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English - Or. English

19 May 2026

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Competition and Consumer Policy in Digital Markets – Note by Indonesia

24 June 2026

This document reproduces a written contribution from Indonesia submitted for Item 4 of the 149th OECD Competition Committee meeting on 22-24 June 2026.

Ori SCHWARTZ
Email : Ori.Schwartz@oecd.org

JT03587231

Indonesia

1. Introduction

1. In Indonesia, competition law and consumer protection law were developed as two distinct regimes. However, in the digital markets, they are becoming increasingly difficult to separate. Law No. 5 of 1999 remains the foundation for overseeing monopolistic practices and unfair business competition, while Law No. 8 of 1999 provides the basis for consumer protection. The Indonesia Competition Commission (Komisi Pengawas Persaingan Usaha/KPPU) has the mandate to assess agreements, business conduct, and abuse of dominant position, as well as to provide advice and considerations to the government. On the other hand, the consumer protection regime operates within the ecosystem of the Directorate General of Consumer Protection and Trade Compliance (Direktorat Jenderal Perlindungan Konsumen dan Tertib Niaga/Ditjen PKTN) Ministry of Trade, the National Consumer Protection Agency (Badan Perlindungan Konsumen Nasional/BPKN), and the consumer complaint mechanisms they manage. In an increasingly digital environment, the overlap between these two regimes is becoming the norm rather than the exception.

2. At the global level, the United States and the European Union have begun incorporating considerations of strategic autonomy, economic security, and supply chain resilience into economic policymaking. Foreign direct investment screening mechanisms have been expanded. Mergers in the technology and critical infrastructure sectors are no longer assessed solely on their effects on prices or market concentration, but also on their implications for technological control, data security, and national industrial resilience. In this context, competition law faces a conceptual challenge: how to maintain competitive markets without disregarding the state's interest in preserving national strategic capacity.

2. Interaction between Competition and Consumer Protection in the Digital Markets

3. Indonesia faces similar dynamics. As a developing country whose economy still relies on natural resources and strategic infrastructure, and which is undergoing rapid digitalization, Indonesia is increasingly confronted with the need to balance market efficiency with the imperatives of national resilience. However, unlike several advanced jurisdictions that have an explicit “national security exception” within merger control or investment review regimes, Indonesian competition law does not yet recognize an independent and comprehensive national security exception under Law No. 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition.

4. In digital practice, the conduct that most often raises dual concerns is not merely price-related conduct, but also platform design and data processing. Self-preferencing is the clearest example: a platform acting simultaneously as an intermediary and a competitor may give preferential treatment to its own products or services, creating entry barriers and reducing consumers' ability to switch. KPPU's own literature identifies self-preferencing as a new form of abuse of dominant position in digital markets and links it to the erosion of consumers' right to substitution. At the same time, KPPU research shows that algorithmic pricing, price monitoring, and algorithmic matching can give rise to risks of collusion, discrimination, and data security concerns.

5. Therefore, conduct such as manipulative online choice architecture, misleading disclosures, fake reviews, aggressive tying/bundling, or non-transparent influencer marketing should be viewed through two lenses simultaneously.

- From a consumer protection lens, the key issue is whether consumers receive information that is accurate, not misleading, and sufficient to make independent choices.
- From a competition lens, the key issue is whether the conduct reinforces lock-in, increases switching costs, inhibits multi-homing, or forecloses rival access.

6. ASEAN also affirms that consumer protection in e-commerce must cover pre-contractual information obligations, safety and privacy during transactions, choice and confirmation of purchase and payment, and post-transaction redress. This shows that transparency, choice, and redress are not only matters of consumer welfare, but also parameters of market quality.

7. In determining whether a case should be handled as a competition case, a consumer case, or both, the determining factors in Indonesia are primarily the legal object, the normative objective, and the evidentiary tools.

- If the issue concerns foreclosure, abuse of dominance, discrimination, or merger effects, the route is competition law and KPPU's procedural law.
- If the issue concerns misleading practices, unfair standard contract clauses, product safety, or failure to provide information, the route is closer to the consumer protection regime and complaints to Ditjen PKTN/BPKN.

8. In digital markets, this distinction does not disappear; rather, the boundary becomes thinner because a single action often misleads consumers and forecloses the market for competitors at the same time.

9. Indonesia does not have an institutional pattern that formally requires a single digital case to be handled in parallel by the KPPU and the consumer authority in one integrated case file. What exists is a coordinative model: the KPPU operates in the competition domain, while Ditjen PKTN provides complaint channels such as the Consumer Protection Information System (Sistem Informasi Perlindungan Konsumen, SIMPKTN), the Public Complaint Service System (Sistem Pengelolaan Pengaduan Pelayanan Publik Nasional, SP4N LAPOR), and public consultations. BPKN provides advice, research, studies, and receives complaints. Thus, in practice, parallel application occurs more functionally than procedurally. In ASEAN, Singapore provides an example of a more integrated model, as the Competition and Consumer Commission of Singapore (CCCS) functions as both a competition and consumer regulator.

10. The trade-off between competition and consumer protection in digital markets is also evident. Intense competition can drive aggressive product design, excessive data monetization, or reduced standards of safety and privacy. Conversely, overly rigid consumer protection standards can raise compliance costs and inhibit entry. The most sensible approach is proportionality: restrictions on competition can only be justified if they are necessary, reasonable, and no less restrictive alternative exists. ASEAN itself promotes a principle-based approach through its e-commerce guidelines and work programmes, emphasizing the modernization of consumer protection, including product liability, safety, and consumer data privacy.

11. Regarding remedies, Indonesia does not yet have a formal digital competition toolkit such as choice screens, data portability mandates, or mandatory interoperability within its general competition regime. However, the policy direction is implicitly moving

in that direction through KPPU advocacy, discussions on self-preferencing, big data, and AI, as well as the strengthening of the 2024 National Strategy for Consumer Protection (Strategi Nasional Perlindungan Konsumen/Stranas PK), which sets policy directions and priority sectors for consumer protection. In the KPPU's view, the most effective remedy for Indonesia's digital market is one that simultaneously reduces switching costs and increases transparency of choice, provided that data protection and trade secrets are safeguarded proportionally. This is a policy inference from existing sources, not an explicit norm codified in a single statute.

3. Competition Policy Considerations in Consumer Protection Enforcement

12. In consumer law enforcement, the question of competition distortion remains relevant, even if it is not always a legal element that must be proven. If a consumer violation is committed by a large player controlling market access, the impact is not merely individual but can also affect entry, raise rivals' costs, and create lock-in. Therefore, market power should influence the prioritization of consumer cases, even if it is not always a formal element. Institutionally, this makes increasing sense as the 2024 Stranas PK is designed as a cross-sectoral policy, and Ditjen PKTN provides extensive complaint channels, including for e-commerce and ASEAN-level complaints.

13. When consumer authorities choose enforcement tools such as commitments, injunctions, fines, redress, or design mandates, the competition implications must be considered from the outset. A design mandate that is too narrow may preserve lock-in; conversely, one that is too broad may impose standardization that benefits large incumbents and disadvantages new entrants. In the Indonesian context, the most realistic approach currently is to use a combination of administrative complaints, policy advice, and sectoral oversight, and to involve the KPPU when the conduct begins to exhibit exclusionary characteristics.

4. Consumer Policy Considerations in Competition Assessment

14. In competition analysis in digital markets, non-price parameters have become central, not peripheral. KPPU's own academic literature affirms that big data can affect unilateral effects, coordinated effects, and even strengthen dominant positions. Other KPPU journal articles identify self-preferencing as a practice that can undermine consumer substitution and raise entry barriers. Thus, product quality, data practices, transparency, interoperability, and trust are no longer merely consumer protection issues; they are competitive variables relevant to harm theory.

15. Consumers' ability to make rational, independent, and informed choices is also critical to harm theory. If consumer autonomy is weakened by ranking opacity, default bias, dark patterns, or aggressive personalized nudges, the digital market becomes less competitive even if many players appear to exist formally. In KPPU's assessment, this aspect should increasingly be treated as an amplifier of harm: not only because consumers are harmed, but because market behavior that "appears competitive" is in fact undermined by interface design and data control. This aligns with KPPU's attention to AI, data, and the need for collaboration with technical experts.

16. Regarding product safety and investment incentives, the main problem is that high market concentration can reduce firms' incentives to invest in safety, because consumers find it difficult to switch and rivals find it difficult to enter. Conversely, healthy competition drives quality innovation, including in digital product safety and data security. The ASEAN

Digital Masterplan 2030 also positions digital cooperation as a means for businesses to thrive in the global digital economy, which policy-wise shows that digital competitiveness cannot be separated from safe and credible governance.

5. Institutional Aspects, Coordination, and the Need for Reform

17. The issues most likely to require a combined competition-consumer perspective going forward are generative AI interfaces, hyper-personalized content, opaque rankings, automated recommendations, and self-learning pricing systems. The KPPU itself argues that AI can trigger price collusion, algorithmic matching, and data security concerns, while ASEAN is moving toward more structured digital cooperation through the ASEAN Agreement on E-Commerce and the ASEAN Digital Masterplan 2030. Thus, the need for inter-agency coordination in the next phase is no longer optional, but structural.

18. The division of authority in Indonesia remains bifurcated. The KPPU oversees competition conduct and mergers, with procedural law now regulated inter alia in KPPU Regulation No. 2 of 2023 and KPPU Regulation No. 3 of 2023. The KPPU also has a basis for providing advice to the government under KPPU Regulation No. 4 of 2023. On the consumer side, BPKN has a mandate to provide advice, research, studies, information, complaints handling, and surveys, while Ditjen PKTN provides service and complaint channels. This model is administratively clear but requires more joint guidance to effectively address overlapping digital harms.

19. Inter-agency coordination in Indonesia is already available in fairly practical forms: Ditjen PKTN provides SIMPKTN, SP4N LAPOR, online consultations, and an ASEAN consumer complaint channel, while the KPPU has an explicit policy advocacy mandate. ASEAN also encourages cooperation between competition authorities and other regulators, both domestically and cross-border. The main obstacles are usually not the absence of channels, but differences in evidentiary standards, limitations on data sharing, and fragmented mandates. That is why the most sensible form of cooperation is working groups, Memoranda of Understanding (MoU), and clear data protocols, rather than institutional mergers that would eliminate the independence of either party.

20. The need for new skills is also evident. Enforcement against AI, big data, and digital market design requires behavioral insights, data science, and technical understanding of algorithms. KPPU literature explicitly suggests collaboration with technical experts to balance innovation and competitive enforcement. This means that future institutional capacity cannot rely solely on law and classical industrial economics; it must be supplemented with data auditing capabilities, algorithmic model interpretation, and digital consumer behavior analysis.

21. Regarding collective redress, individual complaint mechanisms, consultations, and administrative redress are stronger than a fully integrated class-action model linked to KPPU decisions. In this context, the area for strengthening lies in standardizing complaint intake, early screening, and referral protocols between authorities. In other words, collective redress is not the main pillar of Indonesia's current model; the pillars remain complaints, administrative investigations, and enforcement by the respective sectoral authorities.

6. Conclusion

22. As it stands, Indonesia's bifurcated model is still adequate but not robust enough to address digital harms that straddle the boundary between competition law and consumer protection. The most useful reform is not to consolidate all authority into a single agency, but to strengthen formal coordination, joint guidance, and more modern toolkits to address dark patterns, self-preferencing, data lock-in, opaque ranking, and AI-driven market conduct.

23. At the same time, Indonesia needs to maintain balance so that stronger consumer protection does not become an unnecessary barrier to competition, and more aggressive competition does not erode consumer protection, safety, and autonomy. Within this framework, the KPPU, Kemendag, BPKN, and other sectoral authorities should be positioned as parts of a single, complementary ecosystem for digital market governance, not as mutually exclusive entities.