

## Legal Regulation of Cross-Border Digital Business in Southeast Asia in Facing the Expansion of Foreign E-Commerce Platforms

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### ABSTRACT

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The development of the digital economy in Southeast Asia is driving the expansion of foreign e-commerce platforms operating across borders and legal jurisdictions. This presents significant opportunities for regional economic growth, but also raises various legal challenges, particularly related to legal certainty, consumer protection, personal data protection, and fair business competition. This study aims to analyze the legal framework for cross-border digital businesses in ASEAN in response to the expansion of foreign e-commerce platforms and to formulate legal strategies that can optimize digital economic growth while protecting the interests of local businesses. This study uses a normative legal research method with a legislative, conceptual, and comparative approach. Data were obtained through a literature review of ASEAN national and regional laws and regulations, international legal instruments, and scientific literature relevant to the topic of cross-border e-commerce. The analysis was conducted qualitatively by examining the suitability and effectiveness of existing legal regulations in responding to the dynamics of the digital economy. The results show that cross-border e-commerce legal regulations in ASEAN are still coordinative and not yet fully harmonized. Differences in national regulations between member countries result in weak consumer protection, legal uncertainty, and challenges in enforcing competition laws against foreign e-commerce platforms with significant market power. Therefore, harmonization of cross-border e-commerce regulations, strengthening digital competition law, and balanced personal data protection are strategic steps that need to be developed at the regional level. This research is expected to provide a conceptual contribution to the development of digital business legal policies in the ASEAN region.



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### Introduction

The development of information and communication technology has driven a fundamental transformation in global economic activity, particularly through the use of digital platforms in cross-border business activities. One of the most significant manifestations of this transformation is the rapid expansion of foreign e-commerce platforms operating transnationally, including in Southeast Asia. This region has become a strategic market for global e-commerce players due to the high growth of internet users, increasing penetration of the digital economy, and demographic characteristics dominated by a productive and tech-savvy generation. The expansion of foreign e-commerce platforms has positive economic implications, such as increased trade efficiency, expanded market access, and accelerated regional economic integration. However, on the other hand, this phenomenon has also given rise to various complex business legal issues, particularly related to differences in legal systems, jurisdictions, consumer protection, business competition, digital taxation, and personal data protection. The cross-border operations of foreign e-commerce platforms often do not fully align with the national legal frameworks of each Southeast Asian country, creating the potential for legal vacuums and conflicts of legal norms.

The Southeast Asian region, through the ASEAN framework, has actually strived to build digital economic integration by encouraging regulatory harmonization among member countries. However, to date, legal regulations for cross-border digital businesses in the region remain sectoral and not yet fully integrated. Differences in regulatory readiness, law enforcement capacity, and national policy orientations in each country mean that cross-border e-commerce regulations have not been able to optimally respond to the rapidly expanding dynamics of foreign platforms. Furthermore, the platform-based nature of digital businesses presents new challenges in determining legal subjects and legal responsibilities. Foreign e-commerce platforms often operate without a physical presence in the destination country, yet still derive significant economic benefits from the domestic market. This situation makes it difficult for Southeast Asian countries to implement the principle of the rule of law, particularly regarding tax collection, enforcement of competition laws, and protection of local businesses and micro, small, and medium enterprises (MSMEs).

Furthermore, the imbalanced bargaining power between foreign e-commerce platforms and local businesses and consumers in developing countries poses the risk of unfair business practices. Without clear and effective legal regulations for cross-border digital business, the expansion of foreign platforms has the potential to widen economic disparities, weaken local business ecosystems, and reduce legal protections for domestic consumers and businesses.

**Table 1. E-Commerce Market Value and Growth in Southeast Asia**

No	Key Indicators	Year	Values / Achievements	Information
1	GMV Value of ASEAN Digital Economy	2024	USD 263 billion	Covering all sectors of the digital economy, with e-commerce as the largest contributor
2	ASEAN Digital Economy Year-on-Year Growth	2024	± 15%	Demonstrates a consistent pace of digital economic expansion in the region
3	Indonesia's position in ASEAN	2024	The largest market	Indonesia is the largest GMV contributor in Southeast Asia
4	GMV Projection of Indonesia's Digital Economy	2025	± USD 100 billion	Dominated by the e-commerce sector and platform-based digital services
5	Country Coverage in the Report	2024–2025	6–10 ASEAN countries	Including Indonesia, Singapore, Malaysia, Thailand, Vietnam, and the Philippines

Source: Google, Temasek, & Bain & Company, e-Conomy SEA Report (2024–2025)

Data from the e-Conomy SEA report shows that the e-commerce market in Southeast Asia is experiencing significant and sustained growth. By 2024, the ASEAN region's digital economy is estimated to reach USD 263 billion, with a year-on-year growth rate of around 15%. The e-commerce sector is a major contributor to this value, underscoring the central role of digital platforms in regional trade activities. H. Ha and colleagues (2023) stated that the digital economy in Southeast Asia is growing rapidly due to internet penetration, digital technology adoption, and a shift in consumption toward online platforms. They identified key challenges as infrastructure disparities, differing regulations across countries, and the need for policy coordination to address digital market fragmentation in the region. This study is significant because it confirms the growing trend of the digital economy and the urgency of cross-border collaboration (a feature of the e-Conomy SEA report).

