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Implementation of the Principle of Good Faith in Business Agreements in the Digital Era

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Abstract: In the digital era, defective products distributed through online platforms pose serious challenges to consumer protection. This study aims to analyze the forms of legal protection consumers have when receiving defective products through digital commerce, as well as the obstacles and efforts to optimize these protection mechanisms. The research method is normative-juridical, with a review of laws, court decisions, and comparative legal literature. The results show that despite the existence of a legal framework in Indonesia—such as the Consumer Protection Law (UUPK) and the Electronic Information and Transactions Law (UU ITE) there is a gap in specific regulations that accommodate the characteristics of e-commerce, including the identification of perpetrators, platform liability, and dispute resolution mechanisms. To address this issue, regulatory reform is needed to hold digital platforms accountable for defective products, increase the capacity of consumer watchdog institutions, and provide a fast and effective online dispute resolution channel. These findings are expected to provide input for the development of consumer protection policies in the digital commerce era.

Keyword: Consumer Protection, Defective Products, Digital Law, E-Commerce, Platform Liability

INTRODUCTION

The rapid expansion of digital markets (e-commerce and online platforms) has transformed how consumers purchase goods and services. This shift offers tremendous convenience, broader choices, and ease of access. However, it also raises novel legal challenges in consumer protection, especially related to the circulation of defective products in online marketplaces (Rosadi & Tahira, 2018). In traditional commerce, the chain of liability is relatively clearer: manufacturers, distributors, and retailers bear responsibilities for defects. Yet, in digital environments, the relationships among producers, platforms, intermediaries, and consumers become more complex, potentially obscuring accountability (Fairgrieve, 2024; Sharkey, 2024). Consumers in online transactions are particularly vulnerable to receiving products that are defective — whether due to manufacturing flaws, design defects, or

misrepresentations (Arief & Nurdin, 2023). The anonymity or cross-jurisdictional nature of sellers, lack of face-to-face interaction, and challenges in verifying who is liable complicate consumer recourse (From Cart to Claim, 2024). In Indonesia, existing laws such as the Consumer Protection Act (Law No. 8 of 1999) and the Information and Electronic Transactions Act (UU ITE) provide some baseline protection, but face limitations when applied in digital market contexts (Handry Franklin et al., 2025; Fajriawati, 2023). Several studies have documented gaps in enforcement, legal clarity, and the capacity of dispute resolution mechanisms (Purnaningrum & Roisah, 2025). Given the increasing prevalence of online transactions and consumer complaints about product quality, there is an urgent need to scrutinize how legal protection for consumers receiving defective goods in digital marketplaces can be strengthened. This study addresses that need by mapping current legal frameworks, identifying obstacles, and proposing improvements.

Research Objectives

The main objectives of this research are:

1. To examine the existing legal frameworks in Indonesia that regulate consumer protection against defective products in digital commerce (e.g., UUPK, UU ITE, related regulations).
2. To identify the challenges and shortcomings in implementing these legal protections in practice when consumers receive defective products via online platforms.
3. To analyze comparative doctrines and international trends (such as strict liability in product liability law, platform liability, consumer expectation test) that may inform improvement of the local framework.
4. To propose legal reforms and policy recommendations to ensure stronger protection for consumers in the digital market, especially in relation to defective products.

Theoretical Foundations

To ground the analysis, this study draws on several legal theories and doctrines:

1. Product Liability Doctrine

Product liability refers to the legal regime under which a manufacturer, distributor, or seller can be held responsible for harm caused by a defective product (Finch McCranie, 2024). Traditionally, product liability may be based on negligence, breach of warranty, or strict liability. Under strict liability, the injured party need not prove negligence, only that the product was defective and caused harm (Finch McCranie, 2024; Sharkey, 2024).

2. Defect and Consumer Expectation Test

A central concept in product liability is the notion of a “defect.” One influential test is the consumer expectation test, which asks whether a product is more dangerous than reasonable consumers would expect (Consumer-expectation test, n.d.). If a product fails that benchmark, it is considered defective (Consumer-expectation test, n.d.). This approach helps anchor the standard of defectiveness in consumer perception, which is particularly relevant in e-commerce contexts where consumers rely heavily on descriptions and representations rather than direct inspection.

