

Marketplace or Covert Monopoly? Criticizing Platform Dominance in the Digital Trading Ecosystem

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Abstract

The rapid growth of digital marketplaces has transformed commercial transactions in Indonesia while generating new forms of market power that remain inadequately addressed by existing legal frameworks. Previous studies have largely examined digital platforms from economic, technological, or regulatory perspectives, with limited attention to how platform governance creates legal asymmetries for micro, small, and medium enterprises (MSMEs). This study investigates how digital platforms construct covert forms of dominance through algorithmic governance, reputational control, and contractual dependency, and examines whether Indonesian commercial and competition laws adequately address these practices. Using a qualitative socio-legal design, the study integrates doctrinal analysis of the Commercial Code, Competition Law, Trade Law, Consumer Protection Law, and Electronic Information and Transactions Law with empirical evidence gathered through observations and semi-structured interviews with MSME traders, legal practitioners, and digital commerce experts. The findings reveal that platform power increasingly operates through algorithmic visibility systems, data control, reputational mechanisms, and standardized contracts that fall outside conventional legal definitions of monopoly and market dominance. The study's novelty lies in integrating trader experiences with critical legal analysis to expose the gap between law-in-books and law-in-action within Indonesia's digital marketplace. The study concludes that current regulations inadequately protect MSMEs and recommends legal reforms addressing algorithmic transparency, platform accountability, expanded trader protections, independent oversight, and recognition of algorithmic dominance as a legally relevant form of market power.

I. Introduction

The global ascendance of digital trading platforms has catalyzed a shift in the architecture of commerce, redefining traditional market dynamics and legal relations. Platforms such as Amazon, Alibaba, and Shopee now function as digital marketplaces, not merely intermediaries, but powerful gatekeepers that dictate the terms of access, visibility, and success for market participants (Jacobides & Lianos, 2021; Montalban et al., 2019). Digital trade has various positive aspects because it can expand market reach, improve marketing efficiency, strengthen consumer interaction, and enhance business competitiveness through the utilization of digital technology and social media. In the digital era, digital trade enables companies to reach consumers more broadly without geographical limitations through platforms such as Facebook, Instagram, TikTok, YouTube, email marketing, and business websites (Riswandi et al., 2024).

Their algorithmic infrastructure, economic model, and data harvesting capabilities generate unprecedented asymmetries of power that extend beyond economic terms into legal and regulatory spheres. In many jurisdictions, these entities are increasingly perceived as exhibiting monopolistic behavior under the guise of market facilitation raising profound implications for commercial law and competition regulation (Kunder et al., 2022; Wang & Gao, 2022). Despite their contribution to digital growth and consumer convenience, platforms have developed complex systems of rule enforcement that often escape public accountability and legal scrutiny.

The development of the digital marketplace in Indonesia has experienced very rapid growth alongside the increasing digital transformation, internet usage, social media utilization, and adoption of digital technology in

community economic activities. The Digital Entrepreneurship Academy (DEA) program organized by the Ministry of Communication and Information Technology demonstrates that the government actively encourages digital economic growth through the development of digital competencies among society and MSME actors (Rhamadona et al., 2024).

The Indonesian digital marketplace, with actors such as Tokopedia, Shopee, and TikTok Shop, reflects this global trend while also presenting context-specific regulatory tensions. The legal regime governing digital commerce in Indonesia comprising the KUHD, UU No. 7/2014, UU ITE, UU No. 5/1999, UU No. 8/1999, and Permendag 31/2023 was designed to ensure fair competition, consumer protection, and contractual integrity. However, the application of these statutes to platform governance reveals critical challenges. Digital platforms increasingly dictate the economic behavior of micro, small, and medium enterprises (MSMEs), raising concerns of covert monopoly through mechanisms such as algorithmic visibility control, data asymmetry, and privatized rule-making. Traders often navigate platform-imposed constraints without recourse to state institutions, highlighting gaps in enforceable rights and protections within Indonesia's legal infrastructure (Budzinski & Stöhr, 2024; Chen, 2020).

Theorists of Critical Legal Studies (CLS), Foucault's surveillance-power paradigm, and Platform Capitalism offer crucial analytical lenses to unpack these issues. CLS critiques the law's ostensible neutrality and reveals how it can entrench structural inequality (Sekarasih et al., 2023), while Foucault's notion of disciplinary power sheds light on how platform surveillance regulates trader behavior (Agarwala & Saluja, 2021). Platform Capitalism (Zabielski, 2016) further conceptualizes platforms as rule-setting economies

that extract value via control over digital infrastructures. These frameworks converge to reveal a latent legal asymmetry embedded in Indonesia's digital commerce landscape a scenario where platforms simultaneously act as marketplace, regulator, and arbiter, thereby blurring the line between commerce and covert monopoly.

