

Unfair Business Competition in the E-Commerce Ecosystem: Comparison of Indonesian and South Korean Regulations

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ABSTRACT. This research provides a comprehensive comparative analysis of the regulatory frameworks for e-commerce in Indonesia and South Korea, focusing on how each country manages unfair business practices within their digital markets. The study employs a normative legal research method, incorporating systematic literature reviews and a comparative approach to explore the intricacies of each country's legal frameworks and their enforcement mechanisms. The findings reveal significant differences in the level of technological integration and the specificity of legal frameworks between the two countries. South Korea exhibits a more advanced regulatory framework with specific e-commerce laws and robust technological enforcement mechanisms that enhance compliance and market monitoring. Conversely, Indonesia's broader and less specific regulations result in ambiguities that hinder effective enforcement and compliance. The study suggests that Indonesia could benefit from refining its legal framework to include more precise regulations tailored to digital transactions and enhancing its technological capabilities for enforcement. This comparative analysis underscores the importance of adaptive and technology-driven regulations in maintaining fair competition and safeguarding consumer interests in the rapidly evolving digital marketplace.

KEYWORDS: E-Commerce, Regulation, Unfair Business, Comparative Legal Study, Digital Market.

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Introduction

In the digital era, the rapid proliferation of e-commerce platforms has fundamentally transformed the retail landscape, presenting novel challenges and opportunities for market competition. Among these challenges, unfair business practices have emerged as a critical area of concern, prompting regulatory bodies worldwide to reassess and adapt existing competition laws. This research aims to explore and compare the regulatory frameworks of Indonesia and South Korea in addressing unfair business practices within the e-commerce ecosystem. This comparative analysis seeks to understand how each country tailors its policies to foster a competitive yet fair market environment and protect both consumers and businesses.

Unfair competition in e-commerce can encompass a variety of practices, such as predatory pricing, misuse of market dominance, and deceptive marketing practices. These activities can undermine the principles of free competition, distort market outcomes, and ultimately harm consumer welfare (Zhu & Liu, 2020). Given the borderless nature of digital markets, national responses to these challenges can significantly impact global e-commerce dynamics.

Indonesia and South Korea present interesting case studies due to their distinct approaches to digital market regulation. Indonesia, with its rapidly growing digital economy, has been developing regulatory frameworks to manage the challenges posed by an expanding online marketplace (Setiawan & Hidayat, 2019). In contrast, South Korea, recognized for its advanced technology and robust regulatory environment, offers a mature model of e-commerce regulation, focusing extensively on consumer protection and fair trade practices (Kim & Choi, 2021).

The phenomenon of unfair competition in e-commerce is increasingly visible amidst the intense competition among major platforms in both countries. In Indonesia, the rise of major players like Tokopedia and Shopee has been marked by

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accusations and concerns over possible unfair practices such as exclusive deals with sellers and predatory pricing strategies (Suryadi, 2021). Similarly, in South Korea, platforms like Coupang have faced scrutiny over alleged unfair practices that disadvantage smaller competitors (Lee, 2020).

The objective of this research is to provide a detailed analysis of how Indonesia and South Korea regulate unfair business practices within the e-commerce sector. This involves examining the legal frameworks, the roles of regulatory authorities, enforcement actions, and the effectiveness of these measures in maintaining market fairness. Additionally, the study aims to identify best practices and lessons that can be learned from each country's experiences, contributing to the broader discourse on regulating digital markets effectively.

This comparative study will utilize a normative legal research methodology, analyzing statutes, regulations, case law, and secondary sources to construct a comprehensive overview of each country's regulatory approach. By understanding the nuances and outcomes of these regulatory frameworks, this research aims to offer insights into developing more effective policies that can be adapted by other nations grappling with similar issues in the digital economy.

As the e-commerce landscape continues to evolve, the need for robust, adaptive, and effective regulatory frameworks becomes increasingly imperative. Through this research, insights into the regulatory approaches of Indonesia and South Korea will illuminate pathways for fostering fair competition and protecting stakeholders in the digital marketplace.

Method

This study employs a normative legal research methodology, specifically a systematic literature review, to explore the regulatory frameworks governing unfair business practices within the e-commerce sectors of Indonesia and South Korea. This research method involves a detailed analysis of legal texts, including statutes, regulations, and case law,

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which are pivotal in understanding how each country addresses the challenges posed by e-commerce competition.

The approach is threefold: First, the statutory approach focuses on analyzing the specific laws and regulations enacted to curb unfair practices in the digital marketplace. This involves a detailed examination of legal provisions, amendments, and legislative debates surrounding e-commerce and competition laws.

