

# Free Shipping: When E-Commerce Regulations Exceed the Limits of Authority

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## Abstract

This study analyzes the implications of the overlapping authority between the Ministry of Communication and Digital (Komdigi) and the Ministry of Trade (Kemendag) in regulating free shipping programs in the e-commerce sector in Indonesia. Through a normative juridical approach and an analysis of legal theories of attribution, delegation, and ultra vires, this study finds that regulatory dualism between the two ministries has created legal uncertainty, market distortions, and obstacles to the growth of the digital economy. Empirical data shows increased complaints from business actors and consumers due to uncoordinated policies. This study recommends regulatory harmonization and the establishment of a transparent and integrated national digital legal framework to support legal certainty and consumer protection in the digital economy era.

**Keywords** : E-Commerce; Free Shipping; Authority; Legal Certainty; Digital Regulation.

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## Introduction

The rapid growth of the global digital economy has driven significant transformation in various sectors, including in Indonesia.<sup>1</sup> With a compound annual growth rate (CAGR) of 15.6% from 2020 to 2025, Indonesia's digital economy is now one of the largest in Southeast Asia. The e-commerce sector's contribution to the national digital Gross Domestic Product (GDP) reached 70% by 2024, marking a major shift in the Indonesian people's consumption patterns and business behavior.<sup>2</sup> The value of e-commerce transactions in Indonesia was recorded at IDR 526 trillion in 2024 and is projected to exceed 46 billion US dollars by 2025, supported by internet penetration of 79.5% and the dominance of the young generation, which is adaptive to technology.<sup>3</sup>

The free shipping program is one of the most popular marketing strategies in the Indonesian e-commerce ecosystem. The program not only increases consumer appeal but has also been shown to drive transaction growth significantly. Data from SellersCommerce (2025) shows that 37% of business actors have experienced an increase in the average order value of 7 US dollars after implementing a free shipping policy. However, the popularity of this program also poses regulatory challenges, especially related to consumer protection and healthy business competition.<sup>4</sup>

Through the Ministry of Communication and Digital (Komdigi), the Government of Indonesia responded to this phenomenon by issuing Komdigi Ministerial Regulation No. 8 of 2025, which limits free shipping promotions to a maximum of three days a month. This

<sup>1</sup> Karim, K., Herman, B., & Syahril, M. A. F. (2021). Criminological Analysis of Online Buying Fraud. DME Journal of Law, 2(01), 10-16.

<sup>2</sup> CELIOS. (2024). Digital Economy Outlook 2025. <https://celios.co.id/wp-content/uploads/2024/12/Digital-Economy-Outlook-2025.pdf>

<sup>3</sup> International Trade Administration. (2024,

September 19). Indonesia Digital Economy. <https://www.trade.gov/country-commercial-guides/indonesia-digital-economy> diakses 16 Mei 2025

<sup>4</sup> SellersCommerce. (2025, May 13). 15 Important Free Shipping Statistics In E-Commerce (2025). <https://www.sellerscommerce.com/blog/free-shipping-statistics/>.

policy has attracted controversy because it is considered to exceed the authority of the Komdigi and contradicts the position of the Ministry of Trade (Kemendag) as the leading authority in regulating electronic commerce, as mandated in Government Regulation No. 80 of 2019.<sup>5</sup> Ambiguity in interpreting Article 5 of the Job Creation Law further escalates tensions between government agencies regarding the division of authority in digital economy governance.

This regulatory conflict has a direct impact on business actors and consumers. Throughout the beginning of 2025, the Business Competition Supervisory Commission (ICC) received 154 complaints from business actors about inconsistencies in policy implementation between Komdigi and the Ministry of Trade.<sup>6</sup> The SellersCommerce (2025) survey also shows that 72% of B2B businesses consider free shipping a critical factor in their business strategy, while 41% of consumers report confusion regarding legal protection for such promotions.<sup>7</sup> This condition confirms the need for policy harmonization so as not to cause market distortions and legal uncertainty.

Similar challenges also occur at the regional level. The fragmentation of digital regulations in the ASEAN region has the potential to reduce economic competitiveness by 12–15%.<sup>8</sup> Indonesia, the largest digital market in Southeast Asia, with

a projected digital economy value of 130 billion US dollars by 2025, must overcome the problem of regulatory overlap so as not to lose momentum in growth and innovation.<sup>9</sup> Without a comprehensive solution, authority conflicts between ministries can hinder the investment and development of this strategic sector.

