



## COMPARISON OF ELECTRONIC COMMERCE REGULATIONS IN INDONESIA AND THAILAND

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### ABSTRACT

The development of electronic commerce (e-commerce) has brought significant changes to the national and regional trade systems in the ASEAN region. Indonesia and Thailand, as countries with rapid digital economic growth, have each established their own e-commerce regulatory frameworks, but with different legal approaches. This research aims to analyze and compare the regulation of electronic commerce in Indonesia and Thailand, particularly in the aspects of consumer protection and legal certainty of digital transactions. This study employs a normative legal research method with a legislative and comparative approach. The research results show that Indonesia emphasizes consumer protection through the Consumer Protection Law, the Electronic Information and Transactions Law, and Government Regulation Number 80 of 2019 concerning Electronic System Trade, while Thailand places more emphasis on the legal recognition of electronic transactions and digital system security through the Electronic Transactions Act B.E. 2544 (2001), the Consumer Protection Act (No. 4) B.E. 2562 (2019), and the Computer Crime Act B.E. 2550 (2007).

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## 1. INTRODUCTION

The era of global digitalization has revolutionized trade systems through the development of information technology, driving the growth of electronic commerce (e-commerce) as a strategic instrument for market expansion. In the Southeast Asian region, e-commerce has rapidly increased along with high internet penetration, but it has also raised legal challenges related to data security, information transparency, and consumer protection.

In Indonesia, e-commerce regulation is based on Law No. 8 of 1999 on Consumer Protection, which emphasizes consumers' rights to comfort and security (Article 4), Law No. 1 of 2024 on Electronic Information and Transactions, which provides legal recognition of electronic documents (Article 5, paragraph 1), and Government Regulation No. 80 of 2019, which requires businesses to provide accurate information and ensure data security (Article 3). Thailand regulates e-commerce through an approach that emphasizes the legal recognition of electronic transactions and the security of digital systems. Electronic Transactions Act B.E. 2544 (2001) affirms that electronic transactions have the same legal force as conventional transactions (Section 7), [3] reinforced by the Computer Crime Act B.E. 2550 (2007) which aims to prevent and address computer system abuse and cybercrimes that could harm parties in electronic transactions. This approach demonstrates Thailand's orientation toward legal certainty and the reliability of electronic systems as the main foundation of digital commerce, and the Consumer Protection Act (No. 4) B.E. 2562 (2019) which expands the responsibilities of businesses in digital transactions and strengthens the resolution of electronic disputes [5].

The difference in regulatory approaches between Indonesia and Thailand raises questions about the effectiveness of consumer protection and legal certainty. Indonesia emphasizes consumer protection through national law, while Thailand focuses on the legitimacy of electronic transactions and the reliability of digital systems. [6] From the perspective of legal protection theory, consumer protection often conflicts with the principle of freedom of contract and the limitations of jurisdiction over foreign business actors [7].

The urgency of this research lies in the rapid growth of cross-border e-commerce transactions that has not yet been fully matched by regulatory harmonization in ASEAN. This comparative legal study is important to provide theoretical contributions to the development of electronic commerce law and to serve as a reference for policymakers in drafting adaptive, fair, and consumer-oriented regulations.

Previous research by Alya Anindita Mahesswari focused on consumer protection in cross-border e-commerce transactions in Indonesia, while Dedon Dianta examined the urgency of e-commerce law enforcement from a normative legal perspective. This research is novel because it employs a comparative legal approach between Indonesia and Thailand to analyze regulatory orientation differences, providing a new perspective in the study of electronic commerce law in the ASEAN region.

## 2. RESEARCH METHODS

This research uses a normative legal research method that focuses on the analysis of positive legal norms through the examination of legislation, doctrines, and relevant legal principles, [8] with a statute approach and a comparative approach to identify the similarities and differences in e-commerce regulations in Indonesia and Thailand. [9] This research is descriptive, [10] with data sources including divine revelation QS. An-Nisa verse 29 as the foundation of muamalah values [8] and secondary data covering primary, secondary, and tertiary legal materials, collected through offline and online literature studies, then qualitatively analyzed through the stages of classification, systematization, comparative analysis, interpretation, and conclusion drawing [11].

