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Hidden Exploitation in The Gig Economy: Reconstructing Fairness in Digital Affiliate Partnerships with E-Commerce Platforms

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Abstract: Affiliate marketing has become part of platform-based commerce, yet its contractual architecture may transfer disproportionate economic and procedural risks to affiliates. This article examines the legal position of Indonesian digital affiliates who promote products through e-commerce platforms under standard electronic partnership agreements. It asks whether valid adhesion clauses can remain binding when platforms reserve unilateral authority to modify commissions, alter algorithmic attribution, suspend accounts, or impose inaccessible dispute forums. Using normative-doctrinal legal research, the study analyses the Indonesian Civil Code, electronic-transactions regulation, consumer law, and electronic-commerce rules, supplemented by comparative scholarship on unfair terms, dependent contracting, algorithmic management, and online dispute resolution. The findings show that affiliates occupy a regulatory borderland: they are neither consumers nor readily classifiable employees, despite being economically dependent on platform-controlled infrastructure. Formal consent therefore cannot, by itself, establish substantive contractual legitimacy. The article proposes a functional category of platform-dependent affiliates and a proportionality-based fairness test examining transparency, legitimate purpose, necessity, risk allocation, and effective redress. It further recommends mandatory notice, auditable commission rules, reasoned decisions, human review, collective representation, and independent online dispute resolution. These measures would preserve commercial innovation while preventing contractual freedom from becoming an instrument of hidden exploitation in Indonesia's digital economy.

Keywords: algorithmic management, digital affiliates, gig economy, platform contracts, substantive fairness.

INTRODUCTION

Digital platforms have altered not only the channels through which goods are sold but also the institutional organization of commercial persuasion. E-commerce enterprises increasingly rely on individuals who produce videos, livestreams, product reviews, and social-media recommendations that direct prospective buyers toward platform transactions. Affiliate programs appear attractive because participation is easy, work is flexible, and compensation is

linked to measurable conversions. For platforms, the arrangement externalizes marketing costs: rather than paying fixed advertising expenses, the enterprise distributes promotion across a large population and remunerates only attributed transactions. For affiliates, it promises entrepreneurial autonomy and access to markets without conventional employment. Yet the apparent symmetry of voluntary exchange conceals a legal and technological structure in which one party writes the rules, measures performance, controls evidence, calculates payment, and designs the forum for contesting its own decisions.

This structure belongs to the wider platform economy, although digital affiliates do not fit neatly within its established categories. Much scholarship focuses on ride-hailing drivers, delivery couriers, crowdworkers, or freelancers who perform tasks through platforms. Affiliate creators differ because they promote third-party goods and may earn commissions without performing delivery, transportation, or conventional labour services. Nevertheless, the functional similarities are significant. Their income depends upon platform access; performance is evaluated through opaque data systems; compensation may be altered through unilateral terms; and account suspension can eliminate an accumulated audience or revenue stream. Algorithmic management therefore extends beyond scheduling and discipline. It also governs attribution, visibility, conversion, commission eligibility, fraud detection, and payment (Duggan et al., 2020; Kellogg et al., 2020). The legal problem is not technology alone, but the concentration of rule-making and adjudicative power in the platform.

The presentation underlying this study illustrates the problem through the anonymized “NZ” case. According to that material, an affiliate generated approximately IDR 10 million in attributed sales after a promotional video entered a platform recommendation system, but ultimately received only IDR 45,000 in commission. The affiliate allegedly encountered an automated complaint channel and could not obtain a meaningful explanation of the calculation. The example is not treated here as independently verified empirical proof of a systemic practice. It is used as a problem scenario that reveals recurring legal questions: Who bears the burden of explaining attribution? Can commission rules be changed after promotional effort has been invested? What evidence must a platform preserve? When does an automated complaint mechanism cease to be an effective remedy? The distinction is essential to scientific integrity, because a compelling allegation cannot substitute for representative evidence.

At first sight, Indonesian private law appears to provide a straightforward answer. Article 1320 of the Civil Code states the requirements for a valid agreement: consent, capacity, a certain subject matter, and a lawful cause. Article 1338 recognizes the binding force of agreements and requires their performance in good faith. Electronic-transactions legislation confirms that contracts and records do not lose legal validity merely because they are electronic. This framework supports commercial certainty, but it does not resolve whether consent is meaningful when one party presents non-negotiable terms, can amend them remotely, and alone controls the data necessary to prove performance. Nor does Article 1320 itself establish a general equality-of-bargaining-power requirement. A rigorous analysis must avoid equating inequality with automatic invalidity. The stronger argument concerns defects of will, abuse of circumstances, good faith, fairness in performance, illegality of particular clauses, and the institutional need to regulate concentrated platform power.