Indonesia's digital trade governance is anchored in a constitutional mandate to ensure public welfare through fair economic practices (UUD 1945, Pasal 33). The enactment of *Undang-Undang No. 7 Tahun 2014 tentang Perdagangan* emphasizes the need for structured commerce that supports domestic products, balances economic power, and protects micro, small, and medium enterprises (UMKM) as pillars of national development. The law explicitly acknowledges trade via electronic systems (*Pasal 4 huruf e*), integrating them within national trade policy and standardization frameworks (*Pasal 1, 8, 9*). These provisions demonstrate Indonesia's legislative adaptation to globalization while reinforcing national economic sovereignty through fair trade and inclusive development strategies

The legal prohibition against monopolistic practices is codified in *Undang-Undang No. 5 Tahun 1999 tentang Larangan Praktek Monopoli dan Persaingan Usaha Tidak Sehat*. This regulation defines monopoly (*Pasal 1 angka 1*), dominant position (*angka 4*), and anti-competitive agreements (*Bab III*), setting clear limits on market concentration. In the context of digital platforms, these provisions are particularly relevant to platform operators that control market access or pricing algorithms, thus potentially violating fair competition principles. Moreover, the law establishes the *Komisi Pengawas Persaingan Usaha (KPPU)* as an oversight body (*Pasal 1 angka 18*), emphasizing the importance of institutional checks to prevent market abuse amid the rapid growth of digital

commerce.

Consumer rights are extensively protected under *Undang-Undang No. 8 Tahun 1999 tentang Perlindungan Konsumen*, which stipulates consumer entitlements to safety, fairness, truthful information, and legal recourse (Pasal 4). The law mandates businesses to act in good faith and provide accurate, transparent product details (*Pasal 7*), obligations that apply equally in digital environments. As transactions increasingly rely on algorithmic recommendations and personalized marketing, this legal basis is critical to address risks of manipulation, opacity, and exclusion. The legislation's principle of consumer dignity and balanced legal protection becomes especially urgent in algorithm-driven e-commerce ecosystems.

Undang-Undang No. 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik (ITE) and derivative government regulations, including Peraturan Menteri Perdagangan No. 50 Tahun 2020 and No. 31 Tahun 2023, regulate digital platforms and e-commerce practices. These laws require transparency, transactional authentication, and data security (Pasal 5–11 UU ITE). Notably, the 2023 amendment bans the integration of social media functions with e-commerce features, aiming to prevent market distortion and protect traditional and MSME-based businesses. The broader framework underlines Indonesia's commitment to a fair digital ecosystem, where governance balances innovation with consumer rights, business competition, and data accountability.

Despite Indonesia's efforts to foster a competitive and fair digital marketplace through statutory instruments such as UU No. 5/1999 and Permendag 31/2023, digital platforms continue to consolidate market power with minimal legal constraint. The current regulatory ecosystem inadequately

addresses how platform intermediaries structure market access, enforce private contractual norms, and control algorithmic visibility, functions that resemble monopoly-like behavior but elude traditional legal definitions. This creates a disjunction between the normative ideals of Indonesian trade law and the lived realities of digital market participants, particularly MSMEs that often find themselves locked into dependencies without meaningful legal recourse (Streel et al., 2023; Trofymenko et al., 2023). The legal ambiguity and enforcement inertia surrounding such practices highlight a systemic shortfall in legal accountability within the digital trading ecosystem.

This study critically interrogates these gaps by bridging empirical fieldwork with doctrinal analysis. It adopts a qualitative, interpretive approach grounded in critical-legal theory to explore how traders experience legal asymmetries in their interactions with digital platforms. The research further scrutinizes how Indonesia's legal instruments KUHD, Trade Law, ITE Law, and Competition Law have responded to, or failed to restrain, the covert monopolistic structures embedded in platform economies. The aim is to identify systemic patterns of dominance, expose the insufficiencies of existing legal interpretations, and formulate normative critiques and recommendations for reform anchored in legal realism and trader experience.

A significant body of literature now focuses on the structural implications of platform power, with critical scholars highlighting the emergence of covert monopolies within digital ecosystems (Budzinski & Stöhr, 2024; Montalban et al., 2019). These monopolies often operate through algorithmic governance, contractual dependencies, and control over consumer data. Legal scholars argue that platforms, while claiming neutrality, function as regulatory entities that design, enforce, and interpret rules governing trade and conduct (Wang

& Gao, 2022; Zhang et al., 2022). To address this challenge, some jurisdictions have pursued structural legal remedies, such as the EU Digital Markets Act, which seeks to impose obligations on "gatekeeper" platforms to ensure competitive fairness (Deng et al., 2020; Kunder et al., 2022).

Theoretical responses to platform dominance have been robust. Critical Legal Studies (CLS) offers a foundational critique by demonstrating that law, rather than being an instrument of justice, often operates to reinforce and legitimize hierarchical power relations (Stambulski, 2021). CLS critiques the presumed objectivity of law, calling attention to the ways legal structures sustain economic inequality and enable exploitative dynamics, such as those seen in platform-mediated trade (Sekarasih et al., 2023). Through this lens, the legality of platform conduct is not sufficient; the focus shifts to how law functions ideologically and materially to reproduce digital domination.

In addition, Foucault's theory of surveillance and power provides an analytical framework to understand how platforms regulate behavior not through coercion, but through data collection, algorithmic norm-setting, and behavioral nudging (Agarwala & Saluja, 2021; Sobari & Damayanti, 2021). This disciplinary regime is internalized by traders who adjust their conduct to optimize platform performance, often unaware of the structural constraints they operate within. Foucault's concept of governmentality also explains how platforms create subjects entrepreneurial traders who are induced to self-regulate under market rationalities designed by private actors. Solutions therefore must move beyond formal regulation and interrogate the power-knowledge nexus embedded within platform infrastructures.

