COMPARISON OF E-COMMERCE CONCEPT REVIEWED FROM THE LAW OF BUSINESS COMPETITION BETWEEN INDONESIA AND CHINA

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Article	Abstract
Article History: Submitted: April 2024 Reviewed: March 2025 Accepted: April 2025 Published: April 2025 ***Keywords:*** *E-commerce; Digitalization; Business Actors; Comparison Law; Competition Law.*	*The rapid development of digitalization has a significant impact on economic growth, especially trade through electronic systems. The positive impact felt by sellers and buyers makes the development of the digital market increasingly in demand by business actors. The more business actors involved in trading through electronic systems, the more business competition will occur in the market. Predatory pricing practices and monopolies were suspected to have occurred in Tiktok's shop social commerce, resulting in the issuance of Minister of Trade Regulation Number 31 of 2023. This then makes the author want to examine using comparative studies with the Chinese State regarding licensing arrangements, advertising and supervision on e-commerce. This research was conducted using normative legal research with a comparative approach that examines e-commerce regulations between Indonesia and China. The result of this study concludes that e-commerce regulations in China and Indonesia are almost similar in terms of e-commerce licensing system. Indonesia and China require business actors to register their business on e-commerce platforms and e-commerce platforms must provide a means for business actors to register on the e-commerce platform. Although the rules regarding e-commerce have similarities, there are differences that lie in the part of e-commerce supervision by the government. Supervision is to help improve the digital economy so that there is equity in rural and urban areas, so that digital economic equity can run well from urban to rural areas.*

A. Introduction

Based on the official statistical news of Indonesia's Economic Growth in the fourth quarter of 2022, Indonesia's economic growth in 2022 has increased quite rapidly compared to 2021. In 2022, the Indonesian economy grew by 5.31 per cent, a growth of 3.70 per cent compared to the previous year, based on Gross Domestic Product (GDP) at current prices reaching 19,588.4 trillion rupiahs and GDP per capita reaching 71.0 million rupiah or 4,783.9 US dollars.[1] The transportation and warehousing sector also influence the ongoing trade transactions in Indonesia or between

[1] Berita Resmi Statistik, *Pertumbuhan Ekonomi Indonesia Triwulan IV-2022* (Jakarta: Badan Pusat Statistik, 2023), 2.

countries. This is in line with the growth of the digital economy, which has developed rapidly today, including in Indonesia. The digital economy, if viewed further, has four main sectors that can support the creation of economic growth. The four sectors are Electronic Commerce (E-Commerce), transportation and food (on-demand), online travel, and online media.[2]

In the Digital Economy Era, information is no longer just a medium for transactions and communication, but rather the main source of profit in the economy. In this world of entrepreneurship, it is expected that technological advances will lead to an increase in the welfare of society.[3] Through the rapidly growing media, of course, it has an impact on people's lives both in terms of communication and even for business development.

The development of digital technology has made the economic system develop. These changes can be seen in how digital developments influence buying and selling transactions, from conventional to modern buying and selling mechanisms based on digital technology. The actual form of technological development that affects the economic system is the existence of social commerce popularized by Tiktok shops. The e-commerce platform is an example of digital development in economic traffic. E-commerce platform services have increased rapidly since the COVID-19 pandemic, allowing people to do economic activities such as shopping from home. Digital transformation in the form of e-commerce platform services offers convenience in conducting economic transactions because it is carried out using application-based digital technology, making it easier to buy and sell transactions. After all, they can be done anywhere. Through the growing digital transformation, e-commerce can positively impact the economy due to its flexibility and ability to create market access.[4]

In the B20 webinar on October 28, 2022, with the theme "Digitalization of MSMEs (micro, small and medium enterprises) Places Indonesian MSMEs in the Global Supply Chain", Coordinating Minister for Economic Affairs Airlangga Hartarto, who was present virtually, said that the development of MSMEs is not only in the form of financial assistance but also needs to be strengthened with an understanding of digital literacy. This is because only around 24 per cent

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[2] Hamzah Ritchi & Wina Aprilianisa, *Meneropong Ekonomi Digital Indonesia dalam Penguatan Ketahanan Ekonomi, Center for Digital Innovation Studies (Digits)* (Bandung: Faculty of Economics and Business Universitas Padjadjaran, 2023), 65.
[3] Selsa Dharma Wulan, "*Manfaat dan Tantangan E-Commerce Dalam Ekonomi Digital di Bidang Bisnis*", *Manajemen Kewirausahaan dan Bisnis* 1, No. 1 (2024): 42-50, https://doi.org/10.61132/prosemnasimkb.v1i1.5.
[4] CM Wood, "Marketing and e-commerce as tools of development in the Asia-Pacific region: A dual path", in Rais Agil Bahtiar, "Potensi, Peran Pemerintah, Dan Tantangan Dalam Pengembangan E-Commerce di Indonesia", *Jurnal Ekonomi & Kebijakan Publik* 11, No. 1 (2020): 13-25, http://dx.doi.org/10.22212/jekp.v11i1.1485.

of the total MSMEs players have utilized digital technology by making transactions on various e-commerce platforms.[5] Some of Indonesia's most frequently used e-commerce include Tokopedia, Shopee, Traveloka, Tiket.com and BliBli. According to DataIndonesia.id, the number of e-commerce users in Indonesia reached 178.94 million people in 2022 and is projected to reach 196.47 million users by the end of 2023.[6] Seeing the massive increase in the number of e-commerce users, e-commerce can make the country's economy rise significantly, primarily through the empowerment of MSMESs that can offer goods and services unlimited by place and time. Advantages and Pros of E-Commerce:

1. For business managers:
   a. The company can reach customers around the world
   b. Efficiency, error-free and timely
2. For consumers: Cheaper prices, shopping in one place
3. For Management: Increased revenue & customer loyalty.