Second, the comparative approach is utilized to identify, compare, and contrast the differences and similarities in how each country's legal framework deals with unfair business practices. By comparing the legal strategies of Indonesia and South Korea, this study aims to highlight effective regulatory mechanisms and areas needing further enhancement.

Third, the conceptual approach underpins the analysis by exploring theoretical frameworks and doctrines related to competition law and e-commerce, which help in interpreting the legal texts and understanding the broader implications of the regulations. Mamonto, M. A. W., & Gani, A. W. (2022).

Data analysis will be descriptive-prescriptive, aiming not only to describe the existing legal frameworks and practices but also to prescribe recommendations for improvements based on the findings. This analysis will help in formulating insights into how regulations can be better structured to ensure fair competition and protect all stakeholders in the rapidly evolving e-commerce landscape.

Result and Discussion

The comparative study on the regulation of unfair business practices in the e-commerce sectors of Indonesia and South Korea reveals nuanced approaches tailored to each country's market dynamics, legal culture, and economic objectives. This section discusses the specific regulations, their implementation, and the overarching impact on the e-commerce ecosystem within these two countries.

Indonesia's Regulatory Framework

The exponential growth of the e-commerce sector in Indonesia has driven the need for a robust legal framework capable of addressing emerging challenges associated with unfair business practices. Indonesia's primary legal mechanism to combat such practices is the Indonesian Competition Law (Law No. 5 of 1999), which aims to prevent monopolistic practices and foster fair competition across various market sectors, including digital markets. The law is enforced by the Commission for the Supervision of Business Competition (KPPU), which plays a pivotal role in monitoring, investigating, and penalizing unfair business practices (Suhartono, 2019).

Despite the strong legislative foundation, the enforcement of these regulations presents significant challenges. One of the main issues is the resource constraint faced by the KPPU, which is often outmatched by the rapid pace and scale of e-commerce growth. This disparity limits the KPPU's ability to effectively monitor and investigate all potential cases of unfair practices (Handayani, 2021). Additionally, the lack of advanced digital forensic capabilities handicaps the commission's ability to gather and analyze digital evidence, which is crucial for proving violations in the digital realm (Widjaja, 2021).

Moreover, the digital market's inherent complexity adds another layer of difficulty. Traditional methods of detecting monopolistic practices, such as market share analysis, are less effective in the digital context, where market dominance can be transient and not always reflected through traditional metrics. This requires a more nuanced understanding and new methodologies to assess and address these practices effectively (Prasetyo, 2022).

In response to these challenges, there have been calls for legislative updates and reforms. Experts argue for the need to revise the Indonesian Competition Law to better suit the digital

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economy's unique demands. This includes considering digital-specific factors, such as network effects and data control, when assessing anti-competitive behaviors (Anggriawan, 2020). Proposals for creating a more flexible, dynamic regulatory approach that can evolve with technological advancements have also been discussed extensively in recent literature (Kurniawan, 2021).

Furthermore, the KPPU has been working on enhancing its technological capabilities. This includes the development of digital tools to monitor online transactions and collaborations with international bodies to gain insights into best practices for digital market surveillance (Nurhayati & Iskandar, 2020). These efforts are crucial for the KPPU to maintain its relevancy and effectiveness in the face of evolving market practices.

Collaboration between the government, regulatory bodies, and the e-commerce industry is also seen as essential for creating a fair digital marketplace. Initiatives such as stakeholder consultations and partnership programs with e-commerce platforms have been recommended to improve compliance and awareness regarding competition laws (Rahmadi, 2021).

However, to truly address the issue of enforcement, there is also a need to focus on judicial processes. Currently, the legal proceedings related to competition law violations can be lengthy and complex, deterring effective enforcement. Streamlining these processes and ensuring that they are adapted for the fast-paced digital market is essential for timely and effective legal actions (Sari, 2022).

While Indonesia has laid down a significant legislative framework to regulate unfair competition in e-commerce, the effectiveness of these regulations is hindered by several practical challenges. The dynamic nature of digital markets necessitates continual adaptation and enhancement of regulatory practices and tools. Moving forward, Indonesia must focus on legislative reforms, technological enhancements, and

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collaborative efforts to ensure that its digital marketplace remains competitive and fair.

South Korea's Regulatory Approach

South Korea's advanced regulatory framework for managing unfair competition in the e-commerce sector sets a benchmark for robustness and technological integration. The Korean Fair Trade Commission (FTC), which is at the forefront of these efforts, uses comprehensive legal and technical tools to ensure fair competition and protect consumer interests. The key legislative pillars supporting this framework include the Electronic Commerce Act and the Act on the Regulation of Terms and Conditions, which empower the FTC with extensive oversight capabilities (Kim, 2020).