While existing literature richly theorizes platform power and offers normative models for regulation, it often lacks grounded empirical

engagement with how these dynamics manifest in specific legal-cultural contexts such as Indonesia. Studies tend to focus on platform economics or abstract legal critiques, but few empirically examine how traders perceive and navigate the asymmetrical legal terrain of platform commerce. This is particularly relevant in Indonesia, where MSMEs constitute a significant economic base yet operate in legally precarious digital environments shaped by informal norms, opaque algorithms, and complex contractual dependencies (Kittichat, 2024; Trofymenko et al., 2023). Legal scholarship in this space often fails to account for how formal law is experienced, contested, or circumvented in practice.

Moreover, doctrinal legal analyses in Indonesia typically approach platform regulation from a compliance-oriented or descriptive perspective. They emphasize statutory requirements without critically interrogating how those regulations function in relation to digital capital, algorithmic control, or privatized legal ordering. Few studies apply critical methodologies or integrate trader narratives to assess how commercial laws such as the KUHD or Trade Law are deployed, ignored, or reinterpreted by digital platforms. This lack of legal realism obscures the ideological role of law in legitimizing market inequality (Giabardo, 2020; Sekarasih et al., 2023).

The literature on digital trading platforms increasingly reveals how these entities function as structurally dominant actors within modern commerce, often under the guise of neutrality and efficiency. Platforms such as Amazon, Google, Shopee, and Tokopedia deploy network effects and data analytics to entrench their market positions while presenting themselves as facilitators of trade (Jacobides & Lianos, 2021; Wang & Gao, 2022). However, their dual role as both infrastructure providers and regulators of trade enables a shift from

marketplace to monopolistic gatekeeping. This covert monopoly is exercised through algorithmic ranking, opaque contractual frameworks, and reputational control that reduce trader autonomy (Kunder et al., 2022; Zhang et al., 2022).

In the Indonesian context, such dynamics challenge the normative foundations of trade law enshrined in the *KUHD*, *UU No. 7/2014*, and *UU No. 5/1999*. These legal frameworks were designed to regulate transparent competition and protect against the abuse of dominant positions. Yet, platform strategies such as “lock-in” pricing, curated visibility, and user data monopolization tend to elude traditional legal mechanisms (Budzinski & Stöhr, 2024). The existing jurisprudence in Indonesia lacks the interpretive agility to address power exercised through digital architecture rather than market share alone, highlighting the need for legal reform that considers algorithmic and infrastructural dimensions of dominance.

A key thematic concern emerging in the literature is legal asymmetry the imbalance in bargaining power, legal recourse, and interpretive authority between digital platforms and their users, especially MSME traders. Contractual relations are often governed by non-negotiable terms of service, drafted unilaterally by platforms and shielded by disclaimers, jurisdictional loopholes, and private enforcement mechanisms (Trofymenko et al., 2023). In this context, commercial contract dependency refers to the trader's reliance on platform infrastructure for market access, making them vulnerable to sudden suspension, algorithmic penalization, or fee restructuring.

Legal texts such as *UU ITE* and *Permendag No. 31/2023* attempt to regulate these interactions but fall short in addressing the substantive fairness of contractual dynamics. Clause enforcement is often skewed in favor of

platforms, and the lack of a coherent framework for adjudicating digital unfairness reflects broader deficiencies in Indonesian trade jurisprudence. Traders' experiences suggest that legal rights are abstracted into symbolic protections rather than effective safeguards, echoing findings from global studies on digital commercial dependency (Chen, 2020; Kittichat, 2024).

To critique and reconceptualize these structures, the study adopts a theoretical triangulation anchored in Critical Legal Studies (CLS), Foucault's theory of surveillance and power, Platform Capitalism, and Legal Realism. CLS provides the foundational critique that law is not neutral but serves to legitimize hierarchies, including digital hierarchies constructed by platform rule-making (Sekarasih et al., 2023; Stambulski, 2021). CLS interrogates how legal discourse masks the political interests of dominant actors, enabling the state to co-govern with platforms while maintaining an illusion of regulation.

Foucault's framework adds a disciplinary dimension to this critique, framing digital platforms as *panoptic systems* that induce self-regulation through surveillance and reputational feedback loops (Agarwala & Saluja, 2021; Na & Park, 2023). Through algorithmic visibility and ratings, traders become "docile bodies" governed not through coercive law but through digitally mediated norms. Foucault's notion of *governmentality* further explains how platforms construct entrepreneurial subjects, reconfiguring agency and consent within the digital market (Lee & Fanguy, 2022).

Platform Capitalism (Zabielski, 2016) extends this critique by conceptualizing platforms as extractive infrastructures that commodify user data and labor while presenting themselves as neutral intermediaries. This extractive logic is exacerbated in the Indonesian digital ecosystem where platforms enjoy regulatory gaps, data sovereignty ambiguities, and economic

incentives to scale at the expense of local entrepreneurship (Narayan, 2023; Neilson, 2024). Finally, Legal Realism grounds the critique in practical jurisprudence, stressing the divergence between law-on-paper and law-in-action (Davies, 2020; Pradhan & Haris, 2021). It enables an interpretive method that focuses on how traders experience legal vulnerability despite formal protections under statutes like *UU No. 5/1999* and *UU No. 8/1999*.