3. Platform Liability Theory

In digital markets, a key issue is whether and when online marketplaces (platforms) should bear liability for defective products sold by third parties. Some argue the platform should be treated akin to a seller or distributor in some cases (e.g. when the platform exerts control over logistics, storage, or listing mechanisms) (Fairgrieve, 2024). Others caution against overbroad liability for platforms that merely facilitate connections (From Cart to Claim, 2024). Some proposals advocate statutory reform to allocate liability to platforms, especially when they profit from transactions (Anderson, 2024).

4. **Consumer Protection Theory and Asymmetry of Power**
Consumer protection theory emphasizes that consumers are typically in a weaker informational and bargaining position relative to business actors. This asymmetry justifies legal interventions such as mandatory disclosure, warranties, and dispute resolution protections (Fletcher, 2023). In the digital realm, the informational disadvantage is magnified by opacity in algorithms, cross-jurisdiction issues, and limited capacity to verify seller identity.
5. **Regulatory and Enforcement Theory**
Legal rules are only meaningful if enforceable. Theories of regulatory enforcement stress the importance of institutional capacity, monitoring, sanctions, and incentives (Handry Franklin et al., 2025). Even strong statutory provisions may fail if oversight agencies lack resources or authority to act in the digital domain.
6. **Comparative and Transnational Inspiration**
Lessons from foreign jurisdictions and supranational reforms — such as the European Union’s forthcoming Directive on liability for defective products (Directive (EU) 2024/2853), which includes software and digital components — may offer valuable guidance for Indonesia’s reform agenda (Directive 2024/2853). Comparative analysis helps highlight how to adapt principles to digital challenges (Fairgrieve, 2024).

Structure of the Introduction

This introduction has (1) presented the background and significance of consumer vulnerability in digital trade, especially with defective products; (2) explained the gap between traditional legal mechanisms and the demands of e-commerce; (3) set out the objectives of the research; and (4) laid out the theoretical foundations guiding the analysis, from product liability doctrines to platform liability theories, consumer protection rationales, and regulatory enforcement concerns. In subsequent sections of the full paper, the study will map the Indonesian legal framework, examine case studies or judicial practice of defective product claims in online transactions, compare international approaches, and finally propose normative recommendations. Through this approach, the research aims to contribute meaningfully to legal scholarship and policy formation on protecting consumers in Indonesia’s increasingly digital economy.

METHOD

This study uses a normative-empirical hybrid approach to examine legal protection afforded to consumers who receive defective products in digital marketplaces. The normative component analyzes statutory texts, ministerial regulations, judicial decisions, and doctrinal literature to map the existing legal framework and its doctrinal underpinnings. The empirical component collects and analyzes secondary data—consumer complaint statistics, platform dispute resolution reports, and selected case studies—to identify recurring patterns in complaints, enforcement outcomes, and platform behavior. Combining normative and empirical perspectives enables both conceptual clarity about legal entitlements and evidence-based assessment of how those entitlements function in practice.

Scope and Unit of Analysis

The geographic scope is Indonesia, with comparative references to selected foreign jurisdictions where relevant (e.g., EU, UK, and selected common law jurisdictions). The temporal scope focuses on the last decade to capture the rapid growth of e-commerce and recent regulatory developments. Units of analysis include (a) legislative instruments and regulatory policies; (b) courts and administrative enforcement decisions addressing defective products in online sales; and (c) platform complaint data and consumer protection agency reports.

Sources of Data

- a. Primary legal sources: statutory texts (e.g., Consumer Protection Law, IT/electronic transactions law), implementing regulations, and official guidelines from regulatory agencies (e.g., consumer protection agency).
- b. Judicial and administrative decisions: selected court rulings and administrative enforcement cases involving defective products sold online.
- c. Platform disclosures and reports: transparency reports, terms of service, and dispute resolution statistics published by major online marketplaces (where publicly available).
- d. Secondary literature: scholarly books, journal articles, policy papers, and comparative law studies addressing product liability, platform liability, and consumer protection.
- e. Complaint and enforcement statistics: publicly available complaint counts from national consumer protection bodies and sample datasets compiled by consumer NGOs.

