

## Opportunities and Challenges: E-Commerce In Indonesia from Business Legal Perspective

Tirza Azzaprillia

Fakultas Hukum, Universitas Pelita Harapan,  
Correspondence: tirza.azzaprillia@gmail.com

**Abstrak.** Tujuan penelitian ini mencoba menjawab peluang dan tantangan e-commerce di Indonesia dari perspektif hukum bisnis. E-commerce telah berkembang pesat di Indonesia dalam beberapa tahun terakhir, memberikan peluang bisnis yang besar bagi pengusaha untuk memasarkan dan menjual produk mereka secara online. Perkembangan ini juga memberikan peluang dan tantangan hukum yang harus diperhatikan oleh para pengusaha. Penelitian ini mencoba menjawab Metode penelitian menggunakan metode yuridis normatif dengan pendekatan deskriptif analitis. Hasil penelitian menunjukkan bahwa peluang e-commerce di Indonesia: potensi pasar yang besar, Pertumbuhan pasar yang tinggi, dan kemudahan akses. Tantangan hukum yang harus dihadapi yakni belum jelasnya regulasi perihal perlindungan konsumen, perlindungan data pribadi, persaingan usaha dan hak kekayaan intelektual, dan pajak. Selain regulasi, kepatuhan hukum dan infrastruktur yang tidak merata menjadi tantangan tersendiri.

**Kata Kunci:** Peluang, Tantangan, E-Commerce, Indonesia, Hukum Bisnis

**Abstract.** *E-commerce has been overgrown in Indonesia recently, providing a great business opportunity for entrepreneurs to market and sell their products online. This development also offers legal opportunities and challenges that employers must recognise. This study attempts to answer the opportunities and challenges of e-commerce in Indonesia from a business law perspective. The research method uses a normative juridical method with a descriptive-analytical approach. The results showed e-commerce opportunities in Indonesia: significant market potential, high market growth, and ease of access. The legal challenges must be faced are unclear regulations regarding consumer protection, personal data protection, business competition and intellectual property rights, and taxes. In addition to law, legal compliance and uneven infrastructure are challenges.*

**Keywords:** *Opportunities, Challenges, E-Commerce, Indonesia, Business Law*

### INTRODUCTION

Electronic commerce, sometimes known as "e-commerce," has seen explosive growth in recent years in Indonesia. Tokopedia, Bukalapak, Shopee, and other similar e-commerce sites are evidence of this trend. The value of e-commerce transactions in Indonesia reached IDR 266.3 trillion in 2020, according a research by the Indonesian E-Commerce Association (idEA) and statistics from Bank Indonesia (BI). As of 2020, President Joko Widodo's Proud Made in Indonesia National Movement (Gernas BBI) will include the rollout of the IKM e-Smart initiative. Gernas BBI is a nationwide initiative that promotes the use of domestically produced goods.<sup>1</sup>

However, there are a number of legal issues that arise with the expansion of e-commerce in Indonesia. The expansion of the e-commerce platform raises a number of legal concerns, including those related to intellectual property, consumer safety, and taxation. Concerns about the confidentiality and safety of sensitive user information are also raised by the rise of online shopping.<sup>2</sup>

E-commerce regulations should be made that address and even prevent social issues. Law 11 of 2008 on Information and Electronic Transactions and Law 8 of 1999 on Consumer Protection govern e-commerce in Indonesia, however they do not address the issue of commercial rivalry. Meanwhile, e-commerce is unregulated by Law no. 5 of 1999, which addresses the prohibition of monopolistic

---

<sup>1</sup> Ministry of Communication and Informatics, "E-Commerce Transactions Exceed IDR 266 Trillion, Government Intensifies e-Smart IKM," [kominfo.go.id](https://www.kominfo.go.id/content/detail/37695/transaksi-e-commerce-surpassed-rp-266-trillion-government-intensified-e-smart-ikm/0/news), 2021, <https://www.kominfo.go.id/content/detail/37695/transaksi-e-commerce-surpassed-rp-266-trillion-government-intensified-e-smart-ikm/0/news>.

<sup>2</sup> Edy Santoso, "Opportunities and Challenges: E-Commerce in Indonesia from a Legal Perspective," *De Jure Journal of Legal Research* Volume 22, no. 3 (2022), <https://doi.org/10.30641/dejure.2022.V22.395-410>.

practices and unfair business competition. Therefore, Law Number 5 of 1999 has to be amended to better regulate e-commerce as a means by which business actors offer products and services. The KPPU (Commission for the Supervision of Business Competition) must improve its oversight as e-commerce continues to grow. KPPU is defined as a commission designed to oversee business actors in carrying out business operations to ensure that they do not participate in monopolistic practices and/or unfair business competition, according to Article 1 point 18 of Law no. 5 of 1999.<sup>3</sup>

Therefore, a study is needed to analyze the opportunities and challenges of e-business law in Indonesia and its impact on commercial activity. This study will investigate the degree to which existing legislative rules in Indonesia can facilitate the growth of e-commerce in the country and safeguard the rights of consumers and merchants. The legal hurdles encountered by the Indonesian government and other parties in internet commerce will also be discussed.