Competition law theory examines how governments regulate market competition to ensure that economic activities remain fair, efficient, and conducive to consumer welfare while preventing monopolistic practices and other forms of anti-competitive conduct. Contemporary competition law seeks to preserve competitive market structures, promote innovation, facilitate market entry, and protect consumers from the adverse effects of excessive market power and market concentration (OECD, 2022; Khan, 2021). Within this framework, competition law prohibits anti-competitive agreements, restrictive business practices, cartels, and the abuse of dominant positions that may distort market competition, reduce consumer choice, hinder technological development, or create barriers to entry for potential competitors (Makka, 2021). The fundamental objective of these regulations is to maintain open and contestable markets that support economic efficiency, innovation, and social welfare.

The economic justice framework refers to a set of normative principles, institutional arrangements, and public policies designed to ensure the fair distribution of resources, opportunities, and economic outcomes across society. This framework seeks to promote equity, protect individual rights, balance rights and responsibilities, and strengthen the role of the state in reducing socioeconomic disparities while guaranteeing access to basic needs

and public services (OECD, 2022). Contemporary perspectives on economic justice emphasize that fairness extends beyond income distribution to include equal access to education, healthcare, digital infrastructure, and economic opportunities, thereby enabling inclusive and sustainable development. Economic justice therefore functions as a governance framework that addresses structural inequalities and promotes social welfare through equitable allocation and redistribution mechanisms.

This study addresses these gaps by blending critical theory with qualitative fieldwork. It situates Indonesian trade and platform law within broader frameworks of legal pluralism, platform capitalism, and critical surveillance studies. By doing so, it uncovers how platform dominance is lived and interpreted by affected traders, and how legal instruments are implicated in sustaining or failing to challenge that dominance. The study offers an interpretive critique grounded in CLS, legal realism, and Foucaultian analysis, aiming to reframe the debate from mere regulation to emancipatory legal reform.

The objective of this study is to critically examine how digital platforms construct and sustain covert dominance in the Indonesian digital trading ecosystem and to assess the extent to which existing commercial and trade laws accommodate or contest these practices. The research explores the lived experiences of MSME traders and legal professionals, analyzes the content and limitations of regulatory documents, and applies critical-legal frameworks to interpret the socio-legal implications of platform behavior. The ultimate aim is to formulate normative and practical recommendations for reforming Indonesian digital commerce law toward market fairness and legal accountability.

This study offers a novel contribution by integrating empirical qualitative data with doctrinal and theoretical legal analysis in the context of Indonesian digital trade. It departs from conventional regulatory approaches by foregrounding the experiences of traders and embedding their narratives within critical jurisprudential critique. The use of CLS, Foucault's theory of surveillance, and Platform Capitalism as analytical tools distinguishes this work from existing literature that often fails to interrogate the ideological and structural underpinnings of digital legal asymmetry. By focusing on law-in-practice rather than law-on-paper, the research brings forth original insights into how commercial legality is produced, contested, and reshaped within platform-governed markets in Indonesia.

2. Research Method

This study employs a qualitative socio-legal research design that integrates doctrinal legal analysis with empirical observations of digital marketplace traders. The socio-legal approach was selected because the research seeks not only to examine the normative content of Indonesian commercial and competition laws but also to understand how those legal frameworks operate in practice within platform-governed digital markets. The study focuses on the interaction between formal legal regulations and the lived experiences of micro, small, and medium enterprise (MSME) traders operating on major Indonesian digital platforms.

The doctrinal component examines primary legal materials, including the Indonesian Commercial Code (KUHD), Law No. 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, Law No. 7 of 2014 on Trade, Law No. 8 of 1999 on Consumer Protection, Law No. 11 of 2008 on Electronic Information and Transactions, and Ministerial Regulation No. 31 of

2023. Secondary materials include judicial decisions, KPPU reports, government policy documents, academic literature, and regulatory analyses concerning digital platforms and competition law. Legal materials were analyzed through doctrinal interpretation and legal hermeneutics to identify normative assumptions, legal gaps, and regulatory limitations related to platform governance, algorithmic control, contractual dependency, and market dominance.

The empirical component was conducted through qualitative observations and semi-structured interviews involving MSME traders who actively operate within digital marketplace ecosystems. Participants were selected using purposive sampling based on three criteria: active engagement in digital trading platforms for at least one year, direct experience with platform governance mechanisms such as seller ratings, algorithmic visibility systems, promotional programs, or account restrictions, and willingness to discuss their experiences regarding platform rules and legal protections. Additional informants included legal practitioners and digital commerce experts who provided contextual insights regarding platform regulation and dispute resolution.

Empirical data were collected through semi-structured interviews, observation notes, and documentation of trader experiences. Interviews explored perceptions of fairness, contractual autonomy, algorithmic visibility, reputational systems, dispute mechanisms, platform dependency, and awareness of legal protections. Observations focused on how traders interacted with platform policies, responded to algorithmic ranking systems, managed reputational scores, and adapted to platform-imposed rules. Field notes were recorded throughout the data collection process to capture

recurring patterns, contextual factors, and emerging themes.

To ensure data validity, the study employed source triangulation, methodological triangulation, and member validation. Information obtained from traders was cross-checked against legal documents, platform terms of service, regulatory provisions, and expert opinions. Consistency between interview findings, observational evidence, and doctrinal analysis was continuously evaluated to strengthen the credibility and reliability of interpretations.

Data analysis followed an iterative thematic approach. Interview transcripts and observation notes were first subjected to open coding to identify recurring concepts related to platform dominance, legal asymmetry, algorithmic governance, reputational control, contractual dependency, and trader vulnerability. The resulting codes were then grouped through axial coding into broader analytical categories. These empirical themes were subsequently compared with doctrinal findings derived from statutory analysis and legal interpretation. The integration process enabled the study to examine whether the legal protections formally guaranteed under Indonesian law corresponded with the realities experienced by traders in platform-mediated markets.