## 3. RESULT AND ANALYSIS

### Regulation of Electronic Commerce (E-Commerce) in Indonesia and Thailand

The legal regulation of E-Commerce in Indonesia is based on several national legal instruments that complement each other and form a comprehensive regulatory framework. The development of information technology and the acceleration of digital transactions demand clear legal certainty to protect the interests of both business actors and consumers within the electronic trade ecosystem.

Law Number 1 of 2024 is the main foundation for regulating electronic transactions in Indonesia, replacing Law Number 19 of 2016. This law regulates electronic information and transactions, electronic signatures, the administration of electronic systems, as well as criminal aspects related to the misuse of information technology. Article 1 number 2 of the ITE Law defines electronic transactions as "legal acts conducted using computers, computer networks, and/or other electronic media." In the context of e-commerce, Law Number 1 of 2024 provides legal recognition to electronic documents and electronic signatures as valid evidence. Article 5 paragraph (1) of the ITE Law states that "Electronic Information and/or Electronic Documents and/or their printed results are valid legal evidence." [12]

The UUPK becomes a legal instrument that guarantees consumer rights regarding products and services marketed online. This law regulates the principles of fairness, balance, and consumer safety in trade activities, including E-Commerce transactions. [13] In the context of E-Commerce, the UUPK provides legal protection for consumers, including the right to accurate information, personal data security, and the responsibility of business actors for losses arising from product defects or breaches of online agreements. PP No. 80 of 2019 is a significant milestone in Indonesia's digital legal system as it comprehensively regulates electronic commerce governance, including the obligation for business actors to provide accurate product information, ensure the security of consumer personal data, and offer effective dispute resolution mechanisms. [14] Article 4 of the PMSE Government Regulation requires PMSE business actors to have a clear digital identity, provide complete and accurate data and information, and ensure the security and confidentiality of consumer personal data [15].

In the practice of electronic commerce, business operators are required to apply the principles of prudence, system security, efficiency, and consumer protection in accordance with the provisions of the legislation. However, the implementation of e-commerce transactions in Indonesia still tends to rely on trust without being balanced by the application of adequate technical security standards, such as site security, payment channel security, and identity verification of the parties involved. This condition often leads to discrepancies between the product information displayed on online platforms and the goods received by consumers, potentially harming consumers since transactions are conducted without direct meetings and without physical inspection of the goods being sold [16].

The existence of consumer protection can serve as a foundation in safeguarding consumers to ensure they continue to feel comfortable and secure during the buying and selling transaction process. In terms of protecting consumers, it is hoped that the best service can be provided to achieve welfare and prosperity in the transaction process. However, in the transaction process on online shopping sites, there are still business actors who exploit

the situation to the detriment of consumers. So that business actors can better fulfill their obligations in marketing the goods they sell, regardless of the product. [17]

Thus, Indonesia has a fairly strong legal framework to support E-Commerce practices, but still faces implementation challenges, particularly in cross-border law enforcement, oversight of foreign business actors, and harmonization among law enforcement agencies.[18] The main challenges include limited resources for monitoring rapidly evolving digital platforms, difficulties in reaching business actors without a permanent legal entity in Indonesia, and the complexity of resolving cross-border transaction disputes involving different jurisdictions [19].