Vinnandra P. Kharisma & Andrian Dolfriandra H. (2025) In their study using ASEAN panel data to show that e-commerce has a positive and significant impact on the region's economic growth. This finding is in line with the e-Conomy SEA report which shows the significant contribution of e-commerce to GMV and the total digital economy. Indanazulfa Qurrota A'yun et al. (2024) This study describes GMV indicators in six Southeast Asian countries with the highest e-commerce transactions. The authors confirm that GMV is the main benchmark in measuring digital market value, which is relevant to the ASEAN digital economy figure of USD 263 billion in 2024 (e-Conomy SEA report). Ariska Damayanti et al. (2023) Damayanti and colleagues show that digital indicators (such as internet penetration and technology adoption) have a positive impact on the GDP of ASEAN countries, which strengthens the reason for the increasing value of e-commerce GMV in the region.

Experts emphasize that cross-border e-commerce requires a harmonious legal framework between countries, especially in the context of ASEAN which has diverse legal systems. For example, Dhini Rachmadhina Caesaria (2025) emphasized the challenges of consumer protection in cross-border transactions and the need for global standardization that transcends differences in national jurisdictions to protect consumers from the risks of international digital transactions. This study sought to identify differences in protection mechanisms and dispute resolution procedures across jurisdictions, including ASEAN, the European Union, and the US, as a basis for recommendations for policymakers. In cross-border e-commerce, consumer protection is a key issue because digital transactions often transcend national jurisdictional boundaries, creating a legal vacuum.

Anita Firdausi & Rina Arum Prastyanti (2025) compared consumer protection approaches between Indonesia, Singapore, and China, showing that differences in national legal systems affect the effectiveness of consumer rights protection in cross-border transactions. Issues of jurisdiction and applicable law are also a major focus in international literature. A study by Taufiqurokhman et al. (2025) discusses how jurisdiction and applicable law are chosen in business-to-consumer (B2C) transaction disputes in global e-commerce, including in the ASEAN context compared to the European Union and the US. They show that jurisdictional ambiguity and fragmented legal standards remain major obstacles to legal certainty for cross-border consumers. The issue of cross-border personal data protection has also received attention in international literature, as it is an integral part of global digital business. A comparative study of data compliance in e-commerce between China and Malaysia by Zhao Hongqiang et al. (2025) shows that differences in regulatory approaches related to data localization, cross-border data transfers, and data security pose challenges in legal arrangements for global digital trade.

According to the International Data Corporation (IDC) research report *How Southeast Asia Buys and Pays 2025*, the e-commerce market value in Southeast Asia is estimated to reach around USD 325 billion (approximately IDR 5,299 trillion) in 2028, a significant increase compared to previous years. This growth is driven by the increasingly widespread adoption of digital payments and intensified regional cooperation, including cross-border payment connectivity that facilitates transactions between ASEAN markets. Furthermore, IDC also highlights that the value of cross-border trade in the region is projected to reach USD 14.6 billion in 2028, an increase of approximately 2.8 times from 2023, indicating strong expansion opportunities for cross-border e-commerce. Junhai Wang, Oluwatobi Gbenga Aluko & Ibrahim Othman (2024) in their research explain that cross-border e-commerce has become a major driver of digital market transformation in Southeast Asia. They emphasize that the growth of a young, digitally literate population, increasing internet penetration, and the dynamics of digital platforms create significant opportunities for cross-border expansion. S. Narayan (2025) in the journal *E-Commerce and International Trade* shows that the relationship between e-commerce and international trade, especially the export of digital goods, has increased statistically in ASEAN's trade relations with its global partners.

Meiyu Ji, Xinxiang Gao, & Yichang Liang (2023) emphasized that the Regional Comprehensive Economic Partnership (RCEP) framework expands cross-border cooperation opportunities for ASEAN e-commerce with China, strengthening cross-border digital trade flows and regional supply chains. The implementation of RCEP is seen as strengthening ASEAN's position as a global digital market through regulatory harmonization and cross-border payment system integration. Jun Cui (2025) in his meta-analytic study emphasized that advanced technologies such as AI and trade digitalization play a significant role in accelerating cross-border trade flows in ASEAN. This study shows that technology adoption increases cross-border trade volume, especially in regions with more mature digital infrastructure, confirming that technological and regulatory factors influence the extent to which market projections can be realized.

