesuai untuk diterapkan di Indonesia. Hasil penelitian menggambarkan bahwa Indonesia perlu meningkatkan keamanan dan menambahkan beberapa ketentuan dalam undang-undang mengenai perlindungan data pribadi dan perlindungan konsumen di ranah perdagangan elektronik khususnya di media sosial serta membentuk beberapa lembaga yang mendukung perlindungan konsumen dan data pribadi konsumen.

**Kata kunci:** *e-commerce*, Korea Selatan, Malaysia, *social commerce*

## I. Introduction

The development of world technology has caused almost half of the world's population to be interested in the internet. It is recorded by *We Are Social* that the world's *Social commerce* users have reached 5.16 billion out of 8.01 large population of the world community.<sup>1</sup> This proves that now the world community cannot be separated from dependence on technology. Indonesia alone recorded 213 million internet users.<sup>2</sup> Indonesian people more often use the internet to access social media, recorded *Facebook* users in Indonesia have reached 68.36%<sup>3</sup> or equivalent to 172.94 million people, while *TikTok* users reached 112.97 million people<sup>4</sup>. Indonesia now has the second highest number of *TikTok* users after the United States, which reached 116.97 million users.<sup>5</sup> With the massive users of the application, social media is finally being utilized as a place to sell by merchants in Indonesia. *Social commerce*, which is similar to *electronic commerce*, is finally starting to be recognized in Indonesia.<sup>6</sup>

Social media platforms that are often used by traders include *Facebook*, *Instagram*, and *TikTok*. The merchants consider that by using social media as a platform for selling, they not only reach buyers from within the country but they can also reach buyers from abroad.<sup>7</sup> The use of *Facebook* as a selling platform is quite widely used in several countries in the Asian region, especially Southeast Asia. It can be seen that Thailand and Malaysia have the most users at 95% and 90%, followed by the Philippines at 87% and Indonesia at 80% of users.<sup>8</sup> This can prove that *social commerce* has many enthusiasts in Asia.

The most famous *social commerce* application in Indonesia is *TikTok*. *TikTok* presents a new feature in the form of a *marketplace* for its users to shop easily. With this new feature, users, especially business people, can promote their products through video uploads and even through *live streaming*.<sup>9</sup> Although *TikTok Shop* was closed on October 4, 2023 due to many complaints from conventional merchants who suffered losses due to the emergence of this feature, *TikTok Shop* was again allowed to operate on December 12, 2023 but at that time *TikTok* chose to collaborate with *Tokopedia*.<sup>10</sup> Indonesia's Minister of Trade Zulkifli Hasan pointed out that the reason *TikTok Shop* was allowed to operate again was due to complaints from merchants who lost their place to trade online. In addition, *TikTok Shop* was also given 3 to 4 months to separate the *TikTok Shop* feature from the *TikTok Application*. This is due to Indonesian regulations that regulate the separation between *marketplaces* and social media.

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<sup>1</sup> Cindy Mutia Annur, 'The Number of Global Internet Users Reached 5.16 Billion People in January 2023', *Databoks*, February 3 (2023), <https://databoks.katadata.co.id/datapublish/2023/02/03/jumlah-pengguna-internet-global-tembus-516-miliar-orang-pada-januari-2023>.

<sup>2</sup> Cindy Mutia Annur, 'Internet Users in Indonesia Reach 213 Million by Early 2023', *Databoks*, 20 September 2023, <https://databoks.katadata.co.id/datapublish/2023/09/20/pengguna-internet-di-indonesia-tembus-213-juta-orang-hingga-awal-2023>.

<sup>3</sup> Ali Mahmudan, 'Indonesians Most Frequently Access Social Media on the Internet', *DataIndonesia*, 12 June 2022, <https://dataindonesia.id/internet/detail/warga-indonesia-paling-sering-akses-media-sosial-di-internet>.

<sup>4</sup> Cindy Mutia Annur, 'Indonesia's TikTok Users Second Most in the World as of April 2023, Nearly Overtaking the US', *Databoks*, 24 May 2023, <https://databoks.katadata.co.id/datapublish/2023/05/24/pengguna-tiktok-di-indonesia-terbanyak-kedua-di-dunia-per-april-2023-nyaris-salip-as>.

<sup>5</sup> Annur.

<sup>6</sup> Muhammad Ashoer and Syahnur Said, 'The Impact of Perceived Risk on Consumer Purchase Intention in Indonesia; A Social Commerce Study', in *Proceedings of International Conference on Accounting, Management, Economics and Social Sciences (ICAMESS)* (International Conference on Accounting, Management, Economics and Social Sciences (ICAMESS), Universitas Padjajaran, 2016).

<sup>7</sup> Li, 'The Impact of Social Commerce Characteristics on Online Purchase Intentions: An Empirical Study', *Information Systems Frontiers*, 2019, <https://doi.org/10.1007/s10796-018-9847-7>.

<sup>8</sup> Paypal, 'Paypal Launches Asia Social Commerce Report', *Paypal Newsroom*, 7 November 2017, <https://newsroom.apac.paypal-corp.com/paypal-launches-asia-social-commerce-report>.

<sup>9</sup> Hellen Juliana, 'The Effect of Live Broadcasts and Perceived Benefits on Purchase Intention Through Consumer Trust in the TikTok Shop Application', *Journal Sinomika: Scientific Publications in Economics & Accounting*, no. 6 (2023): 1518.

<sup>10</sup> 'TikTok Shop Reopens after Tokopedia Acquisition, Merchants and Affiliates Hope "Not to Be Closed Again"', *BBC News Indonesia Team*, 12 December 2023, <https://www.bbc.com/indonesia/articles/cgrp5yeyvzno>.

Several other countries, especially in Asia, are also interested in *social commerce*<sup>11</sup>, one of which is Malaysia. The development of the *electronic commerce* market in Malaysia has reached 16.71 million users. In general, Malaysians also use social media for shopping. Almost 23% of Malaysian online shoppers are influenced by social media recommendations, while 84% check user reviews before buying.<sup>12</sup> In Malaysia, the acceptance and adoption of *social commerce* has been influenced by various factors such as social interaction, cultural perspectives, and trust mechanisms.<sup>13</sup>

TikTok Shop has established itself as a major player in the e-commerce landscape in Malaysia with a significant impact on consumer behavior and shopping trends. Various studies have examined the influence of TikTok Shop on consumer behavior as well as the decision-making process.<sup>14</sup> Besides Instagram, Facebook and Twitter, TikTok is also one of the *social commerce* platforms that Malaysians are interested in.<sup>15</sup> The new TikTok Shop feature was officially introduced in Malaysia on April 17, 2021, with the aim of facilitating users to engage in online buying and selling transactions.<sup>16</sup> As a social media platform and e-commerce forum, TikTok Shop brings changes to the e-commerce system through its unique shopping activities.<sup>17</sup>

Technological advancements along with the increasing population in Asia have given rise to the digital age in the commerce industry, creating a dynamic *e-commerce* environment.<sup>18</sup> However, in general, the development of *electronic commerce* and *social commerce* in Asia is more massive in developed countries than developing countries.<sup>19</sup> This can be seen from the delayed expansion of the *electronic commerce* market in some developing countries. Several challenges such as infrastructure limitations, cross-border payment systems, and the need for talent development in cross-border e-commerce hinder the rapid growth of trade in electronic commerce and social commerce.<sup>20</sup> In addition, developing countries are often challenged by a lack of *electronic commerce* policies and regulations, as well as inadequate infrastructure, trust and security.<sup>21</sup>

South Korea, as one of the developed countries in Asia, has experienced significant development in the field of electronic commerce and *social commerce*.<sup>22</sup> This trend shift towards *e-commerce* has played an important role in revitalizing the country's economy. In addition, social commerce, particularly through platforms like Instagram, has become very popular in South Korea and is changing the way people shop online. Instagram in South Korea has transformed

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<sup>11</sup> W.A. Ali, M. Mukhtar, and I. Mohamed, 'Validating the Factors Influencing Social Commerce Adoption in Small and Medium Enterprises in Malaysia', *Indonesian Journal of Electrical Engineering and Computer Science* 17, no. 1 (2020): 440, <https://doi.org/10.11591/ijeecs.v17.i1.pp440-447>.

