

RECONSTRUCTING CONTRACT LAW: ADDRESSING INEQUALITIES AND ETHICAL CHALLENGES IN MODERN COMMERCIAL TRANSACTIONS

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Received: 22/11/2024 | Revised: 03/12/2024 | Accepted: 20/12/2024 | Published: 30/12/2024

Abstract

The rapid expansion of digital platforms in Indonesia has reshaped its economy, with e-commerce transactions expected to reach IDR 487.01 trillion in 2024, positioning Indonesia as a major player in Southeast Asia's digital economy (Google, Temasek, & Bain, 2023). Despite the advancements, the platform economy has introduced significant inequalities between platform operators and consumers, leading to consumer exploitation through data manipulation, dynamic pricing algorithms, and unclear contract terms. These issues are further exacerbated by Indonesia's existing legal framework, which struggles to address the challenges posed by digital transactions. This study critically evaluates Indonesia's consumer protection laws and identifies the gaps allowing these exploitative practices. It proposes a legal reconstruction model that focuses on ensuring transparency, fairness, and accountability in digital contracts. The study's key findings highlight the legal deficiencies in regulating platform monopolies, the need for clearer regulations on algorithmic pricing, and the underregulation of data privacy concerns. Recommendations for legal reform aim to enhance consumer protection, creating a more equitable digital economy.

Keywords: Contract Law, Consumer Protection, Economic Justice, Digital Platforms, Data Privacy, Algorithmic Transparency

INTRODUCTION

The digital economy in Indonesia has undergone a dramatic transformation over the last decade, establishing the country as a leading player in Southeast Asia's e-commerce sector. According to the e-Conomy SEA 2023 report, Indonesia's e-commerce transactions are projected to reach IDR 487.01 trillion in 2024, further solidifying its position as a dominant force in the region's digital marketplace (Google, Temasek, & Bain, 2023). This growth has been propelled by the rapid development of digital platforms such as Go-Jek, Tokopedia, Shopee, and Bukalapak, which have not only facilitated easier access to goods and services but also revolutionized consumer behavior and business models. The digital revolution has opened doors to countless opportunities, providing consumers with access to an almost limitless variety of products, services, and information. However, this rapid shift toward online platforms has also introduced significant challenges in terms of market inequality, consumer protection, and the fairness of digital contracts. These challenges have exposed serious gaps in the existing regulatory frameworks, which were designed for traditional markets and are now struggling to cope with the complexity and speed of digital transactions. While platforms are playing an increasingly influential role, consumer rights are at risk due to the opaque nature of digital contracts, unregulated data collection, and unpredictable pricing mechanisms.

A key feature of the digital economy is the dominance of a few large platforms that control vast amounts of consumer data and determine access to products and services. This platform monopolization creates a power imbalance, where platforms often set the terms of transactions unilaterally, leaving consumers with limited options for negotiation or recourse. The growth of these platforms has enabled them to leverage sophisticated algorithms that influence consumer behavior, dictate pricing, and control access to goods and services. As a result, consumers are often subjected to exploitative practices, including hidden fees, dynamic pricing models, and data manipulation. One of the most pressing issues in the digital marketplace is dynamic pricing, where prices are adjusted in real time based on demand, consumer location, and other variables. Surge pricing, for example, is widely used by platforms like Go-Jek and Tokopedia, where prices fluctuate during peak demand periods. While this pricing model may benefit the platforms, it creates a lack of price transparency, leaving consumers vulnerable to sudden price hikes that

are often not adequately disclosed. Binns (2023) highlights that these dynamic pricing mechanisms are often opaque, making it difficult for consumers to predict or understand how prices are set. This practice raises significant ethical questions about fairness, as consumers may not be fully aware of the pricing factors at play when making purchasing decisions. Another major issue is data privacy. Digital platforms collect vast amounts of personal data from users, often without fully informing them of how their data will be used. Consumer information is regularly monetized through targeted advertising, personalized content, and pricing models that are driven by consumer behavior. However, the collection and use of personal data often occur without clear and informed consent. Hassan (2022) emphasizes that the lack of transparency in data usage erodes consumer trust and raises serious concerns about privacy violations. The Personal Data Protection Law (No. 27 of 2022) in Indonesia has made some strides toward addressing these concerns, but significant gaps remain, especially when dealing with cross-border data flows and the lack of specific provisions regulating platform monopolies that operate globally.