The advantages and disadvantages of online trade have been the subject of much study. For instance, Rahmi Ayunda's findings on the lack of mandatory regulations to safeguard customers' private information while dealing with online retailers. Several rules and regulations have been passed to provide consumers with legal certainty while engaging in online commerce. Therefore, it is important to strengthen the regulation of personal data protection in a legislation and improve the efficiency with which it is implemented. The urgent need to adopt the Personal Data Protection Bill in Indonesia may help ensure the privacy of online shoppers' financial and other sensitive information.<sup>4</sup>

Furthermore, I Putu Setiawan's research shows that agreements reached through an electronic transaction system can be used as evidence in a commercial court case if one of the parties to the dispute takes legal action based on the terms of the contract. Law Number 11 of 2008 Concerning Electronic Information and Transactions, which aims to protect customers from unfair and misleading acts, defines electronic evidence as legally admissible proof.

Research by Syahrin, research results based on the findings of applicable laws are law chosen by the parties (choice of law) as stipulated in the contract international electronics that they make. The choice of law can be made explicitly or secretly. The application of this applicable legal method is regulated in the provisions of Article 7 Hague Convention and Article 3 paragraph (1) of the Rome Convention governing similar matters. But when is not regulated, then the law that applies is the law that refers to the seller's law, which based on the Most Characteristic Connection Theory (principles of Private International Law) as stipulated in Article 8 of the Hague Convention and Article 4 paragraph (1) and (2) of the Convention Rome.

With this research, it is hoped that it can provide input for the government, entrepreneurs, and the general public to develop e-commerce in Indonesia by taking into account relevant business legal aspects and reducing risks that may arise from a legal perspective. The implication of research on the opportunities and challenges of e-commerce in Indonesia from a business law perspective is that it can provide a better understanding of existing legal regulations and the challenges faced by the e-commerce industry in Indonesia. This research can also provide input for the government, entrepreneurs, and the general public to pay attention to relevant business legal aspects and reduce risks that may arise from a legal perspective in online transactions. However, this research also has several limitations, including:

1. Limited data sources: This research will depend heavily on available data and information. Sometimes, data sources related to business law in Indonesia are not easy to find or incomplete, which can affect research results.
2. Time constraints: This research will also be limited by the time available. Some aspects of business law in Indonesia can be very complex and take a long time to fully understand.
3. Does not summarize all aspects: This research will focus on the most relevant aspects of business law for e-commerce in Indonesia. Therefore, several important aspects of business law, such as significant tax regulations, cannot be covered in this study.

---

<sup>3</sup> Melisa Setiawan Hotana, "The E-Commerce Industry in Creating a Competitive Market Based on Business Competition Law," *Journal of Business Law Bonum Commune* 1, no. 1 (2018): 28–38.

<sup>4</sup> Rahmi Ayunda, "Personal Data Protection to E-Commerce Consumer: What Are the Legal Challenges and Certainties?," *LAW REFORM* 18, no. 2 (August 16, 2022): 144–63, <https://doi.org/10.14710/LR.V18I2.43307>.

4. Does not guarantee legal implementation: Although this research will provide information about existing legal regulations and how to reduce legal risks in e-commerce, this research does not guarantee that all laws will be properly implemented. This depends on law enforcement and public awareness in complying with applicable laws.

Research on the prospects and obstacles of e-commerce in Indonesia from a business law perspective continues to be fruitful and can serve as a guide for policymakers, business owners, and the general public as they pursue opportunities and overcome challenges in this area.

## RESEARCH METHODS

### 1. Research Approach

This research is one type of normative legal research that builds on questions and/or themes that have been identified as the focus of investigation. Research methods that combine philosophical and analytical are referred to as "scientific rationalism", and are used to produce new discoveries that provide answers to previously identified problems. Problems will be analyzed using descriptive analysis methods, which include explanations of applicable regulations in the area of law that are most directly related to the problem at hand from the perspective of theory and practice in empirical law.<sup>5</sup>

### 2. Research Design

Naturally, every time we do research, we plan out initiatives to improve our findings. Analysis of E-Commerce Opportunities and Challenges in Indonesia from a Business Law Perspective Research Activity Plan, Which Includes For two months beginning in April 2023, researchers gathered data.

### 3. Scope or Object

There is, of course, a constraint in terms of the types of legal events that may be researched in any given study, and this limitation is known as the "scope." This study is limited by its scope, which is an analysis of the opportunities and challenges of electronic commerce in Indonesia from the perspective of business law. The purpose of this research is to examine the provisions of the Law governing the security of online transactions. Since the goal of a study is the focus of a scientific investigation, its inclusion is required. Thus, the focus of jurisprudence is the law itself. This motivates the study's focus on the pros and cons of doing business online from a legal standpoint in Indonesia.

