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MORAL HAZARD RISK IN THE PRE-VERIFICATION REFUND MECHANISM AND ITS IMPLICATIONS FOR MERCHANTS' LEGAL CERTAINTY

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Abstract
The development of trade through electronic systems (PMSE) has pushed e-commerce platforms from intermediaries to private regulators that establish transaction mechanisms, including pre-verified refund policies. This could create an imbalance in the distribution of risk between consumers and merchants. This study aims to analyze the mechanism's suitability with the legal principles outlined in Government Regulation Number 80 of 2019 and its implications for legal certainty and merchant protection. This research is a normative legal research with a legislative and conceptual approach. The analysis is supported by limited empirical interview data that is used to strengthen normative arguments. The results of the study show that the pre-verification refund mechanism creates an unbalanced structure due to the absence of an initial control mechanism (ex ante control), thereby creating space for structural *moral hazards. Under these conditions, consumers are at minimal risk, while merchants bear the risk of transactions from the outset without adequate verification. The implication is that legal certainty for merchants is only formal, not substantive, because transaction outcomes become unpredictable. In addition, most legal protections still rely on repressive approaches and lack effective preventive mechanisms. This study confirms that moral hazard in e-commerce transactions is not solely due to individual behavior but also to the platform's policy design. Therefore, it is necessary to reconstruct the refund mechanism by making verification a prerequisite, strengthening preventive measures, and balancing risk allocation to achieve substantive legal certainty in the PMSE ecosystem.*

Keywords: *moral hazard, pre-verified refund, legal certainty, merchant protection, PMSE*

I. INTRODUCTION

The development of Electronic Trading Systems (PMSE) has transformed the structure of legal relations between consumers, merchants, and digital platforms. The government responded to this development on November 20, 2019, through Government Regulation

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Number 80 of 2019 concerning PMSE (PP 80/2019), which serves as a rule for implementing Article 66 of Law Number 7 of 2014 concerning trade. [1]

Currently, e-commerce platforms no longer act solely as transaction intermediaries but also as private regulators, setting internal rules that bind the parties, including mechanisms for returns and refunds. This transformation puts the platform in a strategic position to determine the distribution of rights and obligations in electronic transactions. However, the provisions on rights and obligations in Shopee's self-regulation, in principle, must still refer to the provisions on trade and consumer protection regulated by the Government. [2]

One notable policy in development is the Return-Free Guarantee Program, implemented by Shopee on February 16, 2024. The program aims to enhance consumer protection and trust in digital transactions. Several studies show that flexible refund policies increase consumer trust and transaction volume in e-commerce. However, most current research focuses on consumer protection, while the implications of such policies for merchants' positions remain underreported. A merchant is a person who sells items, including those they buy and resell.[3][4][5]

In practice, some platforms implement a pre-verification refund mechanism, in which a refund is issued before the merchant verifies the returned item. This mechanism accelerates the recovery of consumer rights, but it also has the potential to disproportionately shift the distribution of risk. Consumers face relatively low risk, while merchants bear the risk of transactions from the initial stage without adequate verification.[6]

This condition reflects significant information asymmetry and creates space for moral hazard. From an economic perspective, moral hazard arises when a party has the power to act opportunistically because it does not bear the direct consequences of its actions. The design of

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[1] 'Cabinet Secretariat of the Republic of Indonesia | This is Government Regulation Number 80 of 2019 concerning Trade through Electronic Systems - Cabinet Secretariat of the Republic of Indonesia', n.d. <https://setkab.go.id/inilah-peraturan-pemerintah-nomor-80-tahun-2019-tentang-perdagangan-melalui-sistem-elektronik/> [accessed 8 December 2025].

[2] Enni Soerjati Priowirjanto, Ahmad Fikri Haykal, and Carolina Renee Munaf, 'Marketplace Self Regulation Regarding the Return of Goods Through the Cash On Delivery Payment Method', *ACTA DIURNAL Journal of Notary Law*, 6.1 (2022), p. 115, doi:10.23920/acta.v6i1.1132.