Advantages of E-Commerce:

1. Automation, replacing manual processes.
2. Integration, improving process efficiency and effectiveness.
3. Publication, providing promotion and communication services for marketed products and services.
4. Interaction, exchange of data/information between various parties which will minimize “human error”.
5. Transactions, agreements between two parties to carry out transactions involving other institutions[7].

The advantages and advantages possessed by e-commerce are certainly an opportunity for businesses to expand their business in the field of online trading because it can reduce operational costs.

[5] Kementerian Koordinator Bidang Perekonomian, “Berperan Dalam Peningkatan Pertumbuhan Ekonomi Digital, Pemerintah Dorong Akselerasi Adopsi Teknologi Digital oleh UMKM” https://www.ekon.go.id/publikasi/detail/4662/berperan-dalam-peningkatan-pertumbuhan-ekonomi-digital-pemerintah-dorong-akselerasi-adopsi-teknologi-digital-oleh-umkm, accessed 16 October 2023.
[6] Ridhwan Mustajab, “Pengguna E-Commerce RI Diproyeksi Capai 196,47 Juta pada 2023”, https://dataindonesia.id/digital/detail/pengguna-ecommerce-ri-diproyeksi-capai-19647-juta-pada-2023, accessed 17 October 2023.
[7] Y.L.R Rehatalanit, “*Peran E-Commerce Dalam Pengembangan Bisnis*”, *Jurnal Teknologi Industri* 5, (2016): 62-69, https://doi.org/10.35968/jti.v5i0.764.

Indonesia is an archipelago with almost 17,000 islands. The population reaches almost 2,738 million people, and the area of 1,905 million square kilometres consists of 38 provinces spread among the islands. Based on data from the results of the population census held in 2020, the percentage of productive age ranging from 15 years to 65 years is more significant than the non-productive age. Every one per cent change in the working age increases GDP by 1.5 per cent and 0.8 per cent of savings, which can reduce poverty.[8] Based on the population census that occurred in the period from 1971 to 2020 population census, it is clear that the productive age ranging from 15 years to 65 years is still above 50 per cent, which means that the ability to absorb labour and transfer technology still has a high enough potential to support success in the digital market if the productive age can be maximally empowered.

Table 1.

Population Census Age Interval 0 years to 65 years (in percent)

Year	0-14 Years	15-64 Years	65 Years and Above
1971	44,12	53,39	2,49
1980	40,91	55,84	3,25
1990	36,65	59,58	3,77
2000	30,44	65,03	4,53
2010	28,87	66,09	5,04
2020	23,33	70,72	5,92

Source: Demographic Bonus and Vision of Golden Indonesia 2045[9]

E-commerce can increase economic growth in micro, small, and medium enterprises (MSMEs). MSMEs business actors can increase innovation and competitiveness through the use of e-commerce. The MSMEs sector contributes to the Gross Domestic Product (GDP) by 61 per cent or worth 9,580 trillion rupiahs; even the contribution of MSMEs to employment reaches 97 per cent of the total workforce.[10] Internet coverage is needed throughout Indonesia to support the

[8] Ramla Hartini Melo, Cindy Lasulika, Sri Endang Saleh, "Optimalisasi Bonus Demografi Melalui Kebijakan Kependudukan untuk Mendorong Pertumbuhan Ekonomi Indonesia", *Geosfera: Jurnal Penelitian Geografi* 3, No. 2 (2024): 143-148, https://doi.org/10.37905/geojpg.v3i2.29538.

[9] Badan Pusat Statistik, *Statistik Komunikasi Indonesia* (Jakarta: Badan Pusat Statistik, 2022), 5.

[10] Kementerian Koordinator Bidang Perekonomian, "Dorong UMKM Naik Kelas dan Go Export, Pemerintah Siapkan Ekosistem Pembiayaan yang Terintegrasi", https://ekon.go.id/publikasi/detail/5318/dorong-umkm-naik-kelas-dan-go-export-pemerintah-siapkan-ekosistem-pembiayaan-yang-terintegrasi#:~:text=Jakarta%2C%2024%20Agustus%202023&text=Sektor%20UMKM%20memberikan%20kontribusi%20terhadap,97%25%20dari%20total%20tenaga%20kerja, accessed 4 February 2024.

implementation of trade through electronic systems in urban and rural areas. The internet is very influential on the sustainability of the digital economy; based on data available at the Central Bureau of Statistics, Indonesian internet users in the 2018 interval until the end of 2022 have increased to 66.48 per cent.[11] The increase in internet users is limited to urban areas; Maluku and Papua regions are still lagging, where the percentage of internet unavailability reaches 41.06 per cent based on the source of the 2020 and 2021 Village Potential Data Collection from the Central Statistics Agency.[12] In contrast to the progress of the internet in China, which can be accessed from urban to rural areas so that it has a positive influence on its economy, primarily through e-commerce and industrial internet.

