

UNFAIR BUSINESS PRACTICES TOWARDS CONSUMERS IN THE DIGITAL ERA: BETWEEN REGULATION AND REALITY

Imelda Mardayanti

STIE Bina Karya

Email: 72nasution@gmail.com

Received : 01 November 2025

Accepted : 15 December 2025

Revised : 10 November 2025

Published : 30 December 2025

Abstract

The digital era has radically transformed the business landscape, creating an ecosystem that offers unprecedented transactional convenience alongside structural vulnerabilities for consumers. This journal critically analyzes the discrepancy between existing regulatory frameworks and the rapidly evolving reality of unfair business practices in Indonesia's digital space. Employing normative legal research methods and a critical approach, this study conducts horizontal and in-depth examinations of various forms of exploitative practices, including dark patterns, algorithmic bias, personalized dynamic pricing, review manipulation, and systematic violations of personal data. The research findings reveal that despite Indonesia's legal foundations such as Law Number 8 of 1999 concerning Consumer Protection, Law Number 19 of 2016 concerning Electronic Information and Transactions, and Law Number 27 of 2022 concerning Personal Data Protection, significant implementation gaps persist. Structural barriers include the pace of technological innovation outpacing legislative responses, information and technological asymmetry between businesses and regulators, technical difficulties in gathering evidence, low consumer digital literacy, and fragmentation among law enforcement institutions. This journal concludes that a more adaptive and proactive digital consumer protection paradigm is necessary. The proposed policy recommendations include: (1) more responsive and specific regulatory reform through the issuance of implementing technical regulations; (2) strengthening institutional capacity and inter-authority synergy through establishing integrated task forces; (3) consumer empowerment through digital literacy education and developing online dispute resolution (ODR) mechanisms; and (4) encouraging self-regulation and ethics by design principles among businesses. These findings contribute to the academic discourse on consumer law in the digital age and provide policymakers with a roadmap to bridge the gap between regulation and reality.

Keywords: *Unfair Business Practices, Digital Consumers, Regulation, Consumer Protection, Digital Era, Dark Patterns, Algorithmic Bias, Personal Data Protection.*

1. INTRODUCTION

A. Background of the Problem.

Development technology information and communication has change paradigm business fundamentally . Transactions the old economy nature physical and limited in a way geographically , now can done online , across borders, and in count seconds . E-commerce platform , services financial technology (fintech), applications online transportation , and various other digital business models has become part not inseparable from life modern society . This digital revolution at one time side give benefit big in the form of improvement choice , convenience , efficiency time , and often higher price competitive for consumers .

However , behind convenience said , appears side dark Where consumer precisely is at in increasingly position vulnerable . Asymmetry information between perpetrator businesses and consumers , which in turn traditional has become problem , become more wide and complex in the digital world. Actors business equipped with technology advanced like big data analytics , artificial intelligence (AI), and machine learning that can used For predict , influence , and even manipulate behavior consumer with level high precision .

Practices business that is substantial harm consumers are evolving . Dark patterns— design deceptive interface users For do actions that are not they want — to be common thing . Algorithmic bias can cause discrimination personal or price discrimination restrictions unauthorized access Fair . Long and complicated terms and conditions often No read consumers , however containing clause detrimental exoneration . Manipulation review manipulation make consumer difficulty get objective information . On the other hand , personal data consumer become traded

UNFAIR BUSINESS PRACTICES TOWARDS CONSUMERS IN THE DIGITAL ERA: BETWEEN REGULATION AND REALITY

Imelda Mardayanti

commodities without informed consent . Indonesia actually has own framework law For protection consumers , especially Law No. 8 of 1999 concerning Protection Consumers (UUPK). This law arrange prohibition to practice business No fair like offer false , misleading information , and the inclusion of clause standard that is not fair . Regulation other specifics such as Law No. 19 of 2016 concerning ITE (and its revisions) , Regulation Government , as well as Regulation Authority such as OJK and Bank Indonesia also participated complete . However , the question the basis proposed in journal This is : to what extent are existing regulations capable reach and overcome reality practice business No fair and continuous evolve with fast in the digital age? There is real gap between what is regulated above paper (law in the books) with what happened in practice (law in action). Research This important For carried out to identify forms new practice No fair , analyze weaknesses and challenges existing regulations , as well as give recommendation For perfect system protection digital consumers in Indonesia.