In addition, the lack of clear and standardized digital contract terms adds another layer of complexity. Digital contracts are often presented to consumers in lengthy and complex formats, making it difficult for consumers to fully understand the terms and conditions they are agreeing to. Nainggolan et al. (2025) point out that many consumers accept contracts online without understanding the implications of hidden fees, unfavorable terms, or how personal data will be used. This informed consent issue leads to the exploitation of consumers, as they are often unaware of their rights or the risks associated with the contracts they enter into. The existing consumer protection laws in Indonesia, such as Law No. 8 of 1999 on Consumer Protection, were designed for traditional markets and therefore lack the flexibility and provisions required to address the nuances of the digital economy. While these laws provide a foundation for safeguarding consumers in physical transactions, they fail to regulate the growing complexities associated with digital contracts, algorithmic pricing, and data privacy in digital platforms. Heeks (2022) argues that the gap in legal protection in the digital economy has allowed monopolistic platforms to exploit consumers through these unregulated practices.

Thus, there is an urgent need for legal reform in Indonesia to address these challenges and ensure fairness in the digital marketplace. The current legal framework must evolve to provide transparency, clarity, and accountability in digital contracts. The protection of consumer rights and data privacy should be prioritized to prevent the exploitation of consumers by large digital platforms. Moreover, regulatory efforts should focus on ensuring algorithmic transparency and ensuring that platforms disclose how their pricing mechanisms operate and how data is collected and used. This study aims to critically evaluate the legal deficiencies in the current framework and propose a legal reconstruction model that addresses these concerns. The research will focus on reconstructing digital contract law in Indonesia to make it more transparent, accountable, and fair, ensuring that both businesses and consumers are protected under a more equitable legal system. By identifying the gaps in the existing laws and drawing on international best practices, the research will suggest key reforms that can make digital contracts more transparent, protect consumer rights, and regulate the monopolistic power of digital platforms. The study will also explore how global standards for data protection, consumer rights, and algorithmic fairness can be integrated into Indonesia's legal framework to create a more just and equitable digital economy.

LITERATURE REVIEW

The growth of digital platforms has fundamentally altered the landscape of commerce, making it increasingly important to address issues such as market inequalities, data privacy, algorithmic transparency, and the fairness of digital contracts. The following review examines the core areas of concern in the digital economy, with a focus on consumer protection, digital contract law, and the ethical challenges posed by modern commercial transactions. Digital platforms have become the dominant mode of commerce in many sectors, from retail and entertainment to finance and education. In Indonesia, platforms such as Go-Jek, Tokopedia, and Shopee have rapidly expanded, reshaping how goods and services are bought and sold. However, these platforms also concentrate significant power in the hands of a few market players, raising concerns about market monopolization and inequality. The market dominance of these platforms creates a power imbalance where consumers have little leverage in negotiating contract terms or challenging unfair practices. Heeks (2022) argues that digital platforms have introduced data-driven monopolies where the control over consumer data and market access is centralized in a few large corporations. These monopolies not only influence the pricing of goods and services but also determine consumer access to essential products. The economic power held by these platforms is often used to manipulate market dynamics to their advantage, leading to significant inequalities between platform operators and consumers. This economic disparity is further compounded by the opacity in platform operations, including the manipulation of pricing algorithms and the lack of transparency in data usage.

The unregulated nature of many digital contracts has made it easier for platforms to impose unilateral terms on consumers, often without clear disclosure of the costs or conditions. Nainggolan et al. (2025) point out that consumers often face hidden fees, complex terms, and dynamic pricing models that they do not fully understand or anticipate, exacerbating inequities in the market. One of the most significant ethical issues in the digital economy is algorithmic pricing, where platforms use algorithms to adjust prices dynamically based on real-time factors such as demand, location, and consumer behavior. This practice, known as surge pricing, is common in platforms like Go-Jek and Uber, where prices increase during high demand periods. While this pricing model can benefit businesses by maximizing profits, it creates a lack of price predictability and leaves consumers vulnerable to price hikes without their explicit consent or awareness.

