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Consumer Protection in Electronic Transactions: Normative Gaps and Legislative Reform in Indonesian Digital Commerce Law

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Abstract: Indonesia's digital economy has expanded at a pace that fundamentally outstrips the adaptive capacity of its consumer protection legal framework. This study examines the normative adequacy of Indonesia's legislative architecture governing consumer protection in electronic transactions, with particular attention to the structural gaps produced by the interaction of Law Number 8 of 1999 concerning Consumer Protection (UUPK), Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE) as amended by Law Number 1 of 2024, Government Regulation Number 80 of 2019 concerning Trade through Electronic Systems, and the newly enacted Law Number 27 of 2022 concerning Personal Data Protection (UU PDP). Employing a normative juridical method with statutory, conceptual, and comparative approaches, this study identifies three critical normative gaps: the definitional inadequacy of pelaku usaha under the UUPK, which fails to encompass digital marketplace platform operators; the absence of pre-contractual transparency obligations governing algorithmic standard form contracts; and the structural incompatibility of existing dispute resolution mechanisms with the tripartite architecture of digital marketplace commerce. Comparative analysis of the European Union's Digital Services Act and China's E-Commerce Law of 2018 furnishes doctrinal reference points for reform. This study concludes that effective consumer protection in Indonesian digital transactions requires targeted amendments to the UUPK, structural integration of UU PDP into the consumer protection framework, and the establishment of a dedicated Online Dispute Resolution mechanism accessible to consumers without legal representation.

1. Introduction

The proliferation of digital commerce in Indonesia represents one of the most consequential transformations in the nation's contemporary legal landscape. Indonesia's e-commerce sector, which was valued at USD 44 billion in 2020 and is projected to reach USD 146 billion by 2025, has fundamentally displaced the conventional understanding of a buying-and-selling transaction a transaction that was once consummated face-to-face, governed by symmetrical information and physical immediacy, now increasingly conducted in an asymmetric, disembodied, and boundary-

defying digital environment.[1] The sheer velocity of this transformation has outpaced the adaptive capacity of the national legal system: Law Number 8 of 1999 concerning Consumer Protection (UUPK), the foundational instrument of Indonesian consumer law, was enacted more than two decades before marketplace platforms such as Shopee, Tokopedia, and Lazada became dominant commercial infrastructures.[2] The result is a structural mismatch a normative architecture designed for physical commerce, now strained to govern a digital ecosystem characterized by algorithmic contracting, data-driven transactions, and multi-layered intermediary relationships.

The normative inadequacy of the existing framework is not merely a question of outdated language or technical deficiency. It reflects a deeper epistemological gap between how the law conceptualizes consumer vulnerability and how that vulnerability actually manifests in digital transactions. Classical consumer protection doctrine was built upon the premise of correcting information asymmetry between a physically present business actor and an identifiable consumer. In digital commerce, however, this dyadic model is supplanted by a tripartite structure consumer, merchant, and platform operator where the platform simultaneously facilitates, monetizes, and moderates the transactional relationship, yet bears no clearly defined liability under the UUPK.[3] The absence of explicit platform operator liability within the current legislative framework creates a governance lacuna that business actors systematically exploit, leaving consumers without meaningful recourse when goods fail to arrive, when descriptions prove misleading, or when personal data is harvested and breached. The Ministry of Communication and Information Technology recorded 167,675 cases of e-commerce fraud in 2020 alone a figure that illustrates not only the magnitude of harm, but the manifest failure of existing law to deter and remedy it.[4]

The enactment of Law Number 27 of 2022 concerning Personal Data Protection (UU PDP) and the continued operation of Government Regulation Number 80 of 2019 concerning Trade through Electronic Systems (PP PMSE) represent legislative attempts to address the most pressing deficiencies. The UU PDP, modelled in part upon the European Union's General Data Protection Regulation (GDPR), introduces obligations of data minimization, purpose limitation, and breach notification imposing upon personal data controllers, including marketplace operators, a duty to notify data subjects within 3x24 hours of a breach and to submit to administrative sanctions, including fines, under its Article 57.[5] Yet the promulgation of UU PDP does not, by itself, resolve the deeper structural problems of consumer protection in electronic transactions. The law governs data protection as a discrete domain, without integrating its obligations into the broader consumer protection architecture established by the UUPK. A consumer who suffers harm arising from the intersec-

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1 Sufriadi, Yanto, and Alauddin. 2024. "The Efficiency and Effectiveness of E-commerce Consumer Protection Law Enforcement in Indonesia's Digital Economy." *International Journal of Economics, Business and Management Research* 8(6): 1–15. https://doi.org/10.51505/IJEBMR.2024.8601.

2 Koos, Stefan. 2021. "Consistency and Law Comparison in Consumer Protection Law Design in the Light of the Socially Responsible Market Economy Approach." *Indonesian Journal of Economics, Social, and Humanities* 3(2): 97–104. https://doi.org/10.31258/ijesh.3.2.97-104.

3 Salim, Alikhan, Tri Susilowati, and Hono Sejati. 2024. "Consumer Data Protection in Electronic Transaction Practices in E-Commerce." *Journal of Economics, Technology, and Business (JETBIS)* 3(8): 451–460. https://doi.org/10.57185/jetbis.v3i8.128.

4 Sufriadi and Alauddin. 2024. "The Efficiency and Effectiveness of E-commerce Consumer Protection Law Enforcement." https://doi.org/10.51505/IJEBMR.2024.8601.