### 4. Main Materials and Tools

Normative legal research does not recognize data, study materials in normative legal research are sourced from statutory documents and literature documents (books, journals, reports and internet sources), not from the field, for that it is known as legal material. In normative legal research, library materials are basic materials which in research science are generally called secondary legal materials.<sup>6</sup>

### 5. Place

There is, of course, a role for this in an investigation of the frequency with which an issue arises. Opportunities and Challenges of E-Commerce in Indonesia from the Perspective of Business Law is set in Indonesia since it is a recitation of the contents of normative legal research that fails to acknowledge facts, study materials, and so on.

### 6. Data Collection Techniques

Opportunities and Challenges of Electronic Commerce from a Business Law Perspective in Indonesia uses document studies as its primary method of data collecting. Researchers in the field of document studies analyze and evaluate a wide range of legal and non-legal texts. In this section of normative legal analysis, scholars undertake a document review by comparing the content of laws protecting e-commerce with books and online resources discussing the criminal punishment of juvenile offenders.

---

<sup>5</sup> Peter. Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2011).

<sup>6</sup> Soerjono Soekanto dan Sri Mamudji, "Penelitian Hukum Normatif Suatu Tinjauan Umum," in *Rajawali Pers, Jakarta*, 2007.

## 7. Operational Definition of Research Variables

As an operational definition of a research variable is an explanation of the words used in the study's title, the author must include an explanation of the phrases used in the study's title together with the operational definition of this research variable. Because of this, the following is an operational description of research variables used in the study of Opportunities and Challenges of E-Commerce from a Business Law Perspective in Indonesia.:

a. E-commerce

"E-commerce is a form of commercial transaction that involves the electronic transfer of information over the internet. This includes online purchases, online sales, electronic data exchange, and electronic transfer of funds." - Laudon and Traver

b. Business

"Business is an organized activity focused on the production or exchange of goods or services with the aim of making a profit." – Richard Schaffer

c. Legal protection

Legal protection is a concept that encompasses any action taken by the legal system to protect the rights of individuals or groups and provide fair law enforcement." – Black's Law Dictionary

## 8. Analysis Techniques

Since this is a normative study, qualitative methods were used to analyze the data. qualitatively, by providing sufficient detail on the quality and data in the form of well-structured, coherent, non-overlapping, and effective phrases. The findings of this normative study are presented in the form of regular and systematic sentences, and these phrases will be detailed in the study's discussion. These sentences explain the topic under study based on current data, provided that the data is of sufficient quality.

## RESULTS AND DISCUSSION

Roger Clark defines electronic commerce as the buying and selling of products or services using electronic communication technologies.<sup>7</sup> Electronic contracts for the exchange of value using information and communication technologies is how Jerry Ellison characterizes e-commerce.<sup>8</sup> The difficulty for businesses in developing e-commerce strategy is exacerbated by the lightning-fast growth of the e-commerce industry. Given the apparently endless stream of new IT and software, this is an extremely daunting task. Companies, however, are pushing their e-commerce strategies, in part due to the fear that they would lose clients to rivals that do.<sup>9</sup>

The following are broad elements that have a major bearing on the growth of e-commerce: The following are broad elements that have a major bearing on the growth of e-commerce:

1. Trust. For business-to-consumer transactions, trust might be crucial. Customers may feel safe making purchases from previously unknown online merchants because of this. It promotes e-commerce adoption, simplifies electronic transaction processes, raises customer satisfaction, introduces the concept of loyalty, strengthens long-term relationships with customers, and aids in gaining a competitive edge. Motivating future purchases and allowing price rises are also viable options. This eases shoppers' worries about their personal data being misused and encourages them to forgive online stores for occasional hiccups.<sup>10</sup>
2. Quality. Two factors contribute to how consumers rate the quality of a product or service: the technology used to create the product or service and the efficiency with which it is delivered. Technical aspects determine response times, availability, and site speed. The functional components of quality perception are addressed via the following: interactive communication in the network; customization of contact with clients and services; creation of new forms of access for consumers. Client satisfaction is based on how well they understand the product or service after reading the website's content.

---

<sup>7</sup> R Clarke, "Electronic Commerce Definition," 2019, <http://www.rogerclarke.com/EC/ECDefns.html>.

<sup>8</sup> J Allison, "E-Commerce: Exactly What Is It," 2019. <http://www.drjerryallison.hubpages.com>

<sup>9</sup> H Jason, D Frank, and A Jay, "Adoption of Ecommerce Strategies for Agribusiness Firms," in Selected Paper at the American Agriculture Economics Association Annual Meeting (Tampa, 2000).