Regulations in Indonesia that regulate trade through electronic systems originate from Article 65 of Law Number 7 of 2014 concerning trade, then there are implementing regulations, namely Government Regulation Number 80 of 2019 concerning Trade Through Electronic Systems and Minister of Trade Regulation Number 31 of 2023 concerning Business Licensing, Advertising, Guidance, and Supervision of Business Actors in Trade Through Electronic Systems. Regulation of the Minister of Trade Number 31 of 2023 regulates explicitly the licensing of business actors in trade through electronic systems, listed in Articles 3 to 22.

Business actors who want to conduct trade through electronic systems must have a risk-based business license regulated in the Government Regulation of the Republic of Indonesia Number 5 of 2021 concerning implementing Risk-Based Business Licensing. In Article 4 Letter B of Government Regulation Number 5 of 2021, business actors must fulfil risk-based business licensing to start conducting business activities. The risk in question is that the business carried out by the Business Actor falls into the low, medium, medium-high and high-risk categories, so the classification affects the requirements that Business Actors must meet to obtain a business license. Article 4 Business licensing for domestic traders in the trading through electronic systems sector can only conduct retail trading activities online through the standard classification of retail traders through postal or internet orders. The Indonesian Standard Business Field Classification in Article 4 is in the Indonesian Standard Business Field Classification code number 4791. At the same time, Marketplace and Online Retail use the Indonesian Standard Business Field

[11] Badan Pusat Statistik, *Loc.Cit.*
[12] *Ibid.*

Classification number 63122, which is in the Web Portal and/or Digital Platform with Commercial Purposes category.

Advertising significantly affects trade through electronic systems for the promotion or marketing of goods and/or services sold by business actors. Thus, Regulation of the Minister of Trade Number 31 of 2023 Article 23 Paragraph (1) states, "Business actors may create and/or send electronic advertisements for marketing or promotional purposes". The form of advertisement is not formulated in the Regulation of the Minister of Trade Number 31 of 2023. It does not regulate intellectual property rights, which should be urgent when trading through electronic systems.

Article 42 of Regulation of the Minister of Trade Number 31 of 2023 states that the minister is authorized to provide guidance and supervision of trading through electronic systems. Authorized means having the power or having the right to do something. Based on this article, the minister has an important role in his power to supervise the traffic flow of trade through electronic systems development to safeguard national interests from the negative influence of foreign trading through electronic systems. By Article 45, the minister delegates the authority to conduct supervision to the Directorate General of Consumer Protection and Trade Order. The Directorate General of Consumer Protection and Trade Order is the executor and is directly responsible to the Ministry of Trade of the Republic of Indonesia.

Seeing and looking at Regulation of the Minister of Trade Number 31 of 2023 concerning Business Licensing, Advertising, Guidance, and Supervision of Business Actors in Trading Through Electronic Systems, the regulations formed are not much different from the previously revoked Regulation of the Minister of Trade Number 5 of 2020, so it is necessary to conduct an assessment of these regulations using a comparative method. Comparative law in English is often called Comparative Law; in German, it is *Rechtsvergleichung*; in Dutch, it is *Rechtsvergelijking*; and in French, it is *Droit Compare*. Rudolf B. Schlesinger, in his book entitled Comparative Law (1959), states that comparative law is a method of investigation to obtain more profound knowledge about certain legal materials to work on actual foreign elements in a particular legal problem.[13] The substantive study will, therefore, relate to the study to be compared, namely the laws that will be taken to look for similarities and differences.[14] Soerjono Soekanto defines

[13] Djoni Sumardi Gozali, *Pengantar Perbandingan Sistem Hukum* (Bandung: Nusamedia, 2018), 2.
[14] Ratno Lukito, "Compare but Not to Compare: Kajian Perbandingan Hukum di Indonesia", *Undang: Jurnal Hukum* 5, No. 2 (2022): 257-291, https://doi.org/10.22437/ujh.5.2.257-291.

comparison as an activity to identify similarities and/or differences between two or more specific symptoms.[15] Meanwhile, Sunaryati Hartono believes that comparing means looking for similarities and differences between two or more objects. If there is a point of similarity, you will look for differences. Finding a point of similarity is called classifying in genus. If two things have been determined to belong to the same genus, then the differences between the two things being compared can be classified into species.[16]

China is a country that is very influential in global economic development by relying on highly developed technology. China has an area of 9,597 million square kilometres with a population of 1.425 billion. In 2023, per capita income in China increased to 39,218 yuan, an increase of 6.3 per cent compared to 2022, which reached 36,883 yuan or equivalent to 6.1 per cent.[17] One of the things that significantly affects the increase in a country's economy is the change in the way conventional economic transactions go to the digital economy. In the context of digital development in Indonesia, there are significant challenges related to access to public services in rural areas, especially in village government offices. Limitations in the deployment of internet points and the lack of internet access in the community can hinder the effectiveness of government digitalization implementation, causing delays in the receipt of government information by the community.[18] This limitation is also an obstacle for people who want to do business opportunities by relying on online trading.