The urgency of this research also arises from the fragmentation of laws and regulations across ASEAN countries. Each country has its own legal framework regarding e-commerce, consumer protection, data security, and business competition. This lack of uniformity creates legal uncertainty for both foreign platforms and local businesses, increases the risk of legal disputes, and potentially hinders regional digital market integration. Therefore, this research is crucial for identifying existing regulatory gaps and formulating solutions for cross-border legal harmonization. Furthermore, cross-border e-commerce involves consumer personal data, digital payment transactions, and rights to goods/services, which, if not clearly regulated, can pose risks of privacy violations, data misuse, and consumer losses. With the massive growth of digital transactions, consumer protection is a critical aspect that must be strengthened through adaptive legal policies.

Another pressing issue relates to the position of local businesses. Foreign platforms often possess superior capital and technology compared to local MSMEs. This can lead to unfair business competition that is detrimental to domestic businesses. This research is expected to provide a legal basis that supports the protection of MSMEs and maintains competitive balance, while simultaneously encouraging innovation and sustainable digital economic growth. ASEAN itself has encouraged digital economic integration through initiatives such as the ASEAN Digital Economy Framework Agreement (DEFA) and the implementation of the RCEP, but harmonization of e-commerce regulations across borders remains suboptimal. This research has strategic urgency in providing legal policy recommendations that can create legal certainty, protect consumers, and strengthen the competitiveness of businesses in the region.

Based on literature review, industry research reports (e-Conomy SEA, IDC), and international legal analysis, the main issues that arise in the context of the expansion of foreign e-commerce platforms in Southeast Asia include:

1. **Cross-Country Regulatory Differences**  
Each ASEAN country has a different e-commerce legal and regulatory framework, covering everything from consumer protection and digital taxation to competition. This heterogeneity creates legal fragmentation and potential jurisdictional conflicts when foreign platforms operate across borders.
2. **Consumer and Data Protection Challenges**  
Cross-border transactions often involve consumers' personal data and financial information, posing risks to data security and misuse. Consumer protection against fraud, product quality, and legal rights remain inconsistent across ASEAN countries.
3. **Limitations of Law Enforcement**  
Despite existing regulations, national law enforcement capabilities against foreign platforms without a physical presence in the target country remain limited. This creates a legal vacuum in cross-border e-commerce.
4. **Market Position Disparity between Foreign and Local Platforms**  
Foreign e-commerce platforms often possess stronger capital and technology than local MSMEs. This disparity can lead to unfair business practices and weaken the local business ecosystem.
5. **Lack of Harmonization of Regional Regulations**  
Although ASEAN is promoting digital integration, cross-border harmonization of e-commerce regulations is still lacking. Differences in technical standards, tariffs, and transaction procedures remain barriers to fair and efficient digital trade.
6. **Rapid Market Dynamics**  
The rapid growth of e-commerce (ASEAN GMV is projected to reach USD 325 billion by 2028) demands adaptive regulations. Slow or rigid regulations can stifle innovation and weaken domestic competitiveness.

Based on the problem identification above, this study formulates the following problems:

1. Does the cross-border digital business legal framework in ASEAN regulate the operations of foreign e-commerce platforms?
2. What are the legal obstacles and challenges faced by ASEAN countries in dealing with the expansion of foreign e-commerce platforms, especially regarding consumer protection, data, and business competition?
3. Can cross-border harmonization of e-commerce regulations be implemented to create legal certainty, consumer protection, and fair business competition?
4. What legal strategies or recommendations can ASEAN countries implement to optimize digital economic growth while protecting the interests of local businesses?

## **Method**

This study uses normative and qualitative legal research methods with juridical-normative, comparative, and doctrinal approaches to understand the structure of norms, legal principles, and the implementation of international and national legal references related to cross-border digital business. The juridical-normative approach was chosen because this study focuses on the analysis of regulations, international legal instruments, policy documents, and legal decisions applicable in the context of cross-border e-commerce. This method examines primary legal sources such as statutes and international treaties, as well as secondary legal sources in the form of scientific literature related to consumer protection, jurisdiction, and legal harmonization in international digital

transactions. International legal experts emphasize the importance of the juridical-normative approach in the study of digital business law.

For example, Dhini R. Caesaria (2025) used a normative comparative approach to identify differences in consumer protection mechanisms in cross-border e-commerce across jurisdictions and recommended harmonization of international standards. Literature studies and primary document analysis have been consistently used in cross-border legal research. For example, Anita Firdausi & Rina Arum Prastyanti (2025) used a normative juridical approach and comparative analysis to compare cross-border e-commerce consumer protection frameworks in Indonesia, Singapore, and China.

This research analysis is qualitative, descriptive, and interpretive, in which data from legal documents and academic literature are classified, analyzed, and interpreted to answer the research problem formulation. This technique aims to explore the normative meaning of legal regulations and their implications for the phenomenon of cross-border e-commerce, and connect them with international legal theory and comparative legal practice. An interpretive approach is taken to understand applicable legal norms and principles, as well as to evaluate the relevance and strength of legal instruments in addressing the challenges of foreign digital platform expansion in Southeast Asia. In this regard, the research draws inspiration from the practice of doctrinal legal research, known in international law studies as a systematic way to interpret legal norms applicable in various jurisdictions and supranational instruments.