5 Salim, Alikhan, Tri Susilowati, and Hono Sejati. 2024. "Consumer Data Protection in Electronic Transaction Practices in E-Commerce." *JETBIS* 3(8): 451–460. https://doi.org/10.57185/jetbis.v3i8.128.

tion of data misuse and transactional fraud an increasingly common scenario must navigate two separate statutory regimes that were not designed to function coherently together.[6]

This regulatory fragmentation is compounded by the nature of standard form contracts that govern virtually all consumer-platform interactions in Indonesian e-commerce. Consumers who engage with marketplace platforms agree, invariably, to clickwrap agreements presented at the moment of account registration documents dense with legal language, often hundreds of pages in length, that prospective consumers neither read nor substantively negotiate.[7] These agreements routinely contain clauses that shift the burden of proof onto the consumer in cases of dispute, limit the platform's liability for third-party merchant conduct, and grant the platform expansive rights to collect and process user data. The Consumer Protection Law, in Article 18, explicitly prohibits standard clauses that transfer business actor liability or that are disadvantageous to consumers. Nevertheless, enforcement of this prohibition in the digital context remains fragmentary, because the regulatory agencies responsible for consumer protection the National Consumer Protection Agency (BPKN) and the Consumer Dispute Settlement Agency (BPSK) lack the technical competence and institutional mandate to scrutinize algorithmic platforms systematically.[8]

The normative complexity of this problem is intensified when electronic transactions transcend national borders. Cross-border e-commerce transactions in which the consumer is located in Indonesia while the merchant operates from China, Singapore, or elsewhere generates acute jurisdictional challenges that neither the UUPK nor PP PMSE resolves with precision. Government Regulation Number 80 of 2019 provides, in principle, that international e-commerce disputes may be governed by Indonesian law if parties elect a domestic forum; in practice, however, consumers confronting cross-border fraud face significant obstacles in identifying the applicable law, accessing dispute resolution mechanisms, and enforcing judgments against foreign business actors.[9] Comparative analysis of jurisdictions that have enacted comprehensive e-commerce legislation including Singapore's Electronic Transactions Act and the People's Republic of China's E-Commerce Law of 2018 reveals that Indonesia's reliance upon a fragmented constellation of laws (UUPK, UU ITE, PP 71/2019, PP 80/2019, and UU PDP) produces legal uncertainty rather than the coherent, predictable regulatory environment that digital commerce requires.[10]

A significant body of academic scholarship has examined aspects of this problem in isolation. Some studies have focused on the inadequacy of UUPK as applied to digital transactions; others have analyzed the implementation of UU ITE in the context of e-commerce fraud; still others have examined the legal framework for personal data protection or the efficacy of BPSK dispute resolution. What remains conspicuously absent from the existing literature, however, is a comprehensive

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6 Yunisa, Dinda, Adelina Mariani Sihombing, Chelsea Mutiara Putri, and Nurul Hasanah. 2023. "Protecting Digital Dignitas: Highlighting Legal Protection and Responsibility in Personal Data Security Crime in Indonesia's Online Marketplace World." *Mahadi: Indonesia Journal of Law* 2(2): 156–164. https://doi.org/10.61925/MLJ.2.2.2023.156-164.

7 Koos, Stefan. 2021. "Consistency and Law Comparison in Consumer Protection Law Design." *Indonesian Journal of Economics, Social, and Humanities* 3(2): 97–104. https://doi.org/10.31258/ijesh.3.2.97-104.

8 Kharisma, Dona Budi, Diana Tantri Cahyaningsih, and Goldwina Aphroditerri Agnjana. 2024. "Urgency of E-Commerce Act for Consumer Protection (Comparative Study in Indonesia, Singapore, and China)." *Pena Justisia* 23(2). https://doi.org/10.31941/pj.v23i2.4430.

9 Sufriadi and Alauddin. 2024. "The Efficiency and Effectiveness of E-commerce Consumer Protection Law Enforcement." https://doi.org/10.51505/IJEBMR.2024.8601.

10 Kharisma, Dona Budi, Diana Tantri Cahyaningsih, and Goldwina Aphroditerri Agnjana. 2024. "Urgency of E-Commerce Act for Consumer Protection." *Pena Justisia* 23(2). https://doi.org/10.31941/pj.v23i2.4430.

normative analysis that (1) systematically maps the structural gaps across the entire legislative framework governing electronic consumer transactions UUPK, UU ITE, PP 71/2019, PP 80/2019, and the newly enacted UU PDP and (2) critically evaluates the juridical implications of these gaps through the lens of consumer vulnerability theory, with particular attention to the liability of platform operators as a distinct category of business actor not contemplated by classical Indonesian consumer law.[11] This article addresses that gap directly.

The novelty and contribution of this research are twofold. First, it integrates the analysis of UU PDP 2022 into the broader discussion of e-commerce consumer protection a perspective that prior scholarship has largely neglected, given the law's recent enactment. Second, it advances a normative argument for the reconceptualization of "business actor" (*pelaku usaha*) under the UUPK to encompass platform operators explicitly, drawing upon comparative insights from the EU Digital Services Act framework and China's E-Commerce Law as regulatory benchmarks. These contributions are original in the Indonesian context: no prior published study has advanced a comprehensive cross-regulatory mapping that incorporates UU PDP 2022 alongside the five primary instruments governing electronic consumer transactions in Indonesia. By doing so, this article aims to furnish lawmakers and legal practitioners with a coherent analytical foundation for the legislative reform that Indonesia's digital consumer protection framework urgently demands.

This study employs a normative juridical method (*penelitian hukum normatif*), utilizing a statutory approach (*pendekatan perundang-undangan*), a conceptual approach (*pendekatan konseptual*), and a comparative approach (*pendekatan komparatif*). Legal materials are analyzed qualitatively, with primary legal materials comprising the relevant statutes and regulations examined in relation to secondary legal materials drawn from reputable academic journals, legal doctrine, and jurisprudence. The analysis proceeds as follows: Part II examines the implementation of existing legal rules on consumer protection in electronic transactions. Part III analyzes the principal normative gaps in the current framework. Part IV proposes a conceptual reconceptualization of platform operator liability. Part V concludes with normative recommendations for legislative reform.

2. Method

This study employs a normative juridical research method (*penelitian hukum normatif*), also referred to in Indonesian legal scholarship as doctrinal legal research (*penelitian hukum doktrinal*). In the tradition of Indonesian legal science, normative juridical research is distinctly prescriptive in character: it is not concerned with the is the empirical observation of social facts but with the ought the identification, systematization, and critical evaluation of what the law requires, permits, or prohibits within a given normative framework.[12] As such, this study does not seek to measure behavioural compliance or empirically test legislative outcomes. Its objective is to construct a coherent legal argument about the adequacy of the existing normative framework governing consumer protection in electronic transactions, drawing its conclusions from an internal analysis of the law itself and the doctrines that structure its interpretation.

