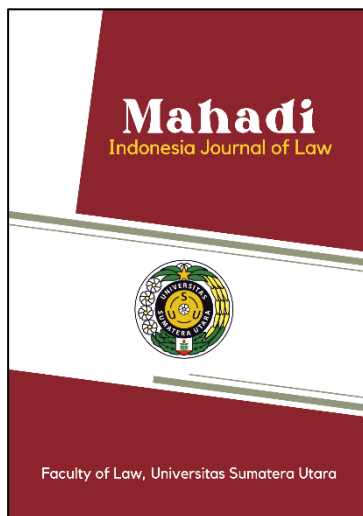




E-Commerce in Malaysia From Law Perspective

Thorique Akbar Nasution¹⁾

¹⁾ Faculty of Economics and Management, Universiti Kebangsaan Malaysia
Email : A172903@siswa.ukm.edu.my



Abstract

The study demonstrates a correlation between the law in e-commerce consumer sale of goods with competition law, consumer welfare, and e-commerce. The existing competition law theory is exclusively based on economic theory, there are several challenges in presenting some indicators of the distinct market of e-commerce for consumer sales of goods and using consumer welfare-based consumerism that promotes social justice and equity. The most important part of the e-commerce system, process, and structure is aided by highly advanced technological innovation from all supply, distribution, and information exchange processes towards the demand chain, which is the consumers. There are several dimensions with distinct stakeholders and actors at various levels to enable, support, perform, and produce multiple income streams from e-commerce. Sales of customer data often occur in e-commerce competition. This results in inconvenience to consumers who have transacted at an online store. Competition law needs to be tightened in order to provide comfort from the customer and seller side.

Keywords : E-Commerce, Competition Law, Consumer Welfare

INTRODUCTION

The new and emerging e-commerce has drastically changed the traditional distribution process of goods by eliminating the middlemen. Direct manufacturer-to-buyer e-commerce is essentially changing the distribution chain of goods from conventional to simplified by removing intermediaries and manufacturer-to-buyer (C2C). The way people use the term e-commerce has been subject to a great deal of differing opinions. As commonly used, it refers to purchasing and selling things through the internet [1]. According to the World Trade Organization (WTO), e-commerce is a term that describes transnational connections that involve entities such as enterprises, individuals, governments, and other public or private entities. As e-commerce has rapidly increased in global trade, it has also started to become a component of the rising economy, notably in the consumers' economy. In Malaysia, 15.3 million online customers use e-commerce services, making Malaysia a leader in the field (50 percent of the population). According to recent statistics, revenue in the e-commerce business amounts to US\$3,751 million in 2019. In 2023, the e-commerce industry is anticipated to generate revenues of \$11.65 billion. In 2027, the e-commerce industry is anticipated to generate revenues of \$19.84 billion. With an annual growth rate (CAGR 2023-2027) of 14.24%, the market size is projected to reach \$19.84 billion by 2027.

Furthermore, e-commerce increases market dynamics and provides opportunities for new marketplaces to arise. Such opportunities, brings a variety of unique challenges, notably concerns relating to competing marketplaces [2]. Malaysia's e-commerce market is rapidly becoming one of Southeast Asia's largest. Its expansion exceeds that of the region's typical

established markets. This was evident prior to the pandemic's effects; Malaysia's business-to-consumer e-commerce value surged by 39 percent in 2019. In recent years, this boom in e-commerce has been accompanied by a growing customer desire for online purchasing and the availability of customized payment alternatives.

LITERATURE REVIEW

Malaysia's entry into e-commerce began in 2004 with the introduction of eBay. This was followed in 2007 by Lelong.com.my, a C2C platform that receives more than 9.56 million monthly visitors. The current status of the Malaysian e-commerce market began to take shape in 2012, when Malaysia welcomed five new e-commerce firms, including Lazada, Zalora, Rakuten, Hermo, and 65daigou (rebranded to Ezbuy today) [3].

As competitors vied for the highest market share, Lazada rose to become Malaysia's most popular e-commerce platform by 2014. The e-commerce platform surpassed veteran competitors such as Lelong and eBay. Two years after its inception, Rocket Internet's startup raised approximately \$814 million in funding, which fueled its growth and popularity among Malaysians.

Since then, Lazada has been the most popular desktop-based online marketplace in the country, followed by Shopee in 2015. Global e-commerce (B2C) sales surpassed \$1 trillion for the first time at the end of 2014, with every continent experiencing double-digit increase. In Malaysia, e-commerce has not yet attained its full potential.

In 2016, the Malaysian government responded by launching the National e-commerce strategic plan. In an effort to double the growth of e-commerce by 2020, the company's strategy includes a two-pronged plan to 'future-proof' small and medium-sized businesses (SMEs) and equip them with the right internet marketing tools. In addition, new firms such as GoShop, 11street, and Shopee entered the market in 2015. In a very short period of time, Shopee has become one of the most prominent players.