Consumer law only partially addresses the problem. Law Number 8 of 1999 prohibits specified standard clauses in consumer transactions, including provisions that transfer responsibility or authorize certain unilateral actions. However, affiliates generally act to earn income and promote products rather than acquire goods for personal use. Their characterization as “consumers” is consequently uncertain. Government Regulation Number 80 of 2019 on Trading Through Electronic Systems concentrates primarily on merchants, platform operators, electronic transactions, and buyers. The Electronic Information and Transactions regime establishes legal recognition and system obligations but does not comprehensively regulate economic fairness in affiliate partnerships. The result is not a complete absence of law, but a

mismatch between existing categories and the functional vulnerabilities created by platform dependence.

Comparative scholarship demonstrates that this mismatch is not uniquely Indonesian. The platform economy repeatedly exploits boundaries between employee and contractor, trader and consumer, intermediary and principal, or private rule-maker and market participant. De Stefano (2016) described the rise of a just-in-time workforce in which technology facilitates fragmented work while displacing business risks. Cherry and Aloisi (2017) examined dependent contractors as an intermediate category, while Stewart and Stanford (2017) argued that regulatory choices should focus on protection needs rather than contractual labels alone. More recent work has tested unfair-contract-term regimes against gig-platform agreements and found that standard terms may provide a valuable route where employment classification remains contested (Stewart & McCrystal, 2023). These insights invite a broader inquiry into affiliates who may be economically dependent even if their activity is not conventionally recognized as work.

This article advances three claims. First, digital affiliate contracts should be evaluated as relational arrangements embedded in platform governance, not as isolated clickwrap transactions. Second, the proper legal response is neither to invalidate every standard contract nor to assume that formal consent legitimizes every clause. A proportionality-based test can distinguish commercially necessary platform discretion from excessive, opaque, or procedurally abusive authority. Third, Indonesian law should recognize a functional category of platform-dependent affiliates for limited protective purposes without prematurely classifying every affiliate as an employee. Such protection should include transparent remuneration rules, restrictions on retroactive changes, access to data and reasons, human review, collective representation, and independent online dispute resolution.

The research addresses two questions. To what extent should unilateral clauses in electronic affiliate agreements remain valid and binding when they govern commission reduction, algorithmic attribution, account suspension, and dispute resolution? How should Indonesian legal policy be reconstructed to reduce bargaining asymmetry while preserving legitimate innovation in platform commerce? By connecting contract doctrine, algorithmic accountability, and access to justice, the article offers a framework capable of moving analysis from the formal existence of consent toward the substantive legitimacy of platform governance.

METHOD

This study uses normative-doctrinal legal research supported by conceptual and functional comparison. Its principal object is the legal norm: the rules, principles, doctrines, and institutional arrangements relevant to electronic affiliate partnerships in Indonesia. The method is appropriate because the research questions concern validity, binding force, fairness, regulatory coverage, and prospective legal reconstruction. The study does not claim to measure the prevalence of commission manipulation or to establish the facts of the anonymized NZ scenario. References to that scenario are limited to its role as an illustrative case supplied in the presentation. The statutory approach examines the Indonesian Civil Code, particularly Articles 1320 and 1338; Law Number 8 of 1999 on Consumer Protection; Law Number 11 of 2008 on Electronic Information and Transactions as subsequently amended, including by Law Number 1 of 2024; Government Regulation Number 71 of 2019 on the Operation of Electronic Systems and Transactions; and Government Regulation Number 80 of 2019 on Trading Through Electronic Systems. These instruments are read systematically rather than separately. Electronic validity, contractual fairness, system accountability, and remedies concern different bodies of law whose interaction determines actual protection.

The conceptual approach draws upon freedom of contract, good faith, abuse of circumstances, adhesion contracts, relational contracting, economic dependence, algorithmic management, procedural fairness, and access to justice. High-quality international literature is

used comparatively, not transplanted mechanically. Comparative sources include scholarship on dependent contractors, unfair terms in gig contracts, algorithmic control, and platform work, together with policy frameworks developed by the International Labour Organization, the OECD, and APEC. The comparison is functional because it asks which risks a rule addresses and whether equivalent risks exist in affiliate partnerships, rather than assuming that foreign legal classifications should be copied. Legal materials are evaluated through a five-stage analytical matrix. The first stage identifies the platform power involved: drafting, amendment, measurement, payment, suspension, or forum selection. The second determines the affiliate interest affected, including income, accumulated promotional investment, reputation, data, and access to remedies. The third evaluates existing Indonesian doctrine and its jurisdictional limits. The fourth applies proportionality and procedural-fairness criteria. The fifth formulates a regulatory response calibrated to risk and platform capacity. Primary legal materials receive priority, while peer-reviewed books and articles supply theoretical explanation. The outcome is prescriptive: a model of legal reconstruction intended for further doctrinal debate and empirical testing.