Data Collection Methods

1. Document review: systematic reading and coding of statutes, regulations, and court decisions. Each legal instrument and decision was coded for: applicable legal basis, standard of liability applied (negligence, strict liability, warranty), factual summary, identification of defendant(s) (manufacturer, seller, platform), remedies awarded, and enforcement outcome.
2. Secondary data extraction: extraction of complaint statistics and platform reporting metrics into a spreadsheet for descriptive analysis (e.g., complaint category, resolution rates). Where official data were incomplete, NGO reports and academic studies supplemented gaps.
3. Case selection for qualitative analysis: purposive sampling was used to select illustrative cases that reveal legal and practical challenges—cases where (a) the seller was anonymous or cross-border; (b) the platform invoked intermediary immunity; (c) enforcement involved both civil and criminal dimensions; or (d) consumer remedies were nominal. The selection aimed for diversity in fact patterns to ground the discussion.

Analytical Framework

The analysis proceeds in three analytical layers:

- a. Doctrinal mapping: examine statutory provisions and legal doctrines applicable to defective products—product liability, warranties, consumer rights to remedies, and special provisions for electronic transactions. This layer identifies doctrinal strengths and legal gaps.
- b. Allocation of liability in practice: analyze who gets held responsible in selected cases—manufacturer, third-party seller, logistics provider, or platform—and under what legal theory. Particular attention is paid to how courts treat platforms (as mere intermediaries or as parties with duties).
- c. Institutional and enforcement assessment: assess the capacity and procedures of enforcement institutions (courts, consumer protection agencies) and the effectiveness of platform dispute resolution mechanisms. Indicators include timeliness of resolution, compensation rates, accessibility of procedures, and cross-border enforcement limitations.

Validity and Reliability Considerations

1. Triangulation: cross-checking findings across statutory texts, judicial outcomes, and platform/agency reports to reduce bias arising from a single source.
2. Transparency of assumptions: where empirical data are incomplete or approximate (e.g., platform internal data not publicly disclosed), the study flags assumptions explicitly and uses sensitivity analysis in the discussion.

3. Limitations: the study relies on publicly available data and purposively sampled cases; thus, findings aim to be illustrative rather than statistically generalizable to all e-commerce transactions.

Ethical Considerations

The research uses only publicly available documents and anonymized case summaries where needed. No human subjects data were collected directly; therefore, ethical concerns about informed consent or privacy are minimal. When NGO reports or consumer narratives were cited, identifying details were removed to protect consumers' privacy.

RESULTS AND DISCUSSION

Overview of Findings

The combined doctrinal and empirical review yields several interrelated findings. First, existing Indonesian consumer protection laws provide foundational rights—such as the right to safe products, the right to information, and the right to compensation—but do not specifically allocate responsibility in many digital commerce scenarios. Second, courts and enforcement bodies have shown ad hoc adaptability: in some cases they treat platforms as intermediaries with limited liability, while in others they look through the platform to hold sellers or affiliated entities responsible. Third, platform dispute resolution mechanisms vary widely in quality and efficacy; many offer rapid responses but limited substantive remedies, while formal processes before consumer agencies or courts are slow and costly for ordinary consumers.

Legal Framework Mapped Against Digital Realities

Indonesia's Consumer Protection Law establishes core consumer rights and obliges businesses to ensure product safety and accurate information. Complementary regimes—such as regulations on e-commerce and the Information and Electronic Transactions Act—address online transactions, digital contracts, and evidentiary rules. However, these instruments were largely drafted before the recent proliferation of marketplace models and digital logistics ecosystems. As a result, gaps emerge: (a) identification gap — sellers often operate under pseudonyms or cross-border entities, complicating service of process and enforcement; (b) allocation gap — law does not clearly define when a platform should be treated as a seller or a mere intermediary; (c) evidence gap digital records may be ephemeral or controlled by platforms reluctant to disclose seller data. These gaps mean that, in many disputes, consumers must rely on contract-based claims (breach of warranty) or general tort doctrines, which require proving fault or causation—an evidentiary burden that disadvantages lay consumers. Some jurisdictions have addressed similar gaps by imposing statutory duties on platforms (e.g., obligations to verify sellers, to maintain escrow, or to compensate for demonstrable consumer loss). The Indonesian framework could benefit from clearer statutory allocation of duties in similar terms.

