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Research Report

Exploring Online Reviews in Indonesia: Impacts on UGC Platforms and Consumers

Policy Paper, No. 62

Provided in Cooperation with:
Center for Indonesian Policy Studies (CIPS), Jakarta

Suggested Citation: Nidhal, Muhammad; Indrayadi, Sharfina; Budiman, Louis; Sutrisna, Aang (2024) : Exploring Online Reviews in Indonesia: Impacts on UGC Platforms and Consumers, Policy Paper, No. 62, Center for Indonesian Policy Studies (CIPS), Jakarta

This Version is available at:
https://hdl.handle.net/10419/301099.2

CIPS
Center for Indonesian Policy Studies

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Exploring Online Reviews in Indonesia: Impacts on UGC Platforms and Consumers

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www.cips-indonesia.org

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Jakarta, Indonesia

June, 2024

Acknowledgement:

This study is part of The Food Investigator Game Program, managed by the Global Alliance for Improved Nutrition in collaboration with the Indonesian Ministry of Health, funded by the Fondation Botnar.

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GLOSSARY

Anti-SLAPP:
Anti-Strategic Lawsuit Against Public Participation

BPKN:
Badan Perlindungan Konsumen Nasional (National Consumer Protection Agency)

BPOM:
Badan Pengawas Obat dan Makanan (Indonesian Food and Drug Authority)

BPSK:
Badan Penyelesaian Sengketa Konsumen (Consumer Dispute Settlement Agency)

CP Law:
Consumer Protection Law

CRFA:
Consumer Review Fairness Act

CRIL:
Consumer Rights and Interests Protection Law

DSA:
Digital Services Act

EDI:
electronic data interchange

EIT Law:
Electronic Information and Transactions Law

ESO:
electronic system organizer

EU:
European Union

FTC:
Federal Trade Commission

GAIN:
Global Alliance for Improved Nutrition

GDPR:
General Data Protection Regulation

GR:
Government Regulation

MOCI:
Ministry of Communications and Informatics

LPKSM:
Lembaga Perlindungan Konsumen Swadaya Masyarakat (Community-Based Independent Consumer Protection Agency)

OECD:
Organization for Economic Co-operation and Development

PDP:
personal data protection

Stranas-PK:
Strategi Nasional Perlindungan Konsumen (National Strategy for Consumer Protection)

UGC:
user-generated content

US:
United States

EXECUTIVE SUMMARY

The rapid development of technology and the digital economy has enabled every individual as a consumer to share their opinions with other users through reviews. Online reviews, as an integral part of the digital economy, are among the key factors that influence consumer behavior and purchase decisions. While the proliferation of online review practices can benefit both businesses and consumers, challenges remain in terms of the quality and reliability of the reviews, complexity of content moderation, and data privacy and protection issues.

In the online review ecosystem, consumers—as the reviewers—and platforms—as the review system providers—are the primary actors, each playing important roles. In its practice, Law No. 8/1999 on Consumer Protection protects the rights and governs the obligations of consumers as reviewers. Meanwhile, user-generated content (UGC) platforms are responsible for evaluating and responding to the review contents, as regulated under the Minister of Communications and Informatics (MOCI) Regulation No. 5/2020 on Electronic System Organizers (ESOs) in the Private Sector. The interactions between them also imply new rights and obligations related to data protection in accordance with Law No. 27/2022 on Personal Data Protection (PDP Law), which necessitates attention from all involved parties.

Primary challenges in the online review ecosystem are the quality and reliability of the review content itself. Fake, inaccurate, and incentive-based reviews often have detrimental effects on both businesses and consumers. Reviewers also risk being sued, particularly related to defamation and privacy violations. Meanwhile, UGC platforms grapple with the complexity of content moderation and the protection of user data, necessitating preventive strategies and transparent communication to uphold integrity and user trust within the online review system.

Currently, there is no specific regulation in Indonesia that comprehensively regulates online review. This calls for the need to amend the Consumer Protection Law to better address consumer protection challenges in the digital era. Additionally, ambiguity within MOCI Regulation No. 5/2020 on what constitutes content that are deemed to be "creating public disturbance and disrupting public order" causes dilemmas in filtering contents on UGC platforms. Moreover, ensuring the security of PDP emphasizes aspects such as clear and transparent legal certainty. The responsibility for managing user data highlights the urgency of establishing a neutral, independent, and objective supervisory agency.

This study provides several elements of policy recommendations to ensure the sustainability of the online review ecosystem. First, there is a need to expedite the revisions of the Consumer Protection Law, incorporating the rights and obligations of digital consumers to ensure a safe and secure reviewing process. Furthermore, to ensure effective content moderation on platforms, it is imperative to establish clear definitions for contents that are considered harmful, as well as exercise the right to due process for platforms in cases of receiving takedown requests to contents that violate rules. Lastly, the establishment of an independent PDP authority is increasingly urgent to ensure objective supervision of personal data practices.

ONLINE REVIEWS

In loose terms, online reviews are evaluations in the forms of opinions, responses, or comments on a business, product, or service through digital platforms. These reviews can be in the forms of text, images, or videos that provide more detailed information about users' experiences with the product or service (Riadi, 2023). Online reviews and ratings by consumers are most predominantly found in the hospitality and travel, restaurants and food services, health and medical, as well as retail and e-commerce industries (Serrano, 2020). There are two categories of reviewers: (1) end consumers who provide firsthand reviews from their actual perspectives; and (2) endorsers appointed by companies or brands to endorse their products or services (Suyatno & CIPS Learning Hub, 2023). Reviewers are categorized in such a way based on the nature of reviews they produce; endorsers tend to produce incentive-based reviews, whereas end consumers are more likely to provide honest and authentic reviews.

Despite the different categories of reviewers, the types of review can have varying implications for a business' reputation from a consumer's standpoint. According to an Organization for Economic Co-operation and Development (OECD) data (2019), consumers generally pay more attention to negative reviews than positive ones. However, some evidence shows that consumers tend to be more interested in purchasing products that have both positive and negative reviews, rather than just positive reviews. The presence of negative reviews among other positive reviews makes the overall review appear more authentic (OECD, 2019b). However, the practice of leaving negative reviews often carries negative impacts on both businesses and consumers, and in some cases, lead to potential legal repercussions for consumers as the reviewers/raters.

Online review practices have far-reaching implications not only for businesses and consumers but also for digital platforms, particularly those with user-generated content (UGC) models—whose main activities rely on users' content dissemination. In Indonesia, the growth and relevance of UGC platforms are closely linked to the increasing internet penetration (78% in 2023) and smartphone users (128% in 2023) (APJII, 2023; Saskia & Pertiwi, 2023). In the context of online reviews, UGC platforms function as mediators that facilitate and enable interactions between users, businesses, and other parties within the business and review ecosystem. In order to maintain good credibility, reputation, and user engagement, platform providers need to maintain the quality of interactions and reviews on their platform. Nevertheless, the growth and relevance of UGC platforms for users also pose challenges, including issues related to the complexities of content moderation, data security and privacy concerns, and the dissemination of false and misleading information, all of which will be discussed further in subsequent sections.

CHALLENGES AND RISKS OF ONLINE REVIEWS

Despite its benefits for consumers, businesses, and UGC platforms, the development of online review activities is not without caveats. The sheer volume of online reviews has also created challenges in terms of their quality and reliability. Not all reviews and ratings are authentic, honest, or relevant. Moreover, in the context of consumer data protection, there are risks related to consumer data privacy and legal implications resulting from honest and critical reviews. These risks affect the content moderation systems used by the UGC platforms in managing the types of review content while simultaneously creating a safe digital environment for user privacy.