The study has two limitations. First, public platform terms change frequently and may vary across programs, users, and campaigns; therefore, the article does not purport to provide a clause-by-clause audit of every Shopee or TikTok affiliate agreement. Second, the absence of interviews, internal attribution logs, and transaction datasets prevents causal conclusions about particular commission outcomes. These limitations do not eliminate the normative problem. They reinforce the need for disclosure, data access, and future empirical research capable of testing how contractual and algorithmic rules operate in practice.

RESULTS AND DISCUSSION

Digital Affiliates as Platform-Dependent Market Participants

The first finding is that the conventional opposition between employee and independent business actor is too crude to explain digital affiliation. Affiliates ordinarily choose when and how to create content, may participate in multiple programs, bear production costs, and are not guaranteed remuneration. These characteristics weigh against automatic employee classification. At the same time, a platform may determine which products qualify, how links are attributed, what conduct constitutes fraud, when commissions vest, and whether content is visible to users. The affiliate's nominal independence therefore coexists with infrastructural dependence.

Platform dependence is not identical to economic dependence in traditional labour law. Some affiliates earn incidental income and possess multiple channels; others invest substantial time, equipment, and reputational capital in one ecosystem. The relevant category should therefore be functional and graduated. A platform-dependent affiliate is an individual or microenterprise that promotes transactions through a digital platform and is materially dependent upon platform-controlled access, attribution, data, or payment mechanisms, such that unilateral platform decisions can substantially impair earned or reasonably expected remuneration. This definition focuses on vulnerability generated by control rather than on a single occupational label.

The category is consistent with comparative efforts to move beyond binary status. Cherry and Aloisi (2017) show that dependent-contractor models seek to protect persons who are legally independent but economically vulnerable. Stewart and Stanford (2017) similarly present a spectrum of regulatory options, ranging from employment reclassification to sector-specific standards and unfair-contract protections. Fredman et al. (2021) argue that international regulation should reach beyond the employee-contractor dichotomy where platform organization creates comparable protection needs. These approaches do not compel full labour-law coverage for affiliates. They support targeted rights where functional dependence makes ordinary contractual self-protection unrealistic.

Affiliates also participate in a triangular commercial relationship. Their content influences consumers; their remuneration depends on merchants or campaigns; and the platform controls attribution between promotion and sale. Stark and Pais (2021) describe algorithmic management in platform economies as triangular because platforms coordinate relations among providers, clients, and themselves. In affiliate commerce, the triangle is even more complex: the platform may host content, recommend it, process transactions, collect data, and calculate compensation. This concentration creates evidentiary asymmetry. The affiliate observes the visible outcome but cannot ordinarily inspect the counterfactual logic that determined whether a sale was credited.

Recognizing platform dependence has two normative advantages. It prevents protection from turning exclusively on whether the affiliate purchased a consumer product, and it avoids the overinclusive claim that every creator is an employee. It also aligns duties with power. A platform that merely supplies a neutral link may warrant fewer obligations than one that ranks content, changes attribution windows, bundles campaigns, withholds data, and resolves complaints through its own automated system. Regulation should follow functional control because control determines who can prevent harm at the lowest cost.

Adhesion Contracts, Consent, and the Limits of Formal Validity

Standard-form contracting is not inherently illegitimate. Mass digital commerce would be impossible if every participant negotiated every operational term. Standardization reduces transaction costs, enables consistent compliance, and permits rapid entry. The legal objection arises when standardization combines with non-transparency, unilateral amendment, disproportionate risk transfer, and ineffective remedies. An adhesion contract becomes problematic not simply because it is offered on a take-it-or-leave-it basis, but because the adherent cannot reasonably understand, avoid, or contest terms that materially affect the exchange. Indonesian doctrine begins with Article 1320. Consent, capacity, a defined object, and lawful cause remain essential. Clicking acceptance can express consent, and electronic form does not negate validity. However, formal consent answers only whether agreement was manifested; it does not exhaust the inquiry into voluntariness, interpretation, performance, or the enforceability of individual clauses. Article 1338 gives agreements binding force but also requires good faith. Good faith enables courts and regulators to examine how contractual powers are exercised, especially when one party possesses exclusive information and discretion.

The PPT's suggestion that bargaining inequality directly violates Article 1320 must therefore be refined. Article 1320 does not expressly guarantee equality between parties. Inequality becomes legally relevant when it contributes to mistake, fraud, coercion, abuse of circumstances, unlawful cause, or conduct inconsistent with good faith. The doctrine of *misbruik van omstandigheden* is not codified as a separate ground in the inherited Indonesian Civil Code, but Indonesian jurisprudence and scholarship have used it to address situations in which superior economic or psychological power is exploited to obtain an imbalanced agreement (Panggabean, 2010; Sjahdeini, 1993). Its application requires more than proof that one party is stronger; it requires exploitation of a particular vulnerability and a causal connection to consent or terms.

For affiliate contracts, the strongest doctrinal argument may concern the exercise of contractual discretion rather than total invalidity. A platform may legitimately reserve authority to respond to fraud, regulatory change, technical risk, or campaign budgets. Yet good faith should prevent it from using broadly worded discretion to confiscate accrued compensation, change attribution retrospectively, or evade explanation. Contemporary contract theory recognizes that contractual power may require justification where one party controls performance evaluation. Collins (2008) explains that modern contract regulation protects market participation while correcting forms of domination and unfair surprise. Brownsword

(2006) similarly argues that freedom of contract cannot be separated from the conditions that make autonomous agreement meaningful.

The interpretive consequence is severability and differentiated scrutiny. Courts should not treat an affiliate agreement as either wholly valid or wholly void. They should examine specific clauses, the transparency of their presentation, the timing of amendment, the legitimate interests served, and the practical ability to exit. Terms affecting already performed promotional activity deserve stricter scrutiny than prospective campaign adjustments. A clearly disclosed future commission change may be commercially defensible; a retroactive reduction after conversion occurs is fundamentally different because the affiliate can no longer alter conduct in response.

Commission Governance and the Problem of Unilateral Modification

Commission is the core counter-performance in an affiliate relationship. Without predictable remuneration, the promise of partnership becomes illusory. Unilateral-modification clauses are therefore central to substantive fairness. A platform may need flexibility to change commission rates because merchants alter campaigns, fraud patterns evolve, or commercial conditions shift. Absolute prohibition could impede legitimate management. The issue is whether discretion is structured by notice, prospectivity, objective criteria, evidence, and accountability. Contract law should distinguish four temporal stages. Before an affiliate selects a campaign, the platform may set rates subject to clear disclosure. After the affiliate accepts and begins producing content, changes should require reasonable notice and an opportunity to discontinue without penalty. After a consumer engages with the promotional content or enters the attribution window, the applicable rate should ordinarily crystallize. After a qualifying transaction is completed, the commission should be treated as accrued unless a specific, provable disqualification applies. This staged model protects reliance while preserving prospective commercial flexibility.

The principle resembles doctrines protecting legitimate expectations in relational performance. Affiliate arrangements are not single instantaneous exchanges; they unfold across content creation, recommendation, clicking, purchasing, cancellation periods, and payment. Macneil's relational-contract theory emphasizes that long-term exchanges depend on cooperation, role integrity, and adjustment norms that cannot be reduced to isolated promises (Macneil, 1980). Platform terms that claim unlimited amendment power ignore this relational dimension while retaining all benefits of ongoing participation. The anonymized NZ scenario demonstrates the evidentiary implications. A large disparity between attributed sales and paid commission does not, by itself, prove manipulation. Sales may be cancelled, assigned to another link, excluded by campaign rules, or filtered for fraud. A scientifically defensible legal response is therefore not to presume wrongdoing but to require an intelligible reconciliation. The platform should disclose the relevant rate, attribution window, eligible transactions, reversals, deductions, and rule version. Where it alleges fraud, it should provide sufficient particulars to permit a response without exposing security systems in a manner that facilitates abuse.

Unilateral modification should be assessed under a proportionality test. First, the platform must identify a legitimate purpose. Second, the term must be suitable to achieve that purpose. Third, no less restrictive reasonably available measure should achieve comparable protection. Fourth, the burden imposed on affiliates must not be excessive relative to the benefit. Fifth, procedural safeguards must accompany high-impact decisions. This test does not constitutionalize every private contract; it supplies a structured expression of good faith and balanced risk allocation for regulatory and judicial use.

Algorithmic Attribution, Transparency, and Contestability

Affiliate compensation is inseparable from algorithmic systems. Attribution determines whether a purchase is linked to a creator; recommendation systems determine visibility; fraud systems classify suspicious traffic; and automated rules may delay or reverse payment. Algorithmic management literature demonstrates that platforms can offer flexibility while intensifying control through data, ratings, incentives, and opaque evaluation (Duggan et al., 2020; Wood et al., 2019). Kellogg et al. (2020) describe algorithms as a contested terrain of control because they direct, evaluate, and discipline workers while limiting opportunities to understand or challenge decisions.

Transparency does not require publication of source code. Source-code disclosure may threaten security, intellectual property, and fraud prevention, while raw code may be unintelligible to affected users. Meaningful transparency concerns decision-relevant information: the categories of data used, principal attribution logic, rate applicable at the relevant time, material reasons for exclusion, and avenues for correction. The legal objective is contestability, not voyeuristic access to technology. A tiered transparency model is appropriate. General transparency requires accessible public explanations of attribution, commission calculation, amendment procedures, and suspension rules. Transactional transparency requires an affiliate dashboard showing conversions, exclusions, reversals, and payment status. Adverse-decision transparency requires a specific statement of reasons when commission is withheld or an account is sanctioned. Regulatory transparency permits competent authorities or accredited auditors to examine confidential systems under safeguards. This architecture reconciles accountability with trade-secret protection.