<sup>12</sup> Statista Research Department, 'Most Commonly Used Social Media Platform For Purchases During the Last 12 Months in Malaysia as of February', *Statista*, 28 March 2023, <https://www.statista.com/statistics/1375613/malaysia-social-media-platforms-used-for-social-commerce/>.

<sup>13</sup> X. Yin et al., 'How Social Interaction Affects Purchase Intention in Social Commerce: A Cultural Perspective', *Sustainability* 11, no. 8 (2019): 2423, <https://doi.org/10.3390/su11082423>.

<sup>14</sup> S. Teo, W. Tee, and T. Liew, 'Exploring the Tiktok Influences on Consumer Impulsive Purchase Behavior', *International Journal of Business and Society* 24, no. 1 (2023): 39-55, <https://doi.org/10.33736/ijbs.5600.2023>.

<sup>15</sup> R. Rosiyana et al., 'A New Digital Marketing Area for E-Commerce Business', *International Journal of Research and Applied Technology* 1, no. 2 (2021): 370-81, <https://doi.org/10.34010/injuratech.v1i2.6765>.

<sup>16</sup> C. Irhamna, 'The Effect of E-Service Quality and e-Wom on Purchase Decisions through the Tiktok Shop Application among College Students in Surabaya', *Journal of Digital Economics and Business* 2, no. 3 (2023): 677-86, <https://doi.org/10.55927/ministal.v2i3.4742>.

<sup>17</sup> H. Putra, 'Analysis of Technology Acceptance Model at Tiktok Shop in Bekasi City in Gen z and Millennials', *Journal of Management Economics* 9, no. 1 (2023): 63-72, <https://doi.org/10.37058/jem.v9i1.6847>.

<sup>18</sup> H. Primawanti, A. Subagyo, and W. Dermawan, 'Asean 4.0. Era: Development in Digital Economy and Trade Sector', *Journal of Global Dynamics* 7, no. 02 (2022): 329-45, <https://doi.org/10.36859/jdg.v7i02.1279>.

<sup>19</sup> H. Luong et al., 'Payment Intermediary - a Key Determinant Influencing Online Payment Intention on e-Commerce Platforms in Vietnam', *International Journal of Management and Sustainability* 11, no. 4 (2022): 233-47, <https://doi.org/10.18488/11.v11i4.3216>.

<sup>20</sup> Meiyu Ji, Xinxiang Gao, and Yichang Liang, 'Opportunities and Challenges of Cross-Border E-Commerce Development Cooperation between China and Southeast Asian Countries-Based on the Perspective of the Entry into Force of RCEP', *Academic Journal of Business & Management* 5, no. ue 13 (2023): 133-39, <https://doi.org/10.25236/AJBM.2023.051319>.

<sup>21</sup> Lurong Chen and Fukunari Kimura, *Developing the Digital Economy in ASEAN* (New York: Routledge, 2019).

<sup>22</sup> I. As'ad et al., 'The Implementation of E-Commerce for Micro, Small and Medium Enterprises (Msmes) in Covid 19 Pandemic Era', 2022, <https://doi.org/10.2991/aebmr.k.220107.009>.

into a more diverse experience, from being used as a product catalog for retail startups to operating as a mobile online marketplace where live transactional exchanges take place.<sup>23</sup> The development of electronic commerce and *social commerce* in South Korea is supported by the availability of adequate laws.<sup>24</sup>

The development of e-commerce and social commerce in Asia is showing significant growth.<sup>25</sup> Asian markets are leading the way in e-commerce growth, accounting for about 50% of the global e-commerce market.<sup>26</sup> This dynamic is influenced by factors such as population, consumer preferences, legal frameworks, and technological advancements. Social networking sites are increasingly popular in Asia, with many consumers actively sharing and shopping on these platforms. The evolution of e-commerce and social commerce in Asia is a complex journey, influenced by various elements. As more countries in the region adopt digital transformation and internet-based business strategies, the e-commerce sector is poised to continue to grow and influence the direction of commerce not only in Asia, but also globally.

Different countries adopt different regulatory approaches to regulate e-commerce and *social commerce* activities in their countries. Understanding the regulatory framework in each country is crucial for businesses and consumers involved in e-commerce and *social commerce*. This is to ensure legal compliance and build public trust in online transactions through e-commerce and *social commerce*. In Indonesia, regulations governing e-commerce transactions are overseen by the Ministry of Trade, with a focus on consumer protection, data security, and business licensing requirements.<sup>27</sup> The regulations are contained in several laws including Law No. 27 of 2022 on Personal Data Protection, Law No. 8 of 1999 on Consumer Protection and Law No. 11 of 2008 on Electronic Information and Transactions. Whereas in Malaysia, several regulations relating to *social commerce* include Article 658 on Electronic Commerce in 2006, Article 709 on Personal Data in 2010 and Article 599 on User Protection in 1999. When compared to Malaysia, the regulations in Indonesia relating to *social commerce* are still inadequate because there are no regulations that specifically regulate online transactions that have different aspects compared to direct transactions.

Meanwhile, South Korea already has protection for e-commerce and *social commerce* activities. Electronic transactions in *e-commerce* and *social commerce* are generally regulated in the Electronic Commerce Act. The purpose of this law is to protect the rights and interests of consumers and create a healthy order in electronic commerce. The *electronic commerce* act regulates the obligation of business entities to provide information to consumers, and the right of consumers to cancel orders.<sup>28</sup> Some of its other important regulations are The Consumer Protection in Electronic Commerce Act, Electronic Financial Transactions Act, Regulations on Implementing the Provisions of the Commercial Act Regarding Electronic Bills of Lading, and others.

Each country is likely to have a unique regulatory approach to governing social commerce activities within the broader e-commerce landscape. Understanding these regulatory frameworks is critical for businesses and consumers engaged in social commerce in these countries to ensure compliance and foster trust in online transactions. Malaysia and South Korea, which have already regulated electronic commerce, will serve as comparators for Indonesia to

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<sup>23</sup> R. Perez, 'Igniting Social Commerce: Using Instagram for Mobile Retail Shopping', 2023, <https://doi.org/10.32920/ryerson.14654445>.

<sup>24</sup> 'Act on the Consumer Protection in Electronic Commerce, Enforcement Decree of the Act on the Consumer Protection', in *Public Notice Of Standards For The Imposition Of Penalty Surcharges On Business Operators Who Violate The Act On The Consumer Protection In Electronic Commerce, Guidelines For Consumer Protection In Electronic Commerce*, n.d.

<sup>25</sup> A. Ngah et al., 'Online Sellers' Reuse Behavior for Third-Party Logistics Services: An Innovative Model Development and e-Commerce', *Sustainability* 13, no. 14 (2021): 7679, <https://doi.org/10.3390/su13147679>.

<sup>26</sup> M. Khan et al., 'An Assessment of E-Service Quality, e-Satisfaction and e-Loyalty', *Asian Journal of Business Studies* 8, no. 3 (2019): 283-302, <https://doi.org/10.1108/sajbs-01-2019-0016>.

<sup>27</sup> N. Hajli, J. Sims, and M. Shanmugam, 'A Practical Model for E-Commerce Adoption in Iran', *Journal of Enterprise Information Management* 27, no. 6 (2014): 719-30, <https://doi.org/10.1108/jeim-09-2013-0070>.

<sup>28</sup> Efraim Turban et al, *Introduction o Electronic Commerce and Social Commerce* (Switzerland: Springer Nature, 2017), 203.

provide input on the formulation of appropriate electronic commerce and *social commerce regulations*.

## II. Research Problem

The problem formulation in this study include: *First*, how the development of social commerce in Indonesia and its comparison with Malaysia and South Korea? *Second*, how the design of social commerce regulation in Indonesia?

## III. Research Methods

The type of research used in this article is normative juridical research. The research approaches used are the statutory approach (statue approach); conceptual approach (conceptual approach); and comparative approach (comparative approach). Legal materials consist of three types, namely primary, secondary and tertiary legal materials collected through literature studies or document studies (qualitative) and processed by examining data, classification, verification, and conducting conclusions.