Misleading and Harmful Consumer Reviews

The quality and reliability of consumer reviews are key aspects of the online review ecosystem, both in terms of impact and the challenges they pose. Some of the challenges include fake and negative reviews, inaccurate and biased reviews, as well as incentive-based reviews aimed at either promoting products and services or discrediting competitors (OECD, 2019a). Several studies found that large volumes of fake reviews that tend to be negative—which are not based on real experiences and depict unfavorable experiences—can negatively disrupt the e-commerce market (European Commission, 2014). In Indonesia, the wide use of fake reviews and ratings has led to the emergence of fake review and rating services across e-commerce platforms at relatively affordable prices.

"The quality and reliability of consumer reviews are key aspects of the online review ecosystem, both in terms of impact and the challenges they pose."

The subsequent challenge revolves around biased reviews influenced by various behavioral biases, notably social influence bias, which can trigger both positive and negative reviews (Filieri et al., 2021; Rozin & Royzman, 2001). Positive bias often stems from a desire to maintain good relationships or being influenced by other positive reviews. Conversely, negative bias more often occurs due to humans' tendency to weigh negative experiences when making decisions. Meanwhile, incentive-based or cash-for-review reviews are used to boost business reputation. The increasing number of incentive-based reviews raises ethical issues, resulting in lack of authenticity and undermining consumer trust (Cabral & Li, 2015). As consumers are increasingly relying on online reviews to inform their purchasing decisions, it is imperative for businesses and review platforms to prioritize transparency, authenticity, and ethical practices to maintain the integrity of the review system.

Besides the challenges related to fake and misleading reviews, reviewers also face legal risks, especially regarding potential defamation or privacy violations. The most common legal claim related to online reviews is defamation, which can result in financial losses or reputational damages to the targeted individuals or businesses. Law No. 11/2008 on Electronic Information and Transactions (EIT Law), as amended in the first amendment of EIT Law 2016 and further revised in the second amendment of EIT Law 2024, has become the most frequently used legal

weapon in the context of defamation, calumny, hoax, and libel[1] (Listiawati, 2023). Real examples of criminal charges under the EIT Law include the Prita vs Omni Hospital case in 2008 and the recent Om Polos Banget case in 2023.

> "The most common legal claim related to online reviews is defamation, which can result in financial losses or reputational damages to the targeted individuals or businesses."

Box 1.
Case Study - The Governance of Online Reviews in the United States

The consumer review ecosystem in the United States (US) stands as one of the most advanced among its counterparts in other developed countries. The trend of online reviews has surged since the emergence of user-based platforms, such as Yelp and Facebook, in 2004 (Sprague, 2023). This trend has seen significant growth post-2020, with Google, Yelp, and Facebook dominating as the leading platforms boasting the largest reviewer bases to date.

Accompanying this rapid growth of online review is a robust regime of online consumer protection. Both federal and state laws, alongside enforcement agencies, play integral roles in ensuring consumer rights are upheld in the digital sphere. The US Federal Trade Commission (FTC) is the main federal agency responsible for protecting consumers in the marketplace, including those online. Its jurisdiction extends to enforcing laws pertaining to unfair and fraudulent practices, false advertising, consumer privacy, and all matters concerning consumer review and rating practices (FTC, 2022). Furthermore, the FTC provides guidelines for businesses on how to comply with the Consumer Review Fairness Act (CRFA), which also includes prohibitions on certain types of reviews[2] (FTC, 2017).

The CRFA serves as the cornerstone in the regulation of online review practices, aimed at safeguarding individuals' ability to express honest opinions about products, services, or business behaviors on various platforms, including social media (FTC, 2022). The CRFA also mandates businesses to ensure fair and transparent display of reviews both for the consumers uploading the review and other users. It prohibits companies from using contract provisions[3] or taking retaliatory actions against consumers for posting honest feedback and mandates businesses to provide a platform for consumers to share their experiences (FTC, 2017).

Complementing federal regulation are state laws, notably the anti-SLAPP (Strategic Lawsuits Against Public Participation) laws. These laws afford protection to consumers who provide online reviews varying by state[4] and local context. Consumers who practice

[1] Article 27 paragraphs (1) to (4), which can be used to criminalize reviewers; Article 28 paragraphs (1) and (2), which are often used to silence criticism; and the sentencing provisions in Articles 45, 45A, and 45B.
[2] The FTC guidelines state that companies may prohibit or remove reviews containing confidential or private information, libelous content, harassment, insults, obscenities, sexually explicit material, or inappropriate content related to race, gender, sexuality, ethnicity, or other intrinsic characteristics—not related to the company's products or services, or clearly false and misleading.
[3] Contract provisions refer to clauses or terms included in contracts between businesses and consumers that seek to limit the ability (or even penalize) consumers to provide honest and accurate reviews or ratings about the products or services they receive.
[4] As of September 2023, 33 states and Washington D.C. have anti-SLAPP laws. The full list can be found at https://www.rcfp.org/anti-slapp-legal-guide/.

honest reviews are protected from legal repercussions such as defamation suits initiated by businesses (RCFP, 2023). Anti-SLAPP not only protects consumers, but also journalists, media, and consumer advocacy groups in reporting or commenting on consumer issues, allowing them to use the laws to defend themselves against lawsuits from businesses seeking to suppress or retaliate against critical coverage (Jankowski & Hogle, 2022).

The Impacts of Harmful Reviews on Platform's Content Moderation

Despite their potential to foster a "network society" and streamline business interaction, the growth of UGC platforms encounters several challenges, ranging from the complexity of content moderation, particularly in addressing misinformation, to concerns regarding data security and privacy (Gillespie, 2018). The operation of UGC platforms, including content moderation falls under the purview of the Minister of Communications and Informatics (MOCI) Regulation No. 10/2021 on the Amendment of the MOCI Regulation No. 5/2020 on Electronic System Organizers in the Private Sector (private ESOs). This regulation mandates that UGC platforms, in addition to having operational permits from the MOCI, must also ensure that their platforms do not facilitate contents that violate the law and potentially disrupt public order (Audrine & Setiawan, 2021). Indeed, this includes monitoring all content circulated on UGC platforms, including review content.

However, the complexity of content moderation amplifies when confronted with ambiguous content that is not explicitly covered by specific laws or international standards, yet capable of inciting violent acts or physical harm (Haristya, 2022; Nabiyyin & Qonita, 2024). In the context of online reviews, this poses a challenge for UGC platforms, impeding their ability to take against illegal contents and potentially limit reviewers' freedom of expression. The restriction of illegal contents as stipulated in the MOCI Regulation No. 5/2020 may compel UGC platforms to unilaterally remove contents to avoid the risk of fines or legal repercussions, including access blocking or termination of service access (Poetranto, 2024).

The overwhelming number of low-quality or violating review contents can complicate the task of content moderation. Identifying and removing such content, along with addressing user complaints, demands substantial time and resources for platforms. Consequently, it reduces the efficiency of content moderation, thereby increasing the risk of harmful or violating contents circulating on the platform. Therefore, it is important for platforms to implement preventive strategies to handle harmful online reviews. This may include the development of effective systems to detect and combat fake, irrelevant, or inappropriate reviews. Additionally, fostering transparent communication with platform users not only can mitigate the adverse effects of harmful online reviews but also improve a platform's reputation and reliability.

> "The growth of UGC platforms encounters several challenges, ranging from the complexity of content moderation, particularly in addressing misinformation, to concerns regarding data security and privacy."

Consumer Privacy in UGC Platforms

In addition to content moderation challenges, UGC platforms grapple with the issues surrounding user data protection. The active interaction among users within UGC platforms requires platform providers—whether as data controllers or data processors[5]—to collect, manage, and analyze user data. In the era of big data, privacy and personal data have become valuable assets for businesses. However, this also engenders risks associated with the possibility of mass collection of personal data (digital dossiers) prone to abuse (Kurnianingrum, 2020). The potential ramifications include hacking, leaks, and misuse of user data, which demands serious attention from platform organizers.