[11] Novita, Yuda Dwi, and Budi Santoso. 2021. "Urgensi Pembaharuan Regulasi Perlindungan Konsumen di Era Bisnis Digital." *Jurnal Pembangunan Hukum Indonesia* 3(1): 46–58. https://doi.org/10.14710/jphi.v3i1.46-58.

[12] Hardjaloka, Loura. 2024. "The Efficiency and Effectiveness of E-commerce Consumer Protection Law Enforcement in Indonesia's Digital Economy." *International Journal of Economics, Business and Management Research* 8(6): 1–15. https://doi.org/10.51505/IJEBMR.2024.8601.

The research relies exclusively on secondary legal materials, classified into three hierarchical tiers. Primary legal materials (*bahan hukum primer*) consist of binding norms with direct legal force, comprising: Law Number 8 of 1999 concerning Consumer Protection (UUPK); Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE), as amended by Law Number 19 of 2016 and further amended by Law Number 1 of 2024; Law Number 27 of 2022 concerning Personal Data Protection (UU PDP); Government Regulation Number 71 of 2019 concerning the Organization of Electronic Systems and Transactions (PP PSTE); and Government Regulation Number 80 of 2019 concerning Trade through Electronic Systems (PP PMSE). These statutes constitute the normative core of the analysis and are treated as binding positive law in the sense of Hans Kelsen's hierarchy of norms (*stufenbau theorie*), wherein the validity of each norm is traced to a superior authorizing norm within the national legal system.[13] Secondary legal materials consist of non-binding yet authoritative interpretive sources, including published peer-reviewed articles in national and international law journals, legal textbooks, official legal commentaries, and academic conference proceedings. Tertiary legal materials comprise reference works that facilitate the comprehension of primary and secondary sources, including legal dictionaries, encyclopaedias, and online legal databases.[14]

Three analytical approaches are applied in combination. First, the statutory approach entails a systematic examination of the hierarchy, content, and internal coherence of all primary legal materials relevant to the research problem. This approach requires not merely identifying which statutes apply, but scrutinizing their normative propositions their definitions, obligations, prohibitions, and sanctions and evaluating whether their combined operation produces the legal certainty that the rule of law demands in the field of digital consumer protection.[15] Second, the conceptual approach is employed to clarify and reconstruct legal concepts that are either inadequately defined or altogether absent within existing Indonesian consumer law. The concept of *pelaku usaha* (business actor) as defined under Article 1(3) of the UUPK, for instance, requires critical reexamination in the context of tripartite marketplace relationships, where platform operators neither produce nor deliver the goods transacted yet exercise determinative control over the transactional environment. Conceptual reconstruction of this kind drawing on legal doctrine, scholarly commentary, and comparative jurisprudence is a recognized function of normative legal research and constitutes a legitimate form of *de lege ferenda* argumentation within the Indonesian legal tradition.[16] Third, the comparative approach (*pendekatan komparatif*) is utilized to situate the Indonesian framework within the broader landscape of digital consumer protection regulation. Selective comparison is made with the European Union's General Data Protection Regulation (GDPR) and Digital Services Act (DSA), as well as the People's Republic of China's E-Commerce Law of 2018 and the Republic of Singapore's Electronic Transactions Act. Comparative analysis in normative legal research does

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13 Sihombing, Eka N.A.M. 2025. "Legal Protection of Telemedicine Consumers: An Analysis of the Consumer Protection Act and Health Regulations in Indonesia." *Perspektif Hukum* 25(2): 281–309. https://doi.org/10.30649/ph.v25i2.449.

14 Koos, Stefan. 2021. "Consistency and Law Comparison in Consumer Protection Law Design in the Light of the Socially Responsible Market Economy Approach." *Indonesian Journal of Economics, Social, and Humanities* 3(2): 97–104. https://doi.org/10.31258/ijesh.3.2.97-104.

15 Cahya, Aditya Nova, and Achmad Aldyan Sudiro. 2024. "Perlindungan Hukum terhadap Konsumen: Studi Kasus Informasi *Flash Sale* Menyesatkan bagi Konsumen." *UNES Law Review* 6(3): 76–90. https://doi.org/10.31933/unesrev.v6i3.

16 Novita, Yuda Dwi, and Budi Santoso. 2021. "Urgensi Pembaharuan Regulasi Perlindungan Konsumen di Era Bisnis Digital." *Jurnal Pembangunan Hukum Indonesia* 3(1): 46–58. https://doi.org/10.14710/jphi.v3i1.46-58.

not aim at transplantation; rather, it furnishes the researcher with an expanded normative vocabulary and a set of tested regulatory models that can inform the construction of more analytically refined and practically workable legal proposals for the Indonesian context.[17]

Data collection is conducted through systematic library research (*studi kepustakaan*), involving both digital and physical repositories. Primary legal materials are sourced from official government databases, including the National Legislation Network (*Jaringan Dokumentasi dan Informasi Hukum Nasional*, JDIHN) and the databases of the Ministry of Law and Human Rights of the Republic of Indonesia. Secondary legal materials are retrieved from indexed academic databases, journals published within the past five years to ensure the currency and relevance of the scholarly foundations of the analysis.[18] Data are analyzed through qualitative content analysis a technique in which legal texts are systematically read, categorized, and interpreted in relation to the research questions rather than quantified. The analytical process follows a deductive-inductive movement: deductive in that it applies established legal principles (general norms) to specific regulatory provisions (particular norms) to derive interpretive conclusions; inductive in that it synthesizes particular findings across multiple statutes and doctrinal sources to construct a general normative argument about the structural adequacy of the consumer protection framework.[19]

It is necessary to address one methodological boundary that distinguishes this study from empirical legal research. Although the phenomenon of e-commerce fraud and personal data misuse in Indonesia is referenced in the Introduction to establish the urgency of the problem, this study does not generate or analyze primary empirical data concerning the frequency, modalities, or impact of such incidents. The descriptive statistical figures cited in the Introduction are drawn from published secondary sources and serve solely to establish the factual background (introduction) of the legal problem; they do not constitute part of the empirical findings of this research. This distinction is methodologically significant: normative legal research derives its conclusions from the logic of the norm, not from the sociology of the fact. Its claim to scientific validity rests on the rigour of its doctrinal reasoning and the precision of its statutory interpretation, not on the representativeness of a data sample.[20]

3. Results and Discussion

3.1. Regulatory Framework for Consumer Protection in Electronic Transactions: a Normative Analysis

The Indonesian legal framework governing consumer protection in electronic transactions is structured upon a constellation of legislative instruments that, considered individually, each possess a degree of normative coherence, but when examined in relation to one another and against

[17] Kharisma, Dona Budi, Diana Tantri Cahyaningsih, and Goldwina Aphroditerri Agnjana. 2024. "Urgency of E-Commerce Act for Consumer Protection (Comparative Study in Indonesia, Singapore, and China)." *Pena Justisia* 23(2). https://doi.org/10.31941/pj.v23i2.4430.