Data preservation is equally important. A right to reasons is meaningless if the platform can discard the logs necessary to reconstruct a decision. Platforms should retain rule versions, time stamps, attribution events, notices, and complaint records for a defined limitation period. Affiliates should be able to export relevant records in a usable format. Where the platform alone controls evidence and fails to preserve it, evidentiary presumptions may be justified. Such presumptions respond to information asymmetry and encourage the least-cost custodian to maintain reliable records. Human review should be available for high-impact or plausibly erroneous decisions. Automation may efficiently resolve routine inquiries, but an AI chatbot that merely repeats policy language is not an independent remedy. Human review must involve authority to reconsider the outcome, access relevant evidence, and provide reasons. The ILO's work on algorithmic management emphasizes the need for transparency, worker consultation, and safeguards surrounding automated systems (International Labour Organization, 2022). Although affiliates may not be employees, the governance principle remains relevant whenever automation controls livelihood-related remuneration.

The Regulatory Gap in Indonesian Law

Indonesia's legal framework contains relevant norms but lacks an integrated protective regime for affiliates. The Electronic Information and Transactions Law validates electronic information, documents, signatures, and contracts and establishes duties concerning reliable electronic systems. Government Regulation Number 71 of 2019 further regulates electronic-system operation. These instruments are indispensable for transactional validity and security, but they do not comprehensively determine whether a commission clause is substantively fair or whether an affiliate possesses a right to an explanation. Government Regulation Number 80 of 2019 regulates trading through electronic systems, including obligations of business actors, electronic offers and contracts, proof of transactions, advertising, personal data, payment, delivery, and disputes. Its architecture is primarily oriented toward commerce between businesses and consumers and the responsibilities of PMSE actors. Affiliate marketing intersects with that ecosystem but is not developed as a distinct partnership category. The

regulation therefore offers contextual obligations without a complete remuneration and governance regime.

Consumer Protection Law presents both promise and limitation. Article 18 restricts specified standard clauses and reflects legislative recognition that formal assent does not neutralize unfairness. Its direct application, however, depends on the affiliate's status as a consumer. An affiliate seeking commission acts for an income-generating purpose, which may place the relationship outside the statute's core conception. Characterizing every affiliate as a consumer would strain the text and risk doctrinal inconsistency. Yet Article 18 remains normatively instructive: Indonesian law already accepts that unilateral contractual authority may require mandatory limits where structural imbalance undermines genuine choice.

Employment law may also fail to capture the relationship. Traditional indicators examine work, wages, and command or direction. Affiliates may lack fixed work obligations, guaranteed wages, schedules, and exclusivity. Some may operate as businesses with employees and diversified channels. Automatic employment classification would consequently overreach. Conversely, platform labels should not be conclusive where actual control resembles employment. The proper solution is cumulative: preserve case-specific employment tests while establishing minimum protections for platform-dependent affiliates regardless of status.

Competition law provides another perspective because dominant platforms may impose unfair trading conditions or exploit dependency. However, dominance must be established in a legally defined market, and competition enforcement is not designed to resolve every small commission dispute. Data-protection law may govern profiling and personal data but not purely commercial attribution data or remuneration fairness. Private law can invalidate or interpret terms after harm occurs, yet individual litigation is often disproportionate. The gap is thus institutional and remedial as much as substantive: relevant doctrines exist, but no accessible mechanism coordinates them for platform-dependent participants. The phrase "legal vacuum" should therefore be used cautiously. The field is not lawless. It is characterized by regulatory fragmentation, uncertain standing, categorical mismatch, and enforcement deficits. Precision matters because the remedy for a true vacuum is legislation from nothing, whereas a fragmented field requires coordination, targeted extension, clarification, and procedural infrastructure.

Access to Justice and the Illusion of Internal Redress

Rights without usable remedies remain largely symbolic. Affiliate disputes often involve amounts too small to justify ordinary litigation but significant enough to affect livelihoods. Evidence is digital and controlled by the platform; terms may select foreign law, confidential arbitration, or distant forums; and individuals may not know the responsible legal entity. These features create what Cappelletti and Garth (1978) identified as barriers of cost, capability, and repeat-player advantage. Digitalization can reduce some barriers while reproducing others through automated gatekeeping. Internal dispute resolution is necessary but insufficient. Platforms possess technical knowledge and can correct mistakes quickly. However, an internal process lacks legitimacy when it is opaque, automated without escalation, or structurally incapable of questioning the underlying rule. A chatbot can assist triage, gather information, or explain routine policy. It should not serve as the final decision-maker in a contested remuneration claim where the platform is both respondent and adjudicator.