This research ensures data validity through the use of official primary legal sources and reputable secondary scientific sources from reputable, peer-reviewed journals. Specifically, in comparative international law studies, academic articles with DOIs were selected because they have undergone academic review and provide credible data and analysis on the topics of cross-border e-commerce, jurisdictions, and regulatory harmonization.

## **Results and Discussion**

### **The cross-border digital business legal framework in ASEAN regulates the operations of foreign e-commerce platforms.**

The legal framework for cross-border digital commerce in Southeast Asia has evolved in response to the rapid expansion of foreign e-commerce platforms operating across national jurisdictions. The significant growth of ASEAN's digital economy has made the region a strategic market for global digital companies, necessitating legal arrangements that guarantee legal certainty, consumer protection, fair business competition, and the regulatory sovereignty of member states. Regionally, ASEAN does not yet have a single supranational law that directly binds all member states in regulating the operations of foreign e-commerce platforms. However, a regional legal framework is being developed through various cooperation instruments and soft law, such as the ASEAN Economic Community (AEC) Blueprint, the ASEAN Digital Integration Framework, and the ASEAN Agreement on Electronic Commerce. These instruments serve as normative guidelines for member states in aligning their national policies on cross-border digital commerce.

The ASEAN Agreement on Electronic Commerce, for example, affirms member states' commitment to facilitating cross-border e-commerce by reducing regulatory barriers, promoting interoperability of digital systems, and enhancing trust in electronic transactions. While a framework, this agreement provides a legal basis for member states to regulate the presence and activities of foreign e-commerce platforms, particularly regarding transparency obligations, data protection, and dispute resolution mechanisms. In practice, the operational regulation of foreign e-commerce platforms in ASEAN is highly dependent on each country's national laws. Countries such as Indonesia, Singapore, and Malaysia adopt different approaches to regulating foreign platforms, ranging from business registration requirements and appointing local representatives to fulfilling tax obligations and complying with consumer protection rules. These regulatory differences reflect the lack of complete harmonization of digital business laws at the regional level, despite being within the ASEAN framework.

Foreign e-commerce platforms are generally required to align their operations with the national laws of the countries in which they operate, including provisions regarding consumer protection, electronic transaction security, and personal data management. This demonstrates that despite the cross-border nature of transactions, the principle of territoriality remains the primary basis for law enforcement in the ASEAN region. Member states maintain their regulatory sovereignty in regulating digital economic activities that impact domestic markets. On the other hand, the cross-border nature of foreign e-commerce platforms poses significant legal challenges, particularly regarding jurisdiction and enforcement. When platform

providers are domiciled outside the consumer's country, the effectiveness of oversight and enforcement of sanctions is limited. Therefore, the ASEAN legal framework encourages cross-border cooperation, both through information exchange between authorities, harmonization of regulatory standards, and the development of digital-based alternative dispute resolution mechanisms.

Normatively, the legal framework for cross-border digital business in ASEAN seeks to balance two primary interests. On the one hand, ASEAN aims to create an open and competitive digital investment and trade climate to foster regional economic growth. On the other hand, member states seek to protect national interests, local consumers, and domestic businesses from the dominance of foreign e-commerce platforms with significant economic and technological power. Therefore, it can be concluded that the current legal framework for cross-border digital business in ASEAN remains coordinative and adaptive, rather than fully harmonized. The operational regulation of foreign e-commerce platforms is carried out through a combination of ASEAN regional commitments and the implementation of each member state's national laws. This situation opens up space for strengthening ASEAN's digital legal integration in the future, particularly in the face of the increasingly massive and complex expansion of global platforms.

According to Phet Sengpanya (2019), ASEAN has developed an e-commerce legal framework that serves as a regional coordinating platform to support digital trade and digital economic integration. ASEAN does not act as a supranational authority that can directly enforce laws, but rather establishes legal harmonization by integrating member countries' national laws into the ASEAN framework, including through the ASEAN Agreement on e-Commerce signed in 2018. This harmonization is carried out through the synchronization of basic legal principles such as the recognition of electronic transactions and the openness of digital markets, although full implementation still depends on national adoption by each member country. Thus, the ASEAN legal framework reflects a regional cooperative approach to regulating the operations of foreign e-commerce platforms across the region, and serves as a foundation for member countries to develop or align their domestic regulations with regional standards.

Ajis Supangat et al. (2024) argue that one of the main challenges in the cross-border e-commerce legal framework is determining the jurisdiction and applicable law in international digital contracts, including for foreign e-commerce platforms operating in many ASEAN countries. They highlight the need for harmonization of international privacy law principles, such as the use of provisions in the Brussels I Recast, Rome I, Rome II, and relevant Hague international conventions, to regulate the validity of electronic contracts, choice of law, and enforcement of cross-border judgments. This approach helps ASEAN countries address legal ambiguity in cross-jurisdictional digital contracts and provides legal certainty for both businesses and consumers.