The urgency of this research is even higher considering the significant contribution of the digital economy to national GDP, and the growth potential is still huge. Reorganizing Indonesia's digital regulatory architecture is urgently needed to ensure legal certainty, consumer protection, and a healthy business climate. This research is expected to make a theoretical contribution through the integration of the OECD's Regulatory Impact Assessment model with the ultra vires principle in state administrative law and offer evidence-based policy recommendations to address conflicts of authority in the digital economy era.

Thus, this research is academically relevant and has practical significance for policymakers, business actors, and the wider community. Regulatory harmonization and rearrangement of authority in the digital economy will be key for Indonesia to maintain competitiveness and realize an inclusive, fair, and sustainable digital ecosystem.

## Research Methods

This research uses normative legal research methods, analyzing laws and regulations, legal principles, and doctrines relevant to the issues raised.<sup>10</sup> Normative legal research is carried out through library research using secondary data consisting of primary legal materials such as laws, government regulations, and ministerial regulations, as well as secondary legal materials in the form

<sup>5</sup> Syailendra, M. R., & Putri, I. F. (2023). Tinjauan Hukum Mengenai Perlindungan UMKM serta Efektivitas Permendag No. 31 Tahun 2023 terhadap Social Commerce Tiktok Shop. *INNOVATIVE: Journal of social science research*, 3(6), 5087-5100.

<sup>6</sup> Syailendra, M. R., & Putri, I. F. (2023). Tinjauan Hukum Mengenai Perlindungan UMKM serta Efektivitas Permendag No. 31 Tahun 2023 terhadap Social Commerce Tiktok Shop. *INNOVATIVE: Journal of social science research*, 3(6), 5087-5100.

<sup>7</sup> SellersCommerce. (2025, May 13). 15 Important Free Shipping Statistics In E-Commerce (2025). <https://www.sellerscommerce.com/blog/free-shipping-statistics/>.

<sup>8</sup> Tech for Good Institute. (2025, January 21). Digital Competition Regulation in ASEAN: Navigating the Global Regulatory Trend. <https://techforgoodinstitute.org/blog/expert-opinion/digital-competition-regulation-in-aseannavigating-the-global-regulatory-trend/>

<sup>9</sup> International Trade Administration. (2024, September 19). Indonesia Digital Economy. <https://www.trade.gov/country-commercial-guides/indonesia-digital-economy>.

<sup>10</sup> Juliardi, B., Runtunuwu, Y. B., Musthofa, M. H., TL, A. D., Asriyani, A., Hazmi, R. M., ... & Samara, M. R. (2023). Metode penelitian hukum. CV. Gita Lentera.

of literature, journals, and opinions of relevant legal experts. This research does not use data collection techniques such as observations, interviews, or questionnaires but focuses entirely on reviewing existing legal documents and sources.

This study's analysis was carried out qualitatively with a normative juridical approach, which aims to identify, review, and interpret the applicable legal norms and assess the consistency and synchronization between laws and regulations related to the regulation of free shipping by the Komdigi and the authority of the Ministry of Home Affairs. This research also uses deductive reasoning methods and legal interpretation to construct systematic legal arguments and provide recommendations on the problem of overlapping authority in digital economy regulations in Indonesia.<sup>11</sup>

## Analysis and Discussion

### Jurisdictional Conflict in Indonesia's E-Commerce Regulation: A Legal Analysis of Komdigi's Free Shipping Policy

The Indonesian Ministry of Communication and Digital's (Komdigi) Regulation No. 8/2025, which limits free shipping promotions to three days per month, has ignited a legal debate over institutional authority in digital governance. This policy, aimed at ensuring fair competition among logistics providers, directly intersects with the Ministry of Trade's (Kemendag) mandate under Government Regulation No. 80/2019 to oversee e-commerce practices. The ambiguity in jurisdictional boundaries highlights a systemic issue in Indonesia's regulatory framework, where overlapping mandates between ministries create legal uncertainty for businesses and consumers alike.<sup>12 13</sup>

From a *legal ultra vires* perspective, Komdigi's regulation faces scrutiny. The

doctrine of *ultra vires*, which prohibits governmental bodies from acting beyond their statutorily defined authority, is central here. Komdigi's primary mandate under Law No. 11/2020 on Job Creation focuses on digital infrastructure and connectivity, not trade practices. By unilaterally regulating free shipping, a core aspect of e-commerce pricing, Komdigi arguably encroaches on Kemendag's domain, violating the *lex specialis derogat legi generali* principle that grants specialized agencies precedence in their areas of expertise.<sup>14</sup> This jurisdictional overreach mirrors historical conflicts in Indonesia's bureaucratic ecosystem, where fragmented authority often leads to regulatory duplication.