Furthermore, other risks also come from the perspectives of consumers, who are vulnerable to data misuse and leaks. Consumers involved in the review process are often required to disclose their personal information, such as name and e-mail address, exposing them to potential exploitation. As they contribute reviews on a service, business, or product, their opinions are published online, potentially allowing anyone to use that information for criminal activities and data misuse, such as hacking, targeted advertising, identity theft, or other scam activities. Thus, legislative efforts through Law No. 27/2022 on Personal Data Protection (PDP Law) become crucial in fortifying consumer data protection in the realm of online reviews.

[5] Data controllers are entities or individuals that determine the objectives and methods of processing personal data, whereas data processors are entities or individuals that process personal data on behalf of data controllers. For more information, the PDP Law stipulates several obligations of data controllers and processors under Articles 20 to 54.

THE REGULATORY ENVIRONMENT FOR ONLINE REVIEWS IN INDONESIA

Consumers—acting as reviewers—and platforms—functioning as system organizers—emerge as pivotal players in the online review ecosystem. In contexts where the reviewers represent end consumers of a product, Law No. 8/1999 on Consumer Protection (CP Law) serves as the regulatory basis that protects their rights and regulates their obligations. Concurrently, UGC platforms, serving as the medium for this interactive process, bear the responsibility to evaluate and address review contents deemed inappropriate, adhering to the regulations outlined in the MOCI Regulation No. 5/2020. The relationship between reviewers and platform organizers creates additional implications concerning the rights and obligations of both parties, especially in ensuring data protection in accordance with the provisions of the PDP Law.

Protection for Online Reviewers as Consumers

While Indonesia currently lacks specific regulation governing online review practices, reviewers typically operate as consumers. and can be accommodated by the CP Law, albeit only to a certain extent. The CP Law, enacted in April 1999, represents the primary legal framework for consumer protection in Indonesia that delineates the rights and obligations of consumers and businesses. However, this regime falls short of fully encompassing consumer protection in the digital space (Aprilianti, 2021; Rosadi & Tahira, 2018; BPKN, 2018). Although some aspects of consumer protection, such as the right to convenience and security in digital transactions, have received attention, specific rights pertinent to the protection of online reviewers remain relatively underdeveloped. Furthermore, the CP Law is considered inadequate in addressing critical issues in e-commerce, including specific protection for implementing digital contracts and cross-border transactions (Aprilianti, 2021; Ismantara & Prianto, 2022).

> “Law No. 8/1999 on Consumer Protection (CP Law) serves as the regulatory basis that protects their rights and regulates their obligations.”

In the pursuit of national consumer protection mandates, the CP Law delegates responsibilities to three non-governmental agencies in addition to the Ministry of Trade (MOT): (1) the National Consumer Protection Agency (Badan Perlindungan Konsumen Nasional or BPKN[6]), which provides advice and conducts legal research on consumer protection; (2) Community-Based Independent Consumer Protection Agency (*Lembaga Perlindungan Konsumen Swadaya Masyarakat* or LPKSM), which advocates for social awareness on consumer issues; and (3) the Consumer Dispute Settlement Agency (*Badan Penyelesaian Sengketa Konsumen* or BPSK), which functions to settle disputes. Moreover, the formulation of the National Strategy for Consumer Protection (*Strategi Nasional Perlindungan Konsumen* or Stranas-PK) through Presidential Regulation (PR) No. 50/2017 aims to clarify the policy direction and priority sectors in the implementation of national consumer protection. However, the lack of coordination among ministries and relevant institutions poses challenges in disciplining business entities and the establishment of effective dispute resolution mechanisms for consumers.

[6] BPKN is an independent authority that reports directly to the president in formulating and recommending consumer protection policies.

Considering that the CP Law predominantly regulates transactional relationships rather than technical matters, including online review practices, the government needs to expedite the revision of the law to accommodate protection for consumers who provide reviews. The revision of the CP Law is imperative amid the continued growth of the digital economy and its associated risks. As the industry lacks specific regulations on the online review ecosystem, protection from the CP Law becomes crucial to shield consumers from potential lawsuits solely based on their reviews and to prevent the possibility of the enforcement of vague clauses, such as criminalization for defamation, as has happened in various cases in this country. This situation underscores the urgency of more specific and comprehensive policies on online reviews, considering their impacts on consumers, business sustainability, and the digital ecosystem.

> "The government needs to expedite the revision of the law to accommodate protection for consumers who provide reviews."

In addition to the CP Law, there are several other regulations (see Table 1 in the Appendix) related to online consumer protection. Although not directly linked, some of these regulations can influence the landscape of online reviewers, with their implementation overseen by various technical government agencies as mandated by the law.

Box 2.
Case Study - The Landscape of Online Reviews and Digital Consumer Protection in China

In China, online consumer reviews have emerged as a vital source of information, with over 60% of buyers relying on online reviews and recommendations before making purchases (Flora, 2016). China's first consumer review platform, Dazhong Dianping, established in 2003, is one of the largest with over 290 million monthly active users (Jingjing, 2023). However, alongside the rapid expansion of the digital market and review ecosystem in China, fake consumer reviews and ratings have surfaced as pressing issues. Some businesses extend beyond incentivization of customers to leave reviews as they hire fake reviewers (known as buzzers) on an industrial scale. One example is the "Water Army (水军)"—a term for these fake social media users—who can be hired for just a few hundred yuan (less than IDR 2 million) to boost products or undermine competitors by flooding their review columns with fake reviews and ratings (Jingjing, 2023).

Many Chinese consumers have voiced complaints, calling for better protection to uphold fairness in the digital market. In response, the Chinese Government has tightened state control over its citizens' behavior in the digital space. Extensive government control over online content and periodic "internet cleansing" by cyber watch dogs carry implications for consumer rights and access to information (Orr & Baptista, 2023; Zhuang, 2023). Critics argue that such a stringent internet governance approach and censorship can limit consumer choices and hinder the development of a more open and competitive digital market (Ruan, 2019; Jingjing, 2023).

In terms of regulation, consumer protection—including for digital consumers—is governed by the Consumer Rights and Interests Protection Law (CRIL) of 1993, which was amended in 2013 (FAO, n.d.; Chinese Government, 2014). While the amendments expand consumer protection coverage by including transactions and introducing measures to regulate

platforms, they do not specifically target online review practices. Besides CRIL, consumer protection rights are further reinforced by additional national laws and regulations[7] as well as provincial regulations such as in Hunan (1997), Henan (1995), Guizhou (1994), Heilongjiang (1995), and Guangzhou (1999) (Xu, 2011; Thomas, 2022).

Regulations on Content Moderation on UGC Platforms

> "Although the MOCI Regulation No. 5/2020 forms the fundamental regulatory framework, the governance of content moderation and UGC platform operation is scattered across various laws and regulations"

Digital platforms are mandated to uphold the integrity of their services by ensuring their platform does not contain or distribute illegal information. Generally, the criteria and types of prohibited content are outlined in community guidelines developed by each platform provider. In Indonesia, the definition of prohibited contents is stipulated in the MOCI Regulation No. 5/2020. Articles 9 and 14 of this regulation classify contents such as terrorism, child pornography, and contents deemed to "create public disturbance or disrupt public order" as prohibited, warranting potential restrictions or access termination. However, regulatory complexity often arises, particularly concerning content falling under the vague category of "creating public disturbance or disrupting public order", which entails a broad and contextual interpretation. Detailed definitions of harmful content are scattered across various regulations, necessitating attention from platforms in exercising more responsible content moderation (see Table 2 in the Appendix).

Currently, the authority to request content removal rests primarily with the MOCI. In cases where the MOCI identifies illegal content and requests removal, UGC platforms are obligated to immediately disable access within 24 hours for content classified as less urgent content or 4 hours for content classified as urgent. Although not specifically mandating the establishment of community guidelines, UGC platforms in Indonesia need to pay attention to the classification of harmful content and develop report handling mechanisms to avoid legal consequences due to negligence in content moderation.