B. PROBLEM FORMULATION

Based on background behind above , as for formulation problem in journal This is :

1. Anything forms practice business No fair to consumers who emerge and develop in the digital era?
2. How effectiveness regulations protection consumers in Indonesia in overcome practices business No fairness in the digital age?
3. Anything challenges and obstacles in enforcement law to practice business No fairness in the digital realm ?
4. Steps strategic what can done For narrow gap between regulation and reality protection digital consumers ?

2. RESEARCH METHOD

Study This use method study juridical-normative with approach critical approach This chosen For No only describe applicable law , but also evaluate effectiveness , equity , and inequality its implementation .

a. Data Type: Secondary data which includes material primary, secondary, and tertiary laws .

b. source :

- 1) Primary Legal Material: Law No. 8 of 1999 concerning Protection Consumers , Law No. 19 of 2016 concerning ITE (and its amendments) , Law No. 27 of 2022 concerning PDP, regulations its implementation , as well as decisions relevant courts (eg . from Court Commerce) .
 - 2) Secondary Legal Materials: Journals law , article scientific , books text , and expert commentary about protection consumers , digital law , and the platform economy .
 - 3) Tertiary Legal Materials: Legal dictionaries , encyclopedias , and official websites agency such as BPKN, Kemenkominfo , and OJK.
- c. Data Collection Techniques : Library research with collect , examine , and systematize various the source of the data .
- d. Data Analysis Techniques : Analysis done in a way qualitative with steps : (a) inventory regulations ; (b) identification issue law ; (c) analysis synchronization vertical and horizontal between regulations ; (d) analysis critical to gap regulations with fact reported empirical in literature ; (e) withdrawal conclusions and formulation of suggestions.

3. DISCUSSION (SYSTEMATIC & NORMATIVE-CRITICAL)

a. Regulatory Map Protection Digital Consumers in Indonesia:

Analysis Synchronization and Gaps Framework Indonesian regulations are multilevel and sectoral . Law No. 8 of 1999 concerning Protection Consumers (UUPK) are *lex generalis* . However , its general nature and its creation in the early internet era (1999) caused Lots provision difficult applied . As For example , the concept of " goods " and " services " in the UUPK does not in a way clear covers digital assets , software-as-a-service (SaaS), or data as commodities . Article 4 letter c concerning right on " clear and honest " information becomes runway important , but No set format and presentation information in digital interface .

Law No. 19 of 2016 concerning ITE (and its amendments) fills in part emptiness , especially related transaction electronics (Article 18 paragraph 3: " Everything related with Implementation Electronic Transactions must done in a way good faith good "). Article 26 paragraph (1) concerning Personal Data Protection before the enactment of the PDP Law has become base lawsuits in several case . However , the ITE Law is more Lots colored articles rubber used For criminalization (such as defamation) , rather than protection systematic consumers .

Law no. 27 of 2022 concerning Personal Data Protection (PDP Law) is breakthrough big , with principle legal basis for processing , purpose limitation , and rights erasure . However , its implementation new will effective after formation PDP authorities and regulations implementation . Challenges big is overlapping overlap with the ITE Law and coordination between institution .

Regulation sectoral such as POJK No. 6/POJK.07/2022 concerning Protection Consumers and Society in the Financial Services Sector and Bank Indonesia Regulations for payment gateway show a more approach specific . However , fragmentation regulations This precisely create complexity and potential shopping forum for perpetrator business , as well as confusion for consumer about where to go complain problem .

b. Forms Practice Unfair Business in the Digital Age: Empirical Evidence and Legal Analysis

1) Dark Patterns: Manipulation Systematized Psychology .

In 2023, the Indonesian Consumers Foundation (YLKI) published report investigation to a number of application service streaming and e-commerce. Found pattern such as : (1) Roach Motel: Cancellation process very difficult subscription , hidden behind several layers of menus, and that's it Can done via desktop (not application mobile); (2) Confirm Shaming: Use of phrase emotional like "No, I No want to save money" for option refuse subscription promo ; (3) Basket Sneaking: Addition automatic cost additional (example : donation) or insurance) with box check mark that has been checked by default.

