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Legal Analysis of Consumer Data Usage in Digital Marketing

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Abstract: In the digital age, consumer data serves as a key driver of personalized marketing strategies. However, the increasing reliance on personal data has raised significant legal and ethical concerns regarding user privacy, consent, and data governance. This study provides a normative legal analysis of Indonesia's Personal Data Protection Law (Law No. 27/2022) in comparison with the European Union's General Data Protection Regulation (GDPR). Using a juridical-normative and comparative legal method, the study evaluates the adequacy of legal frameworks in regulating consent, profiling, user rights, enforcement mechanisms, and cross-border data flows. The findings reveal that while the UU PDP adopts foundational data protection principles, it remains limited in enforcement capacity and specificity compared to the GDPR. Gaps in regulatory detail, particularly in profiling and real-time bidding practices, present significant risks for consumer data exploitation. The study recommends strengthening regulatory clarity, accelerating the establishment of a supervisory authority, and improving legal literacy among businesses. These steps are crucial for ensuring ethical digital marketing practices and aligning national law with international standards.

Keywords: Digital Marketing, Consumer Data, Privacy Law, GDPR, UU PDP, Data Protection, Legal Analysis

INTRODUCTION

In the era of digital transformation, consumer data has become one of the most valuable assets in the marketing ecosystem. Digital marketing strategies now rely heavily on data-driven approaches to personalize content, predict consumer behavior, and increase engagement efficiency. According to a 2023 report by Statista, global spending on digital advertising reached USD 667 billion, with a significant portion attributed to targeted advertising powered by consumer data analytics (Statista, 2023).

However, the massive collection, storage, and utilization of consumer data raise significant legal and ethical concerns, especially in terms of privacy rights, informed consent, and data protection compliance (Belk, 2020; Vejlgard & Rodriguez, 2023). A global survey conducted by Cisco (2021) revealed that 86% of consumers are concerned about data privacy, and 79% expect more transparency from companies about how their data is being used.

With the growing importance of data privacy regulations such as the General Data Protection Regulation (GDPR) in the European Union and similar frameworks adopted in

various jurisdictions, businesses are increasingly required to align their digital marketing practices with stringent legal requirements (Greenleaf, 2019; Cavoukian, 2021). In Southeast Asia, including Indonesia, regulatory trends are moving toward reinforcing consumer data protection laws, demanding companies to establish transparent data governance and consent mechanisms (Putri & Santoso, 2022). The recent ratification of Indonesia's Personal Data Protection Law (Law No. 27 of 2022) further strengthens this legal foundation, imposing criminal and administrative sanctions for unlawful data use.

Despite the clear legal expectations, many digital marketers still operate within a gray area, navigating between personalization and privacy. This legal ambiguity calls for a critical examination of how current laws interpret the collection and use of consumer data in marketing, and how these interpretations impact business practices (Faisal, F., Ali, H., & Imron Rosadi, K., 2021). This paper aims to analyze the legal frameworks governing consumer data usage in digital marketing and evaluate their implications on consumer rights and corporate responsibilities.

Legal Analysis

The collection and use of consumer data in digital marketing must be examined through the lens of applicable privacy laws and data protection frameworks. At the international level, the General Data Protection Regulation (GDPR) of the European Union remains the benchmark, setting out strict conditions for lawful data processing, consent requirements, data minimization, and user rights such as access, rectification, and erasure (GDPR, 2018). Under Article 6 of the GDPR, personal data can only be processed lawfully if it meets at least one of six legal bases, the most relevant in digital marketing being *explicit consent* and *legitimate interest*.

In Indonesia, the enactment of Undang-Undang No. 27 Tahun 2022 tentang Perlindungan Data Pribadi (UU PDP) marked a significant milestone. This law aligns closely with GDPR principles, establishing fundamental rights for data subjects, including the right to be informed, the right to access, and the right to withdraw consent. The UU PDP also imposes administrative sanctions, including fines and license revocation, as well as criminal penalties for misuse of personal data (Putri & Santoso, 2022). Article 20 of the law specifically restricts the use of data for profiling and automated decision-making without informed consent.