## IV. Result And Discussion

### 1. Development of Social Commerce in Indonesia, Malaysia and South Korea

The emergence of *social commerce* in the world is due to the development of web 2.0 technology, along with the development of web 2.0 came commercial applications, which include activities in social networks and the use of social software.<sup>29</sup> The main driver of the emergence of *social commerce* is business globalization activities that facilitate collaboration between employees, partners and customers around the world.<sup>30</sup> The concept of *social commerce* marketing promotion first appeared on the internet in November 2005 on the *Yahoo* website. The concept was first introduced by a *marketing* expert called Yao Zhong.<sup>31</sup> Some authors believe that *social commerce* is influenced by the expansion of social networks. Many technological advances such as RSS<sup>32</sup>, AJAX<sup>33</sup> or API<sup>34</sup> offer online buyer interactive systems that allow them to make connections with other *platforms*. This eventually impacts business models such as B2C (*Business to Customer*) and C2C (*Customer to Customer*) which provide new opportunities as communication channels.<sup>35</sup>

The main emphasis on *social commerce* is its marketing orientation. Traditional marketing activities were applied to marketing over the internet in the mid 1900's,<sup>36</sup> when companies started building websites using *email* to advertise their products for sale *offline*. The web then developed marketing by applying the internet to facilitate *electronic commerce* transactions. With the advent of social media, marketing communication turned into a dialog with the use of the internet, and many marketing strategies evolved or changed completely to support *social commerce*.<sup>37</sup>

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<sup>29</sup> S. Goyal et al., 'Social commerce', *Journal of Global Information Management* 29, no. 6 (2022): 1-33, <https://doi.org/10.4018/jgim.293291>.

<sup>30</sup> Efraim Turban et al, *Introduction o Electronic Commerce and Social Commerce* (Switzerland: Springer Nature, 2017),203

<sup>31</sup> Rifqi Mulyawan, 'Explanation of Social Commerce: What Is Social Commerce? History, Benefits, Types and Types and Examples', *RifqiMulyani.Com*, February 11 (2024), <https://rifqimulyawan.com/blog/pengertian-social-commerce/>.

<sup>32</sup> Really Simple Syndication, a term that refers to how to syndicate *content* on a *website*, this service makes it easy for users to find out the latest *content* from a particular site without the need to visit the site in question.

<sup>33</sup> Asynchronous Java Script and XML, is a combination of web application development technologies that make applications more responsive to interactions provided by users, with AJAX web applications that are being used by users only respond to what is selected by the user.

<sup>34</sup> Application Programming Interface, is a mechanism that allows two software components to communicate with each other using definitions and various protocols, one example is the weather application on a cellphone communicating with BMKG using the API system.

<sup>35</sup> Mahmood Hajli, 'A Research Framework for Social Commerce Adoption', *Information Management & Computer Security*, no. 3 (2013): 145.

<sup>36</sup> Efraim Turban et al, *Introduction of Electronic Commerce and Social Commerce* (Switzerland: Springer Nature, 2017), 203.

<sup>37</sup> Efraim Turban et al, *Introduction o Electronic Commerce and Social Commerce* (Switzerland: Springer Nature, 2017), 203

After its inception in 2005, *social commerce* began to evolve slowly. The following table contains information about the development of *social commerce* in the world from year to year.<sup>38</sup>

**Table 1.** World Social Commerce Development

Year	Dimensions			
	Community	Management	Technology	Information
2005	People like to give and receive information about a product	Long-term specialized product strategy serving small businesses	Blog and electronic commerce website created	Content only comes from users
2006	Buyers shop because of ideas from others that they get from socialization	Strategies provided in the form of social experiences (e.g. providing collaborative spaces	Started a social shopping site, a social networking function that also provides an <i>electronic commerce site</i>	Content sites combine purchases in one <i>platform</i>
2007	Purchases are driven by the buyer's own desires	Combining <i>online</i> and <i>offline</i> social networks, the strategy used is <i>crowdsomption</i> (team buying)	Search engine functions combined with social networking functions, blogs, social networking sites, do-it-yourself video media (e.g. <i>youtube</i> )	Text, audio and video information types)
2008	Social network users do not accept marketing	Social networks are good for branding, not for transactions, content strategy is more concrete	<i>Electronic commerce</i> sites merged with social networking functions, and social shopping sites began to appear.	The existence of <i>crowdsourced</i> content (information sources obtained in the form of information from the user community)
2009	Users choose their own social networks. Men use traditional <i>electronic commerce</i> more often, while women use social shopping more often.	Co-creation and multi-channel strategy	Shopping sites on twitter	Information is obtained through users participating in marketing and creating content together
2010	<i>Social commerce</i> used as a fight against deflation	The inclusion of Chinese cultural perspectives on sales and purchasing activities	The rise of the Iphone, and purchases through the <i>facebook marketplace</i>	Global team information ( <i>crowdsourcing</i> )

<sup>38</sup> Chingning Wang and Ping Zhang, 'The Evolution of Social Commerce: The People, Management, Technology, and Information Dimensions', *Communications of the Association for Information Systems*, no. 5 (2012): 113, <https://aisel.aisnet.org/cais/vol31/iss1/5/>.

2011	Buyers buy things because of their own intentions, sometimes the intention of a buyer is different	Online auction sites merging with social networking sites ( <i>eBay</i> merging with <i>facebook</i> ), the rise of <i>social business</i>	<i>Marketplaces</i> are opening up everywhere ( <i>facebook</i> , <i>google</i> and <i>twitter</i> )	Niche (content that is created specifically for target buyers who have certain interests or needs and local content)
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Source: "The Evolution of Social Commerce: The People, Management, Technology, and Information Dimensions.

From the table, it can be seen that *social commerce* has continued to grow and evolve since 2005. Along with the development of technology in the world, *social commerce* as a new system in society began to be used by all circles, and continues to create new innovations until now, where more and more *social commerce* applications are increasingly widespread in society, such as *marketplaces* that appear on *Instagram* and *TikTok*. Meanwhile, the emergence of *social commerce* in Indonesia was first implemented by *Facebook*, followed by *Instagram* and *TikTok*. With *social commerce*, interaction between buyers and sellers is easier to do, and creates a closer relationship.<sup>39</sup>

### Social Commerce in Indonesia

The presence of *electronic commerce* in Indonesia has a significant impact on the economy. The utilization of technology by companies creates new ideas and innovations to gain profits. Now many websites and *electronic commerce* applications continue to grow in Indonesia and have quite a lot of enthusiasts. The membership directorate of IdEA (Indonesia E-Commerce Association), classifies several *electronic commerce* in Indonesia, including<sup>40</sup>:

**Table 2.** Classification of E-Commerce Businesses in Indonesia

No.	Types of E-commerce	Group Interaction	Description	Example
1	<i>Classified Ads</i>	B2C, C2C	It functions as a <i>platform</i> that allows individuals to post their items for sale.	Kaskus, OLX
2	<i>Marketplace</i>	C2C	Provides business facilities to producers in the form of catalog display, transactions, and payment systems.	Bukalapak, Tokopedia, Livaza
3	<i>Shopping Mall</i>	B2B, B2C	Similar to a <i>marketplace</i> , the manufacturers partnered with by <i>shopping mall</i> entities are only from well-known brands.	Zalora, Matahari Mall
4	<i>Online Retail</i>	B2C	An online store with its own <i>website</i> address ( <i>domain</i> ) where sellers stock products and sell them <i>online</i> to buyers.	Lazada, Berrybenka
5	<i>Ride Sharing</i>	B2C	App-based transportation business.	Gojek, Uber, Grab
6	<i>Travel</i>	B2C	Provides travel catalogs, tourist accommodations, and payment systems linked to these destinations and accommodation providers.	Traveloka

Source: Journal "The Effect of E-Commerce on Indonesia's Economic Growth"