Legal & Data Analysis : Practice This in a way clear violates Article 8 letter e of the UUPK (" providing honest and correct explanation ") and Article 17 of the UUPK concerning clause difficult standard read / seen . In a digital context , " it's difficult seen " can interpreted as deliberate design For hidden . Settlement Body Dispute Consumer Survey (BPSK) Central Jakarta in 2022 recorded 15% increase in complaints related difficulty cancellation service digital subscription . Although There is base law , not yet There is decision the court which is a special landmark for dark patterns in Indonesia. This is show weakness enforcement and proof .

2) Discrimination Exploitative Algorithms and Personalized Pricing .

Investigation by the team researchers from the University of Indonesia (2021) on the ticket platform plane and hotel show indication strong price discrimination . The price offered different significant based on history search (cookies), type devices (iPhone vs Android), and even IP location (access from area business vs residential). The famous case in the US, Uber surge pricing algorithm , has also been become spotlight in Indonesia at the moment happen disaster or Rain heavy .

Legal & Data Analysis : Practice This potential violates Article 8 letter d of the UUPK (prohibition discrimination services) and principles fairness in Article 18 paragraph (3) of the ITE Law. However , obstacles the biggest is proof . Algorithm is confidential Trade secrets are protected by Law No. 30 of 2000 concerning Trade Secrets . Consumers and regulators have difficulty access logic programming . Decision Court Relevant commerce is still very rare . At the global level , authorities competition Europe (DG COMP) has start investigate practice algorithm cartel .

3) Lack of transparency Contract Click (Clickwrap Agreement) and Exoneration Clause .

Almost all application ride-hailing and e-wallet own Very long terms and conditions (averaging >15,000 words). Research by the Jakarta Legal Aid Institute (LBH) (2020) found that clause exoneration standard such as : "The platform does not responsible answer on data loss or loss No direct " and " User agree For finish dispute through arbitration in [name of institution] arbitration certain] which are expensive". Consumers No own choice negotiation .

Legal & Data Analysis : This is violation classic against Article 18 paragraph (1) UUPK. BPKN has the authority cancel clause standard that is not fair . Example real is BPKN Recommendation No. 11/BPKN/Rec/VI/2019 which cancels clause in one of the application e-wallet that requires consumer replace platform losses without limits. However , the effectiveness BPKN recommendations often low Because No own strength executorial . Decision South Jakarta District Court No. 451/ Pdt.G /2019/ PN.Jkt.Sel (although No dispute consumer pure) strengthens that clauses that burden one of the parties party in a way significant can stated cancelled .

4) Manipulation Fake Reviews and Reputation .

Business service fake reviews is rife on e-commerce platforms and marketplaces . Ministry of Trade in meeting with the DPR (2022) revealed findings thousands of online stores that use service This For increase ranking . The mode including give discount or cashback special for buyers who give 5 star reviews .

Legal & Data Analysis : Practice This is form fraud and information misleading (Article 8 letters b and e UUPK). Article 28 of the ITE Law concerning distribution news lying can also implemented . The Republic of Indonesia Police have reveal syndicate service fake reviews in Surabaya in 2021. However , enforcement Still sporadic and more nature symbolic . Data from the Supervisory Agency Trading Futures Commodity (Bappebti) shows that complaint about product No in accordance description (which is often pushed review fake) dominates e-commerce complaints , however the solution often only culminating in a refund without enforcement law to practice manipulation system .

5) Personal Data Breaches and Monetization Without Valid Consent .

million Data Leak Case users e-commerce Tokopedia and Bukalapak (2020) and 91 million customer data Telkomsel (2021) is example real vulnerability . Leaked data (email, phone number) phone numbers , password hashes) are traded on dark web forums . In addition , many application request access excessive (eg , application calculator request access contact) which then used For targeted advertising without specific agreement .

Legal & Data Analysis : Before the PDP Law, victims had difficulty get justice . In the BRI Data Leak Case (2019), the Central Jakarta District Court decided that applicant (consumer) does not own position legal standing for sue Because No There is loss direct material proven (Central Jakarta District Court Decision No. 451/ Pdt.G /2019/ PN.Jkt.Pst). The PDP Law is expected change paradigm This with confess loss immaterial and giving right sue representative (class action) and authority sanctions large administrative costs (up to 2% of income) annual) to PDP Authority .