Although the MOCI Regulation No. 5/2020 forms the fundamental regulatory framework, the governance of content moderation and UGC platform operation is scattered across various laws and regulations[8]. Another significant regulation pertinent to content moderation governance can be found in the second revision of the EIT Law No. 1/2024, which was recently enacted in early January. There are at least two articles that are directly relevant: (1) Article 40 strengthens the authority of the MOCI in executing platform service termination; (2) Article 43 expands the authority of the investigators of the Civil Servants of the MOCI in requesting access termination (Nabiyyin & Qonita, 2024).

In addition to the EIT Law, PR No. 32/2024 on the Responsibility of Digital Platform Companies to Support Quality Journalism (PR on Publishers' Rights), which was recently enacted, can

[7] Including acts on responsibilities for product quality, such as the Contract Act (1999), Product Quality Act (2000) and Drug Administration Act (2001); acts on price supervision, such as the Standardization Act (1989) and Price Act (1998); acts on market order, such as the Act against Unfair Competition (1993), Advertising Act (1995), and Trademark Act (2001) (Binding & Purnhagen, 2011).
[8] See Appendix 1 for the list of policies on content moderation governance scattered across various laws and regulations as well as their regulatory scope.

also influence the content moderation policies of UGC platforms, particularly concerning news content. In the context of content moderation, as stated in Article 5, this PR underscores greater responsibility and transparency for UGC platforms in maintaining the public journalism ecosystem by: (1) refraining from disseminating news contents that violate the Press Law; (2) prioritizing news contents from local press companies; and (3) and designing news distribution algorithms according to democratic and diversity values. A special committee to be established by the Press Council (*Dewan Pers*) will oversee and ensure UGC platform compliance with Article 5. While this PR will only take effect in August 2024, its implementation must adhere to the principles of prudence and transparency as to avoid limiting press freedom or hinder public interest to access information (Nidhal, 2023).

Box 3.
Case Study - Content Moderation in the European Union

The European Union (EU) underscores the significance of content moderation through the development of applicable international regulations. The EU is known for advocating co-regulation between the private and public sectors in identifying hate speech and misinformation in online contents through the Digital Services Act (DSA). The DSA primarily aims to streamline the reporting of illegal contents through "trusted flaggers" mechanisms[9], mandating transparency for platforms in their content moderation process[10], and prioritizing non-litigation dispute resolution mechanisms for users contesting the removal of illegal contents (European Commission, 2023). To ensure this, Digital Services Coordinators—an independent authority body—have been established to manage the implementation and enforcement of the DSA in EU member states (DSA, 2020a).

Furthermore, the DSA emphasizes the principle of co-regulation, allowing service providers to adhere to an agreed-upon code of conduct framework[11] endorsed by relevant government bodies and private entities within the EU region. The DSA focuses on co-regulatory mechanisms, evident in the establishment of independent bodies acting as supervisors and the regulation promotes the development of content moderation guidelines agreed upon by consensus between private and government entities. The DSA also encourages platforms to continuously develop more transparent and user-friendly content moderation mechanisms, which impact platform compliance with this regulation.

Content moderation practices that favor consumer protection are also reflected in the Unfair Commercial Practices Directive 2005/29/EC, especially in the contexts related to misleading action and misleading omission. Article 7 of this regulation clearly prohibits service providers from hiding or providing vague information about products or services for commercial interests. However, the sanctions following violations of this regulation are mostly administrative; ranging from the obligation to publish further clarification on the statements that contain misleading information to monitoring and enforcement in the form of content removal, in accordance with the applicable laws in each member state.

[9] Article 19 of the DSA defines trusted flaggers as those who have expertise in reporting potentially harmful or illegal contents on platforms (DSA, 2020b).
[10] The DSA requires platforms to develop clear guidelines that regulate content moderation decisions for their users. These guidelines/statements must be uploaded to the DSA Transparency Database for transparency and ease of monitoring (European Commission, n.d.).
[11] In 2021, the representatives of major global platforms, fact checkers, research organizations, and civil society organizations established the Code of Practice on Disinformation, referring to the EU's Commission's Guidance that is also the basis for the DSA's code of practice (European Commission, 2022).

The Implementation of Responsible Data Protection

Following the full enforcement of the PDP Law in October 2024, every UGC platform operating in Indonesia is now entrusted with a greater responsibility to safeguard the confidentiality and security of the users' personal data. The PDP Law sets out requirements that both data controllers and processors must adhere to in collecting, processing, and transferring personal data. The scope of this law includes defining and categorizing personal data—both general[12] and specific[13]—as well as establishing requirements for data controllers and processors in collecting, processing, and transferring personal data. The law also includes criminal penalties for data breaches and administrative sanctions for various violations, including data leaks (BPK, 2022).

The efficacy of the PDP Law hinges on the proposed establishment of the PDP authority. Although there are no technical implementing regulations concerning the PDP authority yet[14], the ongoing discourse suggests its direct subordination under the president, which may potentially threaten its independence (Maysha, 2023). In contrast, international best practices and standards suggest the importance of independent supervisory authorities, as evidenced by the UN Guidelines for the Regulation of Computerized Personal Data Files of 1990, APEC Privacy Framework of 2015, and General Data Protection Regulation of the European Union (EU GDPR) of 2016. Across most European countries, data protection supervisory authorities operates independently as regulatory agencies or independent state commissions[15]. The independence of the PDP authority is a crucial feature of effective enforcement by PDP regimes worldwide.

> "The efficacy of the PDP Law hinges on the proposed establishment of the PDP authority"

In implementing the PDP Law, UGC platforms are obliged to designate a data protection agent or officer to assist data controllers in carrying out data protection roles. In the event of a data breach, UGC platforms must provide a written notification[16] within a maximum of 3x24 hours to the data owner and relevant authorities. The heaviest penalty for data breaches for data controllers is an administrative fine of up to 2% of the company's annual revenue. Additionally, data subjects can sue UGC platforms proven to be in violation, with dispute settlement done through arbitration, courts, or other alternative dispute settlement bodies that are spread in several sectoral industries (such as financial services[17]).

On the platform user's side, the awareness of Indonesian people related to protecting their personal data and cybersecurity is still relatively low. The government also needs to continuously increase public awareness about the importance of safeguarding personal data through various

[12] According to the PDP Law, general data are: full name, gender, nationality, religion, date of birth, occupation, home address, telephone numbers, etc.
[13] According to the PDP Law, specific data are: health data, biometric data, genetic data, financial data, race/ethnicity, sexual preference, political view, family, criminal data, etc.
[14] In Indonesia's institutional nomenclature, such an authority is usually a commission, similar to the Ombudsman or the Commission for the Supervision of Business Competition.
[15] An independent state commission is a body with its own authority and responsibilities established by/based on public law, which is organizationally separated from ministries and is not directly appointed or managed by elected officials. Learn more in Djafar and Santoso's (2019) writing on the importance of independent supervisory authorities.
[16] The written notification must include several important pieces of information, such as the type of the leaked personal data, the time and chronology of the leak, and efforts to handle or recover from the data breach. In certain cases, UGC platforms are also required to inform the public about the failure.
[17] The complete list of alternative dispute settlement institutions in the financial services sector can be found at https://ojk.go.id/id/berita-dan-kegiatan/pengumuman/Documents/daftar%20lembaga%20penyelesai%20sengketa.pdf.

initiatives, programs, disseminations, and multi-stakeholder collaborations. The main focus is to ensure that the implementation and derivative regulations of the PDP Law align with global standards and practices to enhance the trust of digital investors and consumers. It is equally important for the government to ensure that the PDP Law and its implementing regulations are harmonized with other regulations, especially those scattered across various financial sector regulations (Syahri, 2022).