[3] 'Does Shopee's Return-Free Guarantee Feature Make MSMEs Profit or Loss? This Is What the Observer Says', n.d. <https://disway.id/read/766051/fitur-garansi-bebas-pengembalian-shopee-bikin-umkm-untung-atau-rugi-ini-kata-pemerhati/15> [accessed 8 December 2025].

[4] Puspita Chairun Nisa and Veni Helen Virgita Hutagalung, 'The Effect of Return Policy Leniency and Seller Reputation on Consumer Trust-Mediated Purchase Decisions', *Journal of Digital Business and Marketing*, 1.2 (2022), p. 70, doi:10.35912/jbpd.v1i2.642.

[5] Endang Sutrisno and others, *Textbook of Commercial Law*, ed. by Retno Widyani (Deepublish, 2023).

[6] Eti Rohayati, A. Kumedi Ja'far, and Liky Faizal, 'Return System on the Return Free Guarantee Program in Shopee E-Commerce Perspective of Khiyar Requirements', *Justicia Ciencias: Journal of Legal Sciences*, 10 (2025), pp. 75–76, doi:10.24967/jcs.v10i1.3697.

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such a pre-verification refund mechanism could be a structural factor that encourages claims that do not fully reflect the goods' actual condition.[7]

The concept of moral hazard has been widely studied in the economic and financial literature. However, the application of the analysis to e-commerce platform policies, especially regarding the refund mechanism and its impact on merchants, remains limited. Previous research has not linked platform policy design to the potential distortion of the legal balance in electronic transactions.

This issue is relevant within the national legal framework, particularly in Government Regulation Number 80 of 2019 concerning PMSE, Article 3, which emphasizes the principles of good faith, prudence, balance, and fairness. The pre-verification refund mechanism may not fully align with the principles of prudence and balance, as financial decisions are made without adequate verification. The sustainability of the digital ecosystem will not be achieved without an innovative and equitable policy framework. Governments need to ensure that digital transformation does not create social gaps or market monopolies held by large corporations.[8]

In contrast to previous research that framed moral hazard as an individual behavior, this study positions it as a structural consequence of the design of digital platform mechanisms. Based on this, the study aims to analyze the pre-verified refund mechanism in the Return-Free Guarantee Program as a potential trigger of moral hazard through information imbalance and risk transfer. In addition, this study examines its implications for legal certainty and the balance of protection for merchants within the PMSE framework in Indonesia. This introduces a novel analysis of the relationship between moral hazard theory and digital platform policy design from a legal perspective, aiming to produce a more balanced understanding of the protection of parties in the e-commerce ecosystem.

II. LITERATURE REVIEW

The Theory of Legal Certainty by Gustav Radbruch

Gustav Radbruch argued that a good law embodies the values of justice, legal certainty, and utility. These three legal objectives are horizontal. Legal certainty is one of the products of law, specifically legislation. Legal certainty requires clear, stable, and predictable rules for the

[7] 'Moral Hazard in Business According to Dr. Muhsin Hariyanto, M.Ag.', Center for UMY CISIC Studies, 11 October 2025 <https://pusatstudi.umy.ac.id/cisic/moral-hazard-dalam-bisnis-menurut-dr-muhsin-hariyanto-m-ag/> [accessed 8 December 2025].
[8] M. M. Dr. Arnolt Kristian Pakpahan and others, *Digital Business Textbook*, ed. by Sepriano (Sonpedia, 2025).

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parties. Legal certainty ensures that legal subjects are aware of their rights and obligations and can estimate the legal risks of any action.

In the context of PMSEs, legal certainty is essential to ensure that merchants understand the return mechanism, dispute-resolution processes, and potential financial risks. This kind of procedural uncertainty can create an imbalance in the legal positions of merchants and consumers.

Legal Protection Theory by Philipus M. Hadjon

Philipus M. Hadjon stated that legal protection consists of two main forms, namely preventive and repressive.

a) Preventive Legal Protection, which is a mechanism that provides opportunities for legal subjects to prevent rights violations. In PMSE, regulations such as UUPK and PP 80/2019 are intended to provide preventive protection for both consumers and merchants, including return policies and standard clauses.
b) Repressive Legal Protection, which is dispute resolution when rights violations occur. On e-commerce platforms, a form of repressive protection is realized through Online Dispute Resolution (ODR).