Legal compliance also extends to data governance and transparency obligations. Companies engaged in digital marketing are required to inform consumers clearly about the purpose of data collection (Trisasetianto & Ali, 2025), the scope of data usage, the duration of storage, and whether data will be shared with third parties (Greenleaf, 2019; Cavoukian, 2021). Non-compliance has already resulted in substantial legal consequences. For instance, Meta (formerly Facebook) was fined €390 million by Irish regulators in 2023 for violating GDPR rules regarding personalized ads without valid consent (Reuters, 2023).

A core legal dilemma is the tension between personalization and privacy. While personalized ads improve user experience and conversion rates, they often rely on intrusive tracking methods such as cookies, fingerprinting, and real-time bidding—many of which have come under scrutiny for violating user autonomy (Belk, 2020). Furthermore, studies have shown that more than 70% of companies struggle to ensure GDPR compliance in real-time programmatic advertising ecosystems (IAB Europe, 2022).

Thus, the legal landscape requires digital marketers not only to adopt technical safeguards (e.g., encryption, anonymization), but also to implement Privacy by Design principles and obtain explicit, granular, and revocable consent from users (Cavoukian, 2021). In Indonesia, businesses are advised to revise their privacy policies, establish internal data protection officers, and invest in staff training to avoid regulatory penalties under UU PDP.

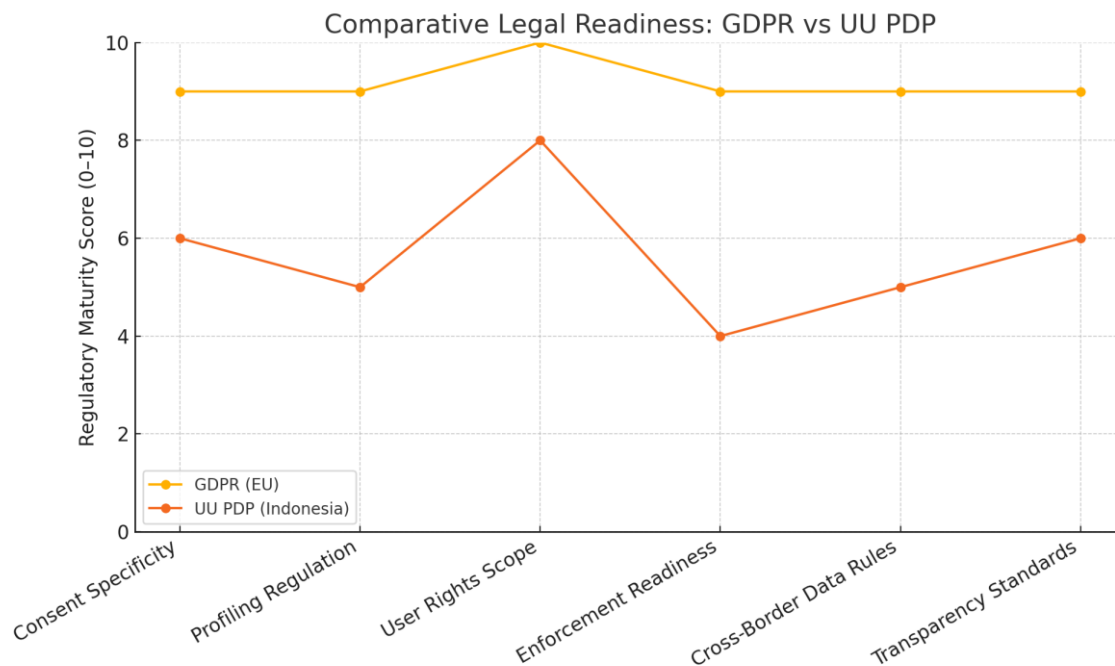


Figure 1. Comparative Legal Readiness of GDPR and UU PDP

Figure 1. Comparative chart showing the regulatory maturity between the European Union's General Data Protection Regulation (GDPR) and Indonesia's Personal Data Protection Law (UU PDP) across six critical dimensions.