According to Zuo Xiangbin et al. (2026), the legal framework for cross-border e-commerce needs to incorporate an Online Dispute Resolution (ODR) mechanism as a key component of the digital legal system. In a comparative study of China and Indonesia, they identified various obstacles, such as the lack of recognition of cross-border dispute decisions and the lack of uniform technical standards. The authors recommend that ASEAN draw inspiration from the European Union's ODR system, including a cross-border recognition mechanism and a data exchange center balanced with national privacy rules. An ODR approach would enhance legal certainty in e-commerce disputes and reduce reliance on traditional litigation, which is often slow and expensive.

In the context of cross-border data regulation, which is a crucial part of the digital legal framework, Zhao Hongqiang et al. (2025) analyzed the regulatory comparison between China and Malaysia and emphasized that the different approaches to data localization and cross-border data transfers create significant challenges. While this is not a direct ASEAN study, the findings are regionally relevant because ASEAN countries have different approaches to data localization, privacy, and cybersecurity, which must be harmonized in cross-border e-commerce legal frameworks to create legal certainty for foreign platforms and effectively protect consumer data.

### **What are the legal obstacles and challenges faced by ASEAN countries in dealing with the expansion of foreign e-commerce platforms, especially regarding consumer protection, data, and business competition?**

The expansion of foreign e-commerce platforms in Southeast Asia has had a significant impact on the growth of ASEAN's digital economy but has also created various complex legal obstacles and challenges. The cross-border, technology-based nature of digital transactions, operating through global platforms,

challenges the capabilities of ASEAN's national legal systems, which were primarily designed for conventional and territorial transactions. These challenges are particularly evident in consumer protection, personal data protection, and competition law enforcement.

### **Challenges in Cross-Border Digital Consumer Protection**

One of the main obstacles facing ASEAN countries is the weak effectiveness of consumer protection in cross-border e-commerce transactions. Consumers in ASEAN often deal with businesses or platform providers domiciled outside their national jurisdictions, giving rise to jurisdictional and enforcement issues when disputes arise. Differences in consumer protection standards across ASEAN countries exacerbate this situation, as not all countries offer the same level of legal protection for digital consumer rights. Furthermore, many foreign e-commerce platforms implement unilaterally determined standard clauses, including choice of law and dispute resolution forums outside the consumer's country. This weakens consumers' bargaining power and limits access to justice. ASEAN countries still face limitations in enforcing compliance with domestic consumer protection standards for foreign platforms, particularly when the platforms lack legal representation or assets within their own country.

According to Firdausi & Prastyanti (2025), national legal systems across ASEAN countries have widely varying levels of protection, from comprehensive regulations in Singapore to relatively weak and fragmented frameworks in other countries such as Indonesia. These differences hamper the enforcement of consumer rights in cross-border transactions due to the difficulty of determining applicable legal norms and the competent authority when consumer rights violations occur by foreign platforms. Furthermore, Taufiqurokhman et al. (2025) highlight that jurisdictional ambiguity and applicable law are major challenges in resolving global consumer disputes, as differing legal standards across ASEAN member states have not yet been harmonized. The absence of strong international norms leads to inconsistent consumer protection and impacts legal certainty in cross-border transactions.

### **The Challenges of Personal Data Protection and Digital Sovereignty**

The expansion of foreign e-commerce platforms also poses serious challenges to personal data protection. Global platforms collect, process, and transfer consumer data across borders, while data protection regulations in ASEAN remain fragmented. Some countries already have comprehensive personal data protection laws, while others are in the early stages of regulation or rely solely on sectoral regulations. The lack of binding regional standards creates data protection gaps and creates the risk of misuse of consumer data. ASEAN countries also face a dilemma between encouraging cross-border data flows to support digital commerce and maintaining national data sovereignty. Limited oversight capacity and differing legal principles regarding data localization, consent, and data security present challenges in enforcing compliance with national laws by foreign e-commerce platforms.

Aurelia & Lewiandy (2025) identified significant differences in data regulation across ASEAN countries: some countries, such as Singapore and Malaysia, have comprehensive data protection laws, while others rely on sectoral regulations or lack clear policies. This inconsistency hampers the implementation of the ASEAN Model Contractual Clauses and creates significant challenges in aligning cross-border data transfers with global standards. A study by Zhao Hongqiang et al. (2025) also shows that differences in data regulation philosophies between countries (e.g., China's security approach versus Malaysia's economic balance) create high compliance costs and complexity for e-commerce businesses, especially MSMEs operating across borders and vulnerable to conflicting regulations.