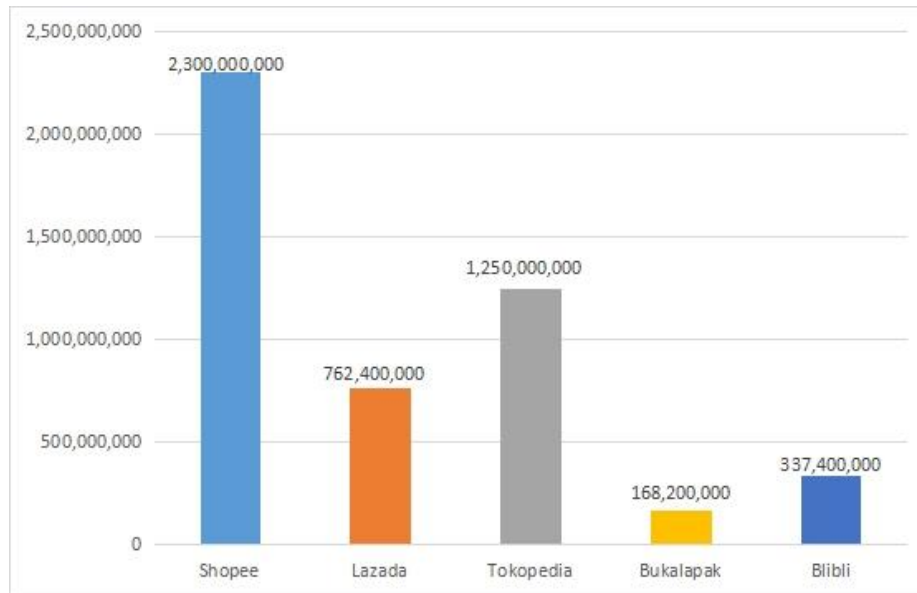
Based on the table above, it can be seen that the practice of *electronic commerce* has spread in Indonesia very well. Over time, the B2B (*Business to Business*) and B2C (*Business to Customer*) based business systems in Indonesia evolved and created a new system called C2C (*Customer to*

<sup>39</sup> Shabira Maharani and I.Made Bayu Dirgantara, 'Factors Affecting Immersion During Live Streaming Syaria Shopping and Its Effect on Purchase Interest (Study on Social Commerce TikTok Indonesia)', *Scientific Journal of Islamic Economics*, no. 2 (2023): 2943.

<sup>40</sup> Getha Fety Dianari, 'The Effect of E-Commerce on Indonesia's Economic Growth', *Bina Ekonomi*, no. 1 (2018): 45-46.

Customer), where the last buyer connects with each other to make purchases and sales transactions. Although there are many *electronic commerce* scattered in Indonesia, only a few are very often visited by the public, including *shopee*, *tokopedia*, *lazada* and several others. The statistics of *electronic commerce* users in Indonesia:

Picture 1. Graph of *Electronic Commerce Platforms* in Indonesia



Source: Databoks, "5 E-Commerce with the Most Visitors in Indonesia (January-December 2023)"

Based on this graph, it can be seen that Indonesians are more likely to visit the *shopee platform to shop* in 2023. From the beginning of 2023 until the end, *shopee* visitors have reached 2.3 billion visitors. Meanwhile, its competitors such as *Tokopedia*, *Lazada*, *Blibli* and *Bukalapak* are far behind.<sup>41</sup> The practice of *social commerce* has been widely used by Indonesians, both by sellers and buyers. The simplest example is the use of *facebook marketplace* and *twitter shop*, besides being able to offer sales products, users can also leave *reviews* on the *facebook* and *twitter* pages. *Facebook* began launching its new feature in the form of a *marketplace* in Indonesia in 2016.<sup>42</sup> The presence of this *Facebook marketplace* is due to the many buying and selling activities that occur on *Facebook*. However, in this feature users can only select goods and place orders with producers, while payment and delivery are arranged separately by both parties because these features are not provided by the *Facebook* application.<sup>43</sup> *Instagram* which also develops its features by providing a shopping place in its application. The *Instagram shopping* feature or *Instagram shopping* began to appear in Indonesia in 2020. Similar to *Facebook*, *Instagram* has also not set up features for payment and product delivery.<sup>44</sup>

Then in 2021, the *TikTok* application began to present a *social commerce* feature in the form of *TikTok Shop* which now has many enthusiasts in Indonesia. Unlike the previous two *social commerce* features, *TikTok Shop* is superior because it provides direct payment and delivery services. This makes it easier for users to order a product, by directly paying and also taking care

<sup>41</sup> Adi Hidayat, '5 E-Commerce with the Most Visitors in Indonesia (January-December 2023)', *Databoks*, 10 January 2024, <https://databoks.katadata.co.id/datapublish/2024/01/10/5-e-commerce-dengan-pengunjung-terbanyak-sepanjang-2023>.

<sup>42</sup> Yoga Hastyadi Widiartanto, 'Facebook Releases "Marketplace" for Online Buying and Selling', *Kompas.Com*, 4 October 2016, <https://tekno.kompas.com/read/2016/10/04/07360087/facebook.rilis.marketplace.untuk.jual.beli.online>.

<sup>43</sup> Widiartanto.

<sup>44</sup> Wahyunanda Kusuma Pertiwi and Oik Yusuf, 'Instagram Shopping Feature Can Be Tried in Indonesia', *Kompas.Com*, October 16 (2020), <https://tekno.kompas.com/read/2020/10/06/10410027/fitur-belanja-instagram-shopping-sudah-bisa-dicoba-di-indonesia>.

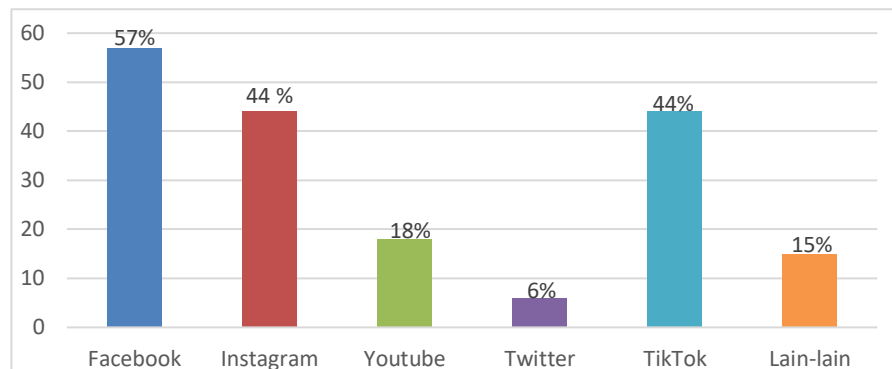


of shipping according to their wishes without having to communicate first with the seller. Indonesia's internet users have reached 215.63 million people in the period 2022 to 2023, increasing opportunities for Indonesia to open an *online* market in Indonesia. Reported by *Statista*, *TikTok Shop* users in Indonesia in 2021 have reached 4.14 million people. It is noted that visitors who visit *TikTok Shop* are visitors aged 16 to 24 years. Meanwhile, *Instagram Shopping* visitors have reached 87.9 million people. Unlike *TikTok shop*, *Instagram shopping* has visitors of various ages, including those from 18 years to 24 years of age recorded as much as 36.4% while the age of 25 years to 34 years reached 31.9%.<sup>45</sup>

### Social Commerce in Malaysia

The emergence of trading through electronic media is a new activity in Malaysia, at the beginning of its emergence, Malaysians prefer to use trade or conduct transactions directly and some groups of people who choose to use electronic commerce.<sup>46</sup> As time goes by, technology continues to develop in Malaysia and provides more opportunities for the development of electronic commerce in Malaysia. Malaysians started using various social media. Global Statshot recorded that almost 86% of Malaysians use social media in 2021.<sup>47</sup> The most frequently used platforms in Malaysia are *twitter*, *facebook*, *instagram*, and *blogs*. The number of social media users has an impact on the emergence and development of *social commerce* in Malaysia. With the emergence of the *social commerce* phenomenon in Malaysia, there are greater opportunities for entrepreneurs to establish closer relationships with their consumers and supply partners. This will have the effect of increasing the development of *social commerce* and the economy in Malaysia.<sup>48</sup> Below is a graph of the social media that Malaysians often use to shop:

Picture 2. Graph of Social Media Used for Shopping



Source: Statista Research Department

Statista reports that by 2023, 57% of Malaysians will have used *Facebook* to shop in the last 12 months. Furthermore, *Instagram* and *TikTok* are also social media *platforms* that are widely used for shopping by Malaysians.<sup>49</sup> The development of *social commerce* in Malaysia is also supported by the number of internet users in Malaysia, recorded at the beginning of 2023 internet users in Malaysia reached 33.03 million users, at that time internet penetration reached 96.8 percent in

<sup>45</sup> Alifia Seftin Oktriwina, 'TikTok Shop vs Instagram Sopping, Which One Is Best for Your Product', 11 October 2023, <https://glints.com/id/lowongan/tiktok-shop-vs-instagram-shopping/>.