The GDPR demonstrates a more mature and detailed framework in all assessed categories, particularly in enforcement readiness and cross-border data transfer mechanisms, while the UU PDP remains under development in several areas.

METHOD

This research employs a juridical-normative approach, which focuses on the analysis of legal norms, doctrines, and statutory regulations governing the use of consumer data in digital marketing. The normative legal method is appropriate for examining written legal rules, particularly national regulations such as Indonesia's Personal Data Protection Law (Law No. 27/2022), and international legal frameworks like the General Data Protection Regulation (GDPR) of the European Union. The analysis is carried out through a descriptive-analytical lens, aiming to describe the legal provisions and analyze their implementation and enforcement in real-world digital marketing practices (Prayetno, S., & Ali, H., 2020).

Additionally, this study integrates a comparative legal approach, comparing Indonesia's data protection law with international standards, especially GDPR, to identify gaps, similarities, and areas for harmonization (Yeni, et al., 2019). This comparative analysis provides a broader perspective on how data privacy is regulated in various jurisdictions, and how those regulatory models influence consumer protection practices in digital marketing.

The sources of legal materials used in this study include:

- 1) Primary legal sources, such as national legislation (UU No. 27 Tahun 2022), GDPR documents, and official government regulations.
- 2) Secondary legal sources, including journal articles, legal commentaries, white papers, and digital privacy reports from both Indonesian and international contexts.
- 3) Tertiary sources, such as legal dictionaries and academic handbooks, used to clarify key legal terms and interpretations.

The data is collected through library research (studi kepustakaan) using databases such as Google Scholar, HeinOnline, LexisNexis, and national legal repositories. The selection of legal texts and academic literature focuses on works published between 2019 and 2024 to ensure the relevancy and currency of the discussion. The analysis technique used is qualitative content analysis, which involves interpreting the meaning and implications of legal texts to draw conclusions about regulatory adequacy, compliance challenges, and legal risks in digital marketing practices.

RESULTS AND DISCUSSION

Legal Framework Adequacy

The enactment of Indonesia's Law No. 27 of 2022 on Personal Data Protection (UU PDP) marks a critical advancement in safeguarding consumer data amid rising digital marketing activities. The law introduces key legal principles including consent-based processing, data minimization, and rights of data subjects, which are aligned with the GDPR's foundational tenets (Putri & Santoso, 2022). However, the implementation stage remains in progress, particularly regarding the establishment of an independent data protection authority, which is essential for enforcement.

By comparing with the GDPR, it is evident that UU PDP lacks clarity in certain aspects such as profiling regulations, cross-border data transfers, and automated decision-making. Article 22 of GDPR provides detailed mechanisms for such activities, while Indonesian law remains general in articulation (Greenleaf, 2019).

Consent and Transparency Challenges

Despite legal mandates, compliance with informed consent remains one of the most contentious issues. A study by Cisco (2021) found that although 79% of consumers desire more transparency, only 36% feel companies are currently delivering it. In Indonesia, many digital platforms use bundled or "blanket" consent in privacy policies, which are not compliant with the principle of specificity as mandated under Article 20 of UU PDP (Marzuki, 2019). Furthermore, cookie banners and tracking disclosures often remain misleading or hard to understand. This mirrors global trends, as seen in the Meta GDPR violation case (2023), where the Irish Data Protection Commission ruled that Meta failed to obtain valid consent for personalized ads and issued a €390 million fine (Reuters, 2023).

Enforcement and Institutional Gaps

The effectiveness of any data protection law depends on enforcement infrastructure. The GDPR benefits from strong enforcement by national data protection authorities (DPAs), whereas Indonesia's law is still awaiting the formation of a fully autonomous supervisory body. This regulatory gap risks inconsistent enforcement, especially for multinational digital marketing operations targeting Indonesian consumers (Vejlgaard & Rodriguez, 2023). Moreover, lack of legal literacy among businesses—particularly small and medium enterprises (SMEs)—hampers compliance. A 2022 survey by Kominfo indicated that 58% of digital businesses in Indonesia were unaware of the specific obligations under UU PDP (Riyanto, et al., 2017).