Forum-selection and arbitration clauses require contextual scrutiny. Arbitration can provide expertise and enforceability, but overseas proceedings, foreign language, filing fees, and travel requirements may make the remedy economically impossible. A formally available forum is not effective access to justice if the expected cost vastly exceeds the claim. Comparative unfair-terms scholarship shows that dispute clauses can be oppressive when they prevent weaker parties from realistically vindicating rights (Stewart & McCrystal, 2023). Indonesian courts and regulators should examine practical accessibility, not merely the

existence of assent. Online dispute resolution offers a better institutional fit if designed independently. Katsh and Rifkin (2001) conceptualized technology as a “fourth party” capable of organizing communication and settlement. More recent OECD guidance treats ODR as part of people-centred justice and emphasizes accessibility, fairness, transparency, security, and evaluation (OECD, 2024). APEC has developed a collaborative framework and model procedural rules for low-value cross-border business disputes (APEC, 2019). These frameworks show that ODR can combine automated negotiation, mediation, and adjudication while preserving procedural safeguards.

For affiliate disputes, a three-tier model is appropriate. The first tier should provide rapid internal correction and data reconciliation. The second should offer independent mediation by an accredited provider. The third should permit simplified adjudication or arbitration with enforceable outcomes and judicial review where required by law. Time limits should vary by complexity rather than impose an inflexible seven-day deadline on every case. Urgent account-access disputes may require interim measures, while technically complex fraud cases may require more time. Independence must be institutional, financial, and decisional. A platform may finance the system through levies, but it should not select adjudicators case by case or control outcomes. Published anonymized statistics should report complaint types, resolution times, reversal rates, and compliance. Vulnerable users need mobile access, plain language, assistance, and alternatives for persons with disabilities. ODR should expand meaningful participation rather than merely move an unfair process online.

Comparative Lessons on Unfair Terms and Platform Work

Comparative law offers design choices rather than ready-made answers. Australia’s unfair-contract-term regime is particularly instructive because it extends beyond consumers to qualifying small-business contracts. Stewart and McCrystal (2023) demonstrate how such provisions can scrutinize platform work agreements even when employment status is disputed. The underlying insight is valuable for Indonesia: microbusiness status should not automatically imply equal bargaining capacity. Protection can attach to standard-form contracts involving small participants without collapsing business and consumer law. European regulation provides additional principles. The Platform Work Directive addresses employment-status determination and algorithmic management for persons performing platform work, while the Digital Services Act imposes transparency and accountability obligations on online intermediaries. Affiliates may fall outside parts of these regimes, but the separation of status protection, algorithmic safeguards, and platform-risk duties is analytically useful. A single classification rule cannot solve every problem. Contract fairness, data governance, competition, and labour protection must operate together.

The ILO’s scholarship emphasizes decent work, social dialogue, transparency, and accountability in digital labour platforms. De Stefano (2016) warned that digital intermediation can conceal labour and transfer risk through contractual classification. Wood et al. (2019) found that remote gig workers can experience autonomy alongside intense algorithmic control, illustrating why flexibility and exploitation are not mutually exclusive. These findings caution against regulatory narratives that treat voluntary participation as proof of fairness. Comparative transplantation nevertheless has limits. Indonesia’s institutional capacity, civil-law doctrine, MSME structure, platform market, and enforcement traditions differ from those of Australia or the European Union. A sophisticated regime on paper may fail if complaints are fragmented across agencies or small affiliates cannot understand it. Legal reconstruction should therefore prioritize enforceable minimum duties, clear institutional competence, and inexpensive remedies before creating elaborate classifications.

The most transferable comparative principle is protection according to dependency and control. Where a platform exercises greater control over access, attribution, remuneration, or sanctions, it should bear greater duties of transparency, justification, and redress. Where an

affiliate operates a diversified professional enterprise with genuine negotiating capacity, mandatory protection may be lighter. This graduated approach respects heterogeneity while preventing sophisticated firms from using the language of partnership to avoid responsibility.

Proportionality-Based Test for Affiliate Contract Fairness

This article proposes a five-part test for evaluating clauses that grant unilateral platform authority. The first element is transparency. The clause must be available before acceptance, expressed intelligibly, and sufficiently specific about triggers, scope, and consequences. Important remuneration and dispute terms should not be buried within hyperlinks or incorporated policies that change without traceable versions.

The second element is legitimate purpose. The platform must identify a commercially or legally defensible objective, such as fraud prevention, regulatory compliance, system security, correction of manifest errors, or prospective campaign adjustment. A bare assertion of “platform discretion” is not a purpose. The third element is suitability and necessity. The measure must rationally advance the purpose and should not impose greater impairment than reasonably required. Temporary withholding pending review may be less restrictive than permanent forfeiture; prospective rate changes may replace retroactive reductions.

