RESPONSIBILITY OF E-COMMERCE BUSINESS OPERATORS FOR SELF-PREFERENCING PRACTICES IN THE ABUSE OF DOMINANT POSITION

Hana Humaira Sachmaso[1*], Heru Sugiyono[2]
[1,2]Fakultas Hukum, Universitas Pembangunan Nasional "Veteran" Jakarta, Indonesia
2210611187@mahasiswa.upnvj.ac.id[1*], herusugiyono@upnvj.ac.id[2]

Received 30 Nov 2025 • Revised 27 Dec 2025 • Accepted 16 Jan 2026

Abstract

Self-preferencing practices by dominant e-commerce platforms have distorted business competition by prioritizing internal products through algorithmic manipulation, limiting fair market access for third-party sellers and influencing consumer choice in a misleading way. Such conduct risks constituting an abuse of dominance and underscores the need for stronger transparency and nondiscrimination safeguards. This research aims to analyze the qualification of self-preferencing as a form of abuse of dominant position and the legal liability of business actors in Indonesia. The research method employed is normative juridical with statutory and case comparison approaches, specifically examining the law enforcement against Coupang in South Korea. The results indicate that although not explicitly regulated, self-preferencing fulfills the elements of discrimination under Article 19 letter d and Article 25 of Law No. 5 of 1999. However, the KPPU case study on Shopee demonstrates that law enforcement remains limited to behavioral remedies mechanisms due to challenges in proving algorithmic conduct. Beyond competition law, the non-discrimination principle is also a liability for business actors based on the ITE Law and Government Regulation No. 80 of 2019. This study concludes the necessity for explicit regulation regarding algorithmic transparency and self-preferencing in Indonesia, reflecting on the strict guidelines applied in South Korea, to ensure a fair digital ecosystem.

Keywords: Self-preferencing, E-commerce, Abuse of Dominant Position, Law No. 5 of 1999, Algorithmic Transparency

INTRODUCTION

The rapid development of the digital economy has fundamentally transformed the way society conducts transactions and interacts with markets. E-commerce platforms now occupy a dominant position as the primary intermediaries between producers and consumers. The Southeast Asian e-commerce market is projected to reach a value of USD 230 billion by 2026, with a compound annual growth rate of 22% (PCMI, 2025). Indonesia, as the largest market in the region, recorded e-commerce sales of USD 64 billion in 2024. Data from the Data and Information Systems Center of the Ministry of Trade indicate that the number of e-commerce users in Indonesia increased by 69% over the past five years, from 38 million in 2020 to 65 million in 2024, and is projected to reach 99 million users by 2029 (Ahdiat, 2024). The strengthening dominance of e-commerce platforms has led to significant market concentration, raising concerns regarding monopolistic practices and unfair competition that may obstruct business actors from engaging in the same economic activities within the relevant market, as prohibited under Law Number 5 of 1999.

Self-preferencing refers to practices whereby a platform that simultaneously operates as a marketplace grants preferential treatment to its own products or services over those of third parties. Such practices may manifest through search algorithms that prioritize internal products, exclusive logistics integration, or promotional policies that disproportionately benefit affiliated services (Min, 2024). Although often justified as part of legitimate business strategies, self-preferencing raises serious concerns regarding abuse of dominant position, as it may distort competitive conditions and hinder fair market competition. This practice has the potential to undermine a level playing field and expose e-commerce platforms to legal risks arising from non-compliance with statutory obligations governing competition law, as stipulated under Government Regulation Number 80 of 2019. In this context, self-preferencing may be classified as a discriminatory practice, as platforms afford preferential treatment to their own products or services at the expense of competing businesses operating on the same platform (Sofian, 2018).

The core issue underlying this research lies in the misalignment between the complexity of digital business practices and the existing legal framework in Indonesia. Competition law enforcement remains largely oriented toward conventional forms of abuse, such as price-fixing cartels and structural monopolies, while digital practices like self-preferencing exhibit more subtle, technology-driven characteristics with systemic market effects. The lack of normative clarity not only generates legal uncertainty but also impedes the development of fair competition and equitable innovation within digital markets.

