

Legal Responsibility of Marketplaces for Consumer Losses Due to Counterfeit Products: A Comparative Study of Indonesia and Singapore

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ABSTRACT

The rapid development of e-commerce in Southeast Asia, particularly in Indonesia and Singapore, has opened up new economic opportunities, but it has also raised serious concerns regarding the circulation of counterfeit products on digital marketplace platforms. Counterfeit products not only harm the original manufacturer economically, but also endanger consumers in terms of health and safety. This research aims to evaluate and compare the legal responsibility of marketplaces for consumer losses due to counterfeit products based on regulations in Indonesia and Singapore. The method employed was a normative, juridical, and macro-comparative approach, involving the analysis of laws and regulations, legal doctrines, and interviews with stakeholders in the consumer protection sector. The results indicate that Indonesia lacks a robust legal framework for holding marketplaces accountable, which hinders consumers' access to effective legal protection. In contrast, Singapore has developed a progressive legal system through the Consumer Protection (Fair Trading) Act, which requires marketplaces to apply the precautionary principle and provide efficient dispute resolution mechanisms. The findings confirm that marketplaces should be positioned as active business actors who can be held legally liable when harm occurs to consumers due to the sale of counterfeit products. This research recommends revisions to Indonesia's Consumer Protection Law and Government Regulation No. 80/2019 to align with the development of modern e-commerce practices, including the implementation of digital product certification and reverse proof to ensure fairness for consumers.

INTRODUCTION

Digital transformation has driven significant disruption in the global trade landscape. E-commerce, which was initially only considered as a complement to conventional trade, is now a major force in shaping consumer behavior and the distribution structure of goods (Amaliya et al., 2025; El-Azzi, 2022; Santiago et al., 2025; Saunders & Berger-Walliser, 2011; Syafiq & Hasanah, 2024). This phenomenon has been increasingly seen in the last decade, especially since the COVID-19 pandemic, which has driven massive digital adoption (Nainggolan et al., 2023). According to e-Conomy SEA

2024, the value of digital transactions in Southeast Asia is expected to exceed USD 250 billion by 2025, with Indonesia and Singapore as the two key players in this ecosystem.

However, behind this acceleration, complex structural problems arise, one of which is the circulation of counterfeit products on the marketplace platform. Counterfeit products are not only economically harmful, but also pose a serious risk to consumer health and safety. Based on a report from the OECD in 2024, around 3.3% of internationally traded goods are counterfeit, and this figure has increased significantly in digital channels (Hutabarat et al., 2023). Marketplaces, as parties that provide online buying and selling facilities, are an important actor whose legal responsibilities must be examined in this phenomenon.

Marketplaces such as Shopee, Lazada, and Tokopedia can no longer be considered passive intermediaries; they have evolved into active platforms. They benefit directly from transaction activities, providing payment systems, logistics, and product promotion algorithms. However, when consumers are lost due to counterfeit products, there are still legal loopholes regarding the extent to which manufacturers must be held judicially liable. In Indonesia, legal frameworks such as Law No. 8 of 1999 on Consumer Protection and Law No. 1 of 2024 on Electronic Information and Transactions have not explicitly established marketplace responsibilities for non-genuine goods sold through their platforms. This creates ambiguity in consumer protection, especially in the context of proof, the burden of responsibility, and dispute resolution mechanisms (Winarko & Manurung, 2024). On the other hand, Singapore has adopted a more progressive and systematic approach to addressing this issue through the law. Through the Consumer Protection (Fair Trading) Act, the Personal Data Protection Act, and technical guidance such as Technical Reference 76, Singapore requires marketplaces to apply the principle of due diligence to sellers operating on their platforms. In addition, an efficient mediation system and strict administrative sanctions against violating business actors provide greater legal certainty for consumers (Pratiwi & Dirkareshza, 2023).

The issue of marketplace responsibility for counterfeit products becomes increasingly relevant when associated with the Cash on Delivery (COD) payment method (Simbolon & Rosando, 2023). In this system, consumers do not have the opportunity to verify the authenticity of the product before making a payment. This presents significant opportunities for rogue business actors to exploit regulatory loopholes and incur substantial losses. The fact that many consumers lack access to a transparent refund mechanism underscores the urgency of revising legal policy.

This research is important in order to fill the gap in the literature that comparatively discusses the legal responsibility of the marketplace between Indonesia and Singapore in the context of counterfeit goods. By combining normative and juridical-comparative approaches, this paper not only analyzes the differences in legal frameworks but also evaluates the effectiveness of the implementation of regulations that have been in effect in both countries (Alghifary, 2023). In addition, this study aims to provide concrete recommendations for improving the consumer protection system in Indonesia, especially in the face of legal challenges due to the complexity of cross-border digital transactions.

It is hoped that through this study, policymakers, business actors, and the public can gain a more complete understanding of the urgency of consumer protection law reform in the digital age, as well as use Singapore's experience as a reference for building an adaptive, responsive, and equitable legal system in the face of today's e-commerce dynamics.

The rapid growth of e-commerce in Southeast Asia has led to an alarming increase in counterfeit products circulating on marketplace platforms. This situation raises critical questions regarding the legal responsibilities of marketplaces in protecting consumers from losses incurred due to counterfeit

goods. In Indonesia, existing laws lack clarity on the extent of marketplace accountability, creating ambiguity for consumers seeking redress.

The urgency for reform is underscored by the rising prevalence of counterfeit products, which not only harm consumers economically but also pose significant health and safety risks. Reports indicate that a substantial percentage of online goods may be counterfeit, highlighting the need for robust legal frameworks that hold marketplaces accountable. Furthermore, the COVID-19 pandemic has accelerated digital transactions, making it imperative to address the legal gaps that currently exist in consumer protection law.

Given the dynamic nature of e-commerce, stakeholders must act swiftly to adapt regulations that reflect the realities of online marketplaces. This adaptation is vital to ensure that consumers can trust the platforms they use for transactions, ultimately fostering a safer digital marketplace environment.

Prior studies have emphasized the challenges of counterfeit products in the digital marketplace. For instance, research by Hutabarat et al. (2023) indicates that counterfeit goods significantly undermine consumer trust and market integrity. Additionally, Nabawi (2023) explores the legal implications of consumer protection in online transactions, highlighting the deficiencies in Indonesia's regulatory framework. Furthermore, research by Pratiwi & Dirkareshza (2023) examines the effectiveness of existing consumer protection laws in addressing issues related to e-commerce fraud.

Another relevant study by Lisanawati & Aristo (2022) discusses the necessity of regulatory reforms in light of increasing digital transactions, advocating for a more proactive approach in consumer protection. These studies collectively illuminate the pressing need for enhanced legal frameworks to address the complexities of counterfeit products in e-commerce, particularly within the Indonesian context.

Despite the existing literature, there remains a significant gap in comparative studies that analyze the legal responsibilities of marketplaces in Indonesia and Singapore regarding counterfeit products. While individual frameworks have been examined, a comprehensive comparative analysis that evaluates the effectiveness of these regulations in protecting consumers has not been sufficiently addressed.

This research introduces a novel perspective by combining normative and comparative legal approaches to examine the responsibilities of marketplaces in both Indonesia and Singapore. By doing so, it not only highlights the legal deficiencies in Indonesia but also proposes actionable recommendations based on Singapore's best practices.

The primary objective of this study is to evaluate and compare the legal responsibilities of marketplaces in Indonesia and Singapore concerning consumer losses due to counterfeit products. This research aims to identify gaps in the current legal frameworks and propose reforms that can enhance consumer protection in the digital marketplace.

The findings of this study will provide valuable insights for policymakers, legal practitioners, and marketplace operators. By identifying weaknesses in existing regulations and proposing enhancements, the research aims to contribute to the development of a more effective consumer protection system that can adapt to the challenges posed by the rapidly evolving e-commerce landscape.

METHOD

This study employed a normative juridical approach, complemented by a macro-comparative approach. The normative juridical method focuses on analyzing legal texts, regulations, and doctrines

within the framework of legal norms. It examines the structure of laws and their hierarchical relationships to understand how they operate within the legal system. This approach allows for a thorough exploration of existing consumer protection regulations in Indonesia and Singapore, enabling the identification of gaps and ambiguities in the legal framework regarding marketplace responsibilities for counterfeit products.

Additionally, the macro-comparative approach is employed to compare legal events and frameworks across various countries, specifically Indonesia and Singapore. This method facilitates an in-depth analysis of similarities and differences in consumer protection regulations and their implementation. By examining the legal responsibilities of marketplaces in both jurisdictions, the research aims to provide insights into best practices and effective regulatory measures. Data collection is conducted through literature reviews and the analysis of various legal documents, ensuring a comprehensive understanding of the legal landscape surrounding e-commerce and consumer protection in both nations.

RESULT AND DISCUSSION

The development of e-commerce in the Southeast Asian region experienced exponential growth after the COVID-19 pandemic, and was expected to reach a transaction value of USD 250 billion by 2025. This condition is followed by the rampant circulation of counterfeit goods, which, according to Interpol and OECD Reports (2024), 1 in 10 products traded online in Southeast Asia are potentially not genuine. Therefore, the urgency of strengthening the consumer protection regime is becoming increasingly evident (Lisanawati & Aristo, 2022).

In Indonesia, the legal approach to marketplace liability for counterfeit goods still seems passive and responsive. The main regulation, namely Law No. 8 of 1999 concerning Consumer Protection, does not explicitly regulate the responsibility of marketplaces as separate business actors (Sari, 2023). Marketplaces often position themselves as "neutral intermediaries", even though in practice, they control the technical aspects of transactions such as recommendation algorithms, payment methods, and logistics. This makes it difficult for consumers to demand responsibility when they receive products that are proven to be fake.

Instead, Singapore is taking a more proactive and prescriptive approach. Through the Consumer Protection (Fair Trading) Act (CPFTA) and support from institutions such as CASE (Consumers Association of Singapore), marketplaces can be held jointly liable if they are found to be negligent in supervising business actors who use their platforms to sell counterfeit goods. In addition, the existence of an internal audit obligation for sellers and the use of product authenticity verification technology is a standard required by IMDA (Infocomm Media Development Authority) for digital platforms.

In global business practices by 2025, the marketplace has evolved from just a provider of transaction space to a provider of logistics systems, product curation, and payment guarantors (escrow service). Therefore, the approach that considers the marketplace only as a "passive platform" is no longer relevant. In Indonesian law, the interpretation of the marketplace as a business actor can be explicitly strengthened through a systematic interpretation of Article 1 numbers (3) and (5) of the UUPK, as well as Article 2 of Government Regulation No. 80 of 2019 concerning Trade Through Electronic Systems (I. M. Sari, 2024).

Marketplaces such as Shopee, Lazada, and Tokopedia now provide official stores and verified labels, but not all products labeled "verified" have actually gone through the authenticity testing process. When consumers receive counterfeit goods from official stores in the marketplace, the marketplace can no longer escape contractual and delinquent liability. In this case, the theory of strict

liability can be applied to demand the responsibility of the marketplace as a facilitator who enjoys commercial benefits from transactions that are detrimental to consumers (Nabawi, 2023).

In Singapore, this strengthening is more systematic. The CPFTA stipulates that unfair practices include "failure to disclose material facts" and "false claims", which can apply not only to sellers but also to digital platforms if proven to have facilitated fraud or failed to take action after receiving a report. The Marketplace is also required to provide an active reporting channel and mediated dispute resolution facilitated by CASETrust and the Small Claims Tribunals.

In practice, dispute resolution due to counterfeit goods tends to be slow and burdensome for consumers. In Indonesia, most marketplaces implement a return system within 7 days of receipt. However, if counterfeit goods are not directly identified (for example, cosmetic products or electronic spare parts), then it is difficult for consumers to file complaints within the specified period of time (Wijaya, 2020).

Meanwhile, Singapore requires marketplaces to provide complete documentation of each transaction (Article 12 of the Electronic Transactions Act 2010), including proof of product authenticity (Zulkarnain, 2022). Marketplaces such as Lazada Singapore even implement an instant refund system if the goods sent are proven to be fake based on initial reports. This shows that the principle of reverse burden of proof can be enforced, i.e., marketplaces must prove that they have taken sufficient steps to ensure the authenticity of the product. In Singapore, this has been strictly implemented. If the market is unable to prove that they have taken preventive measures, then it can be subject to joint liability. The reverse proof system applied in dispute resolution also shows the regulatory bias towards consumers who have been in a weak position in the digital ecosystem (Widiarty & Saragih, 2024).

Indonesia should adopt a similar principle by adding provisions on preventive and repressive responsibility in the ITE Law, which has been updated to Law No. 1 of 2024. The expansion of the definition of "electronic business actor" to "providers of digital systems that facilitate commercial transactions and receive profits from such activities" can be a juridical basis for binding marketplaces. The Government of Indonesia needs to amend the UUPK and Government Regulation No. 80 of 2019 to include strict provisions regarding the legal responsibility of marketplaces for counterfeit products. Marketplace recognition as an active business actor must be outlined in explicit norms (Moniaga, 2023).

Product Audit and Certification by Marketplace, which is a marketplace, is required to provide a blockchain-based product verification system or QR authentication. This is crucial in the midst of the rampant counterfeiting of branded goods that cause great losses both materially and reputationally to consumers. Strengthening Alternative Dispute Resolution (ADR), Indonesia needs to emulate a digital mediation mechanism like that in Singapore, which is fully supported by independent institutions and run in real-time through the marketplace application itself.

Although Singapore is known as a country with a relatively progressive and adaptive legal framework in regulating e-commerce transactions, a number of fundamental challenges remain in the face of the effectiveness of consumer protection, especially in the context of increasingly complex cross-border trade in 2025. One of the main obstacles is the difficulty in resolving disputes involving foreign parties. In practice, many Singaporean consumers transact with sellers from abroad who are not directly bound by domestic regulations. This poses juridical obstacles in filing claims because disputes that cross state borders often involve overlapping jurisdictions, differences in legal procedures, and obstacles to the recognition of cross-border judgments (Chalil, 2021).

In addition, the implementation of sanctions against foreign digital business actors who violate the rights of Singaporean consumers is likely to be ineffective. The absence of a solid international

law enforcement mechanism makes the process of cracking down on foreign business actors often ends in administrative impasses. This causes consumer losses to often be completely irrecoverable, even if there is sufficient evidence of infringement. Weak coordination between cross-border authorities and differences in regulatory philosophies have also widened the gap in effectiveness between legal norms and the reality on the ground.

In addition to cross-jurisdictional issues, another challenge is the lagging behind regulations on the dynamics of digital technology, which is very fast. Innovations such as the use of artificial intelligence in product recommendation systems, predictive algorithms in pricing, and the development of augmented reality-based marketing technologies have changed the pattern of consumer interaction with marketplaces. However, existing regulations are still general and have not yet reached the technical details of the innovation. As a result, the potential for consumer losses due to system manipulation, covert advertising, or the exploitation of personal data has not been fully accommodated legally.

Another problem that is no less crucial is the low consumer literacy regarding the risks of digital transactions. Although the Singapore government has launched various educational initiatives, most consumers still do not have a comprehensive understanding of their rights, complaint procedures, and mitigation measures against potential fraud. In a national survey conducted by the Singapore Consumer Insights Forum in early 2025, it was noted that 42% of respondents were unaware of mediation procedures in the case of online disputes, and only 18% had read the terms and conditions before making a purchase. This lack of understanding widens the gap for irresponsible business actors to exploit consumers subtly and overtly.

Thus, while Singapore's digital consumer protection system has made significant progress structurally compared to many other countries in the Southeast Asian region, the challenges of transaction globalization and the speed of technology demand more flexible, responsive, and adaptive regulatory updates. The next step requires not only revision of legal norms, but also strengthening the cross-border cooperation system, increasing people's digital legal literacy, and enforcement mechanisms that are able to reach transnational actors. Only with this combination can e-commerce consumer protection be fully and effectively realized in the era of global digital commerce in 2025.

CONCLUSION

The increasingly massive digital trade in Southeast Asia presents significant challenges for consumer protection, particularly concerning the rampant circulation of counterfeit products. Marketplaces, as central actors in the e-commerce ecosystem, can no longer act as passive intermediaries. This research highlights that Indonesia's regulatory framework remains weak in establishing legal responsibilities for marketplaces, evidenced by the lack of explicit norms in the Consumer Protection Law and the ITE Law regarding their accountability for counterfeit goods. In contrast, Singapore has proactively implemented principles of prudence and mediation-based dispute resolution through independent institutions, requiring marketplaces to conduct seller audits, provide transaction documentation, and verify products as concrete measures of consumer protection. The study concludes that marketplaces should be recognized as active business actors with contractual and delinquent responsibilities when consumer losses occur due to counterfeit products. Therefore, the Indonesian government must reform its legal framework to include explicit provisions on marketplace responsibilities, such as the principle of reverse proof and product verification obligations, while also establishing an independent digital dispute resolution body integrated with e-commerce platforms. By adopting a more responsive and accommodating legal approach similar to

Singapore's, Indonesia can create a fair, efficient, and adaptive digital consumer protection system that meets the challenges of cross-border trade in 2025 and beyond.

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