The analytical framework combines Critical Legal Studies, Legal Realism, Foucault's theory of surveillance and governmentality, and Platform Capitalism. Critical Legal Studies was used to evaluate how legal frameworks may legitimize structural inequalities within digital markets. Legal Realism provided a basis for comparing law-in-books with law-in-action. Foucault's perspective facilitated analysis of algorithmic surveillance, behavioral regulation, and reputational control, while Platform Capitalism explained how

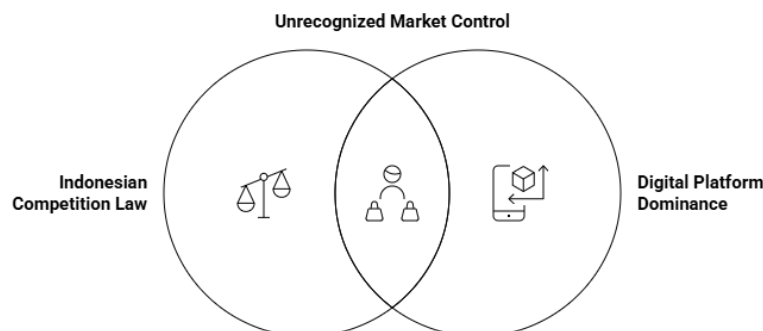
digital platforms consolidate economic power through data extraction and infrastructural control. The integration of doctrinal and empirical evidence allowed the study to identify not only legal deficiencies in statutory frameworks but also the practical consequences of those deficiencies for traders operating within Indonesia's digital trading ecosystem.

3. Results and Discussion

A. Legal Construction of Platform Dominance as a Covert Monopoly

Indonesian competition law, particularly *Undang-Undang No. 5 Tahun 1999* (RI, 1999) on the Prohibition of Monopolistic Practices and Unfair Business Competition, provides the statutory framework for identifying and curbing monopoly practices. According to *Article 1 point 2*, monopoly is defined as a “concentration of economic power” by one or more business actors that enables control over the production and/or marketing of certain goods or services . Furthermore, *Article 1 point 4* introduces the concept of a “dominant position,” where a business actor is capable of significantly influencing market behavior without meaningful competition. However, doctrinally, this law assumes a conventional economic structure based on tangible products, pricing, and supply-side control.

Picture 1. Gap Between Law and Digital Platform Dominance



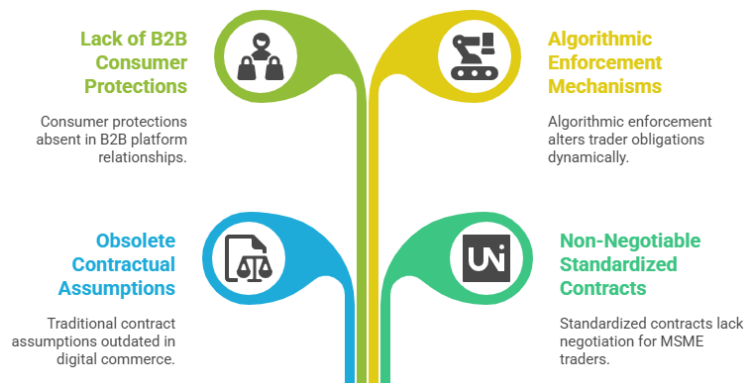
Digital platforms like Tokopedia, Shopee, and TikTok Shop do not necessarily dominate markets in terms of traditional pricing mechanisms or production, but rather through control over digital infrastructure, algorithmic visibility, reputational systems, and data monopolization. This control allows platforms to shape market access, visibility, and success without owning the goods themselves a hallmark of covert monopoly. Yet these forms of control are not explicitly captured by existing legal definitions. Therefore, doctrinal interpretation reveals that while *UU No. 5/1999* intends to prohibit dominant behavior, it lacks the analytical apparatus to recognize algorithmically enforced dominance that circumvents classical competition parameters. This validates the study's objective to examine and critique the conceptual gap between statutory frameworks and the structural realities of digital market power, and directly answers on how platforms interact with or evade competition law.

B. Algorithmic Governance and the Limits of Commercial Contract Law (KUHD)

The *Kitab Undang-Undang Hukum Dagang (KUHD)* remains a cornerstone of Indonesian commercial contract law (Republik Indonesia, 1938). It assumes that commercial contracts are founded on mutual consent, good faith (*itikad baik*), and equal legal standing between the parties. However, doctrinal research into platform-mediated digital commerce reveals that such assumptions are obsolete in practice. Most MSME traders who operate through digital platforms are required to agree to non-negotiable, standardized contracts (*klausula baku*), which are often dynamic and subject to unilateral amendment by the platform without prior consultation or informed

consent.