In the context of the Return-Free Guarantee Program, Hadjon's theory is used to assess whether the merchant obtains adequate preventive and repressive protection. When the return mechanism is more consumer-friendly and merchants have no room to reject or effectively verify goods, legal protection becomes unbalanced and potentially detrimental to merchants.

The Theory of Good Faith by Subekti

According to Subekti, the principle of good faith in the agreement requires honesty from the parties from the agreement's formation to its implementation, where each party does not conceal circumstances that could cause losses to the other party in the future. This principle also includes the demand for propriety in the exercise of contractual rights and obligations, so that the agreement is not only formally valid but also substantively just.

In the context of e-commerce, the principle of good faith is used to balance the legal relationship between platform business actors and consumers, especially given the character of massive, standardized electronic transactions and the minimal direct interaction between parties.

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Previous Research

Research by Fadhilah Yasmin Adzani

This research is a thesis entitled "Legal Protection of Seller Marketplace Against Abuse of Return Guarantees by Buyers: Positive Legal Perspectives and Fiqh of Muamalah (Case Study in the Shopee Seller Community)" written in 2025 at Maulana Malik Ibrahim State Islamic University, Malang, which examines legal protection for marketplace sellers against the abuse of the return guarantee by buyers with empirical methods and qualitative approaches. The study's results show that there are loopholes in the return system that consumers often exploit to the detriment of sellers, while the existing legal protections are not optimal because they focus too heavily on consumers. From the perspective of muamalah fiqh, the practice is also contrary to the principle of honesty and the concept of khiyar. This research is relevant to the research to be conducted, but it differs in focus.

Research by M. Isom Fuadi and Miko Aditya Suharto

The research, entitled "Shopee Seller Legal Protection for Automatic Return Losses by Consumers in Shopee COD Transactions" examines the legal protections available to sellers who incur losses from the automatic return mechanism in Cash on Delivery (COD) transactions on the Shopee platform. The results of the study show that the automatic return system provides convenience for consumers, but in practice, it can cause losses for sellers due to limitations on their right to refuse returns and their weak bargaining position within the system. In addition, the available legal protection is considered suboptimal because it has not struck a balance between consumers' and sellers' interests. However, this study still focuses on the automatic return mechanism in COD transactions and has not examined the specific forms of buyer abuse of the return guarantee or analyzed them from a legal perspective.

III. RESEARCH METHODS

Types of Research

This research is a normative juridical legal research that focuses on the analysis of written legal norms. Normative research examines the principles, rules, and provisions of laws and regulations governing electronic transactions, consumer protection, and the suitability of standard clauses in electronic contracts. The research examines the suitability of the Shopee Return-Free Guarantee Program's mechanism in relation to Government Regulation Number 80 of 2019 concerning PMSE, the Consumer Protection Law, and general principles of treaty

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law. Interviews are used as supporting materials to strengthen the context of the application of norms in PMSE practice. The interviews in this study are used as tertiary data to confirm and reinforce normative arguments against the application of the refund mechanism in PMSE practice.

Research Approach

This research uses a statute approach*, a* conceptual approach*, and a* legal document analysis. The legislative approach is carried out by examining the provisions of the Consumer Protection Law, Government Regulation Number 80 of 2019 concerning PMSE, and the Civil Code that are relevant to the return policy for goods on e-commerce platforms.

A conceptual approach is used to develop an analytical framework grounded in relevant legal principles and doctrines, including legal certainty, legal protection, contractual balance, good faith, and moral hazard. Meanwhile, the analysis of legal documents is carried out by reviewing the Terms and Conditions of Shopee as an electronic contract to assess its conformity with the applicable positive law

Source of Legal Materials

1. Primary Legal Material:
   a. Government Regulation Number 80 of 2019 concerning PMSE
   b. Civil Code (especially Article 1338 on the principle of good faith)
   c. Shopee Return Free Warranty Program Policy.
2. Secondary Legal Materials:
   a. Law books on contracts, consumer protection, and commercial law
   b. Scientific journals and previous research results related to electronic transactions, standard clauses, and moral hazards.
   c. Academic literature that discusses the theories of Radbruch, Hadjon and Subekti
3. Tertiary Legal Materials:
   a. Interview
      a. Legal Material Analysis

The analysis of legal materials is conducted in a normative qualitative manner using deductive reasoning, namely by applying general legal norms to the policy practices of the Shopee Return-Free Guarantee Program. The analysis is based on Government Regulation Number 80 of 2019 concerning PMSE, the Consumer Protection Law, and Article 1338 of the

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Civil Code, and is associated with the principles of legal certainty, good faith, and contractual balance.