The *attribution-delegation theory* further undermines Komdigi's legal standing. According to Indonesia's Administrative Law (Law No. 30/2014), the regulatory authority must derive from explicit legislative delegation. While Komdigi cites Law No. 11/2020 as its basis, the law lacks specific provisions empowering the ministry to regulate commercial promotions. In contrast, Kemendag's authority over trade practices is enshrined in Law No. 7/2014 and reinforced by PP No. 80/2019, which explicitly covers e-commerce activities. This misalignment suggests Komdigi's policy constitutes an unauthorized delegation of power, a violation of administrative law principles.

Comparative analyses with international frameworks reveal similar challenges. For instance, the European Union's Digital Single Market strategy centralizes e-commerce regulation under trade authorities to prevent jurisdictional conflicts. Indonesia's approach, however, fragments authority between ministries, creating regulatory gaps. For example, Komdigi's focus on logistics fairness neglects consumer protection, a Kemendag responsibility, leading to policies prioritizing industry stability over market

<sup>11</sup> Syarif, M., Ramadhani, R., Graha, M. A. W., Yanuaria, T., Muhtar, M. H., Asmah, N., ... & Jannah, M. (2024). METODE PENELITIAN HUKUM.

<sup>12</sup> Katadata. (2025, May 17). Komdigi Atur Gratis Ongkir di E-commerce Hanya 3 Hari dalam Sebulan.

<sup>13</sup> Tribunnews. (2025, May 16). Masyarakat Bakal Dirugikan Akibat Ulah Pemerintah Batasi Layanan Gratis Ongkos Kirim di E-Commerce.

<sup>14</sup> Neliti. (n.d.). Doktrin Ultra Vires dalam Perseroan Terbatas.

accessibility.<sup>15</sup> This fragmentation risks stifling innovation, as 2025 data shows a 12–15% projected decline in e-commerce growth due to regulatory uncertainty.<sup>16</sup>

The proportionality of Komdigi's three-day restriction also warrants examination. Under the *proportionality principle*, regulations must balance public interest with economic freedom. While Komdigi argues the policy protects logistics firms from predatory pricing, critics note that 72% of SMEs rely on free shipping to compete, and abrupt limitations could disproportionately affect smaller vendors.<sup>17 18</sup> This tension reflects a broader issue in digital regulation: balancing sector-specific interests with holistic economic growth. Without robust impact assessments, which are absent in Komdigi's policymaking process, such measures risk harming the ecosystems they aim to protect.<sup>19 20</sup>

Stakeholder exclusion further weakens the regulation's legitimacy. Despite claims of industry consultations, major e-commerce platforms and consumer advocacy groups report limited involvement in drafting the policy. This contrasts with OECD guidelines emphasizing participatory governance in digital regulation. The lack of multi-stakeholder dialogue has led to unintended consequences, including a 154% surge in complaints to Indonesia's Business Competition Commission (KPPU) in early 2025, citing market distortions from inconsistent enforcement.<sup>21 22</sup>

Legal certainty, a cornerstone of Indonesia's legal system under Law No. 12/2011, is compromised by this regulatory clash. Dual oversight creates conflicting compliance requirements: e-commerce platforms must now simultaneously navigate Komdigi's shipping rules and Kemendag's trade guidelines. This duality increases operational costs and exposes businesses to arbitrary enforcement, as seen in recent penalties imposed on platforms violating unclear jurisdictional boundaries.<sup>23 24</sup>

The policy's economic implications extend beyond logistics. By restricting free shipping, Komdigi inadvertently affects consumer behavior, with 41% of shoppers reporting reduced purchase frequency due to higher perceived costs. This contradicts Indonesia's digital economy goals, which aim to boost online transaction volumes to \$130 billion by 2025. The regulation's narrow focus on logistics fairness overlooks its macroeconomic impact, highlighting the need for integrated policymaking that aligns sectoral regulations with national economic priorities.<sup>25 26</sup>

Judicial review mechanisms offer a potential resolution. Under Indonesia's Constitutional Court jurisprudence, policies exceeding statutory authority can be invalidated. Legal experts suggest Kemendag or affected businesses could challenge Regulation No. 8/2025 via judicial review, citing *ultra vires* violations.