Picture 2. Legal Asymmetries in Digital Commerce

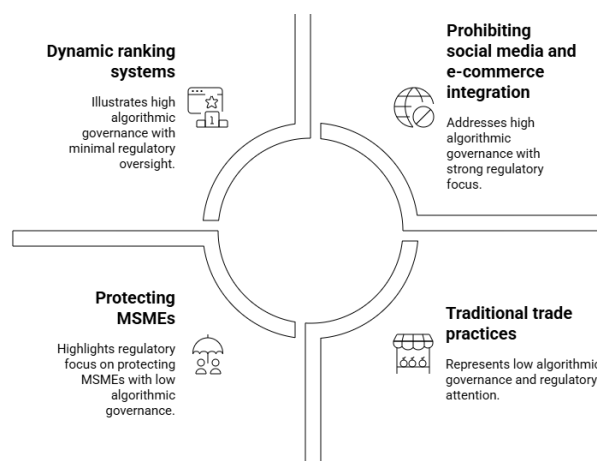


Although the *Undang-Undang No. 8 Tahun 1999 tentang Perlindungan Konsumen* provides consumer-oriented protections against unfair contract clauses in *Article 18*, these safeguards do not formally extend to B2B relationships, which characterize platform-trader relations (Presiden Republik Indonesia, 1999). As a result, traders despite being small-scale, economically vulnerable actors are doctrinally treated as equal contractual parties, even though in practice they have no capacity to influence or contest platform terms. This reveals a legal asymmetry that the KUHD is not equipped to redress. The doctrinal lacuna is compounded by the absence of any statutory recognition of algorithmic or infrastructural enforcement mechanisms that dynamically alter the obligations or market viability of traders. Hence, this analysis fulfills research objective by showing how legal documents fail to constrain platform control, and it addresses on how traders' legal vulnerabilities are embedded in doctrinal omissions.

C. Legal Silence on Algorithmic Control in Trade Law

Indonesia's *Undang-Undang No. 7 Tahun 2014 tentang Perdagangan* (Trade Law) affirms the principle of fair and structured commerce (Undang-Undang Republik Indonesia, 2014), particularly emphasizing the protection and empowerment of MSMEs. *Article 4* explicitly mandates that trade practices must be fair and orderly, while *Article 8* encourages the development of trade infrastructures that protect national interests and small businesses . The doctrinal purpose of this law is clear: to balance economic development with legal fairness. However, the law is silent on how such fairness is to be maintained when trade is mediated by private digital infrastructures governed by algorithmic decision-making.

Picture 3. Algorithmic Governance in Indonesian Trade Law



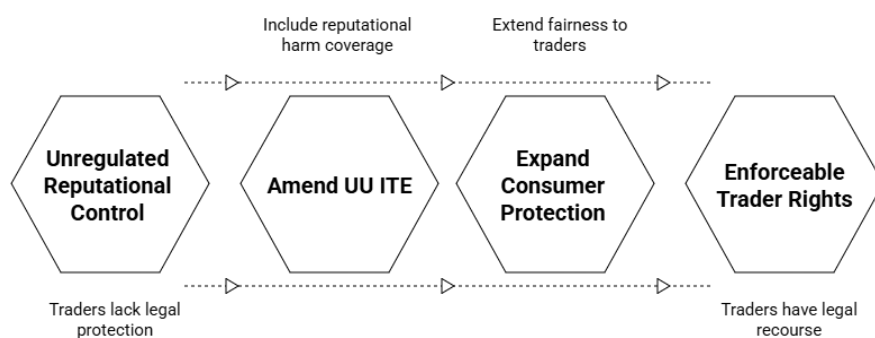
Even in its latest amendment, *Permendag No. 31 Tahun 2023*, which prohibits the integration of social media and e-commerce, the regulatory focus remains narrow, targeting macroeconomic distortions without engaging with the micro-legal harms imposed by platform governance, such as dynamic ranking systems, automated delisting, and punitive algorithmic scoring. These

practices are often opaque and immune to legal challenge due to the absence of transparency requirements. Thus, while trade law embraces the digital transition rhetorically, doctrinally it lacks the instruments to confront the algorithmic governance that defines platform economies. This analysis shows how the promise of fair trade remains doctrinally unfulfilled in the platform context.

D. Reputational Control and the Fragmentation of Legal Recourse

Platforms extensively deploy reputational mechanisms, such as user reviews, ratings, and seller performance scores as core instruments of governance. These mechanisms determine visibility, trustworthiness, and ultimately the economic fate of traders. However, reputational control is neither regulated nor formally recognized in Indonesia's legal instruments as a form of enforceable power. The *Undang-Undang No. 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik (UU ITE)* addresses electronic systems and transactional integrity but limits its scope to issues of authentication, data protection, and digital signatures (*Articles 5–11*) (P, 2008).

Picture 4. Establishing Legal Recourse for Traders



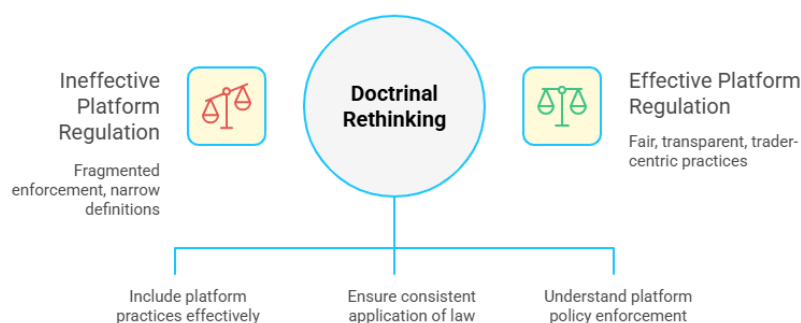
The doctrinal silence regarding algorithmically generated reputational harm, such as unjust de-platforming, negative feedback loops, or unverifiable

penalties leaves affected traders without legal recourse. While *UU No. 8/1999* guarantees consumers the right to fairness and information (*Article 4*), and businesses must act in good faith (*Article 7*), these principles are limited by their framing within consumer, rather than trader, protections. Doctrinally, this creates a fragmented legal response: reputational penalties have material consequences but are not treated as justiciable harms. This doctrinal analysis answers on traders' perceptions of fairness and substantiates by showing how platform governance evades formal accountability.