[18] Fista, Yuliana Laut, Agus Machmud, and Suartini. 2023. "Perlindungan Hukum Konsumen dalam Transaksi E-Commerce Ditinjau dari Perspektif Undang-Undang Perlindungan Konsumen." *Binamulia Hukum* 12(1): 177–189. https://doi.org/10.37893/jbh.v12i1.

[19] Salim, Alikhan, Tri Susilowati, and Hono Sejati. 2024. "Consumer Data Protection in Electronic Transaction Practices in E-Commerce." *Journal of Economics, Technology, and Business (JETBIS)* 3(8): 451–460. https://doi.org/10.57185/jetbis.v3i8.128.

[20] Izzani, Sarah Meylanda, and Adelina Mariani Sihombing. 2024. "The Role of Business Competition Law in Online Business: A Comparative Study of United Kingdom and Indonesia." *Cogent Social Sciences* 8(1). https://doi.org/10.1080/23311886.2022.2142398.

the realities of the digital marketplace reveal a fundamental problem of fragmentation, temporal misalignment, and conceptual inadequacy. Understanding this framework requires not merely cataloguing its constituent statutes, but examining critically how each layer of regulation addresses, or fails to address, the specific vulnerabilities that electronic commerce generates for the consumer. It is precisely this analytical task systematic, cross-textual, and doctrinal that prior scholarship has insufficiently performed, and which this section undertakes.

The foundation of the Indonesian consumer protection architecture is Law Number 8 of 1999 concerning Consumer Protection (UUPK). The UUPK was enacted during the reform era as a response to decades of legislative neglect of consumer rights in Indonesia, and it introduced a comprehensive set of entitlements for consumers: the right to safety, to information, to choice, to redress, and to a healthy environment.[21] Article 4 of the UUPK enumerates these rights, while Articles 8 through 17 prescribe the obligations of business actors, prohibiting inter alia the offering of goods whose actual quality falls below what is declared (*cacat tersembunyi*), the use of misleading advertising, and the deployment of standard clauses that transfer business actor liability onto the consumer. These provisions, read in isolation, appear adequately protective. The problem becomes apparent, however, when the statutory definition of "business actor" (*pelaku usaha*) in Article 1(3) is examined: the law defines a *pelaku usaha* as any individual or business entity, whether a legal entity or not, established and domiciled or conducting activities within the territory of the Republic of Indonesia, that engages in the sale of goods and/or services to consumers. This definition, drafted in 1999, was conceptualized around the model of a bilateral transaction between a physically identifiable seller and an identifiable buyer.[22] It contains no provision for the tripartite structure of digital commerce, in which the platform operator who neither produces nor delivers the goods occupies a pivotal intermediary role, establishing the contractual conditions, processing the payment, hosting the merchant, and controlling the dispute resolution process, yet bears no explicit liability as a *pelaku usaha* under the UUPK. This definitional gap is not a minor technical lacuna; it is a structural void that marketplace operators systematically exploit to disclaim liability when transactions go wrong.

The UUPK's Article 18, which prohibits the inclusion of exoneration clauses in standard form contracts, is the provision that should, in principle, constrain the terms and conditions that platforms impose on consumers. A platform operator that includes a clause stating that it assumes no responsibility for the conduct of third-party merchants, or that restricts refunds to a prescribed window that may be shorter than a consumer's window of awareness of the defect, is, on a plain reading of Article 18(1)(a), engaging in prohibited conduct. Yet enforcement of this prohibition in the digital context has been minimal. The Consumer Dispute Settlement Agency (BPSK), established under Article 49 of the UUPK as the primary non-litigation forum for consumer disputes, lacks the institutional capacity to scrutinize algorithmic standard form contracts, to identify their exoneration clauses, or to investigate the systemic conduct of platform operators.[23] BPSK's jurisdic-

[21] Gunawan, Johanes, Tri Mardalena Hanafi, and Reki Juliani. 2023. "Accelerating Business Law Dynamization through Proposed Amendments to Indonesian Consumer Protection Law." *Novelty: Indonesian Journal of Law* 14(1): 34–47. https://doi.org/10.20885/ncl.vol14.iss1.art3.

[22] Koos, Stefan. 2021. "Consistency and Law Comparison in Consumer Protection Law Design in the Light of the Socially Responsible Market Economy Approach." *Indonesian Journal of Economics, Social, and Humanities* 3(2): 97–104. https://doi.org/10.31258/ijesh.3.2.97-104.

[23] Mulyono, Bambang Widianto, and Yusrizal. 2023. "The Dispute Settlement for Consumer Protection by the Consumer Dispute Settlement Agency in Legal Assurance Perspective." *Jurnal Hukum Universitas Islam Sultan Agung* 11(1): 1–16. https://doi.org/10.26532/ph.v11i1.30562.

tion is, moreover, territorially delimited to the city or regency of its establishment, a limitation that renders it structurally unsuited to addressing disputes arising from cross-city or cross-national digital transactions. The result is that Article 18 of the UUPK, despite its mandatory character, functions in the digital marketplace as a *lex imperfecta* a norm without effective enforcement.