<sup>10</sup> Pittayachawan, S., Singh, M., Corbitt, B.: A multitheoretical approach for solving trust problems in B2C e-commerce. *int. J. of Net. and Vir. org.* 5(3), 369–395 (2008)

3. Third, official interference. In the context of globalization, the role of government in e-commerce development is characterized as enabling the necessary foundations for such growth. There has to be a variety of channels, including the media and schools, used to spread the word about the need of having a safe online payment system.
4. Accessibility. For individuals to have continual access to public information and boost their engagement, e-commerce websites must have well-thought-out content and design as the Internet rapidly becomes a key source of information and services. Modern e-commerce platforms may facilitate two-way communication and strengthen bonds with clients and the community. Transferring private information and data to interested parties is a simple process. The availability of the Internet is a motivating factor for individuals to utilize networks, perceive networks, direct networks, and communicate with the outside world, according to experts. ISO defines accessibility as "the convenience of using a product, service, environment, or object with the maximum number of opportunities," therefore it's clear that this concept is important to the organization.

The above-mentioned contributors to e-commerce's growth are important, but the spread of related technologies is hampered by other reasons as well. It's mostly a technological obstacle. Many unresolved technological issues are widely acknowledged as significant barriers to expanding international e-commerce. Standards, Internet capabilities, security, etc., are all examples of problems that fall under this category, as are those that arise throughout the process of building an organization's infrastructure to support new forms of electronic commerce.

Furthermore, processes like corruption have a considerable detrimental influence in both the real sector and e-commerce. Corruption is an obstacle to e-commerce just as it is an issue for international trade in general, plaguing the industry in ways ranging from bribery to the disappearance of goods at customs. This is a concern for companies of all sizes. Many businesses now hold the view that online trade is especially vulnerable to bribery because "easier to deploy" smaller parties often abandon it, and because e-merchants frequently lack the personnel to keep up with any concerns that may arise. The reason one firm gave for withdrawing from the Chinese market was corruption, while the other gave the same reason for not entering the Russian market.

Some Eastern European nations, including Turkey, Ukraine, and others, are claimed to have issues with e-commerce corruption. Finally, cognitive blockade may be established as a contributing component. Cognitive impairment is the most devastating kind of disability, according to most observers, in emerging and transition economies. The lack of knowledge and the accompanying uncertainty are examples of cognitive feedback. Companies in poor countries typically have a pessimistic view of the e-commerce system as a whole due to a lack of technology resources, knowledge and comprehension of the potential, an underestimating of risks, and lethargy. Increasing general and computer illiteracy and lack of English skills are further contributing factors to cognitive decline. It is widely acknowledged that English is the language of choice for most online applications, user interfaces, and content. In developing nations and countries with economies in transition (such as Ukraine), it is estimated that more than half of the population does not speak the official language (in English).<sup>11</sup>

Article 1320 of the Civil Code is still cited as the applicable legal provision when an agreement is reached during an e-commerce transaction. The agreement must satisfy the conditions for a legal agreement in order for it to be enforceable under Article 1320 of the Civil Code. Subekti maintains that both subjective and objective requirements must be met for the agreement to remain in effect. That they are capable of reaching an agreement is an example of a subjective condition. The need to meet objective criteria is both a given and a valid justification.<sup>12</sup> The participants to a transaction conducted entirely online are legally bound by the terms of an electronic contract. The parties' identities, the agreed-upon specifications for the goods and or services, the legality of the goods and

---

<sup>11</sup> Vitalina Babenko et al., "Factors of the Development of International E-Commerce under the Conditions of Globalization," SHS Web of Conferences 65 (2019): 04016, <https://doi.org/10.1051/SHSCONF/20196504016>.

<sup>12</sup> I Putu Setiawan Ivan Baskara, I Nyoman Putu Budiarta, and Ni Made Puspasutari Ujjanti, "Legal Protection for Parties to Business Contracts Through E-Commerce As a Result of Economic Recession," *Journal of Legal Interpretation* 2, no. 3 (November 30, 2021): 646–50, <https://doi.org/10.22225/JUINHUM.2.3.4166.646-650>.

or services, the trade transaction value, the terms and terms of payment, the operational procedures for the delivery of goods and or, and the procedure for returning goods and or if a mismatch occurs must all be included in the Electronic Commerce Contract. Electronic signatures are permissible and required for Indonesian-language e-trading contracts.<sup>13</sup>

Regulations or rules that regulate the operation of e-business to ensure compliance with local laws and regulations constitute the legal component of e-commerce. Entrepreneurs' forays towards expanding their e-commerce operations will begin with the legalities procedure. In this scenario, the legal perspective must include all facets of the e-commerce business operation, including the trade system, the information technology infrastructure, and the communication resources employed. Since everyone now has ready access to and usage of the internet, it is essential that legal arrangements in online commerce be in sync with rules governing Patent and Trademark Intellectual Property Rights. Copyrights, trademarks, and patents are particularly vulnerable to infringement or alteration in the context of online commerce. Next, issues of legal protection in the e-commerce sector will need to be investigated. It is imperative that participants in the e-commerce industry safeguard not just their personal but also their company's assets. This is done so that the company is protected legally even after many years of operation. The expenditures that may have been spent by business actors in the case of legal challenges can be avoided if they are anticipated from the outset.

