


Legal Analysis of Digital Trade in Indonesia Based on Law Number 11 of 2008 concerning Electronic Information and Transactions

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Article Info	ABSTRACT
Keywords: Digital Trade, Electronic Transactions, Trade Law	The transformation of conventional trade into digital trade in Indonesia continues to increase along with the development of information technology. Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE) is the main legal basis that regulates this activity. This study aims to evaluate the effectiveness of the ITE Law in regulating digital trade, especially regarding consumer and business actor protection. By using the normative legal method, a legal research approach that examines the main legal materials, such as laws and regulations, legal theory, and legal concepts. This approach is also known as the literature approach, the data used uses secondary data consisting of primary, secondary, and tertiary legal materials. The data obtained were collected using literature study techniques and analyzed using analytical descriptive techniques. The results of the study show that the ITE Law still has deficiencies in protecting personal data, supervising online business actors, and public awareness of consumer rights. This study recommends regulatory updates, public education, and strengthening digital infrastructure to create a safer and more sustainable digital trade ecosystem
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INTRODUCTION

The development of information and communication technology in the last two decades has fundamentally changed the way humans conduct economic activities, including trade. In Indonesia, this transformation is marked by the increasing use of digital platforms as a means of trade. This phenomenon has not only shifted people's consumption patterns, but also created new challenges in terms of legal regulation. Data from the Indonesian Internet Service Providers Association (APJII) shows that in 2023, the number of internet users in Indonesia has reached 210 million, with significant penetration in both urban and rural sectors (APJII, 2023).

Along with the increasing use of the internet, trade transactions through digital platforms (e-commerce) have also experienced a significant spike. According to the *e-Conomy SEA 2022 report* released by Google, Temasek, and Bain & Company, the value of Indonesia's digital economy is estimated to reach USD 77 billion in 2022, with a projected increase of up to USD 130 billion in 2025. This figure makes Indonesia the largest digital market in Southeast Asia (Temasek and Bai, 2022).

However, the rapid growth of digital trade is not free from various challenges, especially in the legal aspect. Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE) and its amendments through Law Number 19 of 2016 are the main legal basis governing electronic transaction activities in Indonesia. This regulation covers various aspects, ranging from consumer protection, data security, to the legal validity of digital transactions. However, the implementation of the ITE Law often faces obstacles, both in terms of the effectiveness of supervision and public understanding of their rights in digital trade (Fitriani).

One of the main issues is the weak protection of consumers' personal data. Based on the 2022 report of the National Cyber and Crypto Agency (BSSN), there were more than 100 million attempted cyber attacks targeting the e-commerce sector in Indonesia. This shows that the existing legal framework is not yet fully capable of protecting the security of digital transactions and users' personal data (BSSN, 2022). In addition, the imbalance of information between business actors and consumers often puts consumers in a disadvantageous position, especially regarding the terms and conditions in electronic contracts (Aziz, 2018).

Another obstacle is the legal uncertainty in enforcing the rights and obligations of the parties in digital trade. For example, consumer dispute cases involving transactions through online platforms often face obstacles due to the inconsistency of regulations with the dynamics of practices in the field. In addition, the absence of specific regulations regarding the responsibilities of e-commerce platform providers further worsens the situation, especially when violations occur by third parties (Solaiman, 2017).

On the other hand, protection for business actors is also an important concern. Many small and medium enterprises (SMEs) involved in the digital trade ecosystem face challenges in meeting legal requirements, such as managing business permits and electronic tax payments. This situation can hinder the development of an inclusive and sustainable digital economy. With this background, the issue of digital trade law in Indonesia is becoming increasingly relevant to study. The complexity involving technological, economic, and social aspects requires an adaptive and responsive legal approach. Existing regulations need to be adjusted to the dynamics of technological developments and the needs of society in order to create a safe, fair, and sustainable digital trade ecosystem. Commercial law is a branch of law that regulates commercial activities, whether carried out individually or corporately, with the aim of creating legal certainty, justice, and transparency in business relations. Commercial law not only includes regulations on contracts and agreements, but also includes regulations governing market mechanisms, consumer protection, and ethical business governance (Nariswari, 2024).

Commercial law is a branch of law that regulates legal relations in economic activities and commercial transactions, both domestically and internationally. Commercial law serves as an instrument to create order, efficiency, and justice in the business world. The main principles that form the basis of commercial law are freedom of contract, good faith, and legal certainty (Ali, 2018). Historically, trade law in Indonesia has been influenced by the *Wetboek van Koophandel* (WvK) which originated from the colonial era. Although some articles of the WvK are still valid, modern regulations such as Law No. 7 of 2014 concerning Trade have

replaced many irrelevant aspects. However, technological developments force trade law to adapt to new challenges, especially in the digital context. In the global context, digital trade law is also regulated by various international instruments, such as the United Nations Commission on International Trade Law (UNCITRAL) which promotes the harmonization of e-commerce law through the Model Law on Electronic Commerce (1996). Indonesia has adopted most of these principles through the Electronic Information and Transactions Law (UU ITE, 2008).