Within two years, they became Lazada's closest competitor, surpassing both Zalora and Lelong. The rapidly expanding e-commerce was developed and funded by SEA (formerly known as Garena), a company with extensive experience in online gaming and other internet consumer platforms.

Shopee's early success was in part due to its unique approach of prioritizing mobile customers on its platform [4]. Malaysia's mobile penetration in 2014 was 140 percent, the highest in Southeast Asia at the time, making this move incredibly timely. The expansion of e-commerce in Malaysia is anticipated to be stimulated by both private and public initiatives. Among the growth drivers is the Digital Free Trade Zone (DFTZ), which was established by the Malaysian Digital Economy Corporation (MDEC) with aid from Alibaba. In 2020, Malaysia's eCommerce market is valued at US\$ 4.3 billion, and is projected to double to US\$ 8.1 billion by 2024, at a CAGR of 14%. Malaysia is currently building its e-commerce infrastructure, including product availability, payment methods, delivery options, and regulatory requirements, in accordance with more established online shopping marketplaces. The purpose of this article is to analyze the market structure of e-commerce. The main objective of consumer product sales is to obtain superior theoretical frameworks to offer improved comprehension of the population. the problem of competition in e-commerce with regards to consumer sales of the product

METHODOLOGY

This research aims to study the market structure of e-commerce consumer merchandise sales from competition law. Observe qualitative research methods based on content analysis to identify and analyze issues that arise in competition law when e-commerce consumers sell goods. To determine the problems involving the competitive perspective in the sales of e-

commerce consumer goods, a descriptive method is used to explain the potential issues of the competitive view in the context of the e-commerce market structure. In addition, an explanatory method is used to describe the relationship between e-commerce and anti-competitive practices. To further examine and evaluate the relationship between competition law and e-commerce, using analytical methods, inferences can be drawn from the understanding and interpretation of the e-commerce market structure and its underlying power. Hence, this research also uses critical analysis methods to judge and form opinions on competition issues in the sales of consumer goods in e-commerce.

RESULT AND DISCUSSION

Concerns about competition law arise as a result of the shift from traditional trade to e-commerce. When e-commerce platforms collaborate to extract data from individuals and create an asymmetrical flow of information to encourage exploitative conduct while also competing with excess users, among other anti-competitive dangers in e-commerce. E-commerce businesses even take advantage of their position by reselling customers' data for profit or other purposes without their knowledge. The e-commerce platform use of consumers' data to forecast and deliver surprise insights into their behavior has begun to affect consumers' social behavior in areas such as dating, education, law enforcement, and voting, among others.

The Personal Data Protection Act of 2010 (the "PDPA") would govern the processing of personal data (defined to include personally identifiable information) by merchants or the E-commerce platform. A data user (a phrase used to refer to data controllers under the EU GDPR) must adhere to seven processing principles, including the General Principle and the Notice and Choice Principle. In general, the processing principles are consent-based. Data may be used for marketing and advertising analytics if the data user obtains consent (exceptions to consent may apply depending on the circumstances) and specifies this clearly in the privacy notice. In addition, the Notice & Choice Principle mandates that data subjects get a privacy notice containing eight mandatory details regarding the processing, including the processing's purpose and disclosures to third parties. The privacy disclosure must be made available in both English and Bahasa Malaysia [5].

The MDTCA administers the Consumer Protection (Electronic Trade Transactions) Regulations 2012 (the "Regulations"), which are subsidiary legislation to the Consumer Protection Act 1999. The Regulations stipulate the mandatory information that online retailers must publish on their websites. The regulations stipulate that anybody who maintains a business for the purpose of supplying products or services via a website or on an online marketplace must publish the following information on the website or online marketplace: Failure to comply with this obligation constitutes the following crime:

1. Name of the corporation, business, or individual conducting the business, as well as the registration number of the firm or business.
2. The e-mail address, telephone number, or street address of the business owner.
3. A description of the principal qualities of the goods or services; the entire price of the goods or services, including transportation expenses, taxes, and any other expenditures (the Regulation does not specify that the price must be in Malaysian Ringgit).
4. The mode of transaction.
5. The terms of service.
6. The projected time for the buyer to get the products or services.

Furthermore, in Malaysia, competition law is provided under Competition Act 2010, and Malaysia Competition Commission (MyCC) is the key enforcement agency.

Competition law is distinct in that it places a strong emphasis on economics. According to competition law theory, to attain economic equilibrium, the market must be sufficiently

competitive. The market is expected to self-correct through equilibrium adjustment. So, the existing underlying competition law theory is exclusively based on economic theory, and there are numerous challenges in describing the unique market of e-commerce for consumer product sales.

According to the author, to comprehend the competitiveness perspective, more than simply basic economic theory must be addressed. The supply chain, a competition law theory that includes financial and legal ideas, should be included in a theoretical and practical framework. On the other hand, the consumer should be the yardstick for assessing the competition perspective for the demand chain. Furthermore, while examining the competitive landscape, the e-commerce system, method, and structure are critical. Understanding the e-commerce system and its market structure will undoubtedly contribute to developing a radical framework for evaluating the competitive perspectives of platforms that cut across and are entangled with the various dimensions of e-commerce consumer goods sales.