Emerging Legal Risks in Ad Tech

Programmatic advertising ecosystems involve real-time bidding (RTB), where personal data is shared with hundreds of third parties in milliseconds. This poses massive challenges for real-time consent management and data security (IAB Europe, 2022). The absence of precise mechanisms in Indonesian law to govern RTB, fingerprinting, or behavioral profiling presents a regulatory lag that may compromise consumer protection.

These findings point to the need for:

- 1) More granular consent mechanisms (opt-in/opt-out settings).
- 2) Standardized privacy interfaces, and.
- 3) Cross-border cooperation for data transfers and digital investigations.

Tabel 1. Emerging Legal Risks in Ad Tech

Aspect	Indonesia (UU PDP No. 27/2022)	European Union (GDPR)	Legal Issues Identified
Legal Basis for Processing	Consent, contractual necessity, legal obligation	Consent, legitimate interest, contractual necessity, etc.	Lack of detail in legitimate interest justification in Indonesia
Consent Requirements	Explicit, informed, and written (Article 20)	Freely given, specific, informed, unambiguous (Article 7)	Many companies use bundled/blanket consent; specificity is lacking
User Rights	Access, rectification, erasure, withdrawal of consent	Includes all Indonesian rights plus data portability, objection	No specific provision yet for data portability in Indonesia
Profiling & Automation	Regulated (general terms), but not fully defined	Strict conditions for automated decision-making (Article 22)	Profiling loopholes in UU PDP—lacks clarity on AI-driven personalization
Enforcement Authority	To be established (not yet operational as of 2024)	Data Protection Authorities (DPAs) in each EU member state	Enforcement gap in Indonesia due to absence of supervising body
Cross-border Data Transfer	Requires adequate protection or explicit user consent	Permitted with adequacy decisions or safeguards (e.g., SCCs)	No structured adequacy framework or model clauses in Indonesian context
Transparency Obligations	Must inform purpose, method, duration, and third-party access (Article 16–17)	Transparency principle (Article 5), detailed disclosures in privacy notice	Privacy policies often vague and difficult to access in Indonesian digital platforms
Legal Sanctions	Administrative fines, criminal penalties, license revocation	Fines up to €20 million or 4% of global turnover	Enforcement still weak in Indonesia, no precedents yet
RTB & Ad Tech Regulation	Not specifically addressed	Under increasing scrutiny by regulators	Indonesian law lags in regulating real-time bidding (RTB), cookies, and trackers

CONCLUSION

The growing reliance on consumer data in digital marketing necessitates a robust and enforceable legal framework to ensure that individual rights to privacy are respected. This legal analysis highlights that Indonesia’s Law No. 27 of 2022 represents a crucial step toward strengthening personal data protection. The law introduces foundational principles such as consent, transparency, and user rights. However, gaps remain in enforcement capacity, consent implementation, and regulation of advanced data practices like profiling and real-time bidding.

A comparison with the EU’s GDPR reveals that while there are notable similarities, Indonesian law still lacks comprehensive guidance on critical issues such as automated decision-making, cross-border data flow, and explicit profiling restrictions. The absence of a fully operational data protection authority further limits the law’s effectiveness in ensuring corporate accountability.

To improve legal compliance in digital marketing, businesses must:

- 1) Adopt granular and revocable consent mechanisms.
- 2) Improve privacy notices and transparency standards.
- 3) Prepare for regulatory audits by establishing internal data governance structures.
- 4) Incorporate Privacy by Design principles into digital systems.
- 5) Engage in legal literacy efforts, especially targeting SMEs.

On a policy level, regulators must act swiftly to finalize the implementing regulations of UU PDP and operationalize a national data protection authority. Inter-agency

collaboration, public-private partnerships, and regional harmonization with ASEAN digital frameworks could also support a more consistent and effective regulatory environment.

In conclusion, this study underlines the urgent need for synchronized legal, technical, and ethical frameworks to address the complexities of data-driven marketing in the digital age. By strengthening legal protections and promoting responsible data practices, Indonesia can foster both consumer trust and innovation in its rapidly growing digital economy.

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