The E-Commerce Law of the People's Republic of China regulates trade through electronic systems promulgated in early 2019. In managing the license, business actors in China must have a taxpayer identification number and register on the homepage of the e-commerce platform by the provisions of Article 10 of the E-Commerce Law of the People's Republic of China. E-commerce must publish information about its business license on its platform or homepage so that consumers can see it. The information describes administrative licenses that are directly related to the business operations. E-commerce platforms will require businesses to submit authentic information such as identity, address, contact information and administrative licenses, verify registration, create a register, and conduct regular updates and verifications, which the e-commerce platform has provided.

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[15] Soerjono Soekanto, *Perbandingan Hukum* (Bandung: Alumni, 1979), 10.
[16] Sunaryati Hartono, *Capita Selecta Perbandingan Hukum* (Bandung: Alumni, 1982), 10.
[17] National Bureau of Statistics of China, "Households' Income and Consumption Expenditure in 2023", https://www.stats.gov.cn/english/PressRelease/202402/t20240201_1947120.html, accessed 2 February 2024.
[18] Tasyah, A., *et al*, "*Inovasi Pelayanan Publik Berbasis Digital (E-Government) di Era Pandemi Covid-19*", *Jurnal Ilmu Administrasi: Media Pengembangan Ilmu Dan Praktek Administrasi* 18, No. 2 (2021): 212–224, https://doi.org/10.31113/jia.v18i2.808.

In advertising, China emphasizes protecting intellectual property rights by showing advertisements on e-commerce platforms. Article 41 e-commerce platforms shall develop rules for protecting intellectual property rights and strengthen cooperation with intellectual property rights owners to protect intellectual property rights according to law. If it is found that the right holder is aware of the infringement of intellectual property, the right holder has the right to notify the e-commerce platform to take necessary measures such as deletion, blocking or unlinking and termination of transactions.

The supervision exercised on e-commerce platforms in China through the E-Commerce Law of the People's Republic of China significantly oversees how e-commerce platforms safeguard consumers' interests. The State Council Department is responsible for promoting the development, supervision and administration of e-commerce. The State Council of the People's Republic of China is the administrative body of the People's Republic of China, chaired by the Prime Minister and containing the heads of every government department and office. E-commerce with a dominant position in technology, number of users, industry control or other factors should not abuse its dominant market position to restrict competition.

E-commerce platforms are expressly required to maintain the security of data and information on the platform's business by strictly maintaining the confidentiality of individual information, privacy, and trade secrets. They may not divulge, sell or illegally provide it to others. This form of State intervention in the development of e-commerce must certainly be balanced with State involvement in maintaining the security of e-commerce transactions, protecting e-commerce user information, encouraging the development and application of e-commerce data and protecting the orderly and free flow of e-commerce data by law and e-commerce platforms must develop effective complaint and reporting mechanisms.

This article will discuss the concept of e-commerce affecting business competition between Indonesia and China using a comparative study, especially about the implementation of Regulation of the Minister of Trade Number 31 of 2023 on Business Licensing, Advertising, Guidance, and Supervision of Business Actors in Trading Through Electronic Systems which has an impact on fair business competition in the digital market, especially for the rights and obligations of business actors and consumers in Indonesia.

B. Method

This research employs a normative juridical method, which focuses on the examination of legal norms and principles through the study of laws, regulations, and legal doctrines. The approach is primarily doctrinal, emphasizing a comparative legal analysis between the legal frameworks governing e-commerce and business competition in Indonesia and China. Data used in this study are secondary legal materials, including primary legal sources such as statutes, government regulations, and judicial decisions, as well as secondary sources such as legal journals, books, and official reports. The research method involves statutory and comparative approaches. The statutory approach is used to analyze relevant national laws in both countries. Meanwhile, the comparative approach is applied to identify similarities and differences in the regulatory treatment of e-commerce competition practices in the two legal systems. Legal interpretation and analytical techniques are applied to provide a structured comparison and offer normative recommendations for improving competition law enforcement in the context of digital trade.

C. Analysis and Discussion

Table 2.

Similarities and Differences between Indonesian (Regulation of the Minister of Trade Number 31 of 2023) and Chinese Regulations

	Similarities	
Indonesia	E-commerce platforms are obliged to facilitate the registration of business actors in the Indonesian Standard Business Field Classification code through the Online Single System (OSS).	
China	E-commerce platforms are required to provide registration facilities on the e-commerce homepage.	
	Differences	
	Indonesia	**China**
Licensing	The requirements do not include business tax ownership. Does not regulate the Online Titling Services license.	To obtain a license, one of the requirements is to have a business tax number. Licenses for online entrepreneurs from the country of origin and China.