The result indicates that these many dimensions of e-commerce involve many different parties to the transactional interaction as actors, role players, and income streams [6]. Parties involved in storage and delivery include warehouse services for storing items, logistics corporations that facilitate transactions through parcel transit and storage services, shipping companies, and many others. The distinct market structure of e-commerce, which operates through substantial network effects with many different parties to the interaction playing various roles, dampens competition across platforms [7]. From the standpoint of a manufacturer, retailer, or third-party seller who wants to reach as many prospective customers as possible, the perceived value of a platform increases if it has a big pool of active registered consumers. With the help of artificial intelligence analysis and access to data supplied by participants, the function of data is exploited to the advantage of incumbent platforms. These would make it more difficult for future entrants to enter the same market.

The data suggest that the expansion of e-commerce in terms of convenience for customers, ease of access, availability of additional options, and facilitation of innovation and commodities distribution is not without drawbacks. As a result, policymakers should be more aware of the potential consequences. Competition law should be more flexible in embracing various supplementary frameworks in judging competition activities to foster competition in e-commerce and improve consumer welfare. As a developing country, Malaysia's market participants and customers are more vulnerable to market capture by the incumbent upper hand. The dominant market player and eventual 'winner' of e-commerce should be determined only by the qualities of its offering, without the use of any anti-competitive measures.

The growth of e-commerce in delivering convenience to customers, quicker access, greater variety, more innovation, and product distribution has benefited the consumers. The industry has also borne certain downsides. This makes it necessary for policymakers to be more aware of the possible problems that may arise. It is essential to strengthen competition in e-commerce and, at the same time, improve customer welfare, which calls for a greater degree of flexibility when it comes to how to measure competitive practices. The developing nation of Malaysia is more prone to market capture by the incumbent upper hand since the market players and customers are more uneducated and therefore vulnerable. The company that dominates the market share finally comes out on top when evaluated on the value of its products without any anti-competitive measures. To create a more level playing field, e-commerce has to be permitted in the domestic market, so the winner must take advantage of that opportunity. That opportunity benefits consumers, so the winner will also innovate and keep the customer welfare in mind. In terms of their chances of emerging on equal ground, the worries of lacking a framework or assessment tools to identify the anti-competitive tactics utilized by e-commerce, domestic e-commerce ventures, as opposed to the majors, are perhaps being disregarded.

CONCLUSION

E-commerce has increased sales that were previously done with traditional sales. Customer purchase interest is higher with the sale of goods through e-commerce. Payments that are easy to make can increase sales transactions. The law of competition emerges as a result of the transformation of traditional sales into e-commerce. E-commerce businesses sell data to other companies in order to increase more profits. This can result in leakage of customer data. Competition law is sometimes not implemented properly, causing losses to both parties involved. Many companies are worried about a decrease in revenue, so selling data is also an option.

REFERENCES

- [1] M. D. T. P. Nasution, Y. Rossanty, P. B. Sari, and A. P. U. Siahaan, "Online Shoppers Acceptance: an Exploratory Study," *Int. J. Civ. Eng. Technol.*, vol. 9, no. 6, pp. 793–799, 2018.
- [2] L. K. Falk, H. Sockel, and K. Chen, "E-commerce and consumer's expectations: What Makes a Website Work," *J. Website Promot.*, vol. 1, no. 1, pp. 65–75, 2017, doi: 10.1300/J238v01n01_06.
- [3] N. Effendy, "An Insight Into the Market Growth of Malaysian E-Commerce," *Pandan Social*, 2018. [Online]. Available: <https://pandansocial.com/an-insight-into-the-market-growth-of-malaysian-e-commerce/>. [Accessed: 05-Feb-2023].
- [4] N. A. binti Kamal, "The Impact of Covid-19 towards the Growth of Shopee in Malaysia's Ecommerce Market," Penang, Malaysia, 2021.
- [5] L. H. Allen and Gledhill, "Data Protection Guide Malaysia," *Multilaw*, 2021. [Online]. Available: https://www.multilaw.com/Multilaw/Data_Protection_Laws_Guide/DataProtection_Guide_Malaysia.aspx. [Accessed: 05-Feb-2023].
- [6] A. Molla and P. S. Licker, "E-Commerce Systems Success: An Attempt to Extend and Respecify the Delone and Maclean Model of Is Success," *J. Electron. Commer. Res.*, vol. 2, no. 4, pp. 131–141, 2001.
- [7] S. Berry, M. Gaynor, and F. S. Morton, "Do Increasing Markups Matter? Lessons from Empirical Industrial Organization," *J. Econ. Perspect.*, vol. 33, no. 3, pp. 44–68, 2019.