The fourth element is proportionality in the strict sense, requiring balanced risk allocation. Decision-makers should consider the affiliate’s reliance, amount at stake, ability to diversify, platform control of evidence, and reversibility of harm. The platform’s interest in efficient administration cannot automatically outweigh earned remuneration. The fifth element is procedural fairness: notice, intelligible reasons, access to relevant data, opportunity to respond, human review, and independent escalation. A substantively reasonable rule may become unfair through arbitrary application. The test operates at three levels. Platforms can use it when designing terms and automated systems. Regulators can use it to issue codes, audit compliance, and evaluate systemic practices. Courts or ODR bodies can use it to interpret, sever, or decline enforcement of particular clauses.

The remedy should correspond to the defect. Unclear terms may be construed against the drafter; retroactive changes may be ineffective; unsupported deductions may trigger payment; oppressive forum clauses may be severed; systemic violations may justify administrative sanctions. This model strengthens rather than destroys contractual freedom. Freedom has institutional preconditions: parties must understand the exchange, reasonably rely on promises, and possess a practical route to contest abuse. When one party combines legislative, executive, evidentiary, and adjudicative functions, structured justification is necessary to prevent private ordering from becoming private domination.

Regulatory Reconstruction for Indonesia

Indonesia should develop a sector-specific regulatory instrument for digital platform partnerships. A joint or coordinated regulation involving the Ministry of Trade and the ministry responsible for digital affairs may be appropriate, but institutional form must follow statutory competence. The regulation should not depend on a vague aspiration of interministerial action; it should clearly identify the legal basis, lead authority, supervisory powers, coordination duties, and appeal mechanisms. The instrument should define covered platforms and platform-dependent affiliates using functional criteria. Coverage may consider individual or microenterprise status, standardized terms, dependence on platform-controlled attribution, annual revenue thresholds, and absence of genuine negotiation. Core protections should apply regardless of whether the affiliate is ultimately classified as a consumer, worker, or business. Such status-neutral rights would form a floor, not a ceiling.

Mandatory contract content should include the legal identity of the platform entity, commission formula, attribution window, vesting event, reversal grounds, payment timetable, amendment process, suspension criteria, data-retention period, complaint procedure, governing

law, and forum. Platforms should provide a concise key-terms statement in Bahasa Indonesia before acceptance and retain every applicable version. Material amendments should require advance notice. Retroactive changes affecting accrued rights should be prohibited except to correct demonstrable fraud or error through a fair procedure. Algorithmic-accountability duties should be risk based. Platforms need not disclose source code publicly, but they should provide meaningful explanations, transaction-level records, and audit access. High-impact automated decisions should be reviewable by an authorized human. Independent auditors or regulators should be able to assess whether attribution and fraud systems systematically under-credit affiliates. Confidentiality rules can protect legitimate trade secrets while preventing secrecy from becoming immunity.

Collective representation is also necessary. Individual affiliates cannot efficiently negotiate systemic issues with multinational platforms. Recognized associations should be permitted to consult on standard terms, submit representative complaints, receive aggregate transparency reports, and participate in regulatory review. Collective voice can partially correct the asymmetry that individual consent cannot. Competition law should clarify safe space for legitimate collective negotiation by economically dependent solo participants. Enforcement should be graduated. Regulators may begin with compliance orders, restitution, corrective notices, and administrative fines proportionate to platform turnover and harm. Repeated or intentional violations may justify temporary restrictions or licensing consequences, but suspension of an entire platform should remain exceptional because it may also harm merchants, consumers, and affiliates. Sanctions must be lawful, proportionate, and accompanied by due process.

The Article's Original Contribution

The article's principal contribution is the integration of contract fairness, algorithmic accountability, and dispute-system design around the concept of the platform-dependent affiliate. Existing Indonesian discussions often place the issue exclusively within consumer law, employment classification, or electronic-contract validity. Each lens captures part of the problem but misses the combined architecture through which platforms govern income. The platform-dependent-affiliate category is deliberately limited. It does not create a universal presumption of employment or deny entrepreneurial agency. It identifies participants who require minimum protection because the platform controls indispensable infrastructure and evidence. The proportionality test then evaluates exercises of private power without treating all discretion as abusive. Finally, the proposed ODR model converts rights into usable remedies.

This synthesis reframes hidden exploitation. Exploitation does not require visible coercion or an unlawful contract in its entirety. It can arise through small, repeated, technically mediated decisions: attribution windows that are impossible to verify, policy versions that disappear, deductions that lack reasons, and complaint systems that never reach a decision-maker. Law must therefore examine the governance system rather than only the moment of clicking "agree." Implementation should proceed experimentally but not indefinitely. A twelve-month regulatory sandbox could require participating platforms to issue standardized disclosures, preserve attribution logs, provide human escalation, and submit anonymized complaint data. The sandbox should not suspend existing rights or immunize participants from liability; its purpose would be to test compliance methods and produce evidence for permanent rules. Evaluation should compare the frequency of disputed deductions, average resolution time, proportion of decisions reversed, cost per complaint, affiliate comprehension, and effects on fraud prevention.