Advertising	Does not expressly regulate Intellectual Property Rights.	Intellectual Property Rights Regulation.
Surveillance	The authority to conduct Supervision is delegated to the Directorate General of Consumer Protection and Commercial Order.	The supervisory authority lies with the State Council, which has the duty to supervise trading through electronic systems.
	Supervisory responsibility by the Government through the Directorate General of Consumer Protection and Commercial Order, assisted by a cross-sectoral supervisory assistance team.	There is a shared responsibility in terms of supervision conducted by e-commerce platforms, businesses and the Government in this case the State Council Department.
	The structure of supervision by the Directorate General of Consumer Protection and Commercial Order is not explained in detail.	The structure of Supervision by the Council of State is carried out from the Central Council of State to the Regional Councils headed by the Prime Minister.
		Maintaining cybersecurity

Source: Author's Self Analysis

Based on the table that has been presented, the similarities and differences in licensing arrangements, advertising and e-commerce supervision between Indonesia and China can be seen. In the E-Commerce Law of the People's Republic of China, similarities can be found in the existing electronic commerce law regarding licensing arrangements in Article 10; e-commerce platforms are obliged to accommodate the implementation of business registration. In Indonesia, licensing is regulated in Regulation of the Minister of Trade Number 31 of 2023 through Article 3; business actors must have a business license to conduct their business through a standard classification determined by the Online Single Submission (OSS) service. The two countries' regulations have similarities regarding e-commerce platforms in organizing e-commerce businesses; they must provide registration facilities displayed on the homepage of the e-commerce platform for registration of business licenses for business actors conducting business on the e-commerce platform.

The most striking difference between the two countries' licensing regulations is the tax and business license for online delivery services. Regulation of the Minister of Trade Number 31 of 2023 does not regulate tax obligations for business actors in registering e-commerce businesses on e-commerce platforms or the affiliate system and online delivery services for products from abroad. Affiliation is a way of developing a business or marketing model for third parties called affiliates to join in promoting a business by benefiting from the products or businesses that have been promoted. Meanwhile, online entrustment services are purchases made by consumers that are far from the reach of the desired goods or products, such as foreign products. The definition of a business actor according to Article 1 Point 6 of Regulation of the Minister of Trade Number 31 of 2023, namely, "Business Actor is any individual or business entity in the form of a legal entity or not a legal entity which can be in the form of domestic business actors and business actors domiciled abroad and conducting business activities in the field of trading through electronic systems". Meanwhile, the definition of Trading Through Electronic Systems in Article 1 Number 2 of Regulation of the Minister of Trade Number 31 of 2023 is, "Trading Through Electronic Systems is trading whose transactions are conducted through a series of electronic devices and procedures".

Based on the above understanding, business actors can be categorized as individuals who may or may not be legal entities conducting business activities in the field of electronic commerce, so online delivery services can be categorized as business actors in trading through electronic systems because they use electronic networks to conduct trading activities. The E-Commerce Law of The People's Republic of China regulates the obligation to obtain a business license for online entrepreneurs from the State of China and the country of origin of the business actor. Meanwhile, the Regulation of the Minister of Trade Number 31 of 2023 only focuses on real businesses in online retail, marketplaces, online classified ads, price comparison platforms, daily deals, and social commerce, which must be registered with the OSS.

Advertising regulations in China are not as rigidly regulated as in the Indonesian Regulation of the Minister of Trade Number 31 of 2023. Advertisements displayed in trade through electronic systems do not regulate the intellectual property rights of rights owners such as written, sound, image and/or video advertisements. The utilization of Artificial Intelligence (AI) is currently growing rapidly. Artificial intelligence can mimic a public figure's voice, so advertising arrangements in e-commerce have an important role in marketing or promotional interests for business actors. In addition, duplicate images or photos to promote a product are still widely found on e-commerce platforms in Indonesia because advertisements are not comprehensively regulated in the Minister of Trade Number 31 Regulation of 2023. Ads displayed by e-commerce significantly affect the results received by consumers.

One of the factors that became the foundation for implementing regulations regarding e-commerce or trading through electronic systems is the potential for predatory pricing and monopolistic practices from existing business actors in e-commerce, especially those in Indonesia. Article 42 of Regulation of the Minister of Trade Number 31 of 2023 states that "The Minister is authorized to provide guidance and supervision of trading through electronic systems" This is in line with Government Regulation Number 80 of 2019 Article 76. E-commerce supervision in Indonesia is contained in Articles 42 through 49 of Regulation of the Minister of Trade Number 31 of 2023; the form and structure of supervision are not explained in detail in the regulation. In China, supervision is handled by the Government, in this case, the State Council, and by e-commerce platforms. Article 38 of the E-Commerce Law of the People's Republic of China stipulates that joint liability is borne if they are aware of business violations without taking necessary measures. In addition to e-commerce platforms, the State Council Department is responsible for promoting the development, supervision and administration of e-commerce. So that the supervisory role is not only imposed on one party. E-commerce platforms are responsible for internal supervision, while the Government has external supervision, such as promoting the application of e-commerce in every area of the national economy.

People's behavior in the digitalization era points to the need for improvement through digital literacy. In an increasingly digitally connected context, individuals are often exposed to various risks and challenges, such as false information, online privacy and vulnerable data security. In today's digital era, where technology is constantly evolving, the impact of digitalization on society cannot be ignored. Digitalization has changed several aspects of our lives, from communication to commerce and entertainment. The rapid pace of digitalization has led to changes in people's behavior. To optimize the positive potential of digitalization while mitigating its negative impacts, cooperation between the government, the private sector, and the communities themselves is required. Digital training, digital village development, and thoughtful planning are key in ensuring that rural communities can take full advantage of this digital era without losing their cultural identity and traditional values. In addition, digital literacy is important in dealing with the negative impacts of digitalization, with an emphasis on cognitive skills, data security, ethical use of digital media, and collaboration to improve overall digital literacy[19]. Optimizing digital literacy is also needed to broaden people's knowledge in utilizing digitalization in the business sector, especially in rural communities. One significant change is the improvement of the economy in rural communities. Digitalization opens up new opportunities for business development and marketing of local products through digital platforms. An example of a relevant case study is the digitization of information through website development can be an effective solution to facilitate access to information for rural communities[20]. The development of digitalization in rural communities has shown a direction that is more inclined towards the commercial sector, especially in the aspect of business digitalization. This phenomenon is reflected in the number of village entrepreneurs switching from conventional business models to digital platforms, which has an impact on consumer preferences that prefer to shop online[21]. However, the problem is that the gap in access to communication in each region is uneven, so that the transfer of communication technology cannot run smoothly.