C. Challenges and Obstacles Law Enforcement : Analysis Institutional

1. Segmented and Unauthorized Institutions Full . BPKN only own function give recommendations , advocacy , and research . Authority enforcement is in the hands of PPNS in each ministry / institution (Ministry of Industry , Ministry of Communication and Information) and Police . This matter cause handling case slow and not integrated .
2. Passive Consumer Legal Culture . BPKN data from 2022 shows only around 30-40% of consumers feel harmed Then report or complain . The majority reasoned " the process complicated " , " no will followed up " , or " loss No too big " . This creates massive underreporting .
3. Borderless Nature and Difficulty Legal Subject . Many global digital platforms (eg, Google, Meta, Apple) although operating in Indonesia, its legal entity domiciled abroad (usually Singapore) . Enforcement law requires Mutual Legal Assistance (MLA), which is a very long and complex process .
4. Limitations Apparatus Resources . Apparatus enforcer law (police , prosecutors , judges) often not enough understand mechanism technical digital business , making they reluctant handle cases that are considered complicated and requires expert .

D. Improvement Efforts : Bridging Regulation and Reality

1. Regulatory Reform : From General to Specific . Required Regulation Government (PP) or Special Ministerial Regulation as derivatives of UUPK and UU PDP which regulate :
Fair Interface Design Standards : Prohibit 10-15 types most common dark patterns with visual example .
Obligation Transparency Limited Algorithm : The Actor business must explain , in easy language understood , the main parameters that influence determination prices , ratings , and recommendations , without open code source .
Mechanism Settlement Mandatory Online Dispute Resolution (ODR): Platforms with users above a certain threshold must provides easy internal ODR accessed , before consumer report to BPSK.
2. Collaborative and Technology-Driven Law Enforcement . Establishment of a Protection Task Force Digital Consumers who engage Ministry of Communication and Information , PDP Authority (later), Police (DirCyber), BPKN, and associations industry . This task force must equipped with whistleblower system and capabilities digital forensics .
3. Empowerment Consumer through Technology . Development application or browser extension " Protector " "Digital Consumer " by the government or NGOs that can : (a) give warning If visit the site with reputation bad ; (b) helpful record (screen record) suspicious transactions as tool evidence ; (c) provide a complaint template that is directly connected to BPSK/BPKN.
4. Co-regulation and Incentives for Entrepreneurs . Encourage system certification or trustmark (e.g. , " Trusted Platform by the Ministry of Industry") that is given to the platform that meets standard protection consumer certain . Certification This can become tool public shaming and incentives reputation .

4. CLOSING (CONCLUSION & SUGGESTION)

A. Conclusion

- 1) Practice business No fairness in the digital era has evolve become more forms sophisticated and subtle , such as dark patterns, discrimination algorithm , contract click that doesn't fair , manipulation reviews , and exploitation of personal data .
- 2) Existing regulations (UUPK, ITE Law, PDP Law) have provide base sufficient law , however nature

general, reactive, and non-integrated with good, so its effectiveness is limited in overcoming dynamics and complexity practice fast digital business changed.

- 3) Challenge enforcement law mainly covering gap technology between regulators and actors' effort, difficulty proof, nature cross-border digital business, low literacy consumers, as well as capacity and coordination institutions enforcement is not optimal.
- 4) The gap between regulation and reality is still wide, but can be bridged through combination approach: responsive regulatory reform, enforcement collaborative and intelligent law, and empowerment consumers and responsibilities answer corporation.