ENSURING A SAFE ONLINE REVIEW ECOSYSTEM

Regulations governing online reviews aim to ensure safety and accountability in the digital ecosystem. Awareness of the rights, obligations, and responsibilities of both reviewers and platforms is key to maintaining integrity and trust in online review practices. This section outlines the steps that should be considered by consumers as reviewers and platforms as digital service providers in ensuring the safety of online review practices in accordance with applicable regulations.

Rights and Obligations of Consumers as Reviewers

> "Awareness of the rights, obligations, and responsibilities of both reviewers and platforms is key to maintaining integrity and trust in online review practices."

As previously discussed, reviewers fall into two categories: end consumer reviewers and endorsers of specific companies or brands. For end consumer reviewers in particular, the CP Law can serve as a reference in the absence of more comprehensive regulatory frameworks or guidelines. Article 4 of the law states that consumers have the right to obtain accurate and credible information, thus contributing to other consumers in making informed decisions. Especially in high-risk industries such as health or food, comprehensive reviews and information are critical in guiding prospective consumers to make informed decisions about safe and suitable products.

Box 4.
Case Study - Health Heroes Nutrihunt: A Nutritional Information-Based Application

The Health Heroes Nutrihunt gaming application, developed by the Global Alliance for Improved Nutrition (GAIN) Indonesia, is an example of a UGC platform that includes product and seller rating features. Leveraging gamification, this initiative aims to advocate for health and nutritional information transparency for teenagers and users. Centered on barcode scanning, the platform offers two rating features using a 1 to 5-star scale—rating for stores/vendors as product sellers and nutritional rating of products based on their nutritional value.

The nutritional rating system implemented in this gaming application intersects with the Indonesian Food and Drug Authority (*Badan Pengawas Obat dan Makanan* or BPOM) Regulation No. 26/2021 on Nutritional Value Information on Processed Food Labels, where the platform has an obligation to disclose nutritional values by including information on sugar, fat, and sodium levels in products. The nutritional claims are evaluated manually by the platform, often leading to complications in interpreting nutritional values.

Moreover, the platform implicates various consumer protection regulations related to the right to information, such as BPOM Regulation No. 1/2022 on Control of Claims on Processed Food Labels and Advertisements and Government Regulation (GR) No. 69/1999 on Food Labels and Advertisements which mandates the provision of information on claims and nutritional benefits of a food product. Particularly in BPOM regulations, there

is an obligation that nutritional claims of a product need to be supported by laboratory testing. This emphasizes the importance of the platform's role in ensuring consumer safety and providing rights to accurate, credible, and transparent nutritional information in accordance with applicable consumer protection regulations.

Consumer rights related to review practices, including expressing opinions and complaints about goods and/or services, are regulated in Article 4 letter D of the CP Law. As for business, Article 7 letter E mandates businesses to facilitate consumers to test and/or try certain goods and/or services and provide guarantees and/or warranties for the produced and/or traded goods (Oktavira, 2022). Furthermore, Article 4 letter C emphasizes that consumers have the right to accurate, clear, and honest information about the condition and warranty of the goods and/or services they receive. Hence, reviewers must also maintain the honesty of their reviews as a fundamental ethical principle (Ismantara & Prianto, 2022). Reviewers are also entitled to adequate consumer protection, including legal certainty and protection of their personal data in accordance with the PDP Law.

However, these rights entail corresponding obligations and responsibilities for consumer reviewers. They must comply with platforms' established guidelines and policies, especially the applicable community guidelines and terms of service to ensure ethical conduct and avoid legal risks. Reviewers also bear responsibility of ensuring the honesty and accuracy of their reviews to avoid misleading information. In practice, reviewers must adhere to social norms, use polite and ethical language, and respect the rights of other users. They also need to be aware of and accountable for their reviews, including facing potential legal consequences that may arise from their reviews.

The Roles of Platforms in Moderating Contents and Ensuring Data Protection

Administratively, platform organizers or ESO are required to register through the Online Single Submission (OSS) system, which includes providing detailed information on operational status, information security, personal data protection, and the feasibility test of their electronic systems.[18] The MOCI Regulation No. 5/2020 clearly stipulates the obligations and responsibilities of platforms in content moderation as reflected in Article 9. This article obliges UGC platforms to ensure reliable and secure electronic systems and prevent the dissemination of unlawful information. One form of platform responsibility in fulfilling these obligations is to develop its own community guidelines and censor contents that are considered not meeting the standards (Audrine & Setiawan, 2021).

Additionally, Article 10 of the regulation also requires UGC platforms to provide a report handling system for illegal contents, including access termination mechanisms. Therefore, UGC platforms are required to respond to reports of illegal contents, conduct independent examination or

[18] The MOCI Regulation No. 10/2021 requires platforms to register six months after the risk-based business licensing policy was promulgated through the OSS system and report any changes to the submitted information to the MOCI.

verification by relevant authorities, notify users, and dismiss unfounded reports. In cases where the MOCI requests the removal of illegal content, UGC platforms must immediately disable access to the urgent content within the specified period after receiving a warning letter. Considering these implications, UGC platforms also reserve the right to due process prior to any enforcement that might negatively affect the platform.

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With the enactment of the PDP Law, every UGC platform has additional responsibilities to safeguard users' data privacy and security. In ensuring lawful and accountable handling of personal data, UGC platforms—as data controllers[19]—must have a rationale for processing personal data, including explicit lawful consent from the data subjects for one or more specified purposes communicated by the data controller to the data subjects (Hidayat, 2022). Thus, every UGC platform is encouraged to formulate detailed privacy and data protection policies, accessible on their respective platforms to ensure transparency, security, and users' trust.

[19] UGC platform organizers with branch offices in Indonesia can be classified as data controllers because they are considered corporations. This is in accordance with Article 1 paragraph 4 of the PDP Law: data controllers include individuals, public entities, and international organizations acting alone or jointly in determining the objectives and exercising control over the processing of personal data.

CONCLUSION AND RECOMMENDATIONS

Despite the growing prominence of online reviews in Indonesia's digital landscape, there remains a notable absence of adequate regulations to govern its practice and moderation. This regulatory vacuum presents various challenges, ranging from the spread of fake reviews to potential consumers' vulnerability due to the absence of standardized guidelines and formal protections. As online reviews and ratings continue to gain traction, the call for updated measures that prioritize digital consumer empowerment grows increasingly urgent for Indonesia. The CP Law, which has been in place for over 20 years, is widely regarded as ineffective in addressing the current challenges of the digital economy.

On the platform side, regulations on content moderation issues and privacy policies are governed at least by the MOCI Regulation No. 5/2020 and the PDP Law. The MOCI Regulation No. 5/2020 encourages the moderation of prohibited contents, but lack of clear definitions exists, especially for contents that are considered to be "creating public disturbance and disrupting public order," which renders the task of filtering and moderating contents on UGC platforms even more complex. Additionally, the appeal process by UGC platforms in the event of takedown requests also poses its own challenges.

The PDP Law holds significant importance in enforcing minimum standards for UGC platforms in safeguarding the user's personal data. Nonetheless, with the law currently in a grace period until October 2024, uncertainties loom over its execution and the formulation of implementing regulations, particularly regarding the neutrality and independence of the PDP authority to be appointed by the president. In numerous jurisdictions, the PDP authority operates independently of the executive branch of government.

Expediting the revision of the CP Law

The CP Law in Indonesia, which was enacted more than two decades ago, is widely regarded ineffective in addressing various emerging issues, especially in accommodating the challenges of the rapidly evolving digital economy. Furthermore, the significant growth of the online review ecosystem and its potential impacts urgently demands the amendment to Indonesia's consumer protection regime. This update should focus on enhancing the protection and empowerment of digital consumers while ensuring legal certainty. Therefore, it becomes imperative to redefine the concept of "consumers" to include 'end consumers' and update consumer rights and obligations to cover protection in the digital space, including protection for reviewers.