The theory of benefit initiated by Jeremy Bentham in his book Theory of Legislation explains that benefit is an abstract term. This term expresses the nature or tendency of something to prevent evil or obtain good. Evil is the cause of suffering, while good is pleasure or the cause of pleasure.[22] The basic concept of Utilitarianism Theory is generally straightforward, namely how to maximize an action's usefulness (utility) so that we can enjoy benefits, advantages, happiness, and enjoyment (benefit, advantage, pleasure, sound, or happiness) from this process.[23]

Satjipto Rahardjo introduced progressive law; progressive law means the same as *ubi societas ibi ius* in a pattern of relationship between law and humans, the relationship applies "law

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[19] Bambang Agus Diana & Jayanti Armida Sari, "Dampak Transformasi Digitalisasi Terhadap Perubahan Perilaku Masyarakat Pedesaan", *Jurnal Pemerintahan Dan Politik* 9, No. 2 (2024): 88-96, http://dx.doi.org/10.36982/jpg.v9i2.3896.

[20] A.S. Rusdianto, *et al.*, "Digitalisasi Informasi Desa Bendelan Melalui Program Desa Digital Terintegrasi di Desa Bendelan Bondowoso", *Jurnal Pengabdian Masyarakat Indonesia* 2, No. 6 (2022): 727-733, http://dx.doi.org/10.52436/1.jpmi.796.

[21] A.R. Ahmetya, I. Setyaningrum & O. Tanaya, "Era Baru Ketenegakerjaan: Fleksibilitas Pekerja Digital Pada Era Revolusi Industri 4.0. Sang Pencerah", *Jurnal Ilmiah Universitas Muhammadiyah Buton* 9, No. 4: 1001–1015, https://Doi.Org/10.35326/Pencerah.V9i4.4495.

[22] Jeremy Bentham, *Teori Perundang-Undangan: Prinsip-Prinsip, Hukum Perdata dan Hukum Pidana* (Bandung: Nuansa & Nusamedia, 2010), 27.

[23] Endang Pratiwi, *et.al.*, "Teori Utilitarianisme Jeremy Bentham: Tujuan Hukum atau Metode Pengujian Produk Hukum?", *Jurnal Konstitusi* 19, No. 2 (2022): 268-193, https://doi.org/10.31078/jk1922.

for humans, and not vice versa humans for the law". Satjipto Rahardjo argues that humans do not start their lives together by making a legal system but rather by building a society. From an everyday life called society, the law was born.[24] The paradigm of law is for humans, not humans, for the law has consequences on how to carry out or run the rule of law.[25]

Based on the views of the two figures, the formation of a regulation must have benefits, justice, and certainty for as much public happiness as possible to be beneficial, fair, and legally specific for all Indonesian people. The formation of regulations regarding trade through electronic systems is undoubtedly caused by a sense of injustice that grows in society so that a regulation will ensure the happiness of as many people as possible. Regulation of the Minister of Trade Number 31 of 2023 was formed due to predatory pricing and monopoly practices in electronic commerce that harm other business actors. The Regulation of the Minister of Trade Number 31 of 2023 is expected to accommodate the implementation of electronic commerce, which regulates licensing, advertising and supervision of e-commerce so that healthy business competition can be created in electronic commerce in Indonesia.

The regulations used for business competition in Indonesia still use Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition. Competition law is very important so that competition needs to have rules of the game, because sometimes it is not always a good market mechanism, in the market, there are usually efforts from business actors to eliminate them, avoiding competition is reduced between competition allows business actors to obtain greater profits[26]. This is the reason that the renewal of the Competition Law is urgent at this time, because the development of the business world no longer focuses on conventional businesses.

On August 22, 2022, China revised the Anti-Monopoly Law of the People's Republic of China, which expands its overall scope of application and significantly increases the penalties and responsibilities for monopolistic behaviour. The existing competition regulations in Indonesia are certainly not harmonized if used for trading through electronic systems because Law Number 5 Year 1999 still adopts conventional trade practices due to the constraints of the legislative process by the government. The presence of a digital economy, such as trading through electronic systems,

[24] Satjipto Rahardjo, *Hukum dalam Jagat Ketertiban* (Jakarta: UKI Press, 2016), 55-56.
[25] M. Zulfa Aulia, "Hukum Progresif dari Satjipto Rahardjo: Riwayat, Urgensi, dan Relevansi*", Undang: Jurnal Hukum* 1, No. 1 (2018): 159-185, https://doi.org/10.22437/ujh.1.1.159-185.
[26] Tarmizi, "Analisis Hukum Persaingan Usaha di Indonesia Dalam Undang-Undang Nomor 5 Tahun 1999", *Jurnal Real Riset* 4, No. 1 (2022): 12-19, http://dx.doi.org/10.29303/ius.v11i2.1224.