Digital commerce involves not only legal aspects, but also ethics. Platforms must be responsible for promoting ethical business practices, such as ensuring product authenticity and not promoting excessive consumption. In terms of sustainability, digital commerce faces criticism regarding its environmental impact, especially from the logistics sector and the use of plastic packaging materials. According to the World Economic Forum (2022) report, e-commerce's contribution to global carbon emissions is estimated to reach 2.1% by 2025. This shows the importance of regulations governing sustainability in the digital commerce supply chain.

Law No. 11 of 2008 concerning Electronic Information and Transactions (UU ITE) in Indonesia is a step forward in responding to the development of information and communication technology, especially in supporting the implementation of e-commerce. This law regulates various legal aspects to provide protection and legal certainty for electronic transactions, including recognition of electronic signatures, protection of electronic documents, and dispute resolution through alternative dispute resolution or arbitration (Cahyadi, 2019). The ITE Law is an important milestone in regulating e-commerce in Indonesia. Although it has many advantages, challenges in the implementation and harmonization of the law need to be addressed immediately so that this law can provide maximum benefits for the community and business actors, and support the development of the digital economy in the global era.

METHOD

Data collection techniques are carried out through document studies, namely tracing and analyzing legal documents and related literature. This document study aims to explore legal norms, legal principles, and implementation of regulations related to digital trade in Indonesia. Data Analysis Techniques: The data obtained are analyzed qualitatively using descriptive analysis methods. This analysis aims to: Identify and classify legal norms in regulations related to digital trade; Compare existing regulations with practices in the field to assess their suitability. Examine weaknesses or legal loopholes in digital trade regulations. Qualitative descriptive methods allow researchers to describe phenomena systematically and provide an in-depth understanding of the regulatory context being studied. With this approach, the results of the analysis are expected to provide a comprehensive picture of digital trade regulations in Indonesia, as well as provide strategic recommendations for improving the law.

RESULTS AND DISCUSSION

When it comes to digital trade, Indonesia still faces major challenges compared to developed

countries such as the United States and the European Union. In the European Union, for example, the implementation of the General Data Protection Regulation (GDPR) is the gold standard in personal data protection which directly affects consumer trust in digital platforms. Meanwhile, in Indonesia, although the Personal Data Protection Law (Law No. 27 of 2022) has been passed, its implementation is still in its early stages, so its effectiveness is not yet optimal. In addition, in terms of consumer protection, the European Consumer Protection Cooperation (CPC) provides a cross-country mechanism to resolve e-commerce disputes. Compare this with Indonesia, which still relies on conventional dispute resolution through the Consumer Dispute Resolution Agency (BPSK), which is often unresponsive to the dynamics of digital trade. This indicates that Indonesia needs to catch up in providing a more efficient and technology-based dispute resolution mechanism.

Micro, Small, and Medium Enterprises (MSMEs) are the backbone of the Indonesian economy, contributing more than 60% of Gross Domestic Product (GDP) in 2022 (Muljatno, 2020). However, in digital commerce, MSMEs face significant challenges, such as limited access to technology and minimal understanding of regulations. For example, Article 15 of the ITE Law regulates the responsibility of electronic system organizers for losses experienced by users. However, the implementation of this article is often biased against small business actors, who do not have the legal resources to protect themselves from the policies of large platforms. A study by Suhendar (2022) showed that 45% of MSMEs felt disadvantaged by the standard clauses imposed by large e-commerce platforms, but only a few filed objections due to a lack of legal literacy (Nurhayati, 2023).

One solution that is starting to be implemented in various countries to overcome the problem of trust in digital trade is blockchain technology. Blockchain allows transactions to be recorded transparently and immutably, thereby increasing accountability. In Indonesia, blockchain adoption in e-commerce is still limited, despite its great potential to solve problems such as fraud and transaction disputes. For example, blockchain-based platforms can ensure that product descriptions match the goods delivered, because every step in the supply chain is recorded digitally. This is relevant to Article 9 of the ITE Law, which requires platform providers to provide correct and non-misleading information.

Cybersecurity is one of the crucial issues in digital commerce. A report from BSSN noted that cyber attacks on e-commerce platforms increased by 32% compared to the previous year. These attacks include data theft, phishing, and manipulation of digital transactions (BSSN, 2022). Existing regulations, such as Article 40 of the ITE Law, do regulate the obligation of electronic system organizers to protect personal data. However, in practice, many platforms have not implemented adequate security measures, such as data encryption and multi-factor authentication. As a solution, the government can encourage the use of international security standards, such as ISO 27001, to mitigate this risk.