<sup>46</sup> Che Mohd Zulkifli Che Omar, 'E-Commerce in Malaysia: Development, Implementation and Challenges', *International Review of Management and Business Research*, no. 1 (2014): 292.

<sup>47</sup> Siti Nurhikmah, 'Malaysia Marketplace: A Complete List of Malaysian E-Commerce', *LOCAD*, 2 November 2023, <https://golocad.com/id/insights/marketplace-malaysia/>.

<sup>48</sup> Shahizan Hassan and Arfan Shahzad, 'The Impact of Social Media Usage on Small and Micro Social Commerce Enterprises in Malaysia', *Pakistan Journal of Commerce and Social Sciences*, no. 1 (2022): 143.

<sup>49</sup> Department, 'Most Commonly Used Social Media Platform For Purchases During the Last 12 Months in Malaysia as of February'.

Malaysia. A total of 44.05 million mobile connections were active in Malaysia in early 2023, and this figure is equivalent to 129.1% of the total population of Malaysians.<sup>50</sup>

*Social commerce* that provides comfort and convenience makes Malaysians encouraged to use *social commerce*. With social media accessed by Malaysians almost every day, causing product owner interaction with consumers will be easier, consumers can also later see reviews from other consumers, to determine their purchases.<sup>51</sup> Although in Malaysia there are many enthusiasts of *social commerce* because it provides convenience, there are still some Malaysians who are reluctant to use *social commerce* in running their business. There are some Malaysians who still have a conservative mindset that causes them to not want to use the service. In addition, the driving factor that results in not using *social commerce* services is the lack of knowledge about *social commerce*. Many of the older Malaysian businessmen do not dare to use *social commerce* services due to the lack of information about *social commerce* that they get. Whereas among young consumers, they prefer to use *social commerce* because of the fast-spreading information and the influence of trends that they get on social media.<sup>52</sup>

### Social Commerce in South Korea

South Korea has become a global trend center, especially in Southeast Asia, with a growing interest in all things Korean, including fashion, food, and entertainment.<sup>53</sup> This phenomenon is known as the "Korean Wave" or "Hallyu," where Korean culture, whether through K-pop music, television dramas, movies, to beauty and fashion products, has spread widely and influenced consumer tastes in various parts of the world.<sup>54</sup> South Korea, with its unique and innovative culture, has managed to dominate the Asian and even global markets with its distinctive features. Korean products are not only popular for their quality, but also for the strong and attractive cultural image attached to them. This not only drives the growth of the entertainment and tourism industry, but also has a positive impact on the country's economy through the export of culture and related products.

In 2020-2021, South Korea ranked fifth in the growth of transactions through social media.<sup>55</sup> The country's technological advancement is the basis for the accelerated growth of *social commerce*, which uses social media as the main platform for transactions. This phenomenon shows how South Korean culture and technology are influencing the global market, especially in Southeast Asia. The following chart shows the percentage of popular *social commerce* platforms in South Korea:

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<sup>50</sup> Simon Kemp, 'Digital 2023: Malaysia', *DAAREPORTAL*, 13 February 2023, <https://datareportal.com/reports/digital-2023-malaysia>.

<sup>51</sup> Opn, 'Why Businesses in Malaysia Need To Stay Alert', *Opn*, 20 July 2023, <https://www.opn.ooo/my-en/blog/payments/social-commerce-101/>.

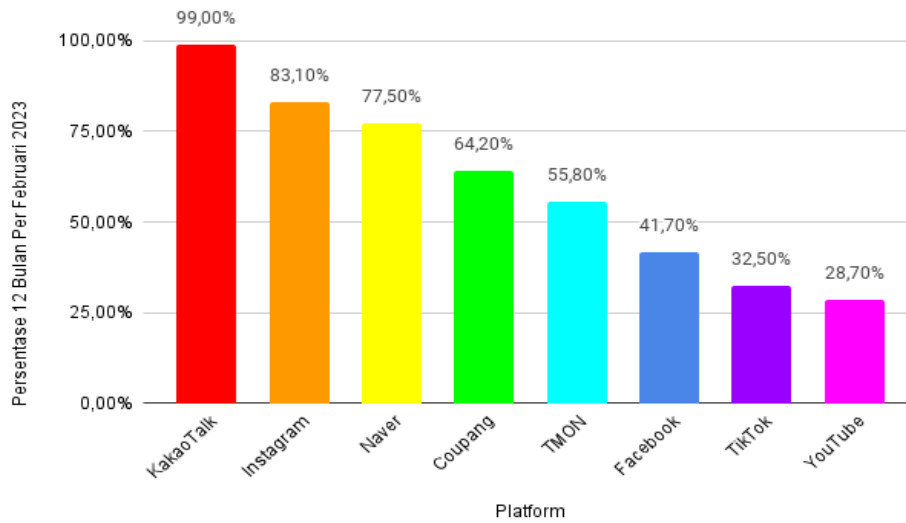
<sup>52</sup> Samer Bamansoor et al., 'The S-Commerce Usage And Acceptance Modeling In Malaysia', *Fundacion Dialnet*, no. 1 (2020): 102.

<sup>53</sup> Muhammad Alvin Wicaksono, Annisa Patricia W, and Dita Maryana, 'The Influence of the Korean Wave Trend Phenomenon in the Development of Fashion Style in Indonesia', *Journal of Social-Politics* 2, no. 2 (December 2, 2021): 75, <https://doi.org/10.54144/jsp.v2i2.35>.

<sup>54</sup> Ananta Prayoga Hutama Syam and Moch Nur Ichwan, 'THE KOREAN WAVE PHENOMENA IN YOUTH AND HALAL INDUSTRY: OPPORTUNITIES AND CHALLENGES', *LIQUID: Journal of Halal Industry Economics* 3, no. 1 (February 10, 2023): 2, <https://doi.org/10.15575/likuid.v3i1.21548>.

<sup>55</sup> 'Korea's E-Commerce Market, Preparing for the Retail 4.0 EraView Details | Industry Focus | InvestKOREA(ENG)', accessed June 23, 2024, [https://www.investkorea.org/ik-en/bbs/i-308/detail.do?ntt\\_sn=490758](https://www.investkorea.org/ik-en/bbs/i-308/detail.do?ntt_sn=490758).

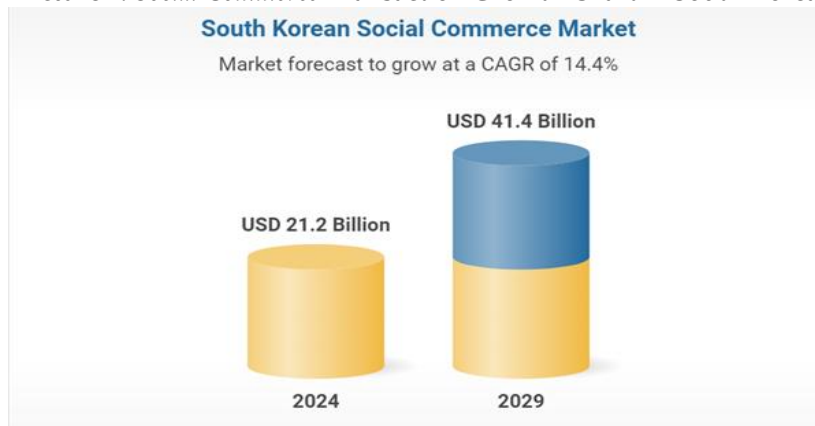
**Picture 3.** Percentage Chart of the Most Popular *Social Commerce* Platforms in South Korea as of February 2023



Source: Statista Research Department<sup>56</sup>

Data shows that KakaoTalk and Instagram dominate as the leading social media platforms, which are crucial in today's *social commerce* ecosystem. Platforms such as Instagram and KakaoTalk not only serve as communication tools, but also as the primary means for shopping and transactions.<sup>57</sup> The integration of direct shopping features and collaboration with *influencers* strengthens the role of social media in *social commerce*, allowing consumers to make purchases more easily and quickly. A focused strategy on these platforms can help companies reach the right audience and strengthen their presence in the competitive digital market. The use of social media as a transaction tool is growing rapidly with 14.4% growth per year.. Convenience and time efficiency are the main reasons for this increase in social media transactions, showing that platforms such as KakaoTalk and Instagram are not only changing the way people communicate but also how they shop and transact, strengthening their position in the dynamic digital market.