In Indonesia, debates surrounding self-preferencing have intensified alongside Shopee's dominance as the platform with the largest user base. Case Number 04/KPPU-I/2024 represents an ex officio proceeding initiated by the Business Competition Supervisory Commission (KPPU) against PT Shopee International Indonesia and PT Nusantara Ekspres Kilat (Shopee Express) for alleged violations of Article 19(d) and Article 25(1)(a) of Law Number 5 of 1999 concerning courier services on the Shopee platform (KPPU, 2024). This case indicates potential self-preferencing practices within Shopee's logistics system, whereby transactions were disproportionately directed toward affiliated internal partners. The managerial linkage between Shopee and Shopee Express further reinforces suspicions of preferential treatment toward affiliated courier services. According to KPPU, this situation constitutes an abuse of dominant position, given that Shopee, together with Tokopedia, controlled more than 53.22% of Indonesia's marketplace share in 2025 (Sellercraft, 2025), supported by strong consumer top-of-mind awareness and substantial financial resources.

At the global level, the European Union's Google Shopping case in 2017 serves as a significant precedent, where the European Commission imposed a fine of EUR 2.42 billion for Google's practice of prioritizing its own comparison shopping service over competitors. This conduct was deemed misleading to consumers, harmful to third-party sellers, and distortive of market competition (Ahlborn, 2024). Similarly, South Korea's Korea Fair Trade Commission (KFTC) sanctioned Coupang Inc. in 2024 for algorithmic manipulation and fabricated reviews designed to favor its private-label products (the Coupang Ranking Case). These developments demonstrate that self-preferencing constitutes a systemic phenomenon within the digital economy and serves as an important international benchmark in assessing platform liability for such practices (Ria et al., 2024).

In contrast to these jurisdictions, Indonesia has yet to adopt explicit legal provisions addressing self-preferencing as a form of abuse of dominant position. Law Number 5 of 1999 merely provides general prohibitions against discriminatory practices (Article 19(d)) and abuse of dominant position (Article 25). Although KPPU pursued enforcement against PT Shopee International Indonesia and PT

Nusantara Ekspres Kilat through Case Number 04/KPPU-I/2024, the resolution relied on behavioral remedies rather than administrative or criminal sanctions. This approach reflects a regulatory gap in holding digital business actors legally accountable for practices that are substantively exploitative of market structures (Nugroho, 2012).

From a regulatory standpoint, Law Number 1 of 2024, which amends the Information and Electronic Transactions Law, strengthens the government's responsibility to maintain a fair and non-discriminatory digital ecosystem (Article 40A). However, this provision remains broadly framed and does not specifically regulate the responsibilities of e-commerce actors concerning algorithmic behavior that distorts market competition. As a result, platform accountability remains weak, and evidentiary challenges persist, given that self-preferencing practices are often embedded within opaque algorithmic systems and proprietary data structures (Moch. Marsa et al., 2025).

Previous research by Alfian and Murniati (2024) examined the concept of self-preferencing and its impact on competition but did not sufficiently explain how such practices satisfy the legal elements of abuse of dominant position under Law Number 5 of 1999. Their analysis also failed to incorporate platform-specific indicators such as algorithmic control, business dependency, and network effects as critical determinants of dominance. This study addresses that gap by systematically articulating the relationship between self-preferencing, indicators of dominant position, and the assessment criteria for abuse based on KPPU Decision Number 04/KPPU-I/2024.

Similarly, Puspawardani et al. (2025) highlighted regulatory weaknesses in e-commerce governance affecting micro, small, and medium enterprises but did not address the legal responsibilities of e-commerce platforms in the context of self-preferencing under either competition law or electronic systems regulation. The absence of discussion on obligations related to fairness, algorithmic transparency, and the prevention of algorithmic discrimination leaves a significant gap in platform accountability. This research fills that gap by constructing a framework of e-commerce responsibility grounded in competition law, electronic systems regulation, and principles of digital governance and ethics.

Furthermore, Fawwaz (2025) provided empirical evidence of abuse of dominant position in the Shopee case but limited the analysis to domestic enforcement without addressing weaknesses in legal enforcement or linking the findings to international standards. The absence of comparative analysis regarding supervisory and remedial mechanisms underscores the need for broader inquiry. This study introduces novelty by comparing Indonesia's legal instruments with South Korea's regulatory model under the Monopoly Regulation and Fair Trade Act (MRFTA) and KFTC Guidelines, with the aim of formulating a more adaptive enforcement and risk-mitigation model for self-preferencing while strengthening KPPU's effectiveness in overseeing digital markets.

This research adopts a normative-juridical approach to analyze whether self-preferencing practices may be classified as abuse of dominant position under Indonesian competition law and to assess the legal responsibilities of e-commerce business actors in relation to such conduct. It also draws upon international practices, including the Coupang case in South Korea, to enrich comparative perspectives and reinforce policy recommendations that are more responsive to the dynamics of digital markets.

From a theoretical perspective, this study contributes to the development of competition law discourse in the digital era by expanding the understanding of legal responsibility for algorithmic conduct by digital business actors. From a practical standpoint, the findings are expected to serve as policy recommendations for KPPU and legislators to strengthen legal instruments, including the potential introduction of explicit provisions on self-preferencing in future amendments to competition law or its implementing regulations. Accordingly, this article seeks not only to advance academic debate but also to provide meaningful insights for policymakers and industry stakeholders in fostering a digital ecosystem that is fair, transparent, and equitable for all market participants.

RESEARCH METHOD

This study employs a normative juridical research method, which focuses on the examination of legal norms, principles, and rules as embodied in statutory regulations and decisions of authoritative institutions (Muhaimin, 2020). This approach is applied to analyze the legal responsibility of e-commerce business actors in relation to self-preferencing practices that may be classified as abuse of dominant position under competition law. The research adopts two primary approaches. First, the statute approach, which centers on Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, as well as other relevant regulations governing digital responsibility. In addition, comparative reference is made to foreign legal frameworks that have explicitly regulated self-preferencing, such as the Monopoly Regulation and Fair Trade Act of South Korea and

the Digital Markets Act (DMA) of the European Union, as benchmarks for global regulatory practice. Second, the study applies a normative case approach by examining the application of competition law through Case Number 04/KPPU-I/2024 involving PT Shopee International Indonesia and PT Nusantara Ekspres Kilat (Shopee Express). The analysis of legal materials is conducted qualitatively through systematic interpretation of relevant legal norms and doctrines. The findings are presented in a descriptive-analytical manner by linking positive law provisions, competition law theory, and empirical practices of law enforcement carried out by the Business Competition Supervisory Commission (KPPU).

RESULTS AND DISCUSSION

Self-Preferencing as a Form of Abuse of Dominant Position

Conceptually, self-preferencing is identified as conduct carried out by business actors that operate digital platforms while simultaneously acting as sellers of goods or providers of services on those same platforms, thereby performing a dual role (Business Competition Supervisory Commission, 2021). This practice arises when such actors grant more favorable treatment to their own products, services, or private-label goods, or those of affiliated entities, compared to competing products or services offered by third-party sellers or service providers operating on the same platform (Jürgensmeier et al., 2024).

Explicit regulation of self-preferencing can be found within the European Union's Digital Markets Act (DMA). Article 6(5) of the DMA prohibits gatekeepers from treating their own products or services more favorably in ranking and indexing processes than those of third parties and requires ranking criteria to be transparent and non-discriminatory (EU Regulation, 2022). This provision specifically bans gatekeepers from engaging in self-preferencing practices by prioritizing their own services or products in ranking mechanisms over comparable third-party offerings on their platforms. It further obliges gatekeepers to apply ranking requirements, including technical mechanisms such as indexing and crawling, in a transparent, fair, and non-discriminatory manner (Thomas, 2024).

The impact of self-preferencing on market structure extends beyond technical considerations. It constitutes a key mechanism through which competition on digital platforms is distorted. Competitors face reduced visibility, limited access to large consumer bases, and increasing dependence on platform policies (Fei Long & Wilfred Amaldoss, 2023). Entry barriers rise, as new market participants must compete not only against the reputation and scale of incumbent firms, but also against algorithms designed from the outset to steer transactions toward internal products. This condition is particularly pronounced in markets characterized by strong network effects, where both consumers and sellers tend to concentrate on one or two dominant platforms.

Dominant Position under Indonesian Competition Law

Indonesian competition law, through Law Number 5 of 1999, places the concept of dominant position at the core of assessing business conduct. Article 1(4) defines a dominant position as a condition in which a business actor has no significant competitors in the relevant market or holds the highest position among competitors based on market share, financial capability, access to supply and distribution, or the ability to adjust supply or demand for particular goods or services. The mere existence of a dominant position is not prohibited; legal intervention arises only when such power is abused, resulting in monopolistic practices or unfair competition, as regulated more specifically under Article 25.

Article 25(1) prohibits dominant business actors from engaging in conduct that, inter alia, prevents consumers from obtaining competing goods or services in terms of price or quality, restricts markets or technological development, or obstructs potential competitors from entering the relevant market. This provision is reinforced by Article 19(d), which prohibits discriminatory practices against certain business actors. KPPU guidelines on Article 25 emphasize that the assessment of abuse encompasses market power, the conduct of the business actor, and its impact on market structure and public interest.

In digital markets, indicators of dominant position cannot be separated from market share, although such metrics must be interpreted dynamically. KPPU and Indonesian doctrine commonly use indicative thresholds, such as control of approximately 50% market share by a single firm or 75% by two or three firms, as a preliminary signal of dominance, followed by deeper analysis of entry barriers, bargaining power, and conduct (Anggraini et al., 2024). Shopee exemplifies a dominant market leader, despite competitive pressure from emerging players. According to data from the Indonesian Internet Service Providers Association (APJII) in 2025, Shopee maintained the highest usage preference, achieving a market share of 53.22%. This figure reflects substantial market penetration and consumer loyalty, often described as top-of-mind status, compared to its closest competitors (Wahyu, 2025).

Beyond market share, control over data and algorithms introduces a new dimension to the concept of dominance. Platforms that possess behavioral data on millions of consumers and merchants, and use such data to determine product rankings, recommendations, and pricing, effectively wield the power to direct transaction flows at scale. The dependence of other business actors on one or two major marketplaces further weakens their bargaining position, functionally transforming platforms into bottlenecks that must be passed through to reach consumers (Kusumadewi et al., 2022).

Self-Preferencing as Abuse of Dominant Position

Self-preferencing should be understood not merely as a business strategy, but as a potential form of abuse of dominant position. Article 25 adopts a rule of reason approach, whereby the conduct of dominant firms is assessed based on its actual or potential effects on competition and consumer welfare (Sudiarto, 2021). Competitive exclusion occurs when search algorithms, recommendation systems, or interface designs are structured in a manner that consistently advantages internal products or services, while relegating competitors to inferior positions without objective and justifiable grounds. Such conduct aligns with the forms of abuse identified in Article 25 of Law Number 5 of 1999, namely practices that restrict competition and foreclose market access or expansion for other business actors.

Algorithmic discrimination arises when dominant platforms apply differentiated parameters to business actors who are objectively in comparable positions. Marketplaces may, for instance, automatically activate affiliated courier services as default options, grant “recommended” badges exclusively to sellers using specific internal services, or conceal cheaper alternatives within deeper layers of the user interface (Padilla et al., 2022). From the perspective of Article 19(d), such conduct may be construed as discriminatory treatment, as there is no legitimate justification for differential treatment other than the objective of strengthening internal entities. The restriction of consumer choice constitutes another key indicator in assessing whether self-preferencing has crossed acceptable boundaries (Rochmawati et al., 2023). Consumers often perceive search results or “best choice” labels as objective reflections of price or quality, without awareness of opaque algorithmic interventions (Malian, 2018).

In Case Number 04/KPPU-I/2024 involving Shopee and Shopee Express, KPPU initiated proceedings ex officio based on alleged violations of Article 19(d) and Article 25(1)(a) of Law Number 5 of 1999, particularly concerning the regulation of delivery services on the Shopee platform. The contested practices included the automatic activation of Shopee Express and J&T as default shipping options on seller dashboards, as well as system configurations that removed certain courier and shipping cost options from the consumer interface. KPPU found that such configurations potentially conferred privileges on affiliated couriers while impairing fair competition among logistics providers (KPPU, 2024).

The decision demonstrates a layered enforcement strategy, whereby Article 19(d) functions as a supporting provision to capture discriminatory conduct when proving dominance under Article 25 becomes economically complex. This reinforces the view that self-preferencing is fundamentally discriminatory in nature and may therefore be sanctioned even where full dominance is not conclusively established.

The case concluded with the signing and implementation of a Behavioral Change Integrity Pact by Shopee and Shopee Express, leading KPPU to terminate the investigation after verifying application changes that ensured equal opportunities for users to select programs and courier services (Neraca.co.id, 2024). This outcome highlights two key points: first, Indonesian competition authorities increasingly treat preferential treatment of internal services on digital platforms as a serious issue under the prohibition of discrimination and abuse of dominance; second, enforcement remains focused on behavioral remedies rather than administrative fines, leaving considerable room for normative development regarding self-preferencing.

Internationally, the final judgment of the Court of Justice of the European Union in the Google Shopping case confirmed that the combination of self-preferencing and the demotion of rivals produces structural distortions in competition and reduces genuine consumer choice (Mondaq.com). Similarly, in the Coupang case, the KFTC found that manipulation of rankings and fake reviews not only harmed competitors but also increased prices paid by consumers by displacing cheaper alternatives from prominent positions (Chosun.com).

These developments indicate a growing global consensus toward stricter regulation of self-preferencing. The reinforcement of the Google Shopping ruling and substantial sanctions against Coupang demonstrate a tendency among competition authorities to regard self-preferencing by gatekeeper platforms as abuse of dominant position. The DMA codifies this trend by imposing an ex ante prohibition on self-preferencing for designated gatekeepers (Ireland, 2023).

Within the Indonesian legal framework, self-preferencing by dominant e-commerce platforms may thus be classified as abuse of dominant position where: (a) algorithmic policies and platform design systematically favor internal products or services; (b) such conduct creates entry barriers or weakens competitors' ability to grow; and (c) consumer choice is significantly reduced due to the non-neutral presentation of information. This construction aligns with Articles 19 and 25 of Law Number 5 of 1999 and is consistent with emerging international practice.

Legal Responsibility of E-Commerce Business Actors for Self-Preferencing Practices

Self-preferencing is not merely a matter of business strategy but engages the legal obligations of platform operators to maintain healthy market structures. In Indonesia, these obligations are dispersed across competition law, Law Number 1 of 2024 amending the Electronic Information and Transactions Law, Government Regulation Number 80 of 2019 on Electronic Commerce, and evolving standards of digital governance and ethics.

Responsibility under Competition Law

Law Number 5 of 1999 establishes the foundational obligations of business actors by prohibiting abuse of dominant position and discriminatory practices that restrict competition. In the e-commerce context, Articles 19(d) and 25(1)(a) require marketplace operators to refrain from algorithmic designs that systematically privilege their own products, logistics services, or internal offerings (Rizkia et al., 2025). When search, recommendation, and promotional features such as free-shipping programs are structured to channel transaction flows toward affiliated entities while reducing the visibility or competitiveness of other partners, such conduct constitutes discriminatory practices that impede fair competition (Niar et al., 2020).

The Shopee case illustrates how KPPU interprets these obligations within marketplace ecosystems. The alleged violations involved systematic prioritization of affiliated courier services within promotional programs and shipping options, placing other logistics partners at a competitive disadvantage (Kennedy, 2024). Through the Behavioral Change Integrity Pact, the respondents acknowledged violations of Articles 19(d) and 25(1)(a) and committed to redesigning application interfaces, ensuring equal opportunities for sellers and courier providers, and discontinuing exclusionary practices. Legal responsibility thus extends beyond cessation of conduct to include affirmative duties to redesign systems to eliminate embedded preferences.

KPPU employed behavioral remedies by monitoring compliance through data reporting obligations, policy changes, and participation in competition compliance programs. This approach signals that for digital business actors, legal responsibility encompasses ongoing obligations to manage algorithms, contractual arrangements, and product design in accordance with competition principles.

Responsibility under the ITE Law and PMSE Regulations

The second amendment to the ITE Law through Law Number 1 of 2024 strengthens the state's mandate to regulate digital ecosystems. Article 40A emphasizes the government's role in ensuring a fair, accountable, secure, and innovative digital environment. Although framed as a state obligation, its implications directly affect electronic system operators, including e-commerce platforms, as technical standards are operationalized through compliance requirements imposed on business actors.

This framework converges with Government Regulation Number 80 of 2019 on Electronic Commerce, which requires business actors to adhere to principles of good faith, prudence, transparency, trustworthiness, accountability, balance, and fair and healthy trade in online transactions. These principles demand accurate, clear, and non-misleading information regarding products, services, and ranking or recommendation mechanisms. Algorithms designed to exploit information asymmetry by concealing more favorable consumer options in order to promote internal products conflict with consumer protection and contractual fairness principles underlying PP 80/2019.

Minister of Trade Regulation Number 31 of 2023 further extends regulation by distinguishing marketplace, social commerce, and other PMSE models, while emphasizing the objective of fostering a fair, healthy, and beneficial digital trade ecosystem that supports MSME empowerment. Although it does not explicitly mention self-preferencing, its orientation toward protecting domestic businesses implies expectations that platforms refrain from internal policies, including algorithmic recommendations and advertising, that distort competition and marginalize local enterprises (Hafitasari et al., 2022).

The convergence of the ITE Law, PP 80/2019, and Permendag 31/2023 establishes a broader set of obligations beyond traditional cartel or monopoly prohibitions. E-commerce platforms are required to ensure non-discriminatory electronic systems, provide transparency regarding service operations, and protect consumers from data-driven manipulative practices (Ilham Dwijayana et al., 2024). Where

self-preferencing is implemented through rankings, default delivery options, or promotional bundles that exploit digital information asymmetry, such conduct may violate not only competition law but also consumer protection obligations and principles of fairness in electronic commerce.

Abuse of Dominance in the Platform Economy: The Role of KPPU in Indonesia

KPPU plays a central role in assessing whether e-commerce platform conduct exceeds legitimate business boundaries and enters the realm of abuse of dominance. In addition to Law Number 5 of 1999, KPPU relies on procedural regulations, previously governed by KPPU Regulation Number 1 of 2019, which revived behavioral remedies as an alternative enforcement mechanism. Although this regulation was formally repealed by KPPU Regulation Number 6 of 2023, the concept of behavioral change remains embedded in enforcement practice.

The Shopee case serves as a key illustration. During proceedings, the respondents acknowledged the alleged conduct and sought behavioral modification. The resulting Integrity Pact required, among other obligations, cessation of abusive conduct, interface redesign to ensure equal opportunities for all sellers and courier providers, and guarantees of freedom to participate in or withdraw from promotional programs without hidden coercion (Hutapea et al., 2025).

KPPU's determination dated 7 November 2024 concluded that Shopee and Shopee Express had fulfilled all obligations under the Integrity Pact, including interface adjustments, data disclosure, and compliance program registration, leading to termination of the case. From an enforcement perspective, this pattern underscores KPPU's preference for corrective measures and system redesign over purely financial sanctions.

Nevertheless, notable weaknesses remain. Law Number 5 of 1999 does not recognize self-preferencing as a distinct legal category, forcing KPPU to subsume such practices under discrimination or abuse frameworks developed in a pre-platform era. Evidentiary challenges also persist due to limited access to proprietary data and algorithms, often necessitating reliance on indirect evidence such as transaction patterns, interface changes, and internal policy documents (Fazriati et al., 2025). Absent robust algorithmic transparency requirements, the boundary between business innovation and exploitative manipulation remains blurred.

South Korea's Approach to Self-Preferencing: From Case Enforcement to Ex Ante Regulation

South Korea offers a more advanced model for conceptualizing self-preferencing as abuse of dominant position. The KFTC relies on the Monopoly Regulation and Fair Trade Act (MRFTA), complemented by the Guidelines for Review of Abuse of Market Dominance by Online Platform Operators effective since January 2023. These guidelines explicitly identify problematic practices such as self-preferencing, tying, MFN clauses, and restrictions on multi-homing, while outlining anticompetitive concerns and potential efficiency justifications.

Cases involving NAVER Shopping and Kakao Mobility demonstrate KFTC's willingness to treat algorithmic designs that assign preferential ranking scores to internal services as abusive when they restrict consumer choice and hinder competition (Jungwhan et al., 2024). Although the Korean Supreme Court later refined aspects of the NAVER decision by emphasizing the need to prove competitive effects and legitimate business justifications, the judicial debate enriched analytical benchmarks: self-preferencing is not inherently unlawful but becomes problematic when combined with dominance and fragile market structures.

Beyond case-based enforcement, South Korea is moving toward a more proactive regulatory framework, including proposals for an Online Platform Act that explicitly prohibits self-preferencing, particularly through ranking manipulation and restrictions on sellers' freedom to operate across multiple channels. This reflects a shift from purely ex post enforcement toward a hybrid model combining general prohibitions under MRFTA with more prescriptive ex ante obligations for large platforms.

For Indonesia, these developments offer three key lessons. First, clear substantive guidelines defining self-preferencing as abuse can reduce legal uncertainty and simplify evidentiary burdens. Second, integrating competition analysis with consumer protection, as seen in the Coupang case, aligns with Indonesia's e-commerce ecosystem characterized by information asymmetry and platform dependence. Third, linking enforcement to algorithmic transparency and digital fairness resonates with broader international trends, particularly within the European Union.

CONCLUSION

The phenomenon of self-preferencing within the e-commerce ecosystem reflects a broader shift in the challenges of competition law enforcement in the digital era. Digital platforms that simultaneously function as market infrastructure providers and commercial actors possess both the incentive and the

capacity to exploit control over algorithms and data in order to favor their own products or services. Such practices have the potential to distort market structures, restrict competitive opportunities for other business actors, and reduce consumer choice and welfare. From the perspective of Indonesian positive law, Article 19 letter (d) and Article 25 of Law Number 5 of 1999 can, in principle, serve as a legal basis to assess self-preferencing as a form of abuse of dominant position, despite the absence of explicit formulation. The handling of the Shopee–Shopee Express case demonstrates that the Business Competition Supervisory Commission (KPPU) has begun to address this issue through the use of behavioral remedies. However, the lack of specific normative provisions and limited access to algorithmic systems continue to pose serious challenges in terms of evidentiary standards and effective supervision.

At the same time, the digital sector regulatory regime under the amended Electronic Information and Transactions Law, Government Regulation Number 80 of 2019, and Minister of Trade Regulation Number 31 of 2023 emphasizes the obligation of electronic system operators to uphold principles of non-discrimination, transparency, and fairness in electronic commerce activities. In this regard, strengthening the regulatory framework becomes an urgent necessity, particularly through the formulation of explicit rules on self-preferencing and algorithmic transparency obligations for platforms with significant market power.

Furthermore, KPPU may consider adopting substantive guidelines similar to the Monopoly Regulation and Fair Trade Act (MRFTA) Guidelines applied in South Korea, which provide clearer benchmarks for distinguishing legitimate business innovation from abusive conduct. Policy coordination and supervisory synergy among KPPU, the Ministry of Trade, and the Ministry of Communication and Informatics will play a strategic role in fostering a national e-commerce ecosystem that is competitive, fair, and aligned with the principles of digital economic ethics.

REFERENCES

Anggraini, A. M. T., Armando, A., Santoso, B. J., Setiawan, C., Mardanugraha, E., Saragih, G. S., Lumbanradja, K., et al. (2024). *Persaingan usaha dalam rangkaian kata: Kompilasi pemikiran konstruktif untuk navigasi kebijakan persaingan pada era ekonomi modern*. Jakarta: Komisi Pengawas Persaingan Usaha.

Dwijayana, A. F. S. I., Kasim, N. M., & Imran, S. Y. (2024). Dinamika hukum persaingan usaha di era digital: Analisis perlindungan hukum dalam e-commerce Shopee dan TikTok Shop di Indonesia. *Birokrasi: Jurnal Ilmu Hukum dan Tata Negara, 2*(2), 1–12. https://doi.org/10.55606/birokrasi.v2i3.1145

European Union. (2022). *Regulation (EU) 2022/1925 on contestable and fair markets in the digital sector (Digital Markets Act).* Official Journal of the European Union, L 249.

Fazriati, R. M., Rosadi, S. D., & Amalia, P. (2025). The urgency of regulating the transparency principle of AI systems in Indonesia: The phenomenon of self-preferencing and regulation in the European Union. *Journal of Law, Politic and Humanities, 5*(3), 2061–2074. https://doi.org/10.38035/jlph.v5i3.1485

Hafitasari, I. A., Adzani, D. A., & Mafruhat, A. Y. (2022). Analisis hubungan e-commerce terhadap UMKM di Indonesia. *Jurnal Dinamika Ekonomi Pembangunan, 5*(2), 95–105. https://doi.org/10.33005/jdep.v5i2.401

Höppner, T. (2024). *Self-preferencing in online search: Under Article 6(5) DMA.* Baden-Baden: Nomos Verlagsgesellschaft.

Hutapea, K., Sirait, N. N., & Lubis, T. M. (2025). Efektivitas penerapan perubahan perilaku oleh KPPU terhadap penyalahgunaan posisi dominan dalam penentuan layanan kurir di platform Shopee. *Acta Law Journal, 3*(2), 63–78.

Jürgensmeier, L., Bischoff, J., & Skiera, B. (2024). Opportunities for self-preferencing in international online marketplaces. *International Marketing Review, 41*(5), 1118–1132. https://doi.org/10.1108/imr-03-2024-0094

Kennedy, A. (2024). Analisis hukum persaingan usaha platform marketplace online pada era ekonomi digital. *Ethics and Law Journal: Business and Notary, 2*. https://doi.org/10.61292/eljbn.243

Komisi Pengawas Persaingan Usaha. (2016). *Pedoman program kepatuhan terhadap Undang-Undang Nomor 5 Tahun 1999.* Jakarta: KPPU.

Komisi Pengawas Persaingan Usaha. (2024). *Putusan KPPU Perkara Nomor 04/KPPU-I/2024.* Jakarta: KPPU.

Korea Fair Trade Commission. (2023). *Guidelines for review of abuse of market dominance by online platform operators.* Sejong: KFTC.

Kusumadewi, Y., & Sharon, G. (2022). *Hukum perlindungan konsumen.* Yogyakarta: Lembaga Fatimah Azzahrah.

Lubis, A. F., Anggraini, A. M. T., Toha, K., Kagramanto, B., Hawin, M., Sirait, N. N., Sukarmi, Maarif, S., & Silalahi, U. (2009). *Hukum persaingan usaha antara teks dan konteks.* Jakarta: GTZ GmbH.

Malian, S. (2018). *Pengantar hukum bisnis.* Yogyakarta: Kreasi Total Media.

Padilla, J., Perkins, J., & Piccolo, S. (2022). Self-preferencing in markets with vertically integrated gatekeeper platforms. *Journal of Industrial Economics, 70*(2), 371–395. https://doi.org/10.1111/joie.12287

Ria Setyawati, Koos, S., & Jatmiko, Z. A. F. (2024). Data-driven dominance in digital markets: Assessing Indonesian competition law in the digital age. *Jurnal IUS Kajian Hukum dan Keadilan, 12*. https://doi.org/10.29303/v12i2.1377

Rizkia, N. D., Huda, M., Ahyani, H., Fardiansyah, H., Salmon, H. C. J., Syafranuddin, R. A. H., & Atikah, I. (2025). *Pengantar hukum e-commerce.* Bandung: Widina Media Utama.

Sudiarto. (2021). *Pengantar hukum persaingan usaha di Indonesia* (Edisi 1). Jakarta: Kencana.