IV. RESEARCH RESULTS

Pre-Verified Refund Mechanism in the Return-Free Guarantee Program

Shopee's Return-Free Guarantee program is implemented based on standard clauses that bind merchants as part of electronic contracts as referred to in Article 1 number 4 of Government Regulation Number 80 of 2019 concerning Trade Through Electronic Systems (PP 80/2019)Therefore, the refund mechanism in this program must be in line with PMSE principles, namely good faith, prudence, transparency, accountability, balance, and fairness.

In Indonesian law, there is no rule that expressly gives consumers the right to return goods without reason. Returns are generally only allowed if there are defects or non-conformities in the goods. Therefore, a return without a clear basis can be seen as a form of unilateral cancellation by the consumer, potentially conflicting with the goodwill principle in the agreement. [9]

Based on the results of interviews with academic Y, the refund mechanism on e-commerce platforms is designed as a consumer protection instrument that still maintains a balance between the parties' rights and obligations. In the Shopee seller education center, the platform arranges refunds without merchant verification only under certain conditions, such as for non-returnable goods, claims for unaccepted goods, or certain damages that do not require redelivery. This arrangement essentially reflects the principle of prudence by considering the risk characteristics of each transaction type. [10][11]

In practice, the pre-verified refund mechanism in the Return-Free Guarantee Program begins when consumers apply for a refund through the Shopee system by selecting the return reason available on the platform. These reasons may include goods not in accordance with the order, sizes that are not suitable, changes of mind, goods that do not meet expectations, or other reasons determined by the system. After the submission is made, the system will process the return request in accordance with the applicable categories and conditions.

[9] Yue Guan and Eni Oktaviani, 'The Legal Theory Foundations of the Right to Return Goods Without Reason in E-Commerce', *October*, 1.2 (2020), p. 163.
[10] Y, *an interview with Y academics regarding the e-commerce refund mechanism* (Cirebon, 2026).
[11] 'About Returns/Funds | Shopee Indonesia Seller Education Center', n.d. <https://seller.shopee.co.id/edu/article/23962> [accessed 22 January 2026].

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Moral Hazard as a Structural Consequence in the Pre-Verification Refund Mechanism

This pre-verified refund design can be analyzed from the perspective of moral hazard. Moral hazard arises when a party has an incentive to act opportunistically because it does not bear the direct consequences of its actions Previous research has shown that excessive flexibility in the return mechanism on the Shopee platform has encouraged the abuse of rights by consumers, including through the return of goods in a damaged, used, or inappropriate condition of delivery These findings indicate that the design The refund policy not only opens up space for opportunistic behavior, but also reflects the lack of effective internalization of the principle of good faith in the system. In this context, the absence of an initial verification mechanism is not merely a technical weakness but rather reflects a design failure to operationalize the principle of good faith as a standard of conduct in PMSE transactions. Thus, consumer abuse of rights cannot be understood as a mere individual deviation but as a consequence of the system's configuration, which structurally creates the opportunity for moral hazard.[12].[13]

The potential moral hazard in the pre-verification refund mechanism can be seen through several main stages. First, consumers can submit a return claim through the system without a strict initial proof requirement. Second, the system can process refunds before the merchant has the opportunity to directly verify the condition of the returned goods. Third, merchants lose control over the initial evidence because the goods have not been objectively inspected before the refund decision is made. Fourth, the risk of the transaction is finally transferred to the merchant, even though the merchant has fulfilled the obligation to deliver the goods under the transaction. The mechanism's structure reveals a disproportionate allocation of risk, creating space for opportunistic behavior in electronic transactions.