Revising the MOCI Regulation No. 5/2020 for optimal and fair content moderation

Although the regulation has been updated with the MOCI Regulation No. 10/2021 on the Amendment of the MOCI Regulation No. 5/2020 on Electronic System Organizers in the Private Sector (private ESOs), the fundamental issues of the previous regulation have not been addressed. Therefore, further refinement of the regulation remains imperative, especially in

ensuring due processes and equal space for the government and UGC platforms. Moreover, clear definitions of prohibited contents that could potentially cause ambiguity are important to be addressed.

Establishing an independent PDP authority

The key to good PDP implementation lies in the PDP authority that will be established. In the context of Indonesia, the establishment of such an authority is important to ensure a personal data protection regime that is objective and free from any political or commercial influences, as well as to enforce data protection standards without any interventions that harm certain parties.

REFERENCES

Aprilianti, I. (2020, May). *Melindungi Masyarakat: Memajukan Hak-Hak Konsumen Digital*. Makalah Kebijakan No. 27 Center for Indonesian Policy Studies. https://c95e5d29-0df6-4d6f-8801-1d6926c32107.usrfiles.com/ugd/c95e5d_c1e1d8e85dfe4552934aff1b830b9c32.pdf

Asosiasi Penyelenggara Jasa Internet Indonesia [APJII]. (2023, March). Survei APJII Pengguna Internet di Indonesia Tembus 215 Juta Orang. APJII. https://apjii.or.id/berita/d/survei-apjii-pengguna-internet-di-indonesia-tembus-215-juta-orang

Audrine, P. & Setiawan, I. (2021) *Dampak Regulasi Moderasi Konten terhadap Kebebasan Berekspresi di Indonesia.* Makalah Kebijakan No. 38. Center for Indonesian Policy Studies. https://c95e5d29-0df6-4d6f-8801-1d6926c32107.usrfiles.com/ugd/c95e5d_3d6ad81f6e1f4220919e453ddf9f3e8f.pdf

Badan Pemeriksa Keuangan [BPK] (2022). *Undang-undang (UU) Nomor 27 Tahun 2022 Pelindungan Data Pribadi.* BPK. https://peraturan.bpk.go.id/Details/229798/uu-no-27-tahun-2022.

Badan Perlindungan Konsumen Nasional [BPKN]. (2018, December). Catatan Akhir Tahun BPKN 2018: "Ketahanan perlindungan konsumen rawan" [Siaran pers]. https://image.bpkn.go.id/bankdata/f1e25e7c094c050d34fbf03a291935fa.pdf.

Cabral, L. & Li, L. (Ivy). (2015). *A dollar for your thoughts: Feedback-conditional rebates on eBay*, *Management Science*, 61(9), pp. 2052–2063. https://doi.org/10.1287/mnsc.2014.2074

DSA Digital Services Act [DSA]. (2020a, December). Article 38 - *Competent authorities and Digital Services Coordinators*. DSA. https://digitalservicesact.cc/dsa/art38.html

_____. (2020b, December). Article 19 - *Trusted flaggers.* DSA. https://digitalservicesact.cc/dsa/art19.html

European Commission. (2022). The 2022 Code of Practice on Disinformation. European Commission. https://digital-strategy.ec.europa.eu/en/policies/code-practice-disinformation.

_____. (2014). *Study on Online Consumer Reviews in the Hotel Sector*. European Commission. https://op.europa.eu/en/publication-detail/-/publication/7d0b5993-7a88-43ef-bfb5-7997101db6d5/language-en

_____. (n.d). Types of Legislation. European Commission. https://european-union.europa.eu/institutions-law-budget/law/types-legislation_en.

FAO. (n.d.). *Law of the People's Republic of China on Protecting Consumers' Rights and Interests*. FAO. https://faolex.fao.org/docs/pdf/chn47424.pdf.

Federal Trade Commission [FTC]. (2022). *Featuring Online Customer Reviews: A Guide for Platforms.* FTC. https://www.ftc.gov/business-guidance/resources/featuring-online-customer-reviews-guide-platforms.

_____. (2017). *Consumer Review Fairness Act: What Businesses Need to Know.* FTC. https://www.ftc.gov/business-guidance/resources/consumer-review-fairness-act-what-businesses-need-know.

Filieri, R. *et al.* (2021). The role of visual cues in eWOM on consumers' behavioral intention and decision', *Journal of Business Research*, 135, pp. 663–675. www.doi.org/10.1016/j.jbusres.2021.06.055.

Flora, L. (2016, November). *Survey: Over 60% of China's Online Shoppers Research Products Online Before Purchase*. Jing Daily. https://jingdaily.com/posts/chinese-online-shoppers-research-online-before-purchase.

Gillespie, T. (2018). *Custodians of the Internet: Platforms, Content Moderation, and the Hidden Decisions That Shape Social Media*. De Gruyter. https://doi.org/10.12987/9780300235029

Haristya, S. (2022). *Moderasi Konten dan Pemangku Kepentingan Lokal di Indonesia*. Article 19. https://www.article19.org/wp-content/uploads/2022/10/SM4P_Indonesia-country-report.pdf

Hidayat, R. (2022). *Menilik Sejumlah Kewajiban Penting dalam UU PDP*. Hukum Online. https://www.hukumonline.com/berita/a/menilik-sejumlah-kewajiban-penting-dalam-uu-pdp-lt633ac85d0cba8

Ismantara, S. & Prianto, Y. (2022). Relevansi Hukum Perlindungan Konsumen Indonesia di Era Ekonomi Digital. *Seri Seminar Nasional ke-IV Universitas Tarumanegara 2022,* 321–330. https://lintar.untar.ac.id/repository/penelitian/buktipenelitian_10288001_7A240822001134.pdf.

Jankowski, S. & Hogle, Charles. (2002). *SLAPP-ing Back: Recent Legal Challenges to the Application of State Anti-SLAPP Laws*, American Bar. https://www.americanbar.org/groups/communications_law/publications/communications_lawyer/2022-winter/slapping-back-recent-legal-challenges-the-application-state-antislapp-laws/

Jingjing, J. (2023) *The Shady World of Chinese Online Reviews.* The World of Chinese. https://www.theworldofchinese.com/2023/03/the-shady-world-of-chinese-online-reviews/.

Kurnianingrum, T. P. (2020). Urgensi Pelindungan Data Pribadi Konsumen di Era Ekonomi Digital. *Jurnal DPR*. https://jurnal.dpr.go.id/index.php/kajian/article/view/3893

Listiawati, N. (2023, September). *Pencemaran Nama Baik Pada Pasal KUHP.* Polda Kepulauan Riau. https://pid.kepri.polri.go.id/pencemaran-nama-baik-pada-pasal-kuhp/

Maysha, M. G. (2023, July 7). *UU dan Komisi Perlindungan Data Pribadi Belum Aktif, Kebocoran Kembali Terjadi*. Kontan.co.id; Kontan. https://nasional.kontan.co.id/news/uu-dan-komisi-perlindungan-data-pribadi-belum-aktif-kebocoran-kembali-terjadi

Nabiyyin, M. H. & Qonita, B. Z. (2024). *Content Moderation in Southeast Asia General Elections: Case of Hate Speech in Indonesia, Malaysia and the Philippines.* Safer Internet Lab. https://saferinternetlab.org/wp-content/uploads/2024/01/Hafizh-Nabiyyin-KISIP-PAPER-2024.pdf

Nidhal, M. (2023, July). *Draft regulation aims to balance media and digital platforms.* The Jakarta Post. https://www.thejakartapost.com/opinion/2023/07/12/draft-regulation-aims-to-balance-media-and-digital-platforms.html

Oktavira, S.H. (2022, September). *Etika Konsumen Saat Memberikan Review Produk atau Jasa.* Hukum Online. https://www.hukumonline.com/klinik/a/etika-konsumen-saat-memberikan-review-produk-atau-jasa-lt5cf05fbce61c6.