A nation needs nationally enforceable legislative laws to safeguard its citizens during online purchases. For suppliers to change their ways, consumers need governmental involvement. This is due to customers' lack of ability to defend themselves online. Developing legal norms requires flexibility to meet changing circumstances and a fair distribution of power. The Ministry of Communication and Informatics has adopted a Safe Harbor Policy to shield the administrators, merchants, and consumers of electronic marketplaces from legal action. The United States is the birthplace of the Safe Harbor Policy, a scheme that first surfaced in 1998. This policy was originally drafted to stop American and European online marketplaces from selling users' personal information. The general idea behind this strategy is that retailers should take steps to preserve and promote their goods' positive reputations.

Therefore, the owner of the goods, and not the e-commerce site, is responsible for any problems with the product. The Ministerial Circular No. 5 of 2016 on the Limitations of Responsibilities of Platform Providers and Merchants Trading Through Electronic Systems contains the relevant policy language. The Digital Millennium Copyright Act (DMCA) of 1996 in the United States provides a model for this approach. The DMCA will make it illegal to create or distribute software, services, or hardware designed to obstruct users' ability to legally view or utilize copyrighted material. The proprietors of internet marketplaces will hopefully be safe from legal action thanks to this circular. The sellers and buyers of illegal goods on the site have left the platform providers open to legal action.<sup>14</sup>

Part II of the circular letter discusses this issue. In B.2 countries, suppliers, sellers, and buyers of e-commerce platforms have legal protection. To ensure safety, we check that everyone knows their role and is held accountable for their part in online trade. This circular specifies, among other things, that service providers must allow for the submission of reports and keep an eye on the clock when it comes to deleting or banning illegal material. According to Circular of the Director General of Taxes No. SE/62/PJ/2013 on the Affirmation of Tax Provisions on e-Commerce Transactions, users must supply accurate and comprehensive information about the terms and contracts of the items they sell. Online Marketplace, Classified Ads, Daily Deals, and Online Retail are the four distinct types of e-commerce models recognized in the government's recently released Economic Policy Package Volume XIV, which also incorporates e-commerce tax rules.

---

<sup>13</sup> azzarqa azzarqa and Friska Muthi Wulandari, "Safe and Syar'i Online Buying and Selling (Study of the Views of Online Business Actors Among Students and Alumni of the Faculty of Syari'ah and Law UIN Sunan Kalijaga)," *Az-Zarqa: Journal of Business Law Islam* 7, no. 2 (June 1, 2015), <https://doi.org/10.14421/AZZARQA.V7I2.1501>.

<sup>14</sup>Circular Letter of the Minister of Communication and Informatics Number 5 of 2016 Concerning Limitations of Responsibilities of Platform Providers and Merchants Trading Through Electronic Systems in the Form of User Generated Content

Online Marketplace is the activity of providing a place for business activities in the form of an Internet Shop such as a Mall but using Internet facilities as a place for Merchants to offer goods and/or services.

1. To publish adverts for products and/or services directed towards Ad Users on sites offered by Classified Organizers, advertisers need a location and/or time to show content (text, images, explanatory videos, information, etc.). Ads.
2. Daily Deals, sometimes known as "daily deal sites," are online marketplaces where businesses may offer products and services to consumers for a fixed price in exchange for vouchers.
3. Thirdly, Online Retail is the business of selling products and services via the Internet by Online Retail Operators to Online Retail Customers.

E-commerce in Indonesia has experienced rapid growth in recent years. However, challenges in terms of taxation are still a complex issue for e-commerce businesses. The following are some analyzes regarding taxation in e-commerce in Indonesia:

1. Value Added Tax (VAT) Liability:

In July 2020, the Indonesian government enacted a new regulation requiring e-commerce businesses to charge a 10% VAT on transactions for the sale of goods and services. This applies to both domestic and foreign e-commerce businesses who conduct transactions with consumers in Indonesia. E-commerce businesses are required to register as VAT collectors and report and pay VAT regularly.

2. Tax Collection and Reporting:

E-commerce has challenges in collecting and reporting transaction data for tax purposes. Since e-commerce businesses often sell products or services through digital platforms, they need to ensure that their systems can collect transaction data accurately and report it to tax authorities.

3. Differences in Tax Treatment between Domestic and Overseas E-commerce Business Actors:

The tax treatment between domestic and foreign e-commerce business actors is often different. Domestic e-commerce businesses must charge VAT and pay it to the Indonesian tax authorities. Meanwhile, overseas e-commerce businesses that transact with consumers in Indonesia are also required to charge VAT, but there are challenges in ensuring that they comply with the regulation.