### **Challenges of Enforcing Digital Competition Law**

In terms of business competition, ASEAN countries face challenges in monitoring and controlling the dominance of foreign e-commerce platforms, which possess significant market power and global networks. Platform-based business models, algorithms, and digital ecosystems allow foreign companies to establish dominant positions without a significant physical presence in a country. This makes it difficult for national competition authorities to determine jurisdiction and impose legal sanctions. Furthermore, practices such as predatory pricing, self-preferencing, and large-scale data acquisition by foreign platforms have the potential to harm local businesses and hinder healthy competition. Competition regulations in many ASEAN countries still focus on conventional markets and are therefore not fully adapted to the

characteristics of the digital market. The lack of cross-border coordination also makes oversight of cross-border anti-competitive practices less effective.

In the area of business competition, global-scale foreign e-commerce platforms pose challenges to competition law in ASEAN because digital market models differ from traditional markets. Srivastava & Tiwary (2023) state that conventional competition law often fails to adequately capture digital dynamics, such as the dominance of multi-sided platforms, data power, and concentrated market structures. The lack of clarity in the legal parameters for assessing dominant behavior in digital markets means that abuses of market power often go undetected effectively by competition authorities in many jurisdictions.

### **The Challenge of Cross-Border Regulatory Harmonization and Enforcement**

Another structural obstacle facing ASEAN is the suboptimal harmonization of digital business regulations at the regional level. Despite various ASEAN cooperation initiatives in the areas of e-commerce and the digital economy, existing instruments are largely soft law and lack direct enforcement power. As a result, member states adopt diverse legal approaches, creating legal uncertainty for consumers and businesses. Cross-border law enforcement also faces limited cooperation mechanisms between law enforcement agencies and regulatory authorities. Differences in legal systems, institutional capacities, and national interests often hinder the development of an effective regional legal regime to address the expansion of foreign e-commerce platforms.

Beyond the specific challenges of each legal field, there are broader structural challenges: legal fragmentation and a lack of regional integration. In the context of consumer and data protection, ASEAN does not yet have binding standards equivalent to, for example, the European Union's GDPR. This has led to gaps in enforcement and low levels of consumer protection and data sovereignty. Harmonization efforts such as the ASEAN Model Contractual Clauses lack robust enforcement mechanisms, while cross-border dispute resolution mechanisms remain weak.

### **Implications for ASEAN Legal Policy**

These challenges demonstrate that ASEAN countries find themselves in a dilemma between opening digital markets to foreign investment and protecting their national interests and communities. Therefore, strengthening a more integrated regional legal framework, enhancing digital law enforcement capacity, and developing effective cross-border cooperation mechanisms is necessary. Without these efforts, the expansion of foreign e-commerce platforms has the potential to widen the legal protection gap and weaken ASEAN countries' position in the global digital economy. Another aspect is access to effective dispute resolution mechanisms. National and regional legal systems do not yet provide a framework that is easily accessible to consumers or cross-border businesses in the event of disputes arising from foreign e-commerce transactions, which reduces legal certainty and access to redress.

### **Harmonization of e-commerce regulations across countries can be carried out to create legal certainty, consumer protection, and fair business competition.**

Harmonizing cross-border e-commerce regulations is a strategic necessity in facing the increasingly integrated dynamics of the global digital economy. E-commerce transactions that cross national jurisdictions present legal challenges that cannot be resolved unilaterally by each country. Differences in legal systems, consumer protection standards, data protection regimes, and competition policies between countries often create legal uncertainty for both consumers and businesses. Therefore, regulatory harmonization is seen as a crucial instrument for creating stable, fair, and sustainable digital trade governance. From a legal certainty perspective, regulatory harmonization serves to align the basic principles and norms governing cross-border e-commerce transactions. When countries have relatively uniform legal standards, businesses can clearly understand the legal obligations they must comply with when conducting their business activities across jurisdictions. For consumers, uniformity in regulations reduces the risk of uncertainty regarding enforceable legal rights in the event of a dispute. Without harmonization, regulatory differences create a legal gray area that cross-border e-commerce platforms often exploit to avoid legal liability.

In the context of consumer protection, regulatory harmonization allows for the establishment of minimum standards of protection applicable across countries, such as information transparency obligations, transaction security guarantees, the right to return goods, and effective and accessible dispute resolution

mechanisms. These common standards are crucial for protecting consumers from unfair practices by foreign businesses or platforms operating in countries with varying levels of legal protection. Harmonization also strengthens consumers' bargaining power in digital transactions, as consumer rights are no longer solely dependent on national laws, which may be weaker than those in other jurisdictions. Furthermore, regulatory harmonization plays a crucial role in ensuring fair competition in cross-border e-commerce markets. Global digital platforms often possess significantly greater economic, technological, and data advantages than local businesses. Without balanced regulatory standards, differences in national policies can create competitive distortions, where foreign platforms can exploit regulatory loopholes in certain countries to gain unfair competitive advantages. Harmonization of competition regulations, including oversight of market dominance, data misuse, and algorithmic discrimination, is a crucial instrument for maintaining a level playing field in digital markets.