Before the implementation of the Return Free Guarantee Program, the refund process typically began with verification. Merchants have the opportunity to inspect the returned goods and ensure that the reason for submission matches the goods' condition. With this mechanism, the refund decision is made once there is an initial basis for proof of the goods' condition.

However, under certain conditions, refunds can be processed after the Return Free Guarantee Program is implemented, without waiting for direct verification from the merchant.

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[12] Nur Hidayat, *Group-Based Sharia Microfinance Model and Moral Hazard Risk* (Jember, 2026) <https://ummulquro.id/index.php/jii>.
[13] Rohayati, Kumedi Ja'far, and Faizal, 'Return System of Goods in the Return Free Warranty Program in Shopee E-Commerce Perspective of Khiyar Requirements'.

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The system emphasizes accelerating the refund process for consumers so that inspecting goods is no longer the primary requirement before refunds are issued.

The change in the mechanism reflects a shift in the return system from a verification approach to a transaction-efficiency approach and an acceleration in the restoration of consumer rights. Although the goal is to increase consumer convenience and confidence in transactions, changes to the system's design simultaneously affect the distribution of risk between the parties. The mechanism also allows returns to be submitted without adequate initial proof of the goods' condition. Returned goods are often not necessarily in the same condition as when they were first received by consumers. The merchant does not have sufficient opportunity to ascertain whether the goods remain in their original condition, have been used, damaged, or otherwise altered before making a refund decision.

Based on interviews with seller A, refunds are often processed before the goods are re-received, potentially resulting in double losses: loss of goods and funds. The informant stated that refunds are often processed before the goods are returned, so the merchant does not have the opportunity to directly ascertain the goods' condition. On the other hand, consumer interviews indicate that the refund application process is relatively easy and lacks a strict initial verification.[14][15]

These findings are reinforced by the view of academics who show that the design of the pre-verified refund reflects the absence of an ex ante control mechanism. The absence of such controls indicates that the system lacks adequate instruments to distinguish between legitimate and speculative claims. These conditions form an unbalanced incentive structure. Consumers are at minimal risk because refunds are issued without initial verification, while merchants bear the risk from the start of the transaction. This inequality creates a situation in which opportunistic actions become economically rational.[16]

Thus, a non-return guarantee program accompanied by a pre-verified refund mechanism exhibits the characteristics of moral hazard, a situation in which a party has an incentive to act opportunistically because it does not bear the direct consequences of its actions. In this context, consumers can make claims that do not fully reflect the goods' actual condition, while merchants lack adequate opportunities to conduct initial verification.

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[14] A, *Interview with* Merchant *A regarding Refund Practices on E-Commerce Platforms* (Cirebon, 2026).
[15] b, *Interviews with Consumers regarding the Ease of Applying for Refunds on E-Commerce Platforms* (Cirebon, 2026).
[16] Y, *interviews with academics Y related to the e-commerce refund mechanism*.

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Furthermore, these findings show that moral hazard in e-commerce transactions is not solely due to individual consumer behavior but also to platform design mechanisms that fail to internalize control from the outset. In other words, moral hazard in this context is structural, arising from the design of a system that creates opportunities for abuse.

Information Asymmetry and Risk Distribution Shifts

Information asymmetry in the pre-verification refund mechanism arises because the parties do not have equal access to information about the goods' condition after the transaction. Consumers can control the goods' physical condition after receipt, whereas merchants cannot directly supervise their use or condition before making a refund decision. On the other hand, the platform controls the refund decision-making system through internal data and algorithms that are not fully accessible to merchants. The inequality in access to information puts merchants in a more vulnerable position during the proof process.

However, the fast refund mechanism continues to play an important role in boosting consumer confidence and transaction efficiency. Therefore, the main problem does not lie in the existence of such a mechanism, but in the lack of a balance between refund speed and an adequate verification system. It can be affirmed that the pre-verification refund mechanism in e-commerce creates. [17]a moral hazard condition through an imbalance of transactional burden, information asymmetry, and the absence of an initial control mechanism, which systemically encourages opportunistic behavior in electronic transactions.