**Picture 4.** *Social Commerce* Transaction Growth Chart in South Korea



Source: Research and Markets

<sup>56</sup> 'South Korea: Social Media Platforms Used for Social Commerce 2023', Statista, accessed June 23, 2024, <https://www.statista.com/statistics/1373407/south-korea-social-media-platforms-used-for-social-commerce/>.

<sup>57</sup> Kyong-Hwa Yi et al., 'Impacts of Information Source and E-Service Quality on Mobile Shopping Behavior in KakaoTalk', *Journal of Fashion Business* 20, no. 6 (30 December 2016): 34, <https://doi.org/10.12940/JFB.2016.20.6.32>.

According to data from Research and Markets<sup>58</sup>, *social commerce* transactions in South Korea have totaled USD 21.2 billion and are predicted to increase significantly to USD 41.4 billion by 2029. This growth is driven by several key factors, including effective *influencer* marketing strategies, integration of direct shopping features on social media platforms that make it easier for consumers, and increased trust in the safety and quality of products sold through social media. This phenomenon reflects the shifting shopping behavior of consumers who are increasingly adopting digital technology to meet their needs more easily and efficiently.

The development of *social commerce* in Indonesia has also led to crimes that occur when using social media for shopping. In Indonesia, there are several cases of personal data collection on *electronic commerce*. The first case occurred in 2019 where 13 million *Bukalapak* user accounts were hacked.<sup>59</sup> This was repeated in July 2020, where the Indonesian Research Institute *Communication and Information System Security Research Center* (CISSReC) found that there was someone who bought the data of 91 million *Tokopedia electronic commerce* account users who leaked some last May and circulated the download link via *Facebook*.<sup>60</sup> In addition to data hacking cases, fraud cases in *online* transactions are also very common in *electronic commerce platforms*. The Ministry of Communication and Information or Kominfo recorded 1,730 online fraud contents during August 2018 to February 16, 2023. The loss caused by this fraud reached IDR 18.7 trillion from 2017 to 2021.<sup>61</sup>

Crimes resulting from technological developments also occur in Malaysia. In 2018, Malaysia reported more than 10,000 cases of cybercrime, most of which involved *online* fraud. In 2019, 3,514 *online fraud cases* were recorded in Malaysia. The number further increased in 2020 to 5,847 cases.<sup>62</sup> *Cyber Security* Malaysia reported that almost half of the *online* purchase fraud cases in Malaysia occurred on social media sites. Recently, NCC Malaysia reported that complaints related to *online* shopping fraud are mostly related to social networks.<sup>63</sup> In addition, in 2024 electronic commerce fraud continues to increase, until October 31, 2023 there were 8,162 cases of online fraud in Malaysia, this fraud resulted in Malaysia suffering a loss of RM57.73 million.<sup>64</sup> Then personal data theft also occurred in 2023, as many as 34.497 million cases of personal data theft and caused Malaysia to experience losses of RM1,218 billion.<sup>65</sup>

At the end of 2020, South Korea experienced a spike in complaints about fraudulent transactions through social media with over 3000 cases reported. These scams range in scale from small to large, resulting in losses of millions of won. Platforms such as KakaoTalk and YouTube are the main targets of these scams, with a lack of information leaving many individuals unaware

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<sup>58</sup> Research and Markets, 'South Korea Social Commerce Market Intelligence Databook 2024-2029 Featuring Facebook, TikTok, TMON, Zigbang, and Wemakeprice - Unveils 50+ KPIs on Social Commerce Trends by End-Use Sector', *GlobeNewswire News Room*, February 28, 2024, <https://www.globenewswire.com/news-release/2024/02/28/2837207/28124/en/South-Korea-Social-Commerce-Market-Intelligence-Databook-2024-2029-Featuring-Facebook-TikTok-TMON-Zigbang-and-Wemakeprice-Unveils-50-KPIs-on-Social-Commerce-Trends-by-End-Use-Secto.html>.

<sup>59</sup> Astrid Rahadiani Putri and Jofie Yordan, 'Bukalapak Admits 13 Million Data Sold by Hackers Was Hacked in March 2019', *Kumparan Tech*, 6 May 2020, <https://kumparan.com/kumparantech/bukalapak-akui-13-juta-data-yang-dijual-hacker-adalah-peretasan-di-maret-2019-1tMRT1UR0G/full>.

<sup>60</sup> Indiana Malia, 'Before BPJS Health, Here Are 3 Cases of E-Commerce Consumer Data Leakage', *IDN TIMES*, n.d., <https://www.idntimes.com/business/economy/indianamalia/selain-bpjs-kesehatan-ini-3-kasus-kebocoran-data-konsumen-e-commerce?page=all>.

<sup>61</sup> Lenny Septiani, 'Kominfo Records 1,730 Online Fraud Cases, Losses Hundreds of Trillion', *Katadata.Co.Id*, 24 February 2023, [https://katadata.co.id/desysetyowati/digital/63f8a599de801/kominfo-catatkan-1730-kasus-penipuan-online-kerugian-ratusan-triliun#google\\_vignette](https://katadata.co.id/desysetyowati/digital/63f8a599de801/kominfo-catatkan-1730-kasus-penipuan-online-kerugian-ratusan-triliun#google_vignette).

<sup>62</sup> Agus Setiawan and Suharto, 'Report From Kuala Lumpur - E-Commerce Fraud in Malaysia Increases', *ANTARA*, 7 April 2021, <https://www.antaranews.com/berita/2087450/penipuan-e-commerce-di-malaysia-meningkat>.

<sup>63</sup> Yurita Yakimin Abdul Talib and Fariza Hanim Rusly, 'The Current State of Social Commerce Fraud in Malaysia and the Mitigation Strategies', *International Journal of Advanced Trends in Computer Science and Engineering*, no. 2 (2020): 1593.

<sup>64</sup> Malaysia Now Admin, 'E-Commerce Fraud Rises, Records RM57.73 Million Loss This Year', *Malaysia Now*, 11 November 2023, <https://www.malaysianow.com/my/news/2021/11/11/kes-penipuan-e-dagang-meningkat-rekod-kerugian-rm57-73-juta-tahun-ini>.

<sup>65</sup> Malaysia Kini Admin, 'Over 34,000 Online Frauds in Lepas Year, Babit Kerugian RM1.2 b', *Malaysia Kini*, 18 March 2024, <https://www.malaysiakini.com/news/699744>.

that they are victims. The fallout from this has prompted the South Korean government to tighten oversight of transactions through social media to protect consumers and reduce future incidents of fraud.<sup>66</sup> Public concern about these cases is a risk in the development of *social commerce*. The use of social media does not escape the use of personal data uploaded to the social media. In addition to the use of personal data, it is not uncommon for fraud to occur on social media. False information is sometimes spread everywhere. It is also very feared that this will be experienced by the Indonesian people when making purchases on social media. Therefore, strengthening the law on personal data protection and consumer protection is needed in Indonesia.