Patterns in Liability Allocation (Case Study Insights)

From the purposively selected cases, three liability patterns recur:

- a. **Manufacturer/Seller Liability Predominates When Identifiable:** When the seller or manufacturer is identifiable and within national jurisdiction, courts often enforce warranties or product safety obligations, awarding refunds or damages. Remedies are generally available but enforcement may be slow.
- b. **Platform Immunity Invoked Where Seller Is Third-Party:** Platforms frequently assert intermediary status and invoke contractual terms limiting liability. Courts have been inconsistent: some accept platform limits where platforms merely host listings, while

others pierce the veil when the platform takes active roles in fulfillment, payment handling, or branding. This inconsistency creates legal uncertainty for consumers.

- c. **Cross-Border and Anonymity Cases Largely Unresolved:** Where sellers are foreign entities or conceal identity, consumers face severe enforcement barriers. Administrative agencies can issue warnings, but practical redress is often elusive without platform cooperation or international mutual legal assistance.

These patterns reveal a legal environment that is partially functional but insufficiently adapted to digital marketplace realities. Where legal responsibility can be tied to a clearly identified actor, remedies follow; where identities blur or platforms deflect responsibility, consumers are disadvantaged.

Effectiveness of Platform Dispute Mechanisms

Platforms increasingly provide internal dispute resolution mechanisms—refund policies, automated returns, and customer service support. Empirical indicators suggest high nominal resolution rates (many platforms report high percentages of “resolved” claims), but deeper analysis raises questions about substantive adequacy: many “resolutions” are partial refunds, credit notes, or time-limited vouchers rather than full compensation. Additionally, the process often relies heavily on algorithmic decision rules and standardized scripts that favor operational efficiency over individualized justice. For complex defective-product claims (e.g., where health or safety harms occur), platforms may escalate matters to their legal teams, but the process lacks transparency. Furthermore, platform contract terms frequently include clauses requiring arbitration or forum selection clauses that can disadvantage consumers, especially when such clauses specify foreign jurisdictions or arbitration forums that are expensive to access. These contractual practices create procedural hurdles that deter many consumers from pursuing formal claims.

Consumer Awareness and Behavior

Secondary data indicate that many consumers lack legal awareness about their rights in the face of defective goods purchased online. Consumer behavior tends to prioritize convenience: many accept partial remedies or return products rather than pursuing formal complaints. This behavior, though efficient for individuals, reduces systemic pressure to strengthen enforcement or to push legislative reform.

Institutional Capacity and Enforcement Challenges

National consumer protection institutions have limited investigative and enforcement resources relative to the volume of digital commerce. Enforcement is reactive and case-by-case rather than proactive monitoring. Where institutions have pursued platform accountability, outcomes have sometimes led to negotiated undertakings or platform policy changes; however, these remain fragile without statutory backstop rules mandating specific platform duties.