On the other hand, a fast refund mechanism is essential in the modern e-commerce ecosystem because electronic transactions carry greater uncertainty than conventional transactions. Consumers cannot inspect goods before purchase, so a responsive refund policy is an important tool for building trust in the digital market. Therefore, the main problem does not lie in the existence of fast refunds themselves, but in the imbalance in the verification and risk-distribution mechanisms in their implementation.

[17] Puspita Chairun Nisa and Veni Helen Virgita Hutagalung, 'The Effect of Return Policy Leniency and Seller Reputation on Consumer Trust-Mediated Purchase Decisions', *Journal of Digital Business and Marketing*, 1.2 (2022), p. 64, doi:10.35912/jbpd.v1i2.642.

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Comparison Table of Refund Mechanisms Before and After Automation.

Aspects	**Before the Return Free Warranty Program**	**After the Return Free Warranty Program**
Merchant Verification	Done before the refund is processed	Not always done before refund
Proof Control	Merchants still have the opportunity to inspect goods	Merchant loses control of the initial proof
Refund Speed	Comparatively slower	Faster
Risk Distribution	More proportionate	Tends to be redirected to merchants
Potential Moral Hazard	Comparatively smaller	Tends to be larger
Consumer Protection	Persistent but more limited	Highly prioritized

Overall, the pre-verified refund mechanism shows the following characteristics:

a. The refund is made before verification by the merchant
b. Merchants lose control over initial proofing
c. Transaction risk is shifted to the merchant
d. The claim process is not accompanied by adequate verification

These characteristics indicate a shift from normative design to practices that could cause imbalances in the distribution of transaction risk.

In Government Regulation No. 80 of 2019, especially Article 3 letter a, which emphasizes that PMSE must be held based on the principle of good faith. Good faith performance of the contract refers to objective good faith, where the standard refers to the norms that develop in society. In addition, the principle of good faith, as stated by Subekti, is a subjective element that has not been optimally operationalized because the system lacks a mechanism to verify the honesty of claims. [18][19]

This shows that the pre-verification refund mechanism not only affects the technical aspects of transactions but also disrupts the structure of legal certainty, weakens preventive protections, and creates systemic moral hazard in the e-commerce ecosystem. On the other hand, responsive and evidence-based policies allow innovation to continue to flourish without

[18] Indonesia, Government Regulation of the Republic of Indonesia concerning Trade through Electronic Systems (Number 80 of 2019).
[19] Khairandy Ridwan, *Good Faith in Contracts in Various Legal Systems* (FH UII Press, 2017).

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sacrificing user rights and market stability. Therefore, this principle is key to realizing an inclusive, secure, and sustainable digital business ecosystem. [20]

Implications of Moral Hazard on Merchants' Legal Certainty and Legal Certainty Reconstruction in Shopee's Return-Free Guarantee Program Based on Government Regulation Number 80 of 2019

Moral Hazard Implications on Merchants' Legal Certainty

The Return-Free Guarantee program, with a fast refund mechanism, is basically a legitimate consumer protection instrument in the e-commerce ecosystem. This policy serves to increase trust and speed up transactions. However, the design of the combined mechanism essentially creates a structure that encourages the opportunity for.[21] Moral hazard on the part of consumers, both individually and structurally. This condition not only affects the economic aspects of transactions but also directly impacts legal certainty and the effectiveness of legal protection for merchants.

From the perspective of legal certainty, Gustav Radbruch's thought emphasized that law must provide clarity of norms and predictability of legal consequences. From the perspective of PMSE, legal certainty is not only about the existence of written norms but also about the predictability of the outcomes of a transaction mechanism. In this case, the provisions on evidence of electronic transactions in Articles 28 to 30 of PP 80/2019 emphasize the importance of having proof before a legal decision is taken.[22] However, in this refund mechanism, the refund decision is made without being based on objectively verified facts. As a result, merchants lack balanced certainty about the transaction's final outcome, as the refund decision is determined more by the platform's design than by an objective verification process.

This condition shows that the legal certainty that is formed tends to be formalistic because the mechanisms in the platform system do not reflect justice or guarantee fair results. As a result, the relationship among facts, proof, and legal consequences becomes disconnected, thereby undermining the legal space's predictive function in the practice of electronic transactions.