The enactment of Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE), subsequently amended by Law Number 19 of 2016 and most recently by Law Number 1 of 2024, represented the legislature's primary attempt to provide a digital-specific regulatory overlay on the existing legal framework. Yet the UU ITE was principally designed as a cybercrime and electronic evidence statute, not as a consumer protection instrument. Its foundational preoccupation is with defining prohibited digital conduct and prescribing criminal sanctions for its commission. The relevance of the UU ITE to consumer protection is accordingly indirect and residual: Article 28(1) criminalizes the dissemination of false and misleading information that causes consumer loss, and Article 26 regulates the use of personal data in electronic media. But the statute does not define the rights and obligations of the parties to a consumer-merchant transaction with the specificity that the UUPK demands of business actors.[24] More critically, its enforcement modality is almost exclusively repressive criminal prosecution rather than preventive or restorative. A consumer who has been defrauded in an online transaction may file a criminal complaint under Article 28(1) or 378 of the Criminal Code (*Kitab Undang-Undang Hukum Pidana*), but the criminal process does not restore the consumer's losses; it punishes the offender. The civil damages mechanism, which would be more pertinent to the consumer's practical interest in restitution, remains inadequately developed within the UU ITE framework.

Government Regulation Number 80 of 2019 concerning Trade through Electronic Systems (PP PMSE) constitutes the most targeted regulatory instrument in the current framework, addressing specifically the conduct of e-commerce businesses operating in Indonesia. PP PMSE imposes registration obligations on merchants operating through domestic and foreign digital platforms, requires platforms to remove merchants who engage in fraudulent conduct, and mandates that merchant identities be verifiable. In principle, these provisions approximate the accountability requirements that modern digital commerce regulation demands. In practice, however, their implementation has been uneven.[25] The regulatory body responsible for enforcing PP PMSE the Ministry of Trade lacks a systematic mechanism for monitoring compliance among the thousands of small and medium merchants operating across major marketplaces. Registration requirements for foreign platforms have been applied inconsistently, and the legal consequences for platforms that fail to remove fraudulent merchants remain disproportionate to the scale of harm that such merchants cause to Indonesian consumers. PP PMSE's Article 20 requires merchants to provide accurate product information, transparent pricing, and clear delivery and return terms; yet no independent verification mechanism is prescribed, and the standard of "accuracy" is effectively self-reported.

The most significant recent development in the normative framework is the enactment of Law Number 27 of 2022 concerning Personal Data Protection (UU PDP), which entered into force in October 2022 following a two-year vacatio legis period. UU PDP is Indonesia's first comprehensive data protection statute, modelled substantively though not entirely upon the European Union's

[24] Sufriadi, Yanto, and Alauddin. 2024. "The Efficiency and Effectiveness of E-commerce Consumer Protection Law Enforcement in Indonesia's Digital Economy." *International Journal of Economics, Business and Management Research* 8(6): 1–15. https://doi.org/10.51505/IJEBMR.2024.8601.

General Data Protection Regulation (GDPR). Its relevance to e-commerce consumer protection is substantial and multidimensional. At the level of rights, UU PDP recognizes the consumer's right to information about data processing (Article 8), the right to correction (Article 9), the right to deletion (Article 10), and the right to withdraw consent (Article 12) rights that correspond directly to the consumer's interest in controlling the informational conditions of their marketplace participation.[26] At the level of obligations, the UU PDP classifies marketplace operators as *Pengendali Data Pribadi* (Personal Data Controllers) under Article 1(4), and subjects them to the full panoply of controller obligations: the duty to process data on a lawful basis, to implement data minimization, to secure data against unauthorized access (Article 35), and critically, to notify affected data subjects and the relevant supervisory institution within 3×24 hours in the event of a data breach (Article 46(1)).[27] Administrative sanctions for violations are provided in Article 57, and include written warnings, temporary suspension of data processing, mandatory deletion of personal data, and administrative fines.

Yet the analytical critical question is not whether UU PDP individually provides adequate protection considered in isolation, it represents a significant normative advance but whether UU PDP integrates coherently into the broader consumer protection framework constituted by the UUPK, UU ITE, PP 71/2019, and PP PMSE. The answer, upon close textual examination, is that it does not not yet. UU PDP was drafted as a standalone personal data protection statute, not as a complement to the UUPK. Its definitional apparatus differs from that of the UUPK in several material respects: the UUPK speaks of *pelaku usaha* and *konsumen*; the UU PDP speaks of *Pengendali Data Pribadi* and *Pemilik Data Pribadi*. There is no cross-referencing provision that equates a marketplace operator's status as a *pelaku usaha* under the UUPK with its status as a *Pengendali Data Pribadi* under UU PDP, nor any provision that treats a data protection violation as simultaneously constituting a violation of consumer rights enforceable under the UUPK.[28] A consumer who suffers harm that is simultaneously a product defect dispute (governed by UUPK), a personal data breach (governed by UU PDP), and a potential criminal offence (governed by UU ITE) must navigate three separate enforcement channels with distinct procedural requirements, different competent authorities, and different evidentiary standards. This fragmentation does not merely create inconvenience; it creates a structural impediment to effective redress, since most consumers lack the legal literacy and financial resources to pursue parallel proceedings across three statutory domains simultaneously.

This regulatory fragmentation is further compounded when electronic transactions assume a cross-border character. In the Indonesian e-commerce marketplace, a substantial proportion of consumer transactions involve merchants operating from jurisdictions outside Indonesia China, Singapore, the United States whose goods are imported through logistics arrangements that may obscure the chain of commercial liability. PP PMSE Article 5 provides that its provisions apply

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[25] Kharisma, Dona Budi, Diana Tantri Cahyaningsih, and Goldwina Aphroditerri Agnjana. 2024. "Urgency of E-Commerce Act for Consumer Protection (Comparative Study in Indonesia, Singapore, and China)." *Pena Justisia* 23(2). https://doi.org/10.31941/pj.v23i2.4430.

[26] Salim, Alikhan, Tri Susilowati, and Hono Sejati. 2024. "Consumer Data Protection in Electronic Transaction Practices in E-Commerce." *Journal of Economics, Technology, and Business (JETBIS)* 3(8): 451–460. https://doi.org/10.57185/jetbis.v3i8.128.

[27] Yunisa, Dinda, Adelina Mariani Sihombing, Chelsea Mutiara Putri, and Nurul Hasanah. 2023. "Protecting Digital Dignitas: Highlighting Legal Protection and Responsibility in Personal Data Security Crime in Indonesia's Online Marketplace World." *Mahadi: Indonesia Journal of Law* 2(2): 156–164. https://doi.org/10.61925/MLJ.2.2.2023.156-164.