Digital commerce in Indonesia has experienced rapid growth over the past decade, supported by internet penetration reaching 78% in 2023 (APJII Data, 2023) and the growth of increasingly active digital consumers. However, the existence of adequate regulations to manage this growth is a challenge in itself. Normatively, digital trade law is regulated by several main regulations, such as:

1. ITE Law (Law No. 11 of 2008), which is the main legal basis for electronic transactions.
2. PP PSTE (PP No. 71 of 2019), which regulates the implementation of electronic systems and transactions.
3. Consumer Protection Law (Law No. 8 of 1999), which provides a framework for consumer protection.
4. Personal Data Protection Law (Law No. 27 of 2022), which is an important milestone in maintaining the security of consumers' personal data.

In theory, this regulation reflects the government's efforts to provide legal certainty for business actors and consumers. However, in practice, there are still many obstacles, such as unclear interpretation of legal norms, weak supervision, and lack of supporting infrastructure. For example, Article 21 of the PP PSTE regulates the obligation of platform providers to ensure the security of user data. However, a report from the National Cyber and Crypto Agency (BSSN) shows that in 2022 there were more than 2,000 incidents of personal data leaks on digital platforms, most of which involved large e-commerce players. This shows a significant gap between regulation and implementation in the field.

Consumer protection is a critical aspect of digital commerce. Based on a report from the Ministry of Trade (2023), 60% of consumer complaints related to e-commerce focus on products that do not match the description, fraud, and inefficient returns. Major weaknesses in consumer protection include:

1. Information Imbalance

In digital transactions, consumers are often in a less informed position than business actors. Article 9 of the ITE Law stipulates that electronic system organizers are required to present accurate information that can be accessed by users. However, in reality, many platforms still use standard clauses that are detrimental to consumers (Setiadi, 2017).

2. Lack of Dispute Resolution Mechanism

The Consumer Protection Law requires business actors to resolve disputes with consumers fairly. However, in practice, many consumer disputes are not resolved because the dispute resolution mechanism is slow and non-transparent. A study by Rahardjo (2021) shows that only 30% of total consumer complaints in e-commerce receive satisfactory solutions.

3. Weak Law Enforcement

Although regulations are in place, weak government oversight has led to widespread violations of the law. For example, supervision of platforms selling illegal products is still minimal, resulting in many consumers being harmed.

One of the cases that emerged was a dispute between consumers and a major e-commerce platform in 2022, where consumers reported that the goods received did not match the description. Consumers had difficulty filing claims because the platform used a standard clause stating that the responsibility lies entirely with the seller.

In this case, consumers referred to Article 19 of the Consumer Protection Law, which requires business actors to compensate for losses experienced by consumers due to defective or non-conforming products. The court eventually ruled in favor of the consumers and ordered

the platform to provide compensation. This case shows that digital dispute resolution mechanisms need reform to be faster and more efficient.

Some of the main challenges faced in implementing digital trade laws include: Rapid Technological Development: Regulations are often unable to keep up with technological developments, resulting in legal loopholes; Lack of Legal Education: Many small business actors and consumers do not yet understand their rights and obligations in digital trade; Limited Inter-Institutional Collaboration: Synergy between the government, BSSN, OJK, and the Ministry of Trade still needs to be improved to strengthen supervision.

Possible solutions include: Improving Digital Literacy: The government needs to educate the public about their rights and obligations in digital trade; Improving Supervision: Tighter supervision of e-commerce platforms is needed to ensure compliance with regulations; Improving Regulations: The government needs to review and improve existing regulations to be more adaptive to technological developments. Digital trade regulations in Indonesia must be directed at strengthening consumer and business protection through an inclusive and collaborative approach. The development of transparent, safe, and innovative digital platforms must be a priority in national digital trade policies.

Based on the analysis above, several recommendations can be given to strengthen digital trade regulations in Indonesia: Revision and Harmonization of Regulations: Regulations such as the ITE Law, Consumer Protection Law, and Personal Data Protection Law need to be harmonized to avoid overlapping regulations; Strengthening the Role of BPSK and OJK: These institutions need to be supported by digital technology to facilitate fast and efficient dispute resolution; Public-Private Collaboration: The government must work with e-commerce platforms and technology providers to ensure compliance with regulations and improve digital literacy in the community; Increasing the Capacity of Law Enforcers: Law enforcement officers need to be given special training on digital crimes to handle increasingly complex cases in the digital era.