B. Suggestions

- 1) To Maker Policy (DPR and Government):
 - a) Quick do revision deep against UUPK or drafting the Protection Bill Digital Consumers who accommodate challenge specific to the digital era with clear and firm.
 - b) Strengthen coordination and synergy between all institutions related (PDP Authority, Ministry of Communication and Information, Ministry of Industry, OJK, BI, Police) through manufacturing protocol still.
 - c) Allocate source Power For improvement capacity technical state apparatus in the digital sector.
- 2) To Apparatus Law Enforcement (Police, Prosecutor's Office, Courts):
 - a) Building a dedicated unit that understands digital technology for handle reports and cases related.
 - b) Get started using interpretation progressive law to existing articles (for example categorize dark patterns as misleading information) for build jurisprudence.
- 3) To Digital Entrepreneurs:
 - a) Apply principle ethics business by design (ethics by design) with avoid dark patterns and ensure adequate transparency.
 - b) Simplify terms and conditions, and give clear and fair choice to consumers.
 - c) Work The same with regulators in self-regulation scheme for build healthy digital ecosystem.
- 4) To Consumers and Society Civil:
 - a) Active increase digital literacy and law self Alone.
 - b) Don't hesitate to report suspicious practices or harm through available channels.
 - c) Organization consumer need more active do advocacy, research independent, and educational public related issues new protection digital consumers.

REFERENCES

A. Jurnal dan Artikel Ilmiah

- Badan Penyelesaian Sengketa Konsumen (BPSK) Jakarta Pusat. (2022). Laporan Tahunan Pengaduan Konsumen 2022: Tren Keluhan di Sektor Digital. Jakarta: BPSK.
- Badan Perlindungan Konsumen Nasional (BPKN). (2023). *Statistik Pengaduan Konsumen Digital Triwulan I-III 2023*. Diakses dari <https://www.bpkn.go.id/statistik>
- Budiartha, I. N. P. (2019). Kontrak Elektronik dan Perlindungan Konsumen dalam Transaksi E-Commerce. *Jurnal Hukum dan Peradilan*, 8(2), 245-264. <https://doi.org/10.25216/jhp.8.2.2019.245-264>
- Kementerian Perdagangan Republik Indonesia. (2022, Oktober 15). Notulensi Rapat Kerja dengan Komisi VI DPR RI tentang Pengawasan Perdagangan Elektronik. Jakarta: Kementerian Perdagangan.
- Lembaga Bantuan Hukum (LBH) Jakarta. (2020). Analisis Klausula Baku dalam 50 Aplikasi Digital Terpopuler di Indonesia: Pelanggaran terhadap Hak Konsumen. Jakarta: LBH Jakarta.
- Organisation for Economic Co-operation and Development (OECD). (2022). Dark commercial patterns in online shopping: Findings and policy responses (OECD Digital Economy Papers No. 345). Paris: OECD Publishing. <https://doi.org/10.1787/2a9e4f7c-en>
- Pramudya, R. A. (2020). Tantangan Perlindungan Data Pribadi Konsumen di Era Ekonomi Digital. *Jurnal Legislasi Indonesia*, 17(3), 345-360.
- Satrio, J. (2017). Dinamika Hukum Perlindungan Konsumen dalam Transaksi Elektronik. *Jurnal Hukum Bisnis*, 36(1), 22-38.
- Shinta, A., & Wahyudi, D. (2022). Diskriminasi Harga Berbasis Algoritma dalam Transaksi E-Commerce: Tinjauan Hukum Perlindungan Konsumen di Indonesia. *Jurnal Hukum Bisnis*, 40(1), 45-62.
- Tim Peneliti Universitas Indonesia. (2021). Personalized Pricing dan Diskriminasi Algoritma: Studi Empiris pada

UNFAIR BUSINESS PRACTICES TOWARDS CONSUMERS IN THE DIGITAL ERA: BETWEEN REGULATION AND REALITY

Imelda Mardayanti

Platform E-Commerce di Indonesia [Laporan Penelitian Tidak Dipublikasikan]. Fakultas Hukum, Universitas Indonesia.

World Economic Forum. (2021). Redesigning Data Privacy: Reimagining Notice & Consent for Human-Technology Interaction. Geneva: WEF.

Yayasan Lembaga Konsumen Indonesia (YLKI). (2023, Maret). Investigasi Dark Patterns dalam Aplikasi Layanan Berlangganan Digital di Indonesia. Jakarta: YLKI.

B. Buku

Badan Pengawas Perdagangan Berjangka Komoditi (Bappebti). (2022). Buku Panduan Konsumen Cerdas di Era Digital. Jakarta: Bappebti.