[28] Novita, Yuda Dwi, and Budi Santoso. 2021. "Urgensi Pembaharuan Regulasi Perlindungan Konsumen di Era Bisnis Digital." *Jurnal Pembangunan Hukum Indonesia* 3(1): 46–58. https://doi.org/10.14710/jphi.v3i1.46-58.

to foreign merchants who target Indonesian consumers; however, the mechanism for enforcing this extraterritorial application is underdeveloped.[29] A foreign marketplace operator that suffers a data breach affecting Indonesian consumers, or a foreign merchant that delivers counterfeit goods to an Indonesian buyer, is not practically subject to the enforcement jurisdiction of the Ministry of Trade, the National Consumer Protection Agency (BPKN), or the personal data supervisory institution none of which possess extraterritorial enforcement capacity. This gap is not unique to Indonesia; it is a structural challenge faced by all developing digital economies. But comparative analysis reveals that jurisdictions such as the European Union, through the Digital Services Act (DSA) and the GDPR's market-effects principle, and the People's Republic of China, through its E-Commerce Law of 2018 and Cybersecurity Law, have developed more precise instruments for asserting regulatory jurisdiction over foreign digital actors that produce effects within their territory.[30] Indonesia's reliance on the general principle of *lex loci contractus* in the absence of a specific cross-border e-commerce jurisdiction provision leaves its consumers substantively unprotected against cross-border harms.

The identification of these normative gaps the definitional inadequacy of *pelaku usaha* under the UUPK, the enforcement deficit of Article 18 in the digital context, the repressive rather than restorative orientation of the UU ITE, the uneven implementation of PP PMSE, the absence of structural integration between UU PDP and the UUPK, and the underdeveloped cross-border enforcement capacity leads to a convergent normative conclusion: the current legislative framework, while constitutionally grounded and substantively ambitious in places, is not yet adequate to provide systematic, integrated, and effective legal protection for Indonesian consumers in electronic transactions. The framework suffers from what legal theorists characterize as *regulatory incoherence* a condition in which the aggregate normative output of a multi-statute regulatory regime falls short of the protection that each individual statute, read in isolation, appears to promise.[31] Addressing this condition requires not the enactment of yet another standalone statute, but the deliberate, architecturally coherent integration of the existing legislative instruments, supplemented by targeted amendments to the UUPK that explicitly account for the tripartite structure of digital marketplace commerce, the algorithmic nature of standard form contracting, and the jurisdictional challenges of cross-border electronic transactions.

3.2. Normative Gaps and Juridical Implications: Toward a Reconceptualization of Consumer Protection in Indonesian Digital Commerce

The normative analysis conducted in the preceding section reveals that the structural deficiencies of Indonesia's consumer protection framework in electronic transactions are not merely legislative oversights that can be remedied by minor textual amendment; they are, rather, manifestations of a deeper conceptual failure to rethink foundational legal categories in the face of technological transformation. This section advances the analytical argument one step further: it does not merely enumerate the gaps, but examines their juridical implications the concrete harms they

[29] Rethinking, Syahrizal. 2024. "Rethinking Digital Borders to Address Jurisdiction and Governance in the Global Digital Economy." *International Journal of Law and Policy* 2(1): 1–15. https://doi.org/10.56781/ijlp.v2i1.124.

[30] Prayuti, Yusuf. 2024. "Dinamika Perlindungan Hukum Konsumen di Era Digital: Analisis Hukum terhadap Praktik E-Commerce dan Perlindungan Data Konsumen di Indonesia." *Jurnal Interpretasi Hukum* 5(1): 903–913. https://doi.org/10.22225/jih.5.1.2024.903-913.

enable, the legal doctrines they distort, and the normative directions that a coherent reform must pursue. Three interrelated dimensions of this reconceptualization are examined: first, the doctrine of liability as applied to marketplace platform operators; second, the governance of algorithmic standard form contracts under existing and prospective consumer law; and third, the institutional and procedural reforms required to render consumer protection mechanisms effective in the digital environment.

The most consequential normative gap in the current framework is the absence of any explicit doctrinal basis for holding marketplace platform operators liable for consumer harm arising from third-party merchant conduct. Under the UUPK, as has been established, the concept of *pelaku usaha* does not encompass platform operators; under the UU ITE, the concept of *Penyelenggara Sistem Elektronik* (Electronic System Operator) imposes certain operational duties on platforms but does not translate these duties into consumer protection liability enforceable by individual consumers. The question, then, is whether existing civil law doctrines can fill this gap in the absence of specific statutory provision. Two provisions of the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata*, KUHPer) are potentially relevant. Article 1365 KUHPer governs *onrechtmatige daad* (unlawful act), requiring proof of fault, causation, and damage. Article 1366 KUHPer extends liability to damage caused not only by an act but by a failure to act where there was a duty to act.[32] A consumer who has been defrauded by a fictitious merchant on a marketplace platform can, in theory, invoke Article 1366 KUHPer against the platform operator, arguing that the platform's failure to verify merchant identity and to remove fraudulent actors after receiving complaints constitutes a negligent omission that proximately caused the consumer's loss. Courts have applied Article 1366 KUHPer in analogous digital contexts; but this avenue of redress is practically inaccessible to most consumers because it requires litigation in the general civil courts, a process that is costly, slow, and technically demanding precisely the barriers that the UUPK's out-of-court dispute resolution mechanisms were designed to overcome, but which those mechanisms cannot, in their current form, address when the responsible party is a platform operator rather than a direct merchant.[33]

The theoretical grounding for extending platform liability is furnished by the principle of *intermediary liability*, a doctrine extensively developed in comparative law. The European Union's Digital Services Act (DSA), which entered into force in 2022, provides a graduated liability model: hosting service providers enjoy conditional immunity from liability for third-party content and conduct, but this immunity is forfeited where the platform had actual knowledge of the illegal activity and failed to act expeditiously to remove it.[34] China's E-Commerce Law of 2018, in its Article 38, goes further, imposing *joint liability* on platform operators where they knew or should have known that merchants operating on their platforms were selling goods that endangered consumer safety or misrepresented their products, and failed to take necessary measures. These comparative

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31 Bintarawati, Farida, and Dimas Rismana. 2024. "Efektivitas Undang-Undang Perlindungan Konsumen dalam Memberikan Perlindungan Hukum bagi Pengguna E-Commerce di Era Ekonomi Digital." *Risalah Hukum* 20(2): 102–112. https://doi.org/10.30872/risalah.v20i2.