At the regional level, harmonization does not necessarily mean complete legal unification, but rather the alignment of basic principles and mutual recognition between countries. This approach allows countries to maintain their regulatory sovereignty while committing to agreed-upon common standards. In the ASEAN context, harmonization of cross-border e-commerce regulations can be achieved through strengthening regional frameworks, increasing coordination between national authorities, and developing cooperation mechanisms for law enforcement and cross-border dispute resolution. Thus, harmonization of cross-border e-commerce regulations is not only a normative solution to the legal challenges of the digital economy but also a policy strategy for creating a safe, fair, and inclusive digital trade ecosystem. This effort will provide legal certainty for all stakeholders, strengthen consumer protection, and ensure that business competition in the digital market is healthy and balanced. According to Philipp Goetzinger & Mario Spremic (2025), international regulatory harmonization is a key requirement in cross-border e-commerce governance due to differences in legal norms that weaken consumer rights protection across jurisdictions. Their systematic literature review found that fragmented legal frameworks trigger risks such as price discrimination, misleading marketing practices, and legal uncertainty when consumers conduct cross-border transactions. Harmonizing legal standards through international cooperation can increase consumer trust, consistently protect their rights, and minimize substantial differences between domestic laws applicable in each country.

Dhini Rachmadhina Caesaria (2025) highlighted the need for harmonized global standards for consumer protection in cross-border e-commerce. This research shows that differences in legal implementation, including dispute resolution procedures, fair commercial practices, and platform obligations to consumers, create legal risks for consumers and businesses. International harmonization, not only through multilateral agreements but also through the convergence of law enforcement practices, can help minimize protection disparities and increase legal certainty. In a comparative study of cross-border data governance, Zhao Hongqiang et al. (2025) asserted that significant differences in data protection approaches—particularly between countries focused on data security and those balancing regulation with digital growth—pose challenges to harmonizing international digital law. These differing approaches create legal uncertainty for businesses and consumers across borders, thus creating a need to harmonize basic data protection principles. Such harmonization could help create a common protection mechanism and legal certainty for consumer data on cross-border e-commerce platforms.

Rania Abdelmoniem Abdelhamid (2023) stated that fair competition and consumer protection rules in digital markets need to be adjusted and harmonized across jurisdictions to prevent anti-competitive practices that harm both local businesses and consumers. In the digital context, practices such as algorithmic discrimination, unfair pricing, and market dominance by large platforms must be regulated comprehensively and coherently across countries. Such harmonization encourages healthy business competition and uniform consumer protection standards. From a dispute resolution perspective, Zuo Xiangbin et al. (2026) demonstrated that uniform Online Dispute Resolution (ODR) across jurisdictions could be part of the harmonization of cross-border e-commerce laws. With many digital transactions being cross-border, an integrated ODR system allows for faster, cheaper, and more transparent dispute resolution without the need to follow separate national legal systems. This increases legal certainty and protects businesses and consumers experiencing legal conflicts in international transactions.

### **What legal strategies or recommendations can ASEAN countries implement to optimize digital economic growth while protecting the interests of local business actors?**

The growth of the digital economy in the ASEAN region presents significant opportunities for improving economic prosperity and regional market integration. However, the expansion of global digital platforms also poses serious challenges for local businesses, which face limited capital, technology, and market access. Therefore, ASEAN countries need to formulate legal strategies that not only encourage digital innovation and investment but also ensure fair protection for domestic businesses, thereby creating an inclusive and sustainable digital economy ecosystem. One key strategy that can be implemented is strengthening the harmonization of cross-border e-commerce regulations, while still taking into account the national characteristics and interests of each country. This harmonization can be achieved through the establishment of regional minimum standards related to consumer protection, digital platform obligations, and algorithm transparency. With common standards, local businesses gain greater legal certainty when participating in cross-border digital commerce, while simultaneously reducing regulatory imbalances often exploited by large-scale foreign platforms.

In addition to harmonization, strengthening digital competition law is a crucial instrument for protecting local businesses from anti-competitive practices by dominant platforms. ASEAN countries need to update their competition regulations to address the characteristics of digital markets, including oversight of abuse of dominant positions, predatory pricing practices, and the exploitation of data as a source of market power. An ex-ante regulatory approach to platforms with significant market power can be considered to prevent competitive distortions early on, rather than solely through ex post law enforcement. Another strategy is empowering local businesses through legally based affirmative action policies. ASEAN countries can implement regulations that encourage technology transfer, mandatory partnerships with local businesses, and legal support for digital MSMEs accessing e-commerce platforms. These policies are not intended to restrict competition, but rather to create a structural balance so that local businesses can compete fairly with global digital companies.