[20] Dr. Arnolt Kristian Pakpahan and others, *Digital Business Textbook*.
[21] Nisa and Hutagalung, 'The Effect of Return Policy Leniency and Seller Reputation on Consumer Trust-Mediated Purchase Decisions', 2022.
[22] Muhammad Bintang Firdaus, 'The Dialectic of Justice, Certainty, and Legal Utility in Gustav Radbruch's Perspective on Indonesian Law', *Journal of Legal and Public Policy Studies*, 3 (2025), p. 362.

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Weaknesses of Preventive Legal Protection from the Perspective of PMSE

From the perspective of legal protection, Philipus M. Hadjon distinguishes it into two forms: preventive (ex ante) and repressive (ex post). In the pre-verification refund mechanism, protection for merchants tends to be repressive because losses have occurred before there is an opportunity to clarify or defend. The absence of initial verification indicates that the system's preventive protection is not optimal. [23]

The main problem with the pre-verification refund mechanism is not the absence of dispute resolution after the loss, but the lack of optimal preventive legal protection before it. Refund systems that process transactions without prior verification suggest that legal protection is more repressive, as new merchants have less room to defend themselves after losses. This condition indicates that there is no adequate preventive mechanism to guard against potential abuse from the outset of the transaction.

These findings are reinforced by interviews with academics who show that the design of the refund mechanism has not provided adequate initial control instruments, so that legal protection does not run preventively. In line with that, law enforcement officials consider that the absence of initial verification also weakens the evidentiary process in dispute resolution. From a criminal law perspective, especially in law enforcement in the field of information technology and electronic transactions, proof is highly dependent on the availability of objective data from the outset of the transaction. A refund mechanism processed before verification can skip an important stage in the construction of proof, making it difficult for law enforcement to act, even when there are indications of loss. This condition shows that the design of the platform mechanism affects not only the distribution of risks but also the effectiveness of law enforcement within the legal protection system.[24][25]

Reconstruction of the Refund Mechanism from the Perspective of Government Regulation Number 80 of 2019

Furthermore, regarding the principle of good faith, Subekti emphasized that legal relations must be based on the parties' honesty and propriety.[26] The pre-verification refund mechanism has not provided an adequate means to test or verify the honesty of consumer

[23] Ulfah Mutiara Rachmat, Slamet Riyanto, and Arifudin, 'Optimizing Consumer Protection in Complaim for Defective Products through Self-Regulation in Online Purchase Transactions of PT. Bukalapak', *Jurisdictie*, 17 March 2024, p. 70.
[24] Y, *interviews with academics Y related to the e-commerce refund mechanism*.
[25] I, *Interview with Law Enforcement Officials Regarding the Implications of the Refund Mechanism on Evidence in E-Commerce Disputes* (Cirebon, 2026).
[26] Subekti, Hukum Perjanjian (Jakarta: Intermasa, 2005) p. 41.

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claims. This shows that the principle of good faith has not been optimally operationalized in system design.

If associated with the principles in PP 80/2019, this condition reflects the suboptimal implementation of the principles of prudence, balance, and justice in Article 3. Refund decisions made without verification reflect a weak precautionary principle, while a disproportionate distribution of risk shows an imbalance between the parties. Article 3 of PP 80/2019 requires that PMSE be conducted in accordance with the principle of prudence.

The inconsistency between the pre-verification refund mechanism and the principles set forth in Government Regulation Number 80 of 2019 extends beyond the normative level and has legal consequences for the validity and fairness of the parties' contractual relationship. In the construction of treaty law, any exercise of rights must be based on the principles of good faith and balance, as reflected in the PMSE principles. When a platform unilaterally establishes a mechanism that deprives the merchant of the right to verify before issuing a refund, it may create an unbalanced, one-sided clause.