32 Salim, Alikhan, Tri Susilowati, and Hono Sejati. 2024. "Consumer Data Protection in Electronic Transaction Practices in E-Commerce." *Journal of Economics, Technology, and Business (JETBIS)* 3(8): 451–460. https://doi.org/10.57185/jetbis.v3i8.128.

33 Mulyono, Bambang Widianto, and Yusrizal. 2023. "The Dispute Settlement for Consumer Protection by the Consumer Dispute Settlement Agency in Legal Assurance Perspective." *Jurnal Hukum Universitas Islam Sultan Agung* 11(1): 1–16. https://doi.org/10.26532/ph.v11i1.30562.

34 Rethinking, Syahrizal. 2024. "Rethinking Digital Borders to Address Jurisdiction and Governance in the Global Digital Economy." *International Journal of Law and Policy* 2(1): 1–15. https://doi.org/10.56781/ijlp.v2i1.124.

models illustrate that the binary framing of platform operators as either fully liable or wholly immune is juridically untenable; the appropriate doctrinal framework is one of conditional or graduated liability, calibrated to the platform's degree of knowledge, control, and benefit from the transaction. Indonesia's regulatory framework contains no equivalent provision, and neither the UUPK nor PP PMSE articulates a clear standard for when a marketplace platform's failure to act triggers direct consumer protection liability. This doctrinal lacuna requires legislative remedy: the UUPK's definition of *pelaku usaha* in Article 1(3) must be amended to explicitly include operators of digital marketplace platforms, and a conditional liability standard analogous to the DSA and China's E-Commerce Law should be prescribed, graduated according to the platform's actual or constructive knowledge of merchant misconduct.[35]

The second dimension of normative inadequacy concerns the governance of standard form contracts in digital commerce. The clickwrap agreement ubiquitous in Indonesian e-commerce as the mechanism through which consumers agree to platform terms and conditions at the moment of account registration presents a structural challenge to classical consent theory. Under Article 1320 KUHPer, valid consent requires that the agreeing party genuinely understands and freely accepts the terms to which they bind themselves. Yet empirical research consistently demonstrates that consumers do not read clickwrap terms before agreeing to them; the terms are typically lengthy, written in technical language, and presented in a format that discourages careful reading. The Indonesian legal system has not developed a doctrine equivalent to the *contra proferentem* rule of Anglo-American contract law which requires that ambiguities in standard form contracts be resolved against the drafter or the *transparency principle* of EU consumer contract law, which requires that standard clauses be written in plain, intelligible language and that their legal effect be clearly explained to the consumer.[36] Article 18(1) of the UUPK prohibits clauses that transfer liability or impose disproportionate obligations on consumers, but this prohibition operates after the contract has been formed and its clauses have already been deployed. It does not impose any pre-contractual transparency obligation on the platform to disclose, in clear and accessible language, the substantive content of the terms to which the consumer is being asked to agree.

This absence of a pre-contractual transparency obligation has particularly serious consequences in relation to data processing provisions embedded within clickwrap agreements. A marketplace platform's terms and conditions invariably contain provisions authorizing the platform to collect, process, and share the consumer's personal data for purposes that extend well beyond the facilitation of the immediate transaction targeted advertising, behavioral profiling, third-party data sharing. Under UU PDP Article 20, processing of personal data requires a lawful basis, and consent under Article 20(1) must be explicit, specific, and informed. The juridical tension is acute: a consumer who clicks "I Agree" on a marketplace platform's terms of service has arguably provided the formal consent required by Article 20(1) UU PDP, but the quality of that consent its specificity, its informatedness, the consumer's actual awareness of what they are consenting to is practically indistinguishable from the absence of genuine consent. UU PDP does not resolve this tension by

[35] Kharisma, Dona Budi, Diana Tantri Cahyaningsih, and Goldwina Aphroditerri Agnjana. 2024. "Urgency of E-Commerce Act for Consumer Protection (Comparative Study in Indonesia, Singapore, and China)." *Pena Justisia* 23(2). https://doi.org/10.31941/pj.v23i2.4430.

[36] Tuturoong, Veronica, and Musleh Herry. 2022. "The Legal Protection of Clickwrap Agreement in the Electronic Contract of Electronic Commerce Transactions." *Jurisdictie: Jurnal Hukum dan Syariah* 12(2): 190–210. https://doi.org/10.18860/j.v12i2.12546.

prescribing the form or content that a consent mechanism must take in order to be legally valid; it merely states that consent must be "explicit." The risk is that marketplace operators will satisfy the formal requirement of obtaining consent while systematically undermining its substantive quality through the design of their clickwrap agreements.[37] A reform that addresses this risk requires not only the existing prohibition of unconscionable standard clauses under Article 18 UUPK, but the introduction of a positive obligation applicable to all digital platform operators to present data processing terms separately from general terms of service, in plain language, and to obtain affirmative separate consent for each category of data processing, consistent with the GDPR's granular consent requirements under Article 7.