Disaggregated analysis is necessary because casual affiliates, dependent creators, and professional marketing businesses experience platform rules differently. Regulators should also examine whether transparency produces strategic gaming and whether confidentiality

measures adequately protect legitimate security interests. An independent academic and civil-society panel could review results while protecting personal data and commercially sensitive information. After evaluation, the government should publish reasons for retaining, revising, or rejecting each tested obligation. This adaptive process would improve regulatory quality without allowing the rhetoric of experimentation to postpone minimum safeguards. It would also create a research infrastructure presently missing from debates that rely heavily on isolated disputes. Evidence generated through supervised implementation could clarify how often commission anomalies occur, which platform designs reduce them, and whether ODR delivers remedies that affiliates perceive as fair. In this way, legal reconstruction would combine principled limits with institutional learning.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

Digital affiliate partnerships demonstrate how innovation can coexist with structural vulnerability. Affiliates may enjoy flexibility and entrepreneurial opportunity, yet platforms can simultaneously control contract formation, visibility, attribution, commission calculation, evidence, suspension, and internal dispute resolution. This concentration means that formal electronic consent is necessary but insufficient to establish substantive legitimacy. Indonesian law is not wholly silent. Articles 1320 and 1338 of the Civil Code, electronic-transactions regulation, consumer law, and electronic-commerce rules provide relevant principles. Their coverage, however, is fragmented and status dependent. Affiliates are not necessarily consumers or employees, and general electronic-contract rules emphasize validity more than distributive and procedural fairness. The resulting problem is categorical mismatch combined with weak enforcement. Unilateral clauses should not be declared invalid merely because platforms require operational flexibility.

Their enforceability should depend on transparency, legitimate purpose, necessity, balanced risk allocation, and procedural fairness. Retroactive commission reductions, unexplained algorithmic decisions, unreviewable suspensions, and practically inaccessible foreign forums are particularly difficult to reconcile with good faith. The platform-dependent-affiliate category provides a functional basis for minimum protection without prejudging every employment question. Legal reconstruction should connect substantive and procedural rights. Predictable commission rules, prospective amendment, data access, reasons, human review, collective voice, and independent ODR form one governance architecture. The ultimate measure of fairness is not whether an affiliate clicked acceptance, but whether contractual power is exercised transparently, proportionately, and subject to effective contestation.

Recommendations

Future studies should broaden the scope of research objects, increase the sample size, use a longer observation period, and include other relevant variables to develop a more comprehensive research model. Different analytical methods, such as Structural Equation Modeling (SEM), System Dynamics, Artificial Intelligence, or a longitudinal approach, may also provide a deeper understanding of the phenomenon under study. First, the Indonesian government should formulate a sector-specific regulation on digital platform partnerships through institutions possessing clear statutory authority. The regulation should define platform-dependent affiliates functionally and establish minimum status-neutral rights. It should be coordinated with existing consumer, competition, employment, data-protection, and electronic-commerce regimes to prevent overlapping mandates. Second, affiliate contracts should contain a standardized key-terms statement covering commission rates, attribution, vesting, deductions, amendments, suspension, evidence, and dispute resolution. Platforms should preserve version histories and provide reasonable advance notice of material changes. Rights

already accrued through completed qualifying transactions should not be reduced retroactively without proof of fraud or manifest error and an opportunity to respond.

Third, platforms should implement tiered algorithmic transparency. Affiliates need transaction-level dashboards and intelligible reasons; regulators need confidential audit access; and high-impact automated decisions need meaningful human review. The law should create evidentiary consequences when platforms fail to preserve or disclose records under their exclusive control. Fourth, an independent, mobile-accessible ODR system should combine internal correction, accredited mediation, and simplified adjudication. It should operate in plain language, publish anonymized performance data, protect personal information, and provide interim relief for urgent account or payment disputes. Platform funding must not compromise decisional independence.

Fifth, recognized affiliate associations should receive consultation and representative-complaint rights. Future empirical research should audit platform terms, interview affiliates and platform representatives, analyze commission datasets, and test whether the proposed proportionality criteria predict fair outcomes. Regulatory reform should remain evidence based, periodically reviewed, and sensitive to differences between casual creators, dependent individuals, and professional affiliate enterprises. Future research should also compare affiliate governance across Southeast Asian jurisdictions, examine gendered and regional patterns of dependence, and evaluate how language, disability, and digital literacy affect access to remedies in practice. Such research would ensure that formal transparency obligations translate into genuinely usable protection for diverse participants.

Author Contributions

All authors made significant contributions to this study. These contributions included research conceptualization, development of the theoretical framework, data collection, data analysis, interpretation of results, manuscript preparation, scholarly revision, and final approval of the manuscript for publication. All authors confirm that they have read and approved the final version of the article.

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