Organization for Economic Co-operation and Development [OECD]. (2019a). *Understanding Online Consumers Ratings and Reviews*. OECD. https://one.oecd.org/document/DSTI/CP(2018)21/FINAL/En/pdf

_____. (2019b). *Roundtable on Online Consumer Reviews.* OECD. https://one.oecd.org/document/DSTI/CP(2019)8/FINAL/en/pdf

Orr, B. & Baptista, E. (2023). China shuts 100,000 fake news social media accounts, ramps up content cleanup.

Poetranto, I. (2024). *Blunt Instruments for Complex Problems: Challenges in Indonesia's Regulation of Disinformation and Content Moderation*. Safer Internet Lab. https://saferinternetlab.org/wp-content/uploads/2024/01/Irene-Poetranto-KISIP-PAPER-2024.pdf

Reporters Committee for Freedom of the Press [RCFP]. Understanding Anti-SLAPP laws. RCFP. https://www.rcfp.org/resources/anti-slapp-laws/.

Riadi, M. (2023). *Online Customer Review - Pengertian, Aspek, Syarat dan Indikator*. https://www.kajianpustaka.com/2023/02/online-customer-review.html

Rosadi, S. D, & Tahira, Z. (2018). Consumer Protection in Digital Economy Era: Law in Indonesia. *Yutistia Jurnal Hukum, 7*(1), 81–93. http://dx.doi.org/10.20961/yustisia.v0i0.20144.

Rozin, P., & Royzman, E. B. (2001). Negativity bias, negativity dominance, and contagion. *Personality and Social Psychology Review, 5*(4), 296–320. https://doi.org/10.1207/S15327957PSPR0504_2.

Ruan, L. (2019). *Regulation of the internet in China: An explainer.* The Asia Dialogue. https://theasiadialogue.com/2019/10/07/regulation-of-the-internet-in-china-an-explainer/.

Saskia, C. & Pertiwi, W. K. (2023, October). *Ada 354 Juta Ponsel Aktif di Indonesia, Terbanyak Nomor Empat Dunia.* Kompas. https://tekno.kompas.com/read/2023/10/19/16450037/ada-354-juta-ponsel-aktif-di-indonesia-terbanyak-nomor-empat-dunia

Serrano. (2020, November). *The 10 Industries Most Affected by Online Reviews*. Rize Services. https://rizereviews.com/10-industries-most-affected-by-online-reviews/.

Sprague, D. (2023). *The History of Online Reviews and How They Have Evolved*. Shopper Approved. https://results.shopperapproved.com/blog/the-history-and-evolution-of-online-reviews

Syahri, A. (2022, July). *Independensi Badan Perlindungan Data Pribadi Harus Jadi Prioritas Presiden*. Cyber Threat. https://cyberthreat.id/read/14170/Independensi-Badan-Perlindungan-Data-Pribadi-Harus-Jadi-Prioritas-Presiden

Thomas, K. (2022). Amending China's Notion of a "Consumer": Lessons from Comparative Analysis of the PRC Consumer Protection Law. *Journal of Consumer Policy*, Vol. 45. h. 435-456. https://link.springer.com/article/10.1007/s10603-022-09518-3.

Xu, J. (2011). *Who Will Protect Chinese Consumers? The Past, Present and Future of Consumer Protection Legislation in China*. Loyola Consumer Law Review Vol. 24(1). https://lawecommons.luc.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1025&context=lclr.

Zhuang, S. (2023). *China's cyberspace watchdog aims to 'clean up' the internet and fight 'hostile forces'*. South China Morning Post. https://www.scmp.com/news/china/politics/article/3212100/chinas-cyberspace-watchdog-aims-clean-internet-and-fight-hostile-forces.

List of Interviews

Interview 1 – Industry representative (2023, November 23). Personal communication.

Interview 2 – Consumer representative (2023, November 23). Personal communication.

Interview 3 – Nutritional and food expert representative (2023, November 27). Personal communication.

Interview 4 – Digital activist representative (2023, December 8). Personal communication.

Interview 5 – Civil society organization (2024, January 24). Personal communication.

APPENDIX 1. LIST OF SUPPLEMENTARY REGULATIONS ON ONLINE CONSUMER PROTECTION

Table 1.
List of Supplementary Regulations on Online Consumer Protection

Regulation	Description
Consumer Protection and Empowerment	
Law No. 8/1999 on Consumer Protection	The CP Law aims to improve consumer independence and understanding as well as to ensure the quality and safety of produced goods and services to protect consumer rights. In addition, the CP Law provides mechanisms for consumer protection through two channels: the judicial system and the Consumer Dispute Settlement Agency (Badan Penyelesaian Sengketa Konsumen or BPSK[20]).
Law No. 20/2014 on Standardization and Conformity Assessment	This law plays a central role in ensuring that consumers receive quality, safe, and compliant products and services in accordance with the Indonesian National Standards (Standar Nasional Indonesia or SNI) established by the National Standardization Agency (BSN[21]). Standardization and conformity assessment are conducted based on several principles, including transparency and openness.
Presidential Regulation No. 50/2017 on National Strategy for Consumer Protection (PR on Stranas-PK)	Stranas-PK focuses on the objectives, policy directions, strategies, and priority sectors in consumer protection for a five-year period. Stranas-PK is designed to provide policy direction and strategy for a more synergistic, harmonious, and integrated implementation of consumer protection, and to promote the strengthening of three pillars: government roles, consumer empowerment, and business compliance. Additionally, this strategy aims to create a healthy and synergistic business environment and relationship between businesses and consumers.
Misinformation, Defamation, and Other Prohibited Contents	
Law No. 11/2008 on Electronic Information and Transactions (EIT) and **Law No. 19/2016** on the Amendment of Law No. 11/2008	This law aims to adapt to the latest developments in electronic information and transactions, including the status of electronic information and documents as legal evidence, privacy protection, the government's role in EIT-based violations, investigation procedures, and prohibitions and sanctions imposed in case of defamation from inaccurate information.
Government Regulation No. 71/2019 on the Implementation of Electronic Systems and Transactions	This regulation focuses on the obligation of ESOs, both from the public and private sectors, to ensure that platforms do not contain or facilitate information prohibited by law or previous ministerial regulations.
Law No. 1/2023 on Indonesian Criminal Code; Articles 310, 311, and 315 on slander/ defamation	Article 310 regulates defamation when done openly or through writings/depictions shared publicly, unless the action is done in the public interest or in self-defense. Article 311 emphasizes that perpetrators of written slander or defamation can be criminally punished if the accusations made are factually wrong and cannot be proven true. Article 315 regulates the criminal act of defamation with a maximum imprisonment of four months and two weeks or a maximum fine of four thousand five hundred rupiahs.

[20] BPSK carries out the task and authority of handling and resolving disputes through mediation, conciliation, or arbitration. BPSK is positioned in the provincial jurisdiction, which consists of districts/cities.
[21] BSN is a non-ministerial government institution responsible for the standardization and conformity assessment or SNI. In formulating SNI, BSN establishes technical committees consisting of the government and/or regional governments; business entities and/or relevant associations; consumers and/or relevant associations; and experts and/or academics.

Regulation	Description
Consumer Data Protection	
The MOCI Regulation No. 20/2016 on Personal Data Protection in Electronic Systems	This regulation covers the obligation of system providers to develop internal rules for personal data protection, which includes the processes of obtaining and collecting, processing and analyzing, storage, display, transmission, dissemination and/or access disclosure, as well as destruction of data.
Law No. 27/2022 on Personal Data Protection (PDP Law)	As the first legal framework for personal data protection in Indonesia, this law regulates the rights of data subjects, defines personal data, establishes requirements for data controllers and processors in collecting, processing, and transferring personal data. Additionally, the PDP Law also includes criminal penalties for data breaches and administrative sanctions for various violations, including data leaks. It mandates the establishment of a PDP authority.
Rights to Information	
Law No. 39/1999 on Human Rights	This law regulates the guarantee of basic human rights, such as the right to security, access to justice, freedom of speech, personal freedom, participation in community activities, protection, fair legal treatment, and assurance of welfare. This law also explains the government's responsibility, particularly in ensuring justice and guaranteeing these rights.
Government Regulation No. 69/1999 on Food Labels and Advertisements	Considering the importance of accurate information dissemination, especially in the practice of food labeling and advertising, this regulation contains general provisions regarding the components of food label information, including ingredient information and nutritional content. Food advertising needs to include relevant information regarding nutrition and health benefits, origin and nature of ingredients, and food usage specifications. This regulation also designates the Ministry of Health as the main institution overseeing the implementation of these labeling and advertising provisions.
BPOM Regulation No. 26/2021 on Nutritional Value Information on Processed Food Labels	This regulation requires businesses to include nutritional value information on processed food labels and covers procedures for including the information, tolerance limits for nutrient and non-nutrient analysis results, and the inclusion of the nutritional value information logo on food labels.
BPOM Regulation No. 1/2022 on Control of Claim on Processed Food Labels and Advertisements	This regulation oversees claims on processed food, ensuring that they meet the basic characteristics of food categories and comply with applicable regulations. Allowed claims include nutrient/non-nutrient claims, health claims, isotonic claims, vegan claims, and those related to microorganisms.

Source: compiled by the authors from the government's official documents

APPENDIX 2. DEFINITIONS OF HARMFUL CONTENTS ACCORDING TO VARIOUS LAWS AND REGULATIONS

Table 2.
Definitions of Harmful Contents According to Various Laws and Regulations

Regulation	Definition of Content	Medium of Information Dissemniation	Scope of Prohibited Contents	Protection Mechanism
Law No. 40/1999 on Press	All types of information broadcasted by journalists.	Journalistic media, such as printed media, electronic media, and all other types of media used by press entities.	**Article 7:** Journalists' obligation to comply with provisions on prohibited contents in the Journalistic Code of Ethics, namely false news, libel, cruelty, obscenity, discrimination against certain groups, containing elements of ethnicity, religion, race, and inter-group, unclear sources, and unverified information. **Article 13:** Advertisements containing alcohol/narcotics/other addictive substances, insulting religion, disturbing religious harmony, contrary to public norms, and depicting the appearance/consumption of cigarettes.	Ethical Code as a guide for self-censorship. Sanctions from the Press Council.
Law No. 14/2008 on Public Information Disclosure	Documents related to state administration and public agencies.	Issued by public agencies or state administrators in any media.	**Article 17:** Exempted information, which is information that might endanger the state; related to business competition protection interests; endangers national security; Indonesian natural resources; be detrimental to national economic resilience; be detrimental to foreign relations interests; official secret information; requested public information not yet mastered or documented; and not allowed to be disclosed according to the law.	The party who wishes to obtain information submits the request to the Public Information Commission (Komisi Informasi Publik). The commission will decide whether the information can be disclosed to the public or exempted.
Law No. 44/2008 on Pornography	Images, sketches, illustrations, photos, writings, sounds, moving images, animations, cartoons, conversations, body movements, or other forms of messages.	Various forms of communication media, including terrestrial, radio, telephone, internet, newspapers, magazines, and other printed materials. Also includes live performances in public.	**Article 4 paragraph (1):** Sexual exploitation that violates moral norms, including sexual intercourse, including deviant acts, sexual violence, masturbation, nudity or suggestive nudity, genitals, or child pornography. **Article 4 paragraph (2):** Advertisements or offers that exploit sexual activities.	Criminal offenses for pornography perpetrators and those who distribute or access information. Destruction of information.

Regulation	Definition of Content	Medium of Information Dissemniation	Scope of Prohibited Contents	Protection Mechanism
Law No. 17/2011 on State Intelligence	Information in any form.	Broadcasted through any media.	Information that threatens national interests and security, including ideology, politics, economy, social, cultural, defense and security, and/or terrorist, separatism, espionage, and sabotage activities that threaten the safety, security, and national sovereignty.	Cooperation with relevant ministries.
Law No. 28/2014 on Copyrights	Works of creation in the fields of science, art, and literature produced from inspiration, ability, thoughts, imagination, precision, skill, or expertise expressed in a tangible form. Creations can be in the forms of portraits, fixations, or phonograms.	Expressed in tangible form (physical) or broadcasted in electronic systems.	Disseminated information that violates copyrights.	Reporting copyright infringements to the relevant minister, then the minister may request the MOCI to terminate the access based on a court decision.
The MOCI Regulation No. 5/2020 on Electronic System Organizers (ESOs) in the Private Sector	Electronic information/data, including text, voice, images, maps, designs, photos, electronic data interchange (EDI), electronic mail (e-mail), telegram, telex, telecopy or its other kinds in the forms of letters, signs, numbers, access codes, and other types of electronic information.	Websites, applications, non-electronic letters, and/or electronic letters	**Article 14:** Information containing terrorism, child pornography, and contents that disrupt public order.	Access termination for the ESO. Administrative sanctions in the form of fines.

Regulation	Definition of Content	Medium of Information Dissemniation	Scope of Prohibited Contents	Protection Mechanism
Law No. 1/2023 on Indonesian Criminal Code	Images, writings, and other types of electronic data (voice, maps, designs, access codes, symbols, and telegram).	Distributed in public and viewed directly or indirectly by the public.	**Article 188:** Dissemination of information related to ideologies that oppose the Pancasila ideology. **Article 197:** Information related to defense interests and state secrets. **Articles 219, 227, & 228:** Information that defames state officials (president, vice president, ministers, and other appointed officials). **Article 241:** Insults to the government and state institutions. **Article 242:** Provocative statements and insults to a particular group based on race, ethnicity, religion, gender, or certain physical conditions. **Article 247:** Incitement against public authorities. **Articles 300 & 301:** Hate speech against prevailing religious beliefs. **Article 407:** Information containing elements of pornography. **Articles 433 & 436:** Slander and defamation.	Fines and imprisonment for those who disseminate it.
Law No. 1/2024 on the Second Amendments of Law No. 11/2008 on Electronic Information and Transactions	Electronic information/ data, including text, voice, images, maps, designs, photos, EDI, e-mail, telegram, telefax, telecopy, or its other kinds in the forms of letters, signs, numbers, access codes, and other types of electronic information.	Electronic information and/ or electronic documents.	**Article 27:** Information considered to violate norms, contain gambling contents, or defame. **Article 28:** Misleading or false information resulting in consumer losses and hate speech based on ethnicity, religion, race, or inter-group. **Article 29:** Information containing threats of violence. **Article 40:** Information containing pornography, gambling, disrupting public order, or harmful to individuals and society.	Access termination for the ESO. Criminal penalties for the perpetrators.

Source: Setianti and Djafar (2017), processed by the authors

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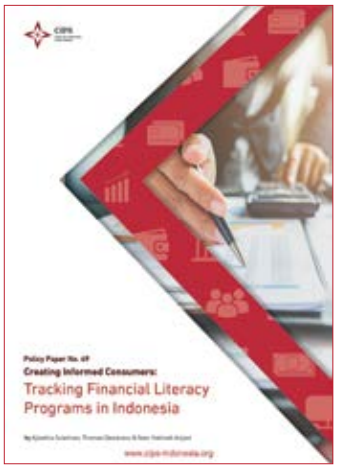

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