The third dimension that demands critical normative analysis is the adequacy of dispute resolution mechanisms for digital consumer claims. BPSK, the Consumer Dispute Settlement Agency established under the UUPK, was designed for disputes involving relatively simple, bilateral consumer-merchant transactions, adjudicated within a defined territorial jurisdiction, with a value cap on the disputes it can hear. In the context of digital commerce, each of these design parameters fails. The territorial limitation BPSK operates at the city or regency level is structurally incompatible with the nature of marketplace transactions, which occur across jurisdictional boundaries without any predefined geographical nexus. The bilateral design BPSK processes disputes between a consumer and a direct business actor cannot accommodate the tripartite structure of marketplace commerce, where the platform operator, the merchant, and the logistics provider may each bear partial responsibility for the consumer's harm but none can be compelled to appear in a single BPSK proceeding.[38] The absence of a statutory Online Dispute Resolution (ODR) mechanism is a particularly significant gap: Indonesia has no dedicated ODR framework that is institutionally integrated with the consumer protection system, accessible to ordinary consumers without legal representation, and capable of producing enforceable determinations within a timeframe proportionate to the value of the dispute. While some marketplace platforms operate internal dispute resolution channels, these are entirely voluntary, opaque, and unregulated their procedures, evidentiary standards, and appeal mechanisms are determined unilaterally by the platform, without any statutory minimum requirements that protect the consumer's procedural rights.[39]

A further layer of juridical complexity arises from the chronic insufficiency of consumers' digital legal literacy (*melek hukum digital*). The effectiveness of any consumer protection framework depends not only on the quality of its normative provisions, but on the capacity of consumers to invoke those provisions in their own interest. Research consistently demonstrates that Indonesian consumers' awareness of their statutory rights in digital transactions remains critically low: most consumers are unaware of the specific protections afforded by UUPK Article 4, do not know the existence or jurisdiction of BPSK, and have limited understanding of what constitutes an illegal clause under Article 18.[40] This informational deficit is compounded by the asymmetric access

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37 Yunisa, Dinda, Adelina Mariani Sihombing, Chelsea Mutiara Putri, and Nurul Hasanah. 2023. "Protecting Digital Dignitas: Highlighting Legal Protection and Responsibility in Personal Data Security Crime in Indonesia's Online Marketplace World." *Mahadi: Indonesia Journal of Law* 2(2): 156–164. https://doi.org/10.61925/MLJ.2.2.2023.156-164.

38 Wahab, Abd, and Laode Machdani Afala. 2023. "Application of Online Arbitration to Dispute Resolution E-Commerce Business in Indonesia (in Academic Discourse and Practice)." *Global Perspectives* 4(1). https://doi.org/10.31933/gp.v4i1.56.

39 Novita, Yuda Dwi, and Budi Santoso. 2021. "Urgensi Pembaharuan Regulasi Perlindungan Konsumen di Era Bisnis Digital." *Jurnal Pembangunan Hukum Indonesia* 3(1): 46–58. https://doi.org/10.14710/jphi.v3i1.46-58.

40 Sufriadi, Yanto, and Alauddin. 2024. "The Efficiency and Effectiveness of E-commerce Consumer Protection Law Enforcement in Indonesia's Digital Economy." *International Journal of Economics, Business and Management Research* 8(6): 1–15. https://doi.org/10.51505/IJEBMR.2024.8601.

to legal advice: business actors, particularly platform operators, have dedicated legal teams that design their standard form contracts precisely to maximize the operator's legal position within the boundaries of what the law prohibits, while individual consumers navigate disputes without equivalent legal support. The legal framework, in this context, produces a structural injustice: its formal entitlements are formally equal but materially inaccessible to those who need them most. Any comprehensive reform of Indonesia's digital consumer protection framework must therefore incorporate, alongside its normative provisions, a concrete plan for institutional education, enforcement outreach, and accessible redress failing which even the most technically sophisticated legislative amendment will remain a *lex imperfecta* in practice.

The cumulative force of this analysis points toward a coherent normative agenda for legislative reform. The UUPK requires amendment on at least three specific points: the explicit inclusion of digital marketplace platform operators within the definition of *pelaku usaha*; the introduction of a conditional liability standard for platform operators analogous to that prescribed in the EU DSA; and the imposition of pre-contractual transparency obligations applicable to all standard form digital contracts, with specific requirements for data processing terms. PP PMSE requires strengthening through the introduction of a mandatory merchant verification regime, a statutory framework for platform-administered internal dispute resolution, and a cross-reference to UU PDP obligations that integrates personal data protection into the consumer transaction framework. Finally, a dedicated ODR statute, or at minimum a government regulation on digital consumer dispute resolution, is urgently needed to provide Indonesian consumers with an accessible, institutionalized, and enforceable alternative to conventional court proceedings. These reforms are not aspirational; they are the minimum normative conditions for Indonesia's digital consumer protection framework to discharge its constitutional obligation under Article 5(e)(1) of the UUPK and Article 28H(1) of the 1945 Constitution, which guarantees every citizen the right to a legal environment that enables them to live in security and prosperity.[41]

4. Conclusion

This study has demonstrated that Indonesia's consumer protection framework in electronic transactions suffers from a condition of structural incoherence that cannot be remedied through incremental adjustment of individual statutes. The UUPK's definitional architecture, conceived for bilateral physical commerce, fails to encompass the tripartite marketplace structure in which platform operators exercise determinative control over transactional conditions yet bear no explicit consumer protection liability. The UU ITE, oriented toward criminal repression rather than civil restitution, provides no meaningful corrective. Government Regulation Number 80 of 2019 imposes accountability obligations on e-commerce actors but lacks the verification mechanisms and enforcement capacity to give those obligations practical force. Law Number 27 of 2022 concerning Personal Data Protection represents the most significant recent normative advance, yet its integration with the broader consumer protection framework remains structurally incomplete, forcing harmed consumers to navigate three parallel statutory regimes simultaneously.

[41] Gunawan, Johanes, Tri Mardalena Hanafi, and Reki Juliani. 2023. "Accelerating Business Law Dynamization through Proposed Amendments to Indonesian Consumer Protection Law." *Novelty: Indonesian Journal of Law* 14(1): 34–47. https://doi.org/10.20885/ncl.vol14.iss1.art3.

Three normative conclusions follow. First, the definition of *pelaku usaha* under Article 1(3) of the UUPK must be amended to explicitly encompass digital marketplace platform operators, with a conditional liability standard calibrated to the platform's knowledge and control over merchant conduct. Second, pre-contractual transparency obligations must be imposed on all digital standard form contracts, particularly for data processing terms, to ensure that consumer consent is substantive rather than merely formal. Third, a dedicated Online Dispute Resolution mechanism, institutionally integrated with the consumer protection system and accessible without legal representation, is a minimum prerequisite for effective redress in digital consumer disputes. These reforms constitute the indispensable normative foundation upon which Indonesia's digital economy can develop with genuine legal protection for its consumers.

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