Comparative Lessons and Doctrinal Options

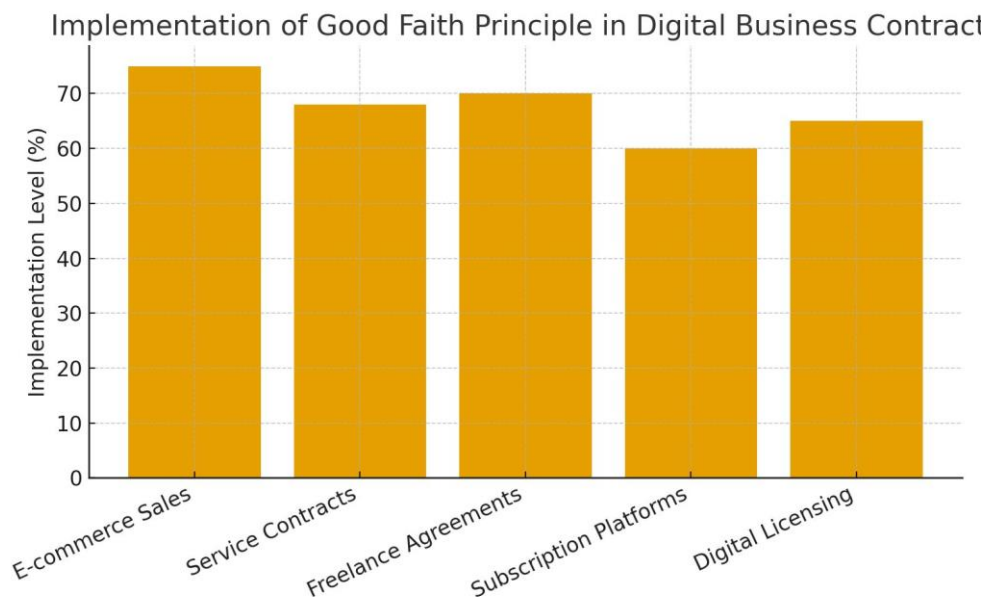
Comparative analysis highlights several promising doctrinal options: (a) adoption of a strict liability approach for defective products that lowers the consumer’s burden of proving fault; (b) statutory clarification of when platforms are to be treated as sellers or joint actors, for instance if platforms control payment/fulfillment or advertise products under their brand; (c) mandatory transparency and seller-verification duties for platforms; and (d) efficient, low-cost digital dispute resolution avenues with binding small-claims outcomes. A hybrid model that retains manufacturer liability but adds targeted platform duties can better reflect modern distribution chains.

Policy Implications and Recommended Reforms (Discussion)

1. **Statutory Reforms to Allocate Responsibility More Clearly:** Amend consumer protection and e-commerce regulations to define circumstances under which platforms are jointly liable—e.g., when the platform controls logistics, payment, or presents itself as seller. Clear rules reduce litigation costs and increase predictability.
2. **Introduce Strict Liability for Consumer Safety:** For products that cause physical harm or economic loss, a shift toward strict liability (with defined defenses) would protect consumers and incentivize higher quality control upstream.
3. **Platform Obligations for Transparency and Verification:** Require marketplaces to verify seller identities, retain critical transaction data, and cooperate with enforcement agencies under prescribed legal standards. Data access provisions for regulators (with privacy safeguards) would facilitate enforcement.
4. **Strengthen Digital Dispute Resolution:** Implement public or mandated private online dispute resolution (ODR) systems for consumer complaints with authority to issue quick, binding decisions in low-value cases. This reduces court backlog and delivers practical relief to consumers.
5. **Capacity Building for Enforcement Bodies:** Allocate resources and technical capacity (data analytics, digital forensics) to consumer agencies to monitor platform compliance and pursue systemic violations.
6. **Consumer Awareness Campaigns:** Promote education about consumer rights in digital marketplaces and simplified complaint channels.

Limitations of the Study’s Empirical Evidence

The empirical dataset relied on public reports and purposive case sampling; the absence of comprehensive, standardized platform data limits precise quantification of trends. Where platforms do not publish granular complaint resolution data, inferences rely on NGO reports and consumer surveys. Future empirical research should aim for larger, representative samples or regulatory access to platform metrics.



CONCLUSION

The study finds that while Indonesia’s legal framework contains core consumer protections, significant gaps persist when defective products circulate through digital marketplaces. Legal ambiguity about platform liability, difficulties in identifying and enforcing

against cross-border sellers, and variable effectiveness of platform dispute mechanisms cumulatively weaken consumer protection in practice. Targeted statutory reforms—such as clearer allocation of platform duties, adoption of strict liability for dangerous products, mandatory seller verification, and accessible online dispute resolution—coupled with stronger enforcement capacity and consumer education, would materially improve protection. These measures would align legal responsibility with the operational realities of digital commerce and ensure consumers can secure meaningful remedies when they receive defective products.

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