significantly impacts people's consumption behaviour, including creating business opportunities. The digital era can be understood as a change in conventional transaction patterns towards digital transactions. The absence of regulations governing the digital market is unfortunate considering that this is very urgent to be considered by the government because the structure of this market is very different in all aspects from the conventional market that has been known. Current regulations are only limited to business establishment licenses in various sectors[27]. This is a shortcoming for legal protection for business actors and consumers in Indonesia, where the government is unprepared to keep up with the growing development of information technology, so the urgency of accelerating the reform of business competition law is still not a hot issue to be fought for. Business actors must participate in developing an increasingly comprehensive world change. E-commerce in Indonesia tends to use the consumer type, where business actors conduct transactions with end consumers as much as 73.52 per cent of the time. In comparison, 24.08 per cent of business actors sell to agents and 2.40 per cent sell to other entrepreneurs.[28] E-commerce statistics in 2022 obtained data collection survey results, which showed that only 34.10 per cent of businesses carried out activities through e-commerce. This shows that the level of community readiness for the benefits of the digital economy through electronic commerce is still relatively low.[29] The reasons conventional business actors give are lack of knowledge or expertise, concerns about security and so on.

Regulation of the Minister of Trade Number 31 of 2023 concerning Business Licensing, Advertising, Guidance, and Supervision of Business Actors in Trading Through Electronic Systems is one of the foundations for organizing trade through electronic systems to create fair competition between business actors. Violations in activities prohibited in business competition, such as monopoly, price fixing, and predatory pricing, are often found in trading through electronic systems. This is undoubtedly affected by the algorithm system of the e-commerce platform, which is the key to unfair business competition in electronic commerce. Competition in major digital markets, such as platform-based business models, multi-sided markets, and network effects, makes business competition issues more complex and different from competition in more traditional markets. The number of business actors in the digital market sector makes competition more competitive, and monopoly in the digital economy sector can certainly occur given the platform-

[27] M. Afif Hasbullah, "Penegakan Hukum Persaingan Usaha Dalam Sektor Ekonomi Digital", *Jurnal Ilmiah MEA (Manajemen, Ekonomi, dan Akuntansi)* 4, No. 1 (2020): 582-597, https://doi.org/10.31955/mea.v4i1.1635.
[28] Direktorat Statistik, Keuangan, TI, dan Pariwisata, *Statistik E-commerce 2022* (Jakarta: Badan Pusat Statistik, 2022), 19.
[29] *Ibid.*

based electronic commerce that can use algorithms to control the production of certain goods in the digital market. Business competition issues must be followed up immediately, especially those related to trade through electronic systems. Supervision is needed to oversee the electronic transaction process.

In the Anti-Unfair Competition Law of the People's Republic of China, when conducting transactions in the market, business actors shall adhere to the principles of voluntariness, equality, fairness, honesty, and credibility and comply with generally accepted business ethics. The State encourages, supports, and protects all organizations and individuals in social supervision against unfair competition. Starting from the administrative authorities for industry and commerce in the People's Government above the district level, they must supervise and check acts of unfair competition. In exercising supervision over and carrying out inspection of acts of unfair competition, the supervising and inspecting authorities are entitled to exercise the following functions and powers:

1. questioning operators under scrutiny, interested parties and witnesses, and requiring them to provide evidential material or other information related to acts of unfair competition by prescribed procedure;
2. consulting and copying written agreements, account books, receipts, bills, vouchers, invoices, documents, records, business correspondence and other material related to acts of unfair competition;
3. inspecting property related to acts of unfair competition as stipulated in Article 5 of this Law and, where necessary, ordering the operator under investigation to explain the source and quantity of the goods, temporarily stop selling them pending inspection, and not to remove, conceal or destroy them.

The Indonesian Business Competition Supervisory Commission is an independent institution outside the Government and is directly responsible to the President. The Commission's duties are listed in Article 35, among others:

1. assessing agreements that may result in monopolistic and unfair business competition practices;
2. to assess business activities and or actions of business actors that may result in monopolistic practices and or unfair business competition;

3. conducting an assessment of whether or not there is an abuse of dominant position that may result in monopolistic practices and/or unfair business competition;
4. take action by the authority of the Commission;
5. provide advice and considerations on Government policies relating to monopolistic practices and or unfair business competition;
6. in carrying out its duties, the Business Competition Supervisory Commission also has the authority contained in Article 36, among others;
7. receive reports from the public and or from business actors on the alleged occurrence of monopolistic practices and or unfair business competition;
8. research on the alleged existence of business activities and or actions of business actors that may result in monopolistic practices and or unfair business competition;
9. to investigate and/or examine cases of alleged monopolistic practices and/or unfair business competition reported by the public or by business actors or discovered by the Commission as a result of its research;
10. conclude the results of the investigation and/or examination on the presence or absence of monopolistic practices and/or unfair business competition;
11. calling business actors who are suspected of having committed violations;
12. call and present witnesses, expert witnesses, and any person deemed to know of the offense;
13. request the assistance of investigators to present business actors, witnesses, expert witnesses, or any person who is not willing to fulfill the Commission's summons;
14. request information from Government agencies about the investigation and or examination of business actors who violate the provisions of the Law;
15. obtain, examine, and or assess letters, documents or other evidence for investigation and or examination;
16. decide and determine whether or not there is a loss on the part of other business actors or the public;
17. notify the Commission's decision to business actors suspected of monopolistic practices and/or unfair business competition;