E. Systemic Enablers of Platform Asymmetry and the Doctrine of Legal Realism

Although multiple Indonesian statutes (e.g., *UU No. 5/1999*, *UU No. 7/2014*, *UU ITE*, and *UU No. 8/1999*) contain progressive language on fairness, transparency, and consumer/trader rights, doctrinal legal research reveals that fragmented enforcement, narrow statutory definitions, and rigid legal formalism prevent effective regulation of platform practices. This finding aligns with the principles of Legal Realism, which argues that law's actual impact depends not on its text but on how it functions in social and economic life.

Picture 5. Reforming Indonesian Platform Regulation



From a legal realist perspective, traders' dependence on platform infrastructure creates a *de facto* regulatory regime where platform policies supplant state law. These private legal orders are enforced not through courts but through algorithmic sanctions, non-negotiable contracts, and reputational hierarchies. The result is a legal field where *de jure* protections exist but *de facto* vulnerability persists. This finding directly advocating for doctrinal rethinking based not on abstract principles but on real-world legal consequences experienced by traders.

F. Toward a Critical Reinterpretation of Indonesian Trade Law

Anchored in Critical Legal Studies (CLS), the study's final doctrinal analysis proposes that Indonesian trade and commercial law must be reconceptualized to address not only formal legal violations but also structural legal asymmetries embedded in platform capitalism. CLS holds that law often serves to legitimize existing hierarchies under the guise of neutrality. In this context, platform dominance is legally sanitized through outdated legal categories (e.g., market share, consent, fair competition), even as it systematically marginalizes traders through algorithmic control, reputational coercion, and contractual subordination.

Doctrinal reform is therefore imperative. This study proposes: (1) revising the definition of monopoly to include data-driven and algorithmic dominance; (2) extending consumer protection norms to platform-based MSMEs; (3) codifying transparency and accountability standards for platform algorithms; and (4) recognizing reputational systems as enforceable regulatory instruments. These doctrinal innovations would better align Indonesia's commercial law with its constitutional commitment to *economic justice* under

Pasal 33 UUD 1945. Thus, the study does not only critique law's deficiencies it fulfills its final objective by constructing normative pathways for legal reform that are grounded in doctrinal interpretation and critical theory.

G. Platform Governance as a New Form of Market Power: Between Covert Monopoly and Digital Efficiency

Contemporary scholarship increasingly recognizes that digital platforms have evolved beyond their traditional role as market intermediaries and now operate as private governance institutions that shape market access, economic opportunities, and competitive outcomes. Platform operators exercise significant regulatory influence through control of digital infrastructures, ecosystem governance, data resources, and algorithmic coordination mechanisms, enabling them to structure interactions among market participants and determine conditions of participation within digital ecosystems (de Streel et al., 2023). While conventional competition law typically assesses market dominance through indicators such as market concentration, pricing power, and production control, recent studies argue that platform power increasingly derives from data accumulation, algorithmic visibility management, reputational systems, and ecosystem control rather than traditional ownership structures (Narayan, 2023). Consequently, digital platforms can influence market outcomes, consumer attention, and commercial success without necessarily satisfying conventional legal thresholds associated with monopoly power.

Recent empirical and theoretical research further demonstrates that platform-dependent businesses frequently rely on algorithmic ranking systems, recommendation engines, seller performance metrics, and platform-

generated reputation mechanisms to sustain market visibility and economic viability (Trofymenko et al., 2023). Such dependence often compels traders to continuously adapt their commercial strategies to opaque platform rules and algorithmic criteria that platform operators may modify unilaterally. Scholars have identified several manifestations of this asymmetry, including non-negotiable contractual arrangements, automated account restrictions, algorithmic demotion, reputational penalties, and limited procedural safeguards for affected market participants (Narayan, 2023). These developments suggest that platform governance increasingly functions as a parallel regulatory framework capable of influencing economic behavior beyond the scope of traditional legal protections.

The literature also highlights significant regulatory challenges associated with algorithmic governance. Existing legal frameworks in many jurisdictions continue to emphasize consumer protection, contractual fairness, and competition regulation while providing limited oversight of algorithmic decision-making, automated enforcement systems, reputational governance, and ranking mechanisms (de Streel et al., 2023). As a result, businesses operating within platform ecosystems frequently encounter difficulties when attempting to challenge algorithmic sanctions, visibility restrictions, or automated classifications. This regulatory gap reflects a broader tension between traditional legal doctrines and the realities of platform-mediated commerce in which economic opportunities increasingly depend on proprietary digital infrastructures.

At the same time, many scholars emphasize the substantial economic benefits generated by digital platforms. Research suggests that platform ecosystems enhance market efficiency by reducing transaction costs,

facilitating information exchange, expanding market access for small businesses, increasing consumer choice, and accelerating innovation through network effects and digital infrastructure development (Jacobides & Lianos, 2021). Algorithmic recommendation systems can improve matching efficiency between buyers and sellers, while reputation mechanisms can reduce information asymmetries and strengthen trust in digital transactions. Platform operators therefore frequently justify algorithmic governance as a necessary mechanism for quality assurance, fraud prevention, search optimization, and scalable market coordination, particularly within emerging digital economies (Zhang et al., 2022).