Although digital commerce is growing rapidly in Indonesia, the challenge of equal access remains a major issue. Data from the Indonesian Internet Service Providers Association (APJII) in 2022 showed that the internet penetration rate in urban areas reached 78%, while in rural areas it was only 45%. This inequality affects the participation of business actors in remote areas in the digital ecosystem. This is exacerbated by the lack of supporting infrastructure, such as logistics networks and digital financial services. Although government programs such as the Go Digital UMKM Movement have succeeded in helping more than 20 million UMKM enter the e-commerce platform, its impact is still limited to areas with adequate infrastructure. Therefore, digital commerce policies in Indonesia must consider the aspect of inclusivity through the development of equitable digital infrastructure.

Digital commerce also presents challenges in terms of sustainability and business ethics. Many e-commerce platforms encourage excessive consumption through aggressive promotions, such as massive discounts and flash sale campaigns. While economically beneficial, these practices often have negative impacts on the environment due to increased packaging waste and carbon emissions from logistics. In terms of regulation, Indonesia does not yet have specific rules related to sustainability in digital commerce. Countries such as

Germany and France have begun to integrate sustainability principles into their e-commerce policies. For example, they require platforms to report the carbon footprint of their operations. A similar implementation in Indonesia could increase competitiveness while strengthening commitment to the sustainable development goals (SDGs).

E-commerce platforms play an important role not only as transaction facilitators but also as educational agents for consumers. Low consumer literacy is often the main cause of disputes in digital commerce, especially regarding the understanding of the terms and conditions of service. For example, Article 18 of Law No. 8 of 1999 concerning Consumer Protection stipulates that terms and conditions that are detrimental to consumers are considered invalid. However, many consumers in Indonesia do not understand their rights in digital transactions. A study by Nurcholis (2021) shows that only 35% of e-commerce consumers in Indonesia read the terms and conditions before making a transaction. Therefore, platforms must be required to provide clear and educational information to consumers to improve digital literacy (Nurkholis, 2022).

In facing the challenges of globalization, regional collaboration can be a solution to strengthen digital trade regulations. ASEAN, through the ASEAN Agreement on Electronic Commerce signed in 2019, has established a framework to facilitate digital trade between member countries. However, the implementation of this agreement in Indonesia still requires harmonization with domestic regulations, such as the ITE Law and the Trade Law. For example, data protection policies between ASEAN countries have not been fully integrated, thus hampering the safe flow of data across borders. By adopting more integrated regional standards, Indonesia can strengthen its strategic position as a major player in digital trade in the Southeast Asian region.

The COVID-19 pandemic has accelerated digital transformation in Indonesia, including in the trade sector. In 2020, the value of e-commerce transactions in Indonesia increased by 54% compared to the previous year (Bank Indonesia, 2021). However, this increase was also accompanied by an increase in cases of legal violations, such as online fraud and misuse of personal data (Pandemic Driving Digitalization, 2025). Existing regulations are often not flexible enough to keep up with rapid changes in digital trade patterns. For example, the provisions in Law No. 11 of 2008 concerning Information and Electronic Transactions do not fully cover new practices such as sales through social media. This shows the urgent need to revise regulations that are more adaptive to the pandemic situation and technological developments.

CONCLUSION

Based on the analysis of the implementation of digital trade regulations in Indonesia, it can be concluded that existing legal regulations are not fully effective in accommodating the needs and challenges of digital trade. Although Law No. 11 of 2008 concerning Electronic Information and Transactions (UU ITE) and Law No. 7 of 2014 concerning Trade provide a basic legal framework, these regulations still have many weaknesses. Some of the main issues found include: Limited consumer protection, especially in terms of online dispute resolution and misuse of personal data; Inconsistency between existing regulations and evolving digital

trade practices, such as sales through social media platforms; Inequality of access to digital infrastructure that impacts the participation of MSMEs in remote areas; Lack of attention to aspects of sustainability and ethics in digital trade. Thus, a more adaptive and holistic regulatory update is needed to accommodate the dynamics of digital trade while protecting all parties involved. To improve the effectiveness of digital trade regulations in Indonesia, here are some recommendations: For the Government: Revise the ITE Law and the Trade Law to include specific provisions related to personal data protection, sustainability, and transaction security on digital platforms ; Build a more equitable digital infrastructure throughout Indonesia to ensure inclusivity in the digital trade ecosystem. For Business Actors: Develop a transparent consumer protection system, including online dispute resolution procedures that are easily accessible to users. For Researchers and Academics: Develop comparative studies to understand best practices for digital trade regulations in other countries and their implementation in Indonesia. For the Community and Consumers: Increase digital literacy so that consumers are able to understand the risks and their rights in electronic transactions. These recommendations are expected to create a safe, inclusive, and sustainable digital trade ecosystem, while increasing Indonesia's competitiveness in the global digital economy.

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