In dealing with the growing electronic commerce, the Indonesian government has made several regulations to protect the public, regulations such as the Personal Data Protection Act, the Consumer Protection Act and the Electronic Information and Transaction Act. The Personal Data Protection Law is regulated in Law Number 27 of 2022, this law was formed to maintain the confidentiality of personal data and prevent misuse by irresponsible parties. This law discusses aspects related to personal data, such as types of personal data, rights and obligations of subjects, controllers and processors of personal data, data transfer, administrative sanctions, dispute resolution institutions, prohibitions and criminal provisions relating to personal data, as well as dispute resolution and procedural law.<sup>67</sup>

The Consumer Protection Law is regulated in Law Number 8 Year 1999 which aims to provide protection to consumers, so that business actors do not commit arbitrary actions that harm consumers. This law also regulates several regulations related to consumers, including consumer rights and obligations, actions taken and responsibilities of business actors, several institutions that support consumer protection, and dispute resolution.<sup>68</sup> In addition to these two regulations, there are regulations regarding Electronic Information and Transactions that regulate several provisions regarding electronic commerce, this regulation is regulated in Law Number 11 of 2008 concerning Electronic Information and Transactions. This law has undergone 2 renewals, namely in 2016 and in 2024. Several provisions related to electronic transactions are regulated in this law such as provisions regarding document information and electronic signatures, the implementation of electronic certificates and electronic systems, electronic transactions, domain names, intellectual property rights and protection of personal rights, prohibited acts in electronic transactions, dispute resolution and investigations.<sup>69</sup>

Not only Indonesia, Malaysia, which also has *social commerce* enthusiasts, also applies regulations that are not much different from Indonesia, it's just that these regulations look more comprehensive when compared to regulations in Indonesia. Malaysia started to introduce special regulations regarding the internet since 1997. This regulation is called *Cyber Law* by the Malaysian people and government. This law consists of several regulations that govern and oversee the internet and technology in Malaysia. The *Cyber Law* consists of several regulations, including the Computer Crime Act 1997, the Digital Signature Act 1997, and the Telemedicine Act 1997. In 1998, Malaysia introduced the Communications and Multimedia Act (CMA). At that time Malaysia also established the Communications and Multimedia Commission which serves to organize the formation of laws as well as regulate communications and multimedia activities including telecommunications and broadcasting.<sup>70</sup>

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<sup>66</sup> 'Thousands Claim Fraud after Buying Items via Social Media', January 17, 2021, <https://koreajoongangdaily.joins.com/2021/01/17/business/industry/SNS-sales-Fraud-Korea-Consumer-Agency/20210117162900643.html>.

<sup>67</sup> Law Number 27 of 2022 concerning Personal Data Protection, State Gazette of the Republic of Indonesia of 2022 Number 196, Supplement to the State Gazette of the Republic of Indonesia Number 6820

<sup>68</sup> Law Number 8 Year 1999 on Consumer Data Protection, State Gazette of the Republic of Indonesia 1999 Number 22, Supplement to State Gazette of the Republic of Indonesia 3821

<sup>69</sup> Law Number 11 of 2008 concerning Electronic Information and Transactions, State Gazette of the Republic of Indonesia of 2008 Number 58, Supplement to State Gazette of the Republic of Indonesia Number 4843

<sup>70</sup> Kiranjit Kaur, 'Consumer Protection in E-Commerce in Malaysia: An Overview', in *Papper of University of New England*, 2005, <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=3b9cf624681e348820f8392c584cf07d4605b6f5>.

Technology in Malaysia is not only developing in the field of internet and telecommunication, but also in the field of commerce. In addition to the aforementioned regulations to regulate crimes that occur on the internet, the Malaysian government has also strengthened electronic commerce regulations through several laws such as, Act 658 on Electronic Commerce in 2006, Act 709 on Personal Data Protection in 2010, and Act 599 on User Protection in 1999. Act 658 on Electronic Commerce was passed by the Malaysian government in 2006. This regulation provides legal recognition of electronic messages in commercial transactions, the use of electronic messages to fulfill legal requirements and to enable and facilitate commercial transactions through the use of electronic means.<sup>71</sup> There are several aspects regulated in this regulation such as the regulation of recognition of electronic messages, fulfillment of legal requirements through electronic means, and communication of electronic messages.<sup>72</sup> Act 709 on the Protection of Personal Data was passed in 2010, this regulation was later updated in 2016. This regulation regulates privacy records related to commercial transactions. Some of the aspects regulated in this regulation include regulations regarding the principles of personal data protection, exemptions related to personal data, Appointment of functions and powers of the commissioner, personal data protection fund, Personal data protection advisory committee, Court of appeal, Inspection of complaints and investigations and implementation.<sup>73</sup> Act 599 on User Protection in 1999, this regulation has also been updated in 2019. This regulation was established to protect the rights of consumers as a whole such as in the activities of buying and selling goods, services, contracts and others including transactions carried out online, as well as protecting consumers in obtaining information on goods or services, especially information derived from advertising.<sup>74</sup> In this regulation, there are several provisions that are regulated, including provisions regarding confusing and deceptive behavior, misrepresentation and unfair practices, safety of goods and services, breach of defense and repair, warranty on the supply of goods, rights regarding suppliers regarding warranty on the supply of goods, rights regarding manufacturers regarding guaranteed in stock, warranty regarding the supply of services, rights regarding suppliers regarding warranty on the supply of services, output obligations, national consumer care council, advertising committee and consumer claims court.<sup>75</sup>

The South Korean government demonstrated a proactive response to technological developments and cybersecurity threats by enacting the *Electronic Financial Transactions Act (EFTA)*, which was passed in 2006 and updated by Act No. 17254 of 2020.<sup>76</sup> This law serves to regulate electronic transactions, similar to the function of the Electronic Information and Transactions Act (ITE) in Indonesia. Regulating transactions through electronic social media platforms requires clear provisions as the threat of cybercrime is ever-present and evolving.

EFTA sets out the ground rules for electronic transactions, including the requirements and procedures that must be met to ensure the security and integrity of transactions. For example, Article 6(1) stipulates that companies engaged in electronic-based finance shall ensure and manage necessary access in electronic financial transactions. This includes verification of user identity, validation of transaction requests, and other measures necessary to avoid abuse of rights. Thus, in general, EFTA provides a comprehensive legal framework to protect consumers and maintain public trust in electronic transactions in South Korea.<sup>77</sup>

With respect to EFTA, the protection of personal data is a crucial matter that must be regulated. South Korea, through its *Personal Information Protection Act (PIPA)*, which has been

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<sup>71</sup> Ayyappan Palanissami, 'Legal Issues in E-Commercial and e-Contracting - An Overview of Initiatives in Malaysia', *International Journal of E-Education, e-Management and e-Learning*, 3-Business, no. 2 (2013): 175.

<sup>72</sup> Malaysia Act No. '658 of 2006 on Electronic Commerce', 2012.

<sup>73</sup> Malaysia Act No. 709 of 2016 on Personal Data Protection

<sup>74</sup> Muhammad Adnan Pitchan and Siti Zobidah Omar, "Muhammad Adnan Pitchan and Siti Zobidah Omar, 'Malaysia's Cyber Safety Foundation: A Review of Netizen Awareness and the Law', *Journal of Communication: Malaysia Journal of Communication*, no. 1 (2019): 117. Foundation: A Review of Netizen Awareness and the Law," *Journal of Communication: Malaysia Journal of communication*, No.1 (2019): 117 <https://www.academia.edu/download/74414424/9178.pdf>

<sup>75</sup> Malaysian Act No. 599 of 1999 quiet Protection of Users

<sup>76</sup> Act No.17354 Electronics Financial Transaction Act (EFTA)' (2020).

<sup>77</sup> Article 6 Paragraph (1) 'Act No.17354 Electronics Financial Transaction Act (EFTA)' (2020).

updated by Act No. 19324 of 2023, regulates various aspects of data protection, including maintaining the confidentiality of personal information such as name, address, telephone number, and other identifying data that can specifically identify a person. Key principles in PIPA include informed consent, where users must give voluntary consent to the collection and use of their personal data.<sup>78</sup> In addition, life performance information, such as purchase history and shopping preferences, must also be properly protected to prevent misuse.

The application of PIPA in *social commerce* is particularly relevant given the high volume of transactions and interactions involving users' personal data. Social media platforms used for *social commerce* activities, such as KakaoTalk, Instagram, and YouTube, must ensure that the users' personal data they collect is protected in accordance with the provisions of PIPA.<sup>79</sup> This protection increases consumer confidence, as they feel safer and more comfortable in sharing their personal information. Thus, the implementation of PIPA not only protects consumers from cybersecurity threats, but also promotes the growth of *social commerce* in South Korea through responsible and secure platforms.