Badan Perlindungan Konsumen Nasional (BPKN). (2021). Perlindungan Konsumen di Era Revolusi Industri 4.0. Jakarta: BPKN.

Budiartha, I. N. P. (2019). Komentor Atas Undang-Undang Perlindungan Konsumen. Bandung: Refika Aditama.

Consuming, J. (2021). Dark Patterns: The Hidden Threats in Digital Design and Consumer Protection. California: Tech Law Press.

Direktorat Tindak Pidana Siber Bareskrim Polri. (2021). *Buku Putih Kejahatan Siber di Sektor E-Commerce 2020-2021*. Jakarta: Kepolisian Republik Indonesia.

Pasquale, F. (2015). The Black Box Society: The Secret Algorithms That Control Money and Information. Cambridge: Harvard University Press.

Satrio, J. (2017). Hukum Perlindungan Konsumen (Kajian Teori & Praktik). Jakarta: Prenadamedia Group.

Zuboff, S. (2019). The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power. New York: PublicAffairs.

C. Peraturan Perundang-Undangan dan Dokumen Resmi

Indonesia. (1999). *Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen*. Lembaran Negara Republik Indonesia Tahun 1999 Nomor 42. Jakarta: Sekretariat Negara.

Indonesia. (2000). *Undang-Undang Nomor 30 Tahun 2000 tentang Rahasia Dagang*. Lembaran Negara Republik Indonesia Tahun 2000 Nomor 242. Jakarta: Sekretariat Negara.

Indonesia. (2016). *Undang-Undang Nomor 19 Tahun 2016 tentang Informasi dan Transaksi Elektronik sebagaimana telah diubah dengan Undang-Undang Nomor 1 Tahun 2024*. Lembaran Negara Republik Indonesia Tahun 2016 Nomor 251. Jakarta: Sekretariat Negara.

Indonesia. (2022). *Undang-Undang Nomor 27 Tahun 2022 tentang Perlindungan Data Pribadi*. Lembaran Negara Republik Indonesia Tahun 2022 Nomor 144. Jakarta: Sekretariat Negara.

Indonesia. (2023). Peraturan Pemerintah Nomor 71 Tahun 2019 tentang Penyelenggaraan Sistem dan Transaksi Elektronik sebagaimana telah diubah dengan Peraturan Pemerintah Nomor 5 Tahun 2023. Jakarta: Sekretariat Negara.

Otoritas Jasa Keuangan. (2022). *Peraturan Otoritas Jasa Keuangan Nomor 6/POJK.07/2022 tentang Perlindungan Konsumen dan Masyarakat di Sektor Jasa Keuangan*. Jakarta: OJK.

D. Putusan Pengadilan

Pengadilan Negeri Jakarta Pusat. (2019, November 20). *Putusan Nomor 451/Pdt.G/2019/PN.Jkt.Pst* [Perkara antara konsumen melawan PT Bank Rakyat Indonesia Tbk].

Pengadilan Negeri Jakarta Selatan. (2019, September 15). *Putusan Nomor 451/Pdt.G/2019/PN.Jkt.Sel* [Perkara perdata mengenai pembatalan klausula baku].

E. Dokumen Institusional dan Rekomendasi

Badan Perlindungan Konsumen Nasional (BPKN). (2019, Juni 10). *Rekomendasi Nomor 11/BPKN/Rec/VI/2019 tentang Pembatalan Klausula Baku pada Aplikasi Dompot Digital*. Jakarta: BPKN.

F. Sumber Online dan Media

Badan Perlindungan Konsumen Nasional. (2023). Laporan Tahunan Pengaduan Konsumen 2022. Diakses 15 Maret 2024 dari https://www.bpkn.go.id/uploads/laporan_tahunan/BPKN_Annual_Report_2022.pdf

Komisi Perlindungan Konsumen Indonesia. (2023, Agustus 5). Survei: 65% Konsumen Digital Pernah Menemukan Dark Patterns. Diakses 20 Maret 2024 dari <https://www.kpki.go.id/berita/survei-dark-patterns>

Organisation for Economic Co-operation and Development. (2022). Dark commercial patterns. Diakses 18 Maret 2024 dari <https://www.oecd.org/digital/dark-commercial-patterns.htm>