In the area of data protection and digital sovereignty, ASEAN countries need to develop a legal framework that balances cross-border data flows with the protection of national interests and domestic businesses. Clear and consistent data regulations will boost consumer confidence while preventing unfair data-harnessing practices by foreign platforms. Effective oversight mechanisms and sanctions against data breaches are also crucial to ensure compliance by all businesses, both local and foreign. Furthermore, strengthening institutional capacity and cross-border law enforcement cooperation are prerequisites for a successful ASEAN legal strategy. Member countries need to strengthen coordination among regulatory authorities, competition authorities, and consumer protection agencies to address cross-jurisdictional digital business practices. This cooperation could include information exchange, mutual recognition of certain legal decisions, and the development of regional dispute resolution mechanisms that are easily accessible to local businesses and consumers. Ultimately, ASEAN's legal strategy in the digital economy must be oriented toward a balance between market openness and the protection of national interests. Overly protectionist regulations risk stifling innovation and investment, while overly liberal regulations can weaken local businesses. Therefore, an adaptive, proportionate, and regionally cooperative legal approach is key to optimizing the growth of ASEAN's digital economy while ensuring fairness and sustainability for all businesses.

According to Dhini Rachmadhina Caesaria (2025), one important legal strategy in the context of cross-border e-commerce is the harmonization of a series of consumer and digital business legal standards across countries. This harmonization is intended to create common minimum regulations that can be adopted by all ASEAN countries, so that local businesses have legal certainty when competing with foreign platforms and consumers are equally protected. Standard harmonization includes transparency of product information, dispute resolution obligations, and consistent consumer rights protection across ASEAN jurisdictions. This approach is highly relevant for increasing market confidence while encouraging inclusive digital economic growth. Zuo Xiangbin et al. (2026) emphasize the importance of developing Online Dispute Resolution (ODR) as a legal strategy to protect local businesses and foster trust in the digital market. According to the authors, the ODR system can offer a faster, cheaper, and more accessible dispute resolution mechanism, especially when digital businesses face cross-jurisdictional conflicts with consumers or foreign platforms. With ODR harmonized across ASEAN countries, MSMEs and small businesses can

gain access to dispute resolution without having to navigate the complexities of their respective national legal systems.

According to Jessica Aurelia & Lewiandy (2025), the lack of uniformity in data protection regulations is a major obstacle to inclusive digital economic growth, including for local businesses. The authors recommend that ASEAN countries develop robust yet flexible cross-border data protection standards, thereby promoting secure and lawful data flows without compromising national data sovereignty. A harmonized cross-border data framework will help MSMEs, and local businesses operate in a more trusted and competitive digital environment. Philipp Goetzinger & Mario Spremic (2025) in their literature review state that countries need to formulate legal strategies that establish legal compliance obligations for digital platforms, including obligations to operate in accordance with local consumer protection standards and operational transparency. This approach not only protects consumers but also provides assurance to local businesses that the digital market remains fair and is not dominated by asymmetric practices that disadvantage local competitors.

In their study of legal protection for MSMEs, researchers highlighted the importance of legal education and pro-MSME policy support to strengthen the position of local businesses in the digital marketplace. This strategy includes educational programs on digital legal aspects, technical assistance in understanding regulations, and support in accessing permits and legal compliance. Such measures not only enhance MSMEs' capabilities in exploiting e-commerce opportunities but also balance the power between local businesses and large-scale foreign platforms.

## **Conclusion**

Based on the research and discussions conducted, it can be concluded that cross-border digital business legal regulations in the ASEAN region are still in the development stage and have not been fully harmonized to address the expansion of foreign e-commerce platforms. Although ASEAN already has several regional frameworks in the digital economy and e-commerce, the existing legal instruments are largely coordinative and not yet strictly binding, so their implementation is highly dependent on the national laws of each member state.

This research shows that ASEAN countries face significant legal obstacles and challenges, particularly in consumer protection, personal data protection, and business competition. Differences in levels of legal protection between countries, limited jurisdiction in cross-border transactions, and fragmented data regulations contribute to low legal certainty for consumers and businesses. Furthermore, the dominance of foreign e-commerce platforms, with their significant market power and data control, poses a risk of distorting competition and potentially harming local businesses.

The research findings also confirm that harmonizing e-commerce regulations across borders is a strategic step to create legal certainty, enhance consumer protection, and achieve fair business competition in the ASEAN region. Harmonization does not have to be achieved through rigid legal unification, but rather through the alignment of regional minimum principles and standards that can be adopted into the national laws of member states, without diminishing each country's regulatory sovereignty.

Furthermore, this study concludes that optimizing ASEAN's digital economic growth requires a legal strategy that protects the interests of local businesses. Strengthening digital competition law, empowering MSMEs through affirmative action policies, balanced data protection, and enhancing cross-border law enforcement cooperation are key elements in building an inclusive and sustainable digital economic ecosystem.

Thus, it can be emphasized that ASEAN's success in facing the expansion of foreign e-commerce platforms is largely determined by the ability of its member countries to strengthen the regional legal framework, improve coordination between authorities, and develop regulations that are adaptive to the dynamics of the global digital economy, while also supporting the interests of the community and domestic business actors.

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