The FTC's proactive approach is characterized by its use of sophisticated technology and data analytics to monitor and regulate market behaviors. This technological prowess allows for the real-time tracking of transactions and interactions on e-commerce platforms, enabling immediate detection of potential unfair practices. Regular audits of major platforms are conducted to ensure compliance with fair trading laws, and violations are met with swift and stringent punitive measures (Lee & Choi, 2021).

Moreover, the South Korean regulatory model emphasizes the importance of transparency and accountability in e-commerce. Regulations require platforms to provide clear information on terms of service, return policies, and product details, which helps maintain high consumer trust levels. This focus on consumer protection is further bolstered by strict guidelines on data privacy and security, ensuring that consumer information is safeguarded against misuse (Park & Kim, 2022).

The integration of technology in enforcement and monitoring is complemented by dynamic regulatory updates that keep pace with the evolving digital landscape. The FTC frequently revises its guidelines and frameworks to address new market trends and technologies, such as the rise of mobile

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commerce and the increasing use of artificial intelligence in marketing and sales (Choi, 2022).

The effectiveness of South Korea's approach is also due to the collaborative efforts between government agencies and the private sector. There are initiatives where e-commerce businesses work closely with the FTC to develop fair practice standards and undertake joint monitoring efforts. These collaborations help create a regulatory environment that is not only strict but also supportive, fostering innovation while ensuring compliance (Jin & Yoon, 2020).

Furthermore, the South Korean government provides educational programs and resources to both businesses and consumers about their rights and responsibilities under the e-commerce regulations. These educational initiatives are crucial for ensuring that all parties understand the regulatory landscape and are equipped to comply with it (Han & Lee, 2021).

Despite these strengths, the South Korean model faces challenges, particularly in relation to international e-commerce transactions. The cross-border nature of many e-commerce operations can complicate enforcement and necessitate coordination with foreign regulatory bodies. To address this, South Korea has been active in forming international partnerships and agreements to enhance regulatory effectiveness across borders (Kwon, 2021).

The success of South Korea's regulatory framework is also reflected in its consumer satisfaction ratings, which consistently rank among the highest in Asia for e-commerce. This is a testament to the effectiveness of the FTC's oversight and the comprehensive consumer protection measures in place (Sung, 2022).

South Korea's regulatory framework for e-commerce, characterized by its technological sophistication and proactive enforcement strategies, offers valuable insights into how countries can effectively manage unfair competition in digital marketplaces. The continuous evolution of this framework in

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response to new challenges and the emphasis on consumer protection and education are key elements that contribute to its success.

Comparative Analysis

The comparative study of Indonesia's and South Korea's regulatory frameworks for managing e-commerce reveals significant differences that impact their effectiveness, trust, and security within the e-commerce sector. These disparities highlight the varied approaches to digital market governance and their consequent challenges and strengths.

South Korea's approach to regulating e-commerce is heavily reliant on advanced technology and data analytics. The Korean Fair Trade Commission (FTC) utilizes sophisticated systems to monitor transactions and interactions across e-commerce platforms, ensuring compliance with regulatory standards. This capability allows for real-time detection and swift action against unfair practices, which significantly enhances the effectiveness of their regulatory measures (Lee & Choi, 2021).

In contrast, Indonesia's approach is more traditional and reactive. The Indonesian Competition Authority (KPPU) often struggles with technological limitations, which impedes its ability to conduct thorough and timely investigations. This lack of technological integration affects the authority's capacity to enforce regulations effectively, resulting in delayed responses to violations and decreased deterrence (Widjaja, 2021).

The consequence of these differences is notable in the level of trust and security perceived by businesses and consumers. South Korea's proactive and technology-driven approach instills a higher level of confidence among stakeholders, ensuring a more secure and fair e-commerce environment. Conversely, the slower and more reactive nature of Indonesia's enforcement can lead to uncertainties and lower trust among e-commerce participants (Kim & Park, 2022).

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The legal structures of both countries also significantly differ in scope and adaptability to digital nuances. South Korea has developed specific laws that address the unique aspects of digital transactions and e-commerce practices. The Electronic Commerce Act and the Personal Information Protection Act are examples of such laws, designed to provide clear guidelines and protect both consumers and businesses effectively (Park & Kim, 2022).

On the other hand, Indonesia's regulatory framework, governed primarily by the Indonesian Competition Law (Law No. 5 of 1999), has broader and less specific provisions regarding digital market practices. This generality can lead to ambiguities in enforcement and compliance, making it difficult for businesses to navigate the regulatory landscape and for enforcers to pin down specific violations (Suhartono, 2019).