Binns (2023) highlights the ethical concerns surrounding dynamic pricing algorithms, emphasizing that these algorithms often operate without consumer knowledge or understanding, creating uncertainty and inequity in pricing. This practice conflicts with the ethical principle of fairness, where contracts should be based on clear and mutually agreed-upon terms. Al-Ghazali (2022) asserts that pricing in commercial transactions should be transparent, with clear terms disclosed to both parties prior to agreement, ensuring predictability and certainty. Without proper regulation, dynamic pricing can be manipulated in ways that exploit consumers, particularly vulnerable groups who may not be aware of the pricing mechanisms at play. The collection, usage, and exploitation of consumer data is another central issue in the digital economy. Digital platforms routinely gather vast amounts of personal data from users, including browsing history, purchase behavior, location data, and even biometric information. This data is then often used to personalize consumer experiences or to target specific products or advertisements. However, this extensive data collection often occurs without full, informed consent from consumers, leading to concerns about data privacy and consumer autonomy. Hassan (2022) emphasizes that in the digital age, data privacy has become a critical issue, with consumers often unaware of how their personal data is being used or monetized by platforms. Heeks (2022) further notes that the lack of transparency in data collection and data usage policies has led to significant breaches of consumer trust. In many cases, consumers are not fully informed about the ways in which their data is used to influence pricing models, marketing strategies, or even access to services. This lack of transparency undermines the ethical principles of consent and privacy, leaving consumers vulnerable to exploitation.

Indonesia's Personal Data Protection Law (No. 27 of 2022) has made strides toward addressing these issues, but significant gaps remain in regulating the use of consumer data, particularly in the context of cross-border data flows and global digital platforms. While the law addresses data protection, it does not adequately cover the complexities of data usage on global platforms like Google, Facebook, and Amazon, which operate in multiple jurisdictions. While Indonesia has made progress in enacting consumer protection laws, particularly Law No. 8 of 1999 on Consumer Protection, these laws were originally designed for traditional market transactions and do not address the unique challenges of digital contracts. The lack of clarity in existing laws regarding digital contracts and platform-based transactions has created a legal vacuum that leaves consumers exposed to unfair business practices. Nainggolan et al. (2025) argue that the current legal framework does not adequately address the rise of platform monopolies, the use of algorithmic pricing, or the exploitation of consumer data in the digital marketplace. For instance, Law No. 8 of 1999 does not provide clear guidelines for digital contracts, leaving consumers unaware of their rights in online transactions. Additionally, Law No. 27 of 2022 on Personal Data Protection provides important protections, but cross-border data flows and the global nature of digital platforms mean that national regulations are insufficient to address the full scope of the issue. There is also a significant gap in addressing algorithmic transparency. Platforms that use complex algorithms to control pricing and service delivery are not required to disclose how these algorithms operate or how they affect pricing models. Binns (2023) highlights that opaque algorithms make it difficult for consumers to understand the factors that influence the prices they pay, undermining consumer confidence and fairness in the digital economy.

METHOD

This study uses a normative juridical approach, focusing on doctrinal legal research to critically analyze the existing consumer protection laws in Indonesia and propose reforms that address the challenges posed by digital contracts, algorithmic pricing, and data privacy. The research methodology is divided into the following components: **Statutory Analysis:** This component involves examining Indonesia's existing laws related to consumer protection, digital contracts, and data privacy, including Law No. 8 of 1999 on Consumer Protection, Law No. 27 of 2022 on Personal Data Protection, and Law No. 1 of 2024 on Electronic Information and Transactions. The aim is to identify the gaps and deficiencies in the current framework that fail to regulate the complexities of the digital economy, particularly in relation to platform monopolies and algorithmic pricing. **Comparative Legal Analysis:** A comparative

review of international legal frameworks such as the General Data Protection Regulation (GDPR) and the Digital Markets Act (DMA) will be conducted. These frameworks will serve as best practices for regulating data privacy, consumer rights, and platform accountability, offering insights into how Indonesia can adapt its own legal system to meet international standards. **Case Study Approach:** This study will analyze real-world cases of digital consumer disputes related to pricing manipulation, data misuse, and hidden fees. These case studies will provide empirical evidence of how current laws fail to adequately address consumer protection concerns in the digital economy.