There is another law that is more specific about consumer protection in electronic transactions which is contained in Law Number 19255 of 2023. The law regulates business actors or entrepreneurs to provide as detailed information as possible on their electronic business (*cybermall*) which includes: 1) Trade name and representative name; 2) The address of the place of business (including the address for resolving consumer complaints); 3) Telephone number and email address; 4) Business identification number; and 5) Terms and conditions of the *cybermall* contract.<sup>80</sup> This aims to facilitate consumers in conducting transactions and making complaints. In addition, this law regulates all matters regarding the rights of consumers and businesses in electronic transactions, such as delivery of goods, return of goods, and refunds.

## 2. Regulatory Design of Social Commerce in Indonesia

There are several proposed formulation designs that might be considered to strengthen consumer protection in conducting trade transactions on social media. The design of this regulatory formulation is divided into two forms, namely in terms of substance where the arrangements formed focus on the rules that will regulate the problem of public protection in social media trading. Then in terms of structure, it will form provisions regarding supporting institutions in protecting the public and resolving problems that occur in social media trading.

### Regulatory in Terms of Substance

Under Malaysia's Personal Data Protection Act, users of personal data must register with a data user registration application. This is so that the government can monitor the use of personal data. The process of registering and being accepted as a data user is regulated in the act, where accepted registrants will get an official data user certificate. Unlike Malaysia, the South Korean government requires organizations (companies or institutions) that collect and use personal data to register with the competent authority, the *Personal Information Protection Commission* (PIPC), which focuses on organizational accountability for data use and compliance with data protection rules. In Indonesia, similar regulations are stipulated in Ministerial Regulation No. 5/2020, which requires electronic system providers to register before running their *platforms*. To strengthen data protection, these regulations could be considered for inclusion in a more comprehensive law:

#### a. Sensitive Data Settings

In Malaysia's Personal Data Protection Act, there are provisions regarding the processing of sensitive personal data, such as information about a person's physical condition, mental health, political opinions or religious beliefs. The *Personal Information Protection Act* (PIPA) in

<sup>78</sup> Article 2 Paragraph (1) and (2) 'Act No.19234 Personal Information Protection Act (PIPA)' (2023).

<sup>79</sup> Ninne Zahara Silviani et al., 'PERSONAL DATA PROTECTION IN PRIVATE SECTOR ELECTRONIC SYSTEMS FOR BUSINESSES: INDONESIA VS. SOUTH KOREA', *Journal of Law and Justice* 12, no. 3 (2023): 536, <https://doi.org/10.25216/jhp.12.3.2023.517-546>.

<sup>80</sup> Article 10 Paragraph (1) 'Act No. 19255 Act on The Consumer Protection in Electronic Commerce' (2023).

South Korea also restricts a wider range of sensitive data such as location details and internet activity. This sensitive data is restricted and can only be processed with the consent of the data owner, in order to safeguard their human rights and prevent data abuse. This provision could be incorporated into the Personal Data Protection Law or new rules on *social commerce* in Indonesia.

*b. Provision of Sanctions Against the Principle*

In the Personal Data Protection Laws in Indonesia and Malaysia, the principles and principles in personal data protection have been regulated. However, sanctions for violations of the principles and principles in the Indonesian Data Protection Act have not been regulated in the criminal provisions, in contrast to Malaysia which imposes 7 principles with sanctions if violated. This helps to raise the awareness of data users in processing data. Generally, the judicial process regarding personal data breaches in South Korea is fast and comprehensive, and the sanctions are binding with a fantastic amount of up to 400 million won.<sup>81</sup> This provision can also be considered for future *social commerce* regulation.

*c. Terms of the Personal Data Protection Fund*

To support better protection of personal data, fees are required to enhance security. The Malaysian Personal Data Protection Act provides for a Personal Data Protection Fund. This fund is used to support institutions that facilitate or improve data protection systems, as well as for the cost of improving systems and protecting people's personal data. In addition, the provisions of the fund can be included in the law for the efficient distribution of funds. This fund will be used to improve the personal data protection system

*d. Renewal of Consumer Protection Law for Electronic Media.*

Malaysia and South Korea have made consumer protection regulations in trade conducted on electronic media, so that later if there is a loss to consumers when making purchases through electronic media, the regulations in the Consumer Protection Law can be used. While Indonesia has not included regulations regarding consumer protection in trade through electronic media. So the regulations in the Consumer Protection Law cannot be used for consumers who make purchases through electronic media.

## **Structure Regulations**

*a. Personal Data Users Forum*

A data user forum is a body or institution appointed by the Malaysian commissioner as a data user forum or group. The purpose of this forum is to draft, develop and provide rules that will protect the rights of data users in accordance with the provisions provided by the Personal Data Protection Act of 2010.<sup>82</sup> This forum is usually used as a discussion forum for each data user party on matters related to improving the protection of the data protection system of data users, which will result in the development of a better system to protect data.<sup>83</sup> Data user forums discuss issues frequently faced by data users and provide a complaints website. They also offer alternative procedures for dispute resolution in a low-cost and practical manner. The forum is regulated under Malaysia's Personal Data Protection Act and could serve as a model for the establishment of a similar institution in Indonesia, allowing data users and data processors to join forces and improve data security and protection.

*b. Personal Data Protection Supervisory Organization*

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<sup>81</sup> 'South Korea's Personal Information Protection Act', *BreachRx* (blog), accessed June 23, 2024, <https://www.breachrx.com/global-regulations-data-privacy-laws/south-korea-personal-information-act-2/>.

<sup>82</sup> Malaysian Personal Data Protection Officer, 'Data User Forum', *Official Portal of the Personal Data Protection Office*, 2021, <https://www.pdp.gov.my/jdpv2/mengenai-kami/maklumat-organisasi/forum-pengguna-data/>.

<sup>83</sup> Section 21 of Malaysia Act No. 709 of 2010 Pindaan 2016 on Personal Data Protection



Malaysia established a personal data protection advisory committee, whose function is to advise the commissioner on all matters relating to data protection including data misuse and problems experienced by data users and data owners.<sup>84</sup> Similarly, South Korea has a *Personal Information Protection Commission* (PIPC) that oversees the operation of the *Personal Information Protection Act* (PIPA) which serves as the main authority that ensures that all entities processing personal data in South Korea comply with applicable regulations, and protect the rights of individuals regarding their personal information.<sup>85</sup> PIPC also has the authority to impose sanctions and legal action against violations that occur in the processing of personal data. Meanwhile, in Indonesia there is still a lack of supporting institutions to protect personal data. Therefore, the establishment of a personal data protection supervisory institution is very necessary to be established in order to better supervise the use of personal data by data users and personal data processors in Indonesia.

## V. Conclusion

Regulations related to electronic commerce in Indonesia do not fully protect the public from concerns about cybercrime and fraud in online transactions. Existing provisions may already be regulated in legislation, but it is better if they are regulated more comprehensively in a special law on social commerce or through additional rules in the Law on Personal Data Protection, Consumer Protection, and the Law on Information and Electronic Transactions. Such additions include registration of data users, regulation of sensitive data, personal data protection funds, and sanctions for non-compliance with principles. The establishment of institutions such as the Personal Data Users Forum, Personal Data Protection Supervisor, and Consumer Court can also be considered to further support the protection of consumers and personal data when conducting *online* transactions in Indonesia. In the formation of *social commerce* regulations, it is important to consider the provisions of sharia that protect the five elements of protection: religion, soul, mind, offspring, and property. The main focus of online commerce protection, especially on social media, is to protect personal data and prevent fraud. This fulfills one of the objectives of sharia, which is to protect property. Malaysia and South Korea have more comprehensive regulations governing the protection of personal and consumer data in electronic commerce compared to Indonesia, which has no specific legislation for social media. Indonesia can follow the example of Malaysia and South Korea by adopting some relevant laws or adding new regulations to existing legislation.

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<sup>84</sup> Section 70 of Malaysia Act No. 709 of 2010 Pindaan 2016 on Personal Data Protection

<sup>85</sup> Article 7 Paragraph (1) Act No.19234 Personal Information Protection Act (PIPA).

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