These disparities have broader implications for each country's e-commerce market. South Korea's tailored and technologically integrated regulations make it better positioned to handle the challenges of a rapidly evolving digital marketplace. This adaptability not only aids in maintaining a competitive market but also protects the interests of all market participants effectively (Choi, 2021).

Conversely, Indonesia's need for regulatory updates is evident, as the existing framework does not sufficiently address the complexities of modern e-commerce. The lack of specific regulations for digital practices hinders the effectiveness of the regulatory body and potentially stymies the growth and maturation of the e-commerce sector (Nurhidayat, 2020).

To bridge these gaps, Indonesia could benefit from studying South Korea's approach to e-commerce regulation. Implementing specific digital market regulations and integrating advanced technologies into monitoring and enforcement practices could enhance Indonesia's regulatory framework. Additionally, fostering international cooperation to learn from established practices can accelerate the

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development of a more robust e-commerce ecosystem (Jin & Yoon, 2020).

For South Korea, while its current framework is robust, continuous evaluation and adaptation are necessary to keep pace with the global digital economy's innovations. Engaging in international forums and adapting best practices from around the world can further strengthen its regulatory environment (Han & Lee, 2021).

Implications for E-commerce Regulation

The emergence of e-commerce as a dominant force in the global market has necessitated the adoption of sophisticated regulatory frameworks tailored to manage its unique challenges, particularly unfair business practices. The comparative analysis of Indonesia and South Korea's regulatory frameworks underscores significant insights and provides a blueprint for other nations looking to refine their e-commerce regulations.

The rapid evolution of e-commerce has often outpaced the development of corresponding legal frameworks, resulting in regulatory gaps. Indonesia, with its burgeoning digital market, exemplifies the need for legal frameworks that specifically address the nuances of e-commerce. Updating the existing laws to include clear definitions and guidelines related to digital transactions and unfair practices is essential. This would provide a solid legal basis for enforcement actions and reduce ambiguities that currently hamper effective regulation (Nugroho, 2022).

In contrast, South Korea's advanced regulatory approach, characterized by specific laws such as the Electronic Commerce Act, offers a model of how targeted legislation can effectively address the complexities of the digital marketplace. By drawing on South Korea's legislative strategies, countries like Indonesia can develop a more precise and comprehensive legal infrastructure that caters to the modern economic landscape (Kim & Lee, 2021).

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Technology plays a pivotal role in the effective monitoring and enforcement of regulations within the e-commerce sector. South Korea's use of advanced technological tools, such as AI and data analytics, for regulatory purposes sets a benchmark in the field. These technologies enable real-time monitoring of market activities and quick detection of potential infringements, which is crucial in the fast-paced digital market (Choi & Han, 2020).

For Indonesia, enhancing technological capabilities within enforcement agencies could significantly improve the precision and effectiveness of monitoring. Investments in technology would not only facilitate more efficient data collection and analysis but also enable a proactive rather than reactive approach to regulatory enforcement (Suryadi, 2021).

Proactive enforcement is another cornerstone of effective e-commerce regulation. South Korea's regulatory success is partly due to the proactive strategies employed by its Fair Trade Commission, which include regular audits and swift punitive measures for non-compliance. Such an approach ensures that regulations are not merely reactive but are preventive and deter potential violators by increasing the perceived risk of detection and punishment (Park, 2022).

Indonesia could enhance its enforcement practices by adopting similar proactive measures. Establishing regular monitoring systems and quick-response teams within the KPPU could dramatically increase the effectiveness of its regulatory framework. Additionally, fostering a culture of compliance within the e-commerce sector through education and collaboration with e-commerce platforms can further reinforce these efforts (Wijaya & Lim, 2022).

Aligning with global standards is crucial for ensuring that regulations are not only effective locally but also compatible with international practices. This alignment facilitates smoother cross-border e-commerce transactions and enhances a country's attractiveness as a digital economy hub. South Korea's regulatory framework is often highlighted in global forums as

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aligning with international best practices, which not only supports its domestic market but also positions it favorably in the global arena (Jung & Min, 2021).

Indonesia's integration of more specific e-commerce regulations and advanced technological tools, as suggested by the comparison with South Korea, would not only enhance its domestic regulatory capacity but also ensure its alignment with global standards. This is particularly important as e-commerce increasingly becomes a borderless activity, necessitating international cooperation and standardization (Tan & Abdullah, 2022).