The growing tension between platform efficiency and market power has prompted significant regulatory responses, most notably through the European Union's Digital Markets Act (DMA). The DMA departs from traditional competition law by recognizing that digital market power extends beyond conventional indicators such as market share or pricing dominance. Instead, the regulation introduces the concept of gatekeeper platforms, referring to firms that control essential digital infrastructures and market access points (de Streel et al., 2023). Under the DMA, gatekeepers must comply with obligations related to transparency, interoperability, data portability, non-discrimination, and restrictions on self-preferencing practices. The regulation acknowledges that algorithmic control, data concentration, and ecosystem intermediation can generate anti-competitive effects even in the absence of traditional monopoly structures. These developments suggest that contemporary competition policy increasingly recognizes infrastructural and algorithmic forms of market power that existing legal frameworks in many developing jurisdictions have yet to fully address (Budzinski & Stöhr, 2024).

Accordingly, recent scholarship advocates a balanced regulatory approach that preserves innovation, efficiency, and consumer welfare while simultaneously addressing concerns related to algorithmic opacity, reputational coercion, market exclusion, and data-driven dominance. Drawing lessons from the DMA and emerging platform governance frameworks, policymakers should expand competition law doctrines to encompass algorithmic and ecosystem-based forms of market power, establish transparency obligations for ranking and recommendation systems, strengthen procedural protections for affected traders, and develop independent oversight mechanisms capable of monitoring platform governance practices. Such reforms would support continued digital innovation while ensuring that economic efficiency remains consistent with principles of accountability, competitive fairness, and economic justice (Budzinski & Stöhr, 2024).

4. Conclusion

This study concludes that Indonesia's existing legal framework, including the Commercial Code (KUHD), Law No. 5 of 1999 on Competition, Law No. 7 of 2014 on Trade, Law No. 8 of 1999 on Consumer Protection, and the Electronic Information and Transactions Law, remains insufficient to address the evolving forms of market power exercised by digital platforms. The findings demonstrate that platform dominance increasingly operates through algorithmic governance, reputational control, data concentration, and contractual dependency rather than through traditional mechanisms of monopoly recognized by existing competition law. As a result, many forms of digital market power remain legally invisible despite their substantial influence on market access, trader visibility, and commercial sustainability.

The study further reveals a persistent gap between the formal protections guaranteed by Indonesian law and the practical realities experienced by MSME traders operating within platform-governed ecosystems.

The findings suggest that future legal reform should move beyond incremental regulatory adjustments and develop a comprehensive legal framework for digital market governance. Such reform should explicitly recognize algorithmic dominance, data-driven market control, and platform gatekeeping as legally relevant forms of economic power. Law No. 5 of 1999 should be revised to expand the definition of dominant position beyond traditional market share indicators to include control over digital infrastructures, algorithmic ranking systems, consumer data, and ecosystem dependencies. Similarly, consumer protection legislation should be expanded to provide procedural safeguards for MSME traders who increasingly occupy a vulnerable position comparable to consumers within platform ecosystems.

The study also recommends the introduction of legally enforceable algorithmic transparency obligations. Platform operators should be required to disclose the general criteria governing ranking systems, seller visibility, account suspension mechanisms, and reputational scoring processes. However, the implementation of algorithmic transparency must remain proportionate and practically feasible. Complete disclosure of proprietary algorithms may undermine innovation, expose trade secrets, and create opportunities for manipulation. Consequently, Indonesia should adopt a tiered transparency model similar to emerging international practices, whereby platforms disclose decision-making principles, risk factors, and governance procedures while preserving commercially sensitive technical details. Independent regulatory authorities should be empowered to conduct

confidential algorithmic audits to assess fairness, non-discrimination, accountability, and compliance with competition law.

The findings further support the establishment of specialized dispute-resolution and oversight mechanisms for platform-mediated commerce. Traders affected by automated sanctions, visibility restrictions, or reputational penalties should have access to transparent review procedures, meaningful appeals processes, and independent adjudication mechanisms. Regulatory agencies such as KPPU, the Ministry of Trade, and Kominfo should strengthen inter-agency coordination to monitor platform conduct and investigate potential abuses of algorithmic market power.

Nevertheless, several practical challenges may complicate implementation. Regulatory agencies often face limitations in technical expertise, data access, and institutional capacity necessary to evaluate complex algorithmic systems. Excessive regulation may also create compliance burdens that discourage innovation and digital investment. Policymakers must therefore balance the objectives of competition, innovation, consumer welfare, and economic growth when designing future regulations. Effective implementation will require interdisciplinary collaboration among legal scholars, economists, competition authorities, technology experts, platform operators, and civil society organizations.

Future research should examine the operational impact of platform regulation across different sectors of Indonesia's digital economy and investigate how traders respond to evolving governance mechanisms. Comparative studies involving the European Union Digital Markets Act, Digital Services Act, and emerging regulatory frameworks in Southeast Asia would provide valuable insights for Indonesian policymakers. Further

empirical research should also explore algorithmic accountability, platform auditing mechanisms, data governance models, and the long-term socioeconomic implications of platform dependency for MSMEs. Such research would contribute to the development of a more adaptive and equitable legal framework capable of balancing technological innovation with market fairness, economic justice, and democratic accountability in the digital marketplace.

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