This situation shows that the platform's role is no longer limited to facilitation; it has directly affected transaction outcomes. This blurs the platform's position as an intermediary and, at the same time, casts it as a decision-maker without adequate accountability mechanisms. In these conditions, the platform, in practice, not only serves as a provider of electronic means but also performs quasi-regulatory and quasi-adjudicatory functions, as it has the authority to determine the outcome of transactions through its internal system. Problems arise when these authorities are exercised without accountability and transparency mechanisms comparable to those of formal dispute resolution institutions. Therefore, the pre-verification refund mechanism not only creates an imbalance of risks but also has the potential to be contrary to the principles of contractual fairness and opens up space for further testing of the validity of such clauses from the perspective of consumer protection law and treaty law.

Ideally, the principal is obligated to ensure that any decision that carries legal and financial consequences is based on properly verified information. However, in this mechanism, decisions are taken in conditions of factual uncertainty. This condition indicates an imbalance in the precautionary principle, as the system lacks a mechanism to minimize the risk of false claims from the outset. As a result, transaction risk is not managed proportionately; instead, it is unilaterally transferred to the merchant.

The implications of these conditions include:

a. Uncertainty of transaction outcomes for merchants

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b. Imbalance of risk distribution between the parties
c. Weakening of preventive legal protection
d. Weak evidence base in proving disputes

In that context, a reconstruction of the mechanism becomes necessary, not to remove the quick refund program, but to correct its design so as not to expand the opportunity for moral hazard.

The reconstruction includes:

1. Placement of verification as a prerequisite for refunds that impact the merchant's economic rights
2. Strengthening preventive protection by providing clarification space before the refund is executed
3. Operationalization of the principle of good faith in the form of a mechanism capable of detecting opportunistic behavior
4. Affirmation of the limits of the platform's authority as a private regulator so as not to shift legal certainty

Thus, the moral hazard arising from the pre-verification refund mechanism not only affects the economic aspect but also undermines legal certainty, weakens merchants' legal protection, and reduces the effectiveness of law enforcement in the trading ecosystem through electronic systems. In practice, these steps can be implemented by integrating initial verification, strengthening communication between consumers and merchants, and developing a moral hazard pattern-detection system based on user behavior. With this approach, consumer protection can be maintained without causing inequality that is detrimental to business actors, thereby supporting the creation of fair legal certainty and balance in PMSE transactions.

This study has limitations: it uses a normative legal approach and relies on limited interview data, so it has not quantitatively measured the extent of merchant losses or the frequency of moral hazards in e-commerce refund practices. Therefore, the next research is expected to use an empirical approach and broader statistical data to more comprehensively measure the impact of refund policies.

V. CONCLUSION

1. Based on the analysis, the pre-verification refund mechanism in the Return-Free Guarantee Program has the potential to create a structural moral hazard due to the absence of an initial verification control. The policy design creates space for opportunistic actions because the distribution of transaction risk becomes unbalanced between consumers and merchants.

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From a legal perspective, this mechanism is not fully aligned with the principles of prudence and balance as stipulated in Government Regulation Number 80 of 2019, as decisions with financial implications are taken without a proportionate evaluation.

2. The moral hazard in the pre-verification refund mechanism undermines legal certainty and preventive protection for merchants in PMSE. The refund mechanism, processed without objective verification, causes the merchant's position to become unbalanced during the process of proving and distributing risk. Therefore, it is necessary to reconstruct the refund mechanism by strengthening initial verification, implementing preventive protections, and limiting the platform's authority to achieve a more proportionate level of legal certainty.

Suggestions

1. For E-Commerce Platforms. E-commerce platforms need to redesign their refund mechanisms by implementing a layered verification system, especially for high-value transactions or goods at risk of misuse. In addition, the platform needs to provide merchants with clarification before processing refunds and develop a moral-hazard pattern-detection system based on user behavior to minimize the potential for opportunistic claims.
2. For the Government and Regulators. The government needs to strengthen dispute-resolution mechanisms and risk allocation in PMSEs, especially by establishing minimum verification standards before refunds are issued. In addition, clearer regulations are needed regarding the platform's authority as a private regulator to avoid creating an imbalance in legal protection between consumers and merchants.
3. For Merchants. Merchants need to improve transaction documentation, starting with the packaging process, shipping, and the condition of the goods before shipping, as proof of protection in the event of a refund dispute. The documentation can serve as an evidentiary tool to strengthen merchants' legal position in e-commerce dispute resolution.

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