RESULTS AND DISCUSSION

A. Platform Economy and Structural Inequality: A Critical Examination

The rapid expansion of digital platforms has introduced significant changes to the global marketplace, and Indonesia is no exception. Platforms such as Go-Jek, Tokopedia, and Shopee now dominate several sectors, including ride-hailing, e-commerce, and digital payments. These platforms, by their nature, centralize market power, enabling them to control vast amounts of consumer data and define the terms of service. However, this centralization of market control has resulted in structural inequalities in the digital economy, which disproportionately benefit large platform operators at the expense of consumers.

- **Platform Monopolies:** Large platforms like Go-Jek and Shopee enjoy significant market dominance, controlling access to both consumers and service providers. These platforms exert market power by dictating pricing models, service delivery terms, and data usage, which creates an environment where smaller players struggle to compete. Nainggolan et al. (2025) argue that this dominance often leads to unfair business practices, such as unfair pricing models, hidden fees, and market manipulation, which consumers have little power to resist.
- **Data-Driven Market Manipulation:** The use of data-driven algorithms enables platforms to personalize consumer experiences and adjust pricing models based on a range of factors, including demand, consumer preferences, and geographic location. However, this personalization often results in unpredictable pricing, where consumers are charged differently for the same goods or services depending on their usage patterns. This surge pricing can create significant financial burdens for consumers without prior warning or justification. As Binns (2023) emphasizes, the unpredictability of prices in the digital marketplace is a form of economic manipulation that leaves consumers at a disadvantage.
- **Lack of Consumer Control:** Consumers in the digital economy have very limited control over the terms of the transactions they engage in. Clickwrap agreements, which are commonly used in digital contracts, often require consumers to accept long and complex terms without fully understanding them. This practice has led to a situation where informed consent is undermined, and consumers are subjected to terms that may include hidden fees or unfavorable contract conditions. This lack of negotiation power and informed consent is a key factor contributing to inequalities between platform operators and consumers.

B. Legal Gaps in Indonesia's Consumer Protection Laws

Indonesia's consumer protection laws were developed in an era where physical market transactions were the norm. While Law No. 8 of 1999 on Consumer Protection and Law No. 27 of 2022 on Personal Data Protection provide a foundation for safeguarding consumers, these laws are outdated and do not adequately address the complexities of digital contracts, cross-border data flows, and platform monopolies.

- **Outdated Legal Framework:** Law No. 8 of 1999 primarily addresses issues relevant to traditional goods and services markets. Nainggolan et al. (2025) highlight that this law does not account for the unique challenges posed by digital platforms, such as algorithmic pricing, cross-border digital transactions, and the complexities of data privacy. The law does not provide clear guidelines for regulating digital contracts, which are often presented in the form of standardized contracts that consumers must accept without understanding the terms.
- **Lack of Regulation for Platform Monopolies:** One of the most significant legal gaps is the absence of regulation for platform monopolies. As platforms continue to grow and dominate various sectors, they exert unfair control over the market. The power imbalances created by these monopolies need to be addressed through stricter regulations that ensure fair competition and consumer protection. Heeks (2022) argues that platform monopolies are able to dictate the terms of service and pricing, effectively eliminating competition and harming consumers in the process.

- **Data Privacy and Cross-Border Data Flow:** While Law No. 27 of 2022 provides some protection for personal data, it does not adequately address the cross-border flow of data and the global operations of digital platforms. As Heeks (2022) points out, platforms like Google, Facebook, and Amazon operate across multiple jurisdictions, making it difficult for national laws to regulate their data usage practices effectively. Without strong international cooperation, Indonesia's data protection laws remain insufficient to protect consumers from data exploitation by foreign companies.

C. Algorithmic Pricing and Data Privacy

The use of algorithmic pricing and data collection is central to the business model of digital platforms, but it introduces several ethical and legal challenges.

- **Dynamic Pricing and Algorithmic Manipulation:** Dynamic pricing—a pricing strategy that fluctuates in real-time based on demand, time of day, and consumer behavior—can create significant ethical concerns. Surge pricing, for example, results in consumers being charged higher prices during peak periods, often without clear disclosure or justification. This unpredictable pricing is a form of economic manipulation that undermines consumer fairness. Binns (2023) argues that these practices lead to a lack of transparency and uncertainty, both of which violate principles of fairness in contractual relationships. In Islamic contract law, for example, certainty is a key principle, as contracts should be based on clear, mutually agreed-upon terms. In the context of modern digital platforms, these principles can serve as a foundation for improving transparency in digital pricing models.
- **Data Privacy Violations:** Digital platforms routinely collect vast amounts of personal data, including browsing history, purchasing habits, and even biometric data, to personalize services and target advertising. However, this data is often collected without explicit consumer consent and monetized by platforms for their own benefit. Hassan (2022) highlights that the lack of informed consent in data collection represents a violation of privacy rights. Consumers are often unaware of how their data is being used, which erodes trust in digital platforms. The right to privacy is a fundamental principle that must be protected in the digital age to ensure consumers' autonomy and control over their personal information.