18. impose sanctions in the form of administrative actions on business actors who violate the provisions of the Law.[30]

In its role as a business competition supervisory instrument, Law Number 5 Year 1999 has two approaches. The first approach is as a rule of reason, which implies the approach used by The Indonesian Business Competition Supervisory Commission in evaluating the effects of an agreement or certain activities that give rise to the effects referred to in Law Number 5 Year 1999. The per se illegal approach is also the principle applied in the Law. Every agreement or specific activity as a principle that states a contract or particular action is contrary to the Law without providing further information regarding the harm caused by the contract or activity. The two approach principles will indirectly intersect in competition between business actors in the digital market.[31] The Commission can contribute by stopping monopolistic practices that lead to unfair business competition, such as discrimination, exploitation of other suppliers or platforms, and exclusive agreements—various kinds of unfair business competition, including predatory pricing, exploitation of dominant positions, etcetera. Digital monopolies can prevent competition in the market and limit platform innovation.[32] Law Number 5 Year 1999 does not cover trade practices in digital markets. The definition of business actors in Law Number 5 Year 1999 is still limited to persons conducting business activities within the boundaries of the Indonesian state.

Through the theory of expediency and progressive legal theory, the formation of Regulation of the Minister of Trade Regulation Number 31 of 2023 is deemed not to provide benefits, justice and legal certainty for business actors. Through the revocation of Regulation of the Minister of Trade Number 50 of 2020 using Regulation of the Minister of Trade Number 31 of 2023, it is hoped that the new legal rules can provide benefits, especially in the field of advertising and also supervision of business actors in trade through electronic systems. Violations in the form of prohibited activities in business competition, such as monopoly, price fixing and predatory pricing, are often found in trading through electronic systems. This is undoubtedly affected by the algorithm system of the e-commerce platform, which is the key to unfair business competition that has not seen the supervision of business actors in electronic commerce.

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[30] Central Government Indonesia, "Law Number 5 Of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition" (1999).
[31] Rohmat, "Urgensi Pembentukan Undang-Undang Pasar Digital sebagai Instrumen Pengawasan Persaingan Usaha di Era Digital", *Jurnal Persaingan Usaha* 2, No. 2 (2022): 118-126, http://dx.doi.org/10.55869/kppu.v2i2.76.
[32] *Ibid*, 124.

Changes that occur in the pattern of conventional trade transactions turning to digital transactions in business competition require more strategic regulations in regulating electronic commerce. Gustav Radbruch, through the theory of legal objectives, states that there are three theories of legal objectives: justice, expediency and legal certainty. Regulations made by the government must provide a sense of justice, benefit and legal certainty for all Indonesian people. This is in line with the theory of benefit initiated by Jeremy Bentham; a regulation can be helpful if it can provide happiness for many people.

Regulations that the government has made can support the running of a suitable digital market mechanism so that the potential for monopolistic practices, price fixing and also predatory pricing in the digital market can be prevented by the supervision of the government before the formation of a Law that supports the Prohibition of Monopolistic Practices and Unfair Business Competition which has not been updated again for now. Regulation of the Minister of Trade Number 31 of 2023, supervision is stated as the Minister appointing a supervisory officer in the field of trade, in this case, the Directorate General of Consumer Protection and Commercial Order. Supervision in the Regulation of the Minister of Trade does not explain the scope of supervisory participation for the digital market, even though business competition, both conventional and digital, needs to be carried out under healthy conditions, so the role of independent institutions is needed to oversee business competition in the digital market.

The Indonesian Business Competition Supervisory Commission was formed to supervise business actors in carrying out their business so that there is no monopoly or unfair business competition. Therefore, the role of the Commission in business competition, both conventional and digital, is very influential on conducive business competition. Digital market or e-commerce is a process in the digital world that can lead to very complex business competition because it is cross-border. Therefore, a form of supervision from the Business Competition Supervisory Commission is needed, mainly because no regulation governs business competition in the digital market.

D. Conclusion

E-commerce has a positive impact on the Indonesian economy, especially for MSMEs. Currently, the electronic commerce system, especially in terms of supervision in Indonesia, still receives less attention from the government because it is constrained by Law Number 5 Year 1999 regulations. China has institution oversees online and offline business activities called the State Council. It is responsible for promoting the development, supervision, administration, and other work on e-commerce in their respective administrative regions. The conclusion is that economic growth, including micro, small, and medium enterprises (MSME), is needed to increase trade productivity. The number of businesses and MSMEs involved in e-commerce certainly affects fair business competition in trade through electronic systems in Indonesia and China. Indonesian Law Number 5 Year 1999 no longer correlates with electronic commerce, so a regulation is needed that can become a place of protection for electronic commerce. Acting Regulation of the Minister of Trade Number 31 of 2023 is urgent to prevent unfair business competition practices through licensing, advertising, and supervising e-commerce businesses. However, Regulation of the Minister of Trade Number 31 of 2023, which revokes Regulation of the Minister of Trade Number 50 of 2020, does not have the same urgency for fair business competition as China's E-Commerce Law.

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