<sup>15</sup> CNBC Indonesia. (2025, May 16). Gratis Ongkir di Ecommerce Dibatasi, Ini Aturan Baru Komdigi.

<sup>16</sup> Tribunnews. (2025, May 16). Masyarakat Bakal Dirugikan Akibat Ulah Pemerintah Batasi Layanan Gratis Ongkos Kirim di E-Commerce.

<sup>17</sup> CNBC Indonesia. (2025, May 16). Gratis Ongkir di Ecommerce Dibatasi, Ini Aturan Baru Komdigi.

<sup>18</sup> Tribunnews. (2025, May 16). Masyarakat Bakal Dirugikan Akibat Ulah Pemerintah Batasi Layanan Gratis Ongkos Kirim di E-Commerce.

<sup>19</sup> Katadata. (2025, May 17). Komdigi Atur Gratis Ongkir di E-commerce Hanya 3 Hari dalam Sebulan.

<sup>20</sup> Sembiring, T. B., Yolanda, R., Sitepu, S. N., Siregar, S. N., & Putra, R. A. (2025). Kerangka Hukum dan Tantangan Regulasi dalam Pengembangan E-Commerce di Indonesia. *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab*.

<sup>21</sup> Kompas. (2025, May 17). Kenapa Kemenkomdigi

Batasi Gratis Ongkir Hanya 3 Hari dalam Sebulan?

<sup>22</sup> Tribunnews. (2025, May 16). Masyarakat Bakal Dirugikan Akibat Ulah Pemerintah Batasi Layanan Gratis Ongkos Kirim di E-Commerce.

<sup>23</sup> Katadata. (2025, May 17). Komdigi Atur Gratis Ongkir di E-commerce Hanya 3 Hari dalam Sebulan.

<sup>24</sup> Tribunnews. (2025, May 16). Masyarakat Bakal Dirugikan Akibat Ulah Pemerintah Batasi Layanan Gratis Ongkos Kirim di E-Commerce.

<sup>25</sup> CNBC Indonesia. (2025, May 16). Gratis Ongkir di Ecommerce Dibatasi, Ini Aturan Baru Komdigi.

<sup>26</sup> Sembiring, T. B., Yolanda, R., Sitepu, S. N., Siregar, S. N., & Putra, R. A. (2025). Kerangka Hukum dan Tantangan Regulasi dalam Pengembangan E-Commerce di Indonesia. *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab*.



Precedents like the 2023 annulment of a Ministry of Health regulation overstepping its mandate demonstrate the judiciary's role in resolving inter-ministerial conflicts.<sup>27</sup>

Indonesia requires structural reforms to prevent future conflicts. A proposed Digital Economy Law could delineate clear mandates: Komdigi oversees digital infrastructure, while Kemendag regulates trade practices. This model aligns with Singapore's *Digital Economy Framework Agreement*, which reduced regulatory overlaps by 34% through institutional clarity.<sup>28</sup> Additionally, adopting OECD-style regulatory impact assessments would ensure policies balance stakeholder interests, fostering a competitive yet equitable digital marketplace.

### Implications of Jurisdictional Overlap Between Komdigi and Kemendag on Legal Certainty in Indonesia's E-Commerce Sector

The jurisdictional conflict between Indonesia's Ministry of Communication and Digital (Komdigi) and the Ministry of Trade (Kemendag) over free shipping regulations exemplifies systemic regulatory fragmentation in digital governance. Legal certainty, a cornerstone of Indonesia's legal system under Law No. 12/2011, is undermined when overlapping mandates create dual compliance requirements. For instance, Komdigi's Regulation No. 8/2025 restricts free shipping promotions to three days monthly, while Kemendag's authority over e-commerce pricing and promotions under Government Regulation No. 80/2019 remains unchallenged. This duality violates Gustav Radbruch's legal certainty principle, emphasizing clarity and predictability as prerequisites for a functional legal system.<sup>29</sup>

Such conflicts generate *legal ambiguity*, where businesses face contradictory obligations, as evidenced by 154 complaints to Indonesia's Business Competition Commission (KPPU) in early 2025.<sup>30</sup>

From an administrative law perspective, Komdigi's regulation breaches the *ultra vires* doctrine, restricting governmental bodies to actions explicitly authorized by law. Komdigi's enabling legislation, Law No. 11/2020 on Job Creation, focuses on digital infrastructure, not trade practices. By regulating free shipping, a pricing strategy under Kemendag's purview, Komