

## INTISARI

### Tinjauan Yuridis Risiko *Over-Regulation* dalam Pembaharuan Hukum Persaingan Usaha bagi Sektor Pasar Digital di Indonesia (Studi Komparasi: Indonesia, Uni Eropa, dan Britania Raya)

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Penelitian ini mengkaji risiko *over-regulation* dalam pembaruan hukum persaingan usaha Indonesia untuk sektor pasar digital melalui studi komparatif atas UU No. 5/1999 (UU HPU), Digital Markets Act (Uni Eropa), dan Digital Markets, Competition and Consumers Act 2024 (Britania Raya). Menggunakan metode yuridis-normatif dengan sifat deskriptif-analitis, kajian mengombinasikan *statute approach*, *comparative approach*, dan *conceptual approach* untuk menilai kecukupan perangkat Indonesia serta pelajaran dari DMA/DMCCA.

Analisis menunjukkan adanya kelemahan sistemik dalam UU HPU dalam menghadapi karakter pasar digital yang bertumpu pada data, efek jejaring, dan pasar multi-sisi, yang menyebabkan penegakan *ex-post* menjadi kurang gesit. Kelemahan tersebut dipetakan pada empat pilar, yaitu pilar substantif, prosedural, institusional, dan sanksi, serta dihubungkan dengan adanya fragmentasi kewenangan dan keterbatasan kapasitas.

Dari perbandingan model, DMA yang preskriptif dan DMCCA yang berbasis *outcome* menawarkan jalur *ex-ante* berbeda, namun adopsi tanpa penyesuaian berisiko menimbulkan *over-regulation*: perluasan ruang lingkup, beban administratif, dan ketidaksesuaian kapasitas lokal. Uji kepastian hukum dan proporsionalitas diajukan sebagai kerangka evaluasi; konsep transposisi hukum menekankan adaptasi kontekstual dan kemungkinan hasil hibrida alih-alih peniruan tekstual. Kajian merekomendasikan kerangka hibrida bertahap (mis. penetapan penyelenggara strategis dan persyaratan perilaku yang disetel), disertai penguatan koordinasi antar-otoritas dan kapasitas KPPU.

**Kata Kunci:** *Over-Regulation*, Pasar Digital, Hukum Persaingan Usaha, DMA, DMCCA, Kepastian Hukum, Proporsionalitas, KPPU, Transposisi Hukum.

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## ABSTRACT

### **A Juridical Review of the Risk of Over-Regulation in Indonesia's Competition Law Reform for the Digital Market Sector (A Comparative Study of Indonesia, the European Union, and the United Kingdom)**

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This study examines the risk of over-regulation in Indonesia's competition-law reform for the digital market through a comparative analysis of Law No. 5/1999, the EU's Digital Markets Act (DMA), and the UK's Digital Markets, Competition and Consumers Act 2024 (DMCCA). It employs a normative juridical method with a descriptive-analytical character, combining statute, comparative, and conceptual approaches to assess Indonesia's framework and extract lessons from the DMA/DMCCA.

The analysis identifies systemic constraints of ex-post enforcement when confronted with data-driven, multi-sided markets and strong network effects. Weaknesses are mapped along four pillars: substantive rules, procedures, institutional capacity, and sanctions, amid fragmented mandates and limited resources.

Comparatively, the DMA's prescriptive rule-set and the DMCCA's outcome-based discretion offer distinct ex-ante pathways; however, uncontextualized transplantation may trigger over-regulation via overly broad scope, administrative burdens, and misfits with local capacity. To navigate these risks, the abstract advances legal certainty and proportionality as evaluation lenses, and adopts legal transposition to emphasize contextual tuning and likely hybrid outcomes rather than textual imitation. Policy recommendations include a staged hybrid framework (e.g., designation of strategic providers [*penyelenggara strategis*] with tailored conduct requirements), stronger inter-agency coordination, and capacity building for KPPU.

**Keywords:** Over-Regulation, Digital Markets, Competition Law, DMA, DMCCA, Legal Certainty, Proportionality, KPPU, Legal Transposition.

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