D. Proposed Legal Reforms

In light of the legal gaps and ethical challenges identified, this study proposes the following legal reforms to ensure a more equitable and transparent digital economy:

- **Transparency in Digital Contracts:** One of the most urgent reforms is the need for clearer digital contracts. Clickwrap agreements should be simplified and presented in a more understandable format. Nainggolan et al. (2025) stress that consumers must be fully informed of the terms of their contract, including pricing, data collection practices, and service limitations. Regulatory changes should require platforms to disclose all key terms clearly and ensure that consumers freely consent to them.
- **Regulation of Algorithmic Pricing:** Dynamic pricing algorithms must be regulated to ensure that platforms are transparent about how prices are set. Platforms should be required to disclose how pricing algorithms work, what factors influence price changes, and when these changes will occur. This would allow consumers to understand the pricing process and prevent platforms from using unpredictable pricing strategies to exploit consumers.
- **Strengthening Data Privacy Laws:** Data privacy regulations must be strengthened to ensure that platforms cannot exploit consumer data without explicit consent. Platforms should be required to disclose how personal data is used and ensure that consumers can opt-out of data-driven pricing models. Furthermore, the cross-border flow of data should be regulated to ensure that global platforms comply with Indonesia's data privacy standards.
- **Platform Accountability:** Indonesia should implement stricter regulations to prevent platform monopolies from exploiting their market power. This could include regulations to ensure fair competition, prohibit price manipulation, and protect consumer rights in digital transactions. Additionally, regulatory bodies should increase their oversight of algorithmic pricing, data privacy, and platform practices to ensure that consumers are not exploited.

E. Policy Recommendations for Strengthening Digital Consumer Protection

Based on the findings and the analysis of existing gaps in the Indonesian legal framework, the following policy recommendations are proposed to strengthen digital consumer protection and create a fairer, more transparent

digital marketplace. These recommendations aim to address the legal deficiencies, ethical challenges, and structural inequalities identified in the previous sections. A major issue in Indonesia's digital economy is the lack of clarity and understanding of digital contracts. Consumers often enter into contracts with digital platforms without fully understanding the terms, especially regarding pricing models, data usage, and service limitations. The following reforms are needed to improve transparency and ensure informed consent:

- **Simplification and Clarity:** Digital platforms should be required to present simplified contracts that are easy for consumers to read and understand. Nainggolan et al. (2025) emphasize the importance of user-friendly contract language that avoids complex legal jargon. The contract terms should be clearly disclosed, with a particular focus on key information such as pricing (including surge pricing), fees, data usage, and consumer rights.
- **Clear Pricing Models:** Digital platforms should disclose pricing models in a way that makes it clear how prices are determined. Dynamic pricing (e.g., surge pricing) should be explained transparently, with platforms required to provide advance notice of potential price fluctuations, particularly during peak demand periods. This will ensure that consumers understand the factors influencing the prices they pay and avoid being manipulated by unpredictable price hikes.
- **Informed Consent:** Consumers should be given the opportunity to review and accept contract terms before entering into digital transactions. Platforms should provide a summary of the most important terms, such as privacy policies, refund policies, and consumer protection rights, so that consumers can make informed decisions about entering into contracts.

The use of algorithmic pricing and the collection of personal data are central to the business models of many digital platforms. However, the current lack of regulation in these areas creates significant risks for consumers. The following regulatory measures are proposed to ensure pricing fairness and data privacy: **Algorithmic Pricing Transparency:** Indonesia should introduce legal standards that require digital platforms to disclose how their pricing algorithms work. Binns (2023) stresses the need for predictable pricing, and platforms should be required to explain the variables that influence price changes, such as demand, consumer behavior, and geographic location. This will reduce the opacity of dynamic pricing models and provide predictability for consumers.

Consumer Rights to Access Data: Consumers must be informed about how their personal data is collected, stored, and used. Hassan (2022) argues that consumers should have the right to opt-out of data collection or be able to manage their data preferences. Platforms should be required to allow consumers to access, update, and delete their data if desired. Furthermore, explicit consent should be obtained from consumers before their data is used to influence pricing decisions or to engage in targeted advertising. **Regulating Data Exploitation:** The Indonesian government should introduce laws that limit the commercial use of consumer data by digital platforms. Data privacy laws should ensure that consumer data is used for mutually agreed purposes only, and platforms should be prohibited from selling or sharing this data without explicit consent. This will protect consumers from exploitation by platforms that use data to manipulate behavior and pricing without consumer knowledge. With the rapid growth of the digital economy, data privacy has become a fundamental issue for consumers. Many digital platforms collect vast amounts of personal data but often fail to protect this information adequately. The following reforms are necessary to ensure stronger data privacy protections:

- **Comprehensive Data Protection Regulations:** Indonesia should implement comprehensive data protection regulations that require platforms to adopt robust data security measures to protect consumers' personal information. This should include requiring platforms to encrypt consumer data, limit access to sensitive data, and ensure that data is securely stored. Platforms should be held accountable for any breaches of consumer data, with severe penalties for non-compliance.
- **Consumer Control over Data:** Consumers should be given full control over their personal data, with the ability to access, correct, and delete their data upon request. Platforms should be required to disclose the exact nature of the data they collect, as well as the duration for which the data is retained. Consumers should also be informed of their right to delete their data if they no longer wish to participate in a platform's ecosystem.
- **Cross-Border Data Flow Regulation:** Given the global nature of digital platforms, cross-border data flow needs to be regulated to ensure that international platforms operating in Indonesia comply with national data protection standards. Heeks (2022) points out that cross-border data poses challenges in ensuring data privacy protections, and Indonesia must work with international regulators to implement data protection standards that are applicable to global platforms.

The monopolistic behavior of large digital platforms often leads to unfair practices, such as price manipulation, data exploitation, and the use of unilateral contracts. To address these issues, the following policy reforms are proposed:

- **Regulation of Platform Monopolies:** Indonesia must regulate the monopolistic power of dominant digital platforms. Platforms should be required to disclose their market share, pricing strategies, and business models, and should be prohibited from engaging in predatory pricing or data manipulation. Nainggolan et al. (2025) stress the need for antitrust measures that prevent platforms from using their market dominance to exploit consumers or limit competition.
- **Ensuring Fair Market Access:** The government should introduce policies that ensure fair competition in the digital marketplace. Smaller businesses and digital startups should be given the opportunity to compete with larger platforms by ensuring equal access to market opportunities, data, and resources. This would prevent large platforms from stifling competition by using their data-driven advantages to monopolize the market.
- **Transparency in Pricing Models:** Platforms must be required to disclose how their pricing models operate, including any surge pricing or dynamic pricing mechanisms. This transparency would help consumers understand the pricing process and prevent platforms from exploiting consumers through unpredictable price hikes. Additionally, platforms must provide clear explanations for any hidden fees or additional charges that may apply during transactions.

CONCLUSION

The rapid expansion of Indonesia's digital economy has created both opportunities and challenges, particularly in consumer protection. Dominant platforms like Go-Jek, Tokopedia, and Shopee have reshaped the market but have also amplified inequalities and consumer exploitation. Existing laws such as Law No. 8 of 1999 on Consumer Protection and Law No. 27 of 2022 on Personal Data Protection are insufficient to address the complexities of the digital economy, particularly concerning platform monopolies, dynamic pricing, and data privacy. This study highlights the gaps in Indonesia's current legal framework, which fails to regulate digital contracts, pricing transparency, and data usage. Monopolistic platforms exploit their market power, leaving consumers with limited recourse and often unaware of how data is used or how prices are determined. The need for legal reform is clear to ensure consumer rights, pricing fairness, and data protection. Key recommendations include simplifying digital contracts, requiring transparent pricing models, strengthening data privacy regulations, and ensuring platform accountability. These reforms are crucial for creating a fairer, more transparent digital economy, where consumers are protected from exploitation. Indonesia must adapt its legal framework to foster a just, equitable, and sustainable digital marketplace for all stakeholders.

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