In Indonesia, the ITE Law states that electronic transactions can be documented in electronic contracts. In these electronic contracts, the choice of law to be used in resolving disputes can be specified. If no legal choice is made, the law based on the principles of international private law will apply. Likewise, with the choice of which court forum has jurisdiction. The parties in an e-commerce transaction can determine which court forum, arbitration, or other alternative dispute resolution institution is chosen in the e-contract. And if no forum is chosen, the dispute resolution will revert to the principles of International Civil Law. [20]

The legal framework governing electronic transactions in Thailand is built through a number of regulations that play a fundamental role in ensuring legal certainty, security, and public trust in E-Commerce practices. Electronic Transactions Act B.E. 2544 (2001) provides legal recognition to electronic transactions and digital signatures, affirming that electronic documents and agreements have the same legal force as conventional paper-based documents. [21] ETA regulates various civil and commercial transactions through electronic media and aims to create legal certainty, strengthen consumer protection, and support the development of E-Commerce by providing legal legitimacy to online activities. [22] Consumer Protection Act (No. 4) B.E. 2562 (2019) is a comprehensive law that regulates consumer protection in Thailand, including in E-Commerce transactions. This law has been amended several times to accommodate the development of digital transactions and E-Commerce. Section 4 establishes the basic rights of consumers, which include the right to receive accurate, complete, and non-misleading information about goods and services, the right to freely choose goods and services, the right to safety from hazardous goods and services, the right to fair compensation for losses suffered, and the right to have their opinions heard in the formulation of consumer protection policies.

Sections 32-35 of the Consumer Protection Act specifically regulate distance selling, which is highly relevant to E-Commerce transactions. These sections include the obligation for business operators to provide clear and complete information about their identity, address, and contact details, the consumer's right to cancel the contract within a 7-day period from receiving the goods (cooling-off period), the obligation for business operators to refund payments within 15 days if the consumer cancels the transaction, and the prohibition of misleading trade practices in online advertisements. Specifically for E-Commerce transactions, the 2019 amendment added provisions requiring digital platforms to verify the identity of sellers using their platform, provide easily accessible complaint mechanisms, facilitate dispute resolution between consumers and sellers, and be jointly responsible with sellers in certain cases. [5]

The Computer Crime Act B.E. 2550 (2007) has become a crucial pillar in the establishment of the cyber legal regime in Thailand, regulating various offenses in the digital realm, including unauthorized access to computer systems, data manipulation or destruction, and the dissemination of misleading information. [23] This regulation aims to create a secure digital ecosystem while simultaneously increasing public trust in conducting electronic transactions. Both Indonesia and Thailand have developed comprehensive legal frameworks to regulate electronic commerce in response to the advancement of information technology and the acceleration of digital transactions. Both Indonesia through the ITE Law Number 1 of 2024 and Thailand through the Electronic Transactions Act B.E. 2544 (2001) affirm that electronic information and documents have the same legal force as conventional documents. Both countries also have specific regulations governing consumer protection in digital transactions.

### **Comparison of E-Commerce Regulations in Indonesia and Thailand**

Although they have the same goals, there are significant differences in the structure and approach to E-Commerce regulation in both countries. Thailand adopts a more integrated approach by establishing a special agency, the Electronic Transactions Development Agency (ETDA), which serves as a single authority to oversee, develop, and ensure the security of electronic transactions. [24] In contrast, Indonesia uses a sectoral approach by involving various ministries and agencies in regulating E-Commerce, such as the Ministry of Trade, the Ministry of Communication and Information, and the National Consumer Protection Agency. [19]

In terms of consumer protection, Indonesia through PP PMSE Number 80 of 2019 requires business actors to have a clear digital identity, provide complete and accurate product information, ensure the security of consumer personal data, and offer transaction cancellation and return features. [15] Thailand, through a combination of the Electronic Transactions Act, Consumer Protection Act B.E. 2522 (1979) and its amendments, also imposes

similar obligations with a stronger emphasis on licensing and certification aspects.[5] E-Commerce operators in Thailand are required to have a special license as a form of official regulation, which is not explicitly mandated in Indonesian regulations. [22].

Thailand provides more specific protections for consumers in distance selling transactions, including the right to cancel a contract within 7 days after receiving the goods without needing to provide a reason. [5] The dispute resolution mechanism in Thailand is more structured with full support from the ETDA and the Office of the Consumer Protection Board in facilitating electronic dispute resolution. [21] Indonesia regulates dispute resolution thru various channels, including the Consumer Dispute Settlement Agency (BPSK), arbitration, and courts, but its implementation still faces challenges related to effectiveness and accessibility, especially in cross-border transactions. [25]

Thailand has an advantage in the aspect of cybersecurity thru the Computer Crime Act B.E. 2550 (2007), which comprehensively regulates cybercrimes with strict criminal penalties and broad authority for authorities to conduct investigations and prosecutions. [23] In terms of personal data protection, Thailand has the Personal Data Protection Act (PDPA) B.E. 2562 (2019) which adopts international standards similar to the European Union's General Data Protection Regulation (GDPR). Indonesia has just enacted Law Number 27 of 2022 on Personal Data Protection (PDP Law) which will take effect in 2024. [26]

The most striking difference between Indonesia and Thailand lies in the institutional structure of E-Commerce supervision. Thailand has the ETDA as a special agency responsible for developing information technology infrastructure, providing digital signature certification, overseeing E-Commerce operators, and educating the public. [27] In addition to ETDA, Thailand also has the Office of the Consumer Protection Board (OCPB) specifically to oversee the implementation of consumer protection. [5] Indonesia does not have a single institution equivalent to the ETDA; oversight is carried out by various agencies according to their respective authorities. [28]

Indonesia is still focused on regulating E-Commerce at the national level, although the PMSE Regulation has mandated that foreign businesses engaging in transactions with Indonesian consumers appoint a legal representative in Indonesia. [18] Thailand adopts a more comprehensive approach to cross-border transactions by emphasizing aspects of legal certainty and the security of international digital transactions. [29] ETDA is also active in international cooperation for the harmonization of electronic transaction standards, including within the ASEAN framework and bilateral cooperation with various countries. [24]

The Indonesian legal framework, which involves various regulatory instruments, provides extensive protection coverage and regulatory flexibility that can be adjusted to local conditions and technological developments. [30][25] However, the main weakness of the Indonesian system lies in the suboptimal inter-agency coordination and the absence of a single institution specifically handling E-Commerce.[28] Indonesia also still faces challenges in law enforcement against foreign business actors, cross-border dispute resolution, and improving consumer digital literacy. [22]

Thailand has an advantage in terms of an integrated institutional structure thru ETDA and OCPB, a strict licensing and certification system, comprehensive and adaptive consumer protection, and a more stringent and structured law enforcement mechanism. [5] However, the strict licensing system in Thailand can be a barrier for small businesses and startups to enter the E-Commerce market, and the highly centralized approach can pose risks of excessive bureaucracy and lack of flexibility. [29]

The differences in approach between Indonesia and Thailand in regulating E-Commerce reflect broader challenges in the effort to harmonize digital trade laws in the ASEAN region. Indonesia can learn from Thailand in terms of integrated institutional structures and effective oversight systems, while Thailand can adopt Indonesia's more flexible and inclusive approach toward small and medium enterprises. [31]

#### 4. CONCLUSION

This research shows that Indonesia and Thailand have different approaches to regulating e-commerce, although both provide legal recognition of electronic transactions. Indonesia emphasizes consumer protection thru a sectoral approach involving various agencies using the Consumer Protection Law, the ITE Law, and the PMSE Regulation, but faces inter-agency coordination challenges. Meanwhile, Thailand focuses more on legal certainty and the security of digital systems thru an integrated approach with specialized agencies ETDA and OCPB, which implement the Electronic Transactions Act, Consumer Protection Act, and Computer Crime Act, with a more effective oversight structure, although its licensing system may hinder small businesses. These differences in regulatory orientation reflect the challenges of harmonizing digital trade laws in the ASEAN region, but both approaches can complement each other to create an adaptive, fair, and consumer protection-oriented e-commerce regulatory framework at the regional level.

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