4. Tax audits:

Tax audits can be a challenge for e-commerce businesses. Indonesian tax authorities have the authority to examine and audit the financial records and transactions of e-commerce businesses. Therefore, e-commerce businesses need to ensure that they maintain and keep accurate and complete financial records and comply with applicable tax regulations.

5. Tax Sanctions:

Violation of tax laws in e-commerce can result in serious sanctions, including fines and prosecution. Therefore, e-commerce business people need to understand and comply with applicable tax regulations to avoid these sanctions.

In order to overcome the challenges of taxation in e-commerce, the Indonesian government continues to strive to increase the understanding and awareness of e-commerce businesses regarding tax obligations. Some of the efforts made include counseling, training, and simplification of tax reporting procedures. In addition, the government is also working with e-commerce platforms to ensure compliance with tax regulations.

The next challenge is regarding the practice of monopoly prohibition. When discussing monopoly in business competition, the definition that must be distinguished is between "monopoly" and "monopoly practice". In Chapter 1 (one) Article 1 (one) of Law No. 5 of 1999, these two terms are clearly distinguished, namely "monopoly is control over the production and or marketing of goods and or over the use of certain services by one business actor or one group of actors." business", while "monopoly practice is the concentration of economic power by one or more business actors which results in the control of the production and or marketing of certain goods and or services, thus giving rise to unfair business competition and can be detrimental to the public interest."

Even though Law No. 5 of 1999 regulates the prohibition of monopoly, the term monopoly does not always have a negative connotation because in certain situations monopoly must still occur because it is protected by applicable law (statutory monopoly) and monopoly is inevitable for reasons of efficiency (natural monopoly). ).<sup>13</sup> Therefore, monopolies that are not allowed are monopolistic practices and all kinds of actions that lead to monopoly practices.

Monopolistic practices and unfair business competition that occur within the scope of E-commerce can be illustrated as follows:

1. There is an opportunity for a digital monopoly to occur which can hinder digital platform competition and innovation. As previously discussed, E-commerce business actors with large valuations certainly have the power to control the market and consumers by creating entry barriers against their start-up competitors. Digital monopoly can also occur by monopolizing other markets, where start-up business actors develop their business by integrating several platforms. Thus the start-up becomes dominant and is able to control other start-up business actors.
2. Large valuation start-ups can lock-in. This is done by creating several platforms that provide benefits for providers, but at the same time create lock-ins for consumers. If the consumer transfers the platform to another provider, a transfer fee will be charged which will hinder the consumer's right to choose and switch to another platform. This is certainly contrary to the principle of business competition which aims to provide protection to consumers and business actors in order to create a conducive business world and consumers' rights to obtain products according to their wishes.
3. The potential for predatory pricing by start-ups with large valuations for the goods/services offered to the market. The logic is that only large providers are able to carry out predatory pricing and are able to withstand losses while implementing a predatory pricing strategy. This potential arises because the company has a data centric that allows it to control the data of its users. This situation is likely to cause paralysis or destruction of conventional businesses and MSMEs. It should be noted that predatory pricing itself is a form of strategy for business actors to sell products at prices below production costs (average cost or marginal cost). This means that at the beginning of predatory pricing, the start-up will incur losses in order to get rid of its competitors,
4. Fourth, companies can play dual roles as platform providers and platform users which can lead to vertical integration. This can increase the potential for tacit collusion to emerge as start-ups can set algorithms within their digital platforms to influence prices. Covert collusion of this kind is a form of unfair business competition that is difficult to detect because it is different from a cartel, tacit collusion does not enter into a written agreement but simply provides an indication of setting a price increase so that other business actors will also increase it.<sup>15</sup>

The Indonesian government's Ministry of Trade has developed a strategy and framework for doing business electronically. The Ministry of Trade gave various reasons for the pressing need to establish legislation for electronic commerce in Indonesia. The presence of law-making that is carried out systematically by legal organizations provides legal certainty, which is the first juridical argument for the necessity for specific laws controlling e-commerce. -unique government department. Second, there are societal considerations, such as the need to ensure the safety and reliability of electronic transactions.<sup>16</sup>

Although the two concepts are inextricably linked, law and justice are not the same thing. The law applies to everyone equally and is universally obligatory. Justice is relative, particular, and not universal.<sup>17</sup>

To guarantee that the law is followed, people need to have confidence that it will be applied consistently and in a fair manner. Requirements pertaining to the internal structure of the legal norms themselves are necessary for the establishment of legal certainty in statutory rules.<sup>18</sup> The internal requirements are as follows:

---

<sup>15</sup> Rodiatn Adawiyah Wiya, "UMKM ANALYSIS OF E-COMMERCE CHALLENGES IN IMPLEMENTING BUSINESS COMPETITION LAW IN INDONESIA: ANALYSIS OF CHALLENGES E," *Prima Hukum (IHP)* 4, no. 3 (2021), <http://jurnal.unprimdn.ac.id/index.php/IHP/article/view/2152>.

<sup>16</sup> Margaretha Rosa Anjani and Budi Santoso, "The Urgency of Reconstructing E-Commerce Law in Indonesia," *LAW REFORM* 14, no. 1 (2018): 98–103.

<sup>17</sup> Hasaziduhu Moho, "LAW ENFORCEMENT IN INDONESIA ACCORDING TO LEGAL CERTAINTY, JUSTICE AND BENEFITS," *Warta Dharmawangsa* 13, no. 1 (March 14, 2019), <https://doi.org/10.46576/WDW.V0159.349>.

<sup>18</sup> Rahmi Hidayat, "LEGAL CERTAINTY IN TRIPARTITE DECISIONS IN INDUSTRIAL RELATIONS DISPUTE SETTLEMENT BASED ON LAW NUMBER 2 OF 2004 CONCERNING SETTLEMENT OF INDUSTRIAL RELATIONS DISPUTES," *SeNaSPU: Postgraduate School National Seminar* 1, no. 1 (January 31, 2023): 177–80, <https://journal.unilak.ac.id/index.php/Senaspu/article/view/12983>.

1. One, the ideas are easily understood. Some notions and practices are codified in law because of the standards that describe such practices.
2. Clarity of the hierarchy of authority from the institution forming the laws and regulations. Legality and the binding nature of the laws and regulations it produces depend on this hierarchy being established clearly. Legislators with the power to draft certain laws and regulations will benefit from the crystallization of the hierarchy.
3. Third, the uniformity of the law. There is no incompatibility between the requirements of several laws and regulations on the same topic.<sup>19</sup>

For regulations to have a juridical character, they must be codified in law by proper authorities, which necessitates legislative measures to provide legal certainty. This feature may ensure the law's effectiveness as a rule that must be followed in the future.<sup>20</sup>

Third, philosophical reasons because of the need for an electronic trading ecosystem that is safe and efficient for all parties, in order to encourage the growth of consumption of domestic products through electronic transactions. Fourth, the authors add practical reasons, the existence of special regulations governing e-commerce is expected to make society adapt to all types of activities related to e-commerce. On the basis of the above considerations, the things that are needed to make trading through Indonesian electronic means better, especially in providing complete and correct data and/or information for consumer protection in an electronic transaction, namely: (a) Identity of Business Actors; (b) Product specifications; (c) Payment Mechanisms; and (d) Delivery Mechanism.

## CONCLUSION

Overall, e-commerce in Indonesia offers many opportunities for entrepreneurs to market their products and services online. However, as in other countries, e-commerce in Indonesia also faces several obstacles from a business law perspective. Some of these obstacles include unclear regulations regarding consumer protection, personal data protection, business competition and intellectual property rights, and taxes. In addition to laws, legal compliance and uneven infrastructure are challenges.

To overcome these obstacles, synergy is needed between the government and e-commerce entrepreneurs. Governments need to increase their role and supervision in regulating e-commerce and provide legal certainty and adequate facilities for e-commerce entrepreneurs. Meanwhile, e-commerce entrepreneurs must comply with existing regulations, improve their compliance with laws, and take the necessary actions to ensure better consumer protection. With the synergy between the government and e-commerce entrepreneurs, a healthy and growing e-commerce market is likely to be created in Indonesia.

## REFERENCES

- Allison, J. "E-Commerce: Exactly What Is It," 2019.
- Anjani, Margaretha Rosa, and Budi Santoso. "Urgensi Rekonstruksi Hukum E-Commerce Di Indonesia." *LAW REFORM* 14, no. 1 (2018): 98–103.
- Ayunda, Rahmi. "Personal Data Protection to E-Commerce Consumer: What Are the Legal Challenges and Certainties?" *LAW REFORM* 18, no. 2 (August 16, 2022): 144–63. <https://doi.org/10.14710/LR.V18I2.43307>.
- azzarqa, azzarqa, and Friska Muthi Wulandari. "Jual Beli Online Yang Aman Dan Syar'i> (Studi Terhadap Pandangan Pelaku Bisnis Online Di Kalangan Mahasiswa Dan Alumni Fakultas Syari'ah Dan Hukum UIN Sunan Kalijaga)." *Az-Zarqa': Jurnal Hukum Bisnis Islam* 7, no. 2 (June 1, 2015). <https://doi.org/10.14421/AZZARQA.V7I2.1501>.
- Babenko, Vitalina, Zdzisław Kulczyk, Irina Perevosova, Olga Syniavska, Oksana Davydova, and V N Karazin. "Factors of the Development of International E-Commerce under the Conditions of

---

<sup>19</sup> Dwi Setiarini, "LEGAL PROTECTION OF CONSUMERS WHICH SHOULD BE REGULATED IN E-COMMERCE TRANSACTIONS," *PROCEEDING IAIN Batusangkar* 1, no. 1 (December 4, 2022): 839–49, <https://ojs.iainbatusangkar.ac.id/ojs/index.php/proceedings/article/view/7217>.

<sup>20</sup> Said Ismala Kisma, Ardiansah Ardiansah, and Sudi Fahmi, "INCONSISTENCY OF PRACTICE LICENSE REGULATIONS FOR PHARMAKERS," *PROCEEDING IAIN Batusangkar* 1, no. 1 (December 4, 2022): 339–45, <https://ojs.iainbatusangkar.ac.id/ojs/index.php/proceedings/article/view/6978>.

- Globalization.” *SHS Web of Conferences* 65 (2019): 04016. <https://doi.org/10.1051/SHSCONF/20196504016>.
- Baskara, I Putu Setiawan Ivan, I Nyoman Putu Budiarta, and Ni Made Puspasutari Ujianti. “Perlindungan Hukum Bagi Para Pihak Dalam Kontrak Bisnis Melalui E-Commerce Sebagai Akibat Dari Resesi Ekonomi.” *Jurnal Interpretasi Hukum* 2, no. 3 (November 30, 2021): 646–50. <https://doi.org/10.22225/JUINHUM.2.3.4166.646-650>.
- Clarke, R. “Electronic Commerce Definition,” 2019. <http://www.rogerclarke.com/EC/ECDefns.html>.
- Hidayat, Rahmi. “KEPASTIAN HUKUM PUTUSAN TRIPARTIT DALAM PENYELESAIAN PERSELISIHAN HUBUNGAN INDUSTRIAL BERDASARKAN UNDANG-UNDANG NOMOR 2 TAHUN 2004 TENTANG PENYELESAIAN PERSELISIHAN HUBUNGAN INDUSTRIAL.” *SeNaSPU: Seminar Nasional Sekolah Pascasarjana* 1, no. 1 (January 31, 2023): 177–80. <https://journal.unilak.ac.id/index.php/Senaspu/article/view/12983>.
- Hotana, Melisa Setiawan. “Industri E-Commerce Dalam Menciptakan Pasar Yang Kompetitif Berdasarkan Hukum Persaingan Usaha.” *Jurnal Hukum Bisnis Bonum Commune* 1, no. 1 (2018): 28–38.
- Jason, H, D Frank, and A Jay. “Adoption of Ecommerce Strategies for Agribusiness Firms.” In *Selected Paper at the American Agriculture Economics Association Annual Meeting*. Tampa, 2000.
- Kementerian Komunikasi dan Informatika. “Transaksi E-Commerce Lampau Rp 266 Triliun, Pemerintah Gencarkan e-Smart IKM.” [kominfo.go.id](http://kominfo.go.id), 2021. <https://www.kominfo.go.id/content/detail/37695/transaksi-e-commerce-lampau-rp-266-triliun-pemerintah-gencarkan-e-smart-ikm/0/berita>.
- Kisma, Said Ismaila, Ardiansah Ardiansah, and Sudi Fahmi. “INKONSISTENSI REGULASI IZIN PRAKTIK BAGI APOTEKER.” *PROCEEDING IAIN Batusangkar* 1, no. 1 (December 4, 2022): 339–45. <https://ojs.iainbatusangkar.ac.id/ojs/index.php/proceedings/article/view/6978>.
- Moho, Hasaziduhu. “PENEGAKAN HUKUM DI INDONESIA MENURUT ASPEK KEPASTIAN HUKUM, KEADILAN DAN KEMANFAATAN.” *Warta Dharmawangsa* 13, no. 1 (March 14, 2019). <https://doi.org/10.46576/WDW.V0I59>.
- Santoso, Edy. “Opportunities and Challenges: E-Commerce in Indonesia from a Legal Perspective.” *Jurnal Penelitian Hukum De Jure Volume* 22, no. 3 (2022). <https://doi.org/10.30641/dejure.2022.V22>.
- Setiarini, Dwi. “PERLINDUNGAN HUKUM TERHADAP KONSUMEN YANG SEHARUSNYA DIATUR DALAM TRANSAKSI E-COMMERCE.” *PROCEEDING IAIN Batusangkar* 1, no. 1 (December 4, 2022). <https://ojs.iainbatusangkar.ac.id/ojs/index.php/proceedings/article/view/7217>.
- Wiya, Rodiatn Adawiyah. “UMKM ANALISIS TANTANGAN E-COMMERCE DALAM MENGIMPLEMENTASIKAN HUKUM PERSAINGAN USAHA DI INDONESIA: ANALISIS TANTANGAN E.” *Ilmu Hukum Prima (IHP)* 4, no. 3 (2021). <http://jurnal.unprimdn.ac.id/index.php/IHP/article/view/2152>.