The effective regulation of unfair business practices in e-commerce requires a multifaceted approach that includes updated legal frameworks, advanced technological integration, proactive enforcement practices, and alignment with global standards. The comparative analysis of Indonesia and South Korea provides valuable insights that can guide other nations in developing and refining their e-commerce regulations. By adopting best practices from successful models like South Korea, countries can enhance their regulatory frameworks to create a fairer, more competitive, and globally integrated e-commerce environment.

Recommendations for Policy and Practice

The insights gained from the comparative analysis of the regulatory frameworks for e-commerce in Indonesia and South Korea highlight several strategic areas where improvements can be made to enhance fairness and competitiveness in the digital market. Here, we outline detailed recommendations for policymakers and practitioners in the field.

For Indonesia, one of the foremost recommendations is the urgent need to update its existing competition laws to better address the specific challenges presented by digital markets. This involves incorporating clear definitions and guidelines that specifically target the unique aspects of digital transactions,

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such as data-driven monopolistic practices and algorithmic price fixing. Modernizing these laws would provide a clearer basis for enforcement and facilitate fairer competition within the digital ecosystem (Santoso, 2022).

Additionally, laws should be adaptable to accommodate future technological advancements. This flexibility can be achieved through the incorporation of provisions that allow for regular updates and revisions based on technological developments and market needs, ensuring that the regulatory framework remains relevant over time (Hartono, 2021).

Investing in technology-driven enforcement capabilities is crucial. For Indonesia, developing capabilities such as digital surveillance tools, data analytics platforms, and artificial intelligence for monitoring e-commerce activities can significantly enhance the effectiveness and efficiency of regulatory oversight. These technologies enable regulators to detect and respond to violations in real-time, ensuring that enforcement is both proactive and deterrent (Lee & Nguyen, 2020).

Continuous training and capacity building for regulators are essential to keep pace with the evolving digital landscape. This includes not only training in the use of new technologies but also in understanding the changing dynamics of digital markets. Regular workshops, seminars, and exchange programs with countries like South Korea can help build the necessary expertise and ensure that regulators are well-equipped to manage the challenges posed by digital markets (Kim & Park, 2022).

Training programs should also focus on ethical considerations and the protection of consumer data, which are increasingly important in the digital age. Ensuring that regulators are knowledgeable about data protection laws and ethical standards is crucial for maintaining consumer trust and compliance with international data security standards (Johar, 2021).

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Fostering international cooperation and knowledge exchange on best practices in e-commerce regulation is critical. For Indonesia, engaging in bilateral or multilateral forums to share insights, strategies, and regulatory technologies can accelerate the development of its own regulatory frameworks. Cooperation agreements with advanced economies like South Korea can facilitate the transfer of knowledge and technology, which is vital for enhancing Indonesia's regulatory capabilities (Nguyen, 2022).

Such international collaborations can also help harmonize regulatory standards across borders, which is increasingly important in the globalized e-commerce landscape. This harmonization helps to prevent regulatory arbitrage, where companies might move operations to countries with more lenient regulations, and ensures a level playing field (Tanaka, 2021).

The recommendations for enhancing e-commerce regulation in Indonesia and maintaining the robustness of South Korea's frameworks emphasize the need for legislative updates, technological investments, continuous professional development, and international collaboration. By implementing these recommendations, both countries can ensure a fair and competitive digital market, fostering innovation while protecting the interests of consumers and businesses alike.

This comparative study underscores the critical role of tailored and technology-enabled regulatory frameworks in managing unfair business practices in the e-commerce sector. Both Indonesia and South Korea offer valuable lessons on the complexities and necessities of regulating digital markets, which are essential for promoting a healthy competitive environment and protecting stakeholders in the digital age.

Conclusion

The comparative analysis of the regulatory frameworks for e-commerce in Indonesia and South Korea has provided substantive insights into the efficacy of various approaches toward managing unfair business practices in the digital marketplace. Theoretically, this analysis underscores the critical role of adaptive and technology-driven regulatory systems in maintaining market fairness and consumer trust. It highlights the necessity for laws that are specifically tailored to the nuances of digital transactions, which are essential for precise and effective enforcement. Practically, the implications of this study suggest that Indonesia, by adopting some of the advanced practices observed in South Korea, can significantly enhance its regulatory framework. This would involve updating existing competition laws to better encompass digital market specifics, investing in technological enforcement capabilities, and enhancing the training and capacity building of regulators. Such steps would not only align Indonesia with international standards but also bolster its market's competitiveness and fairness. Moreover, fostering international collaboration could further facilitate these advancements by leveraging global knowledge and best practices, ultimately ensuring a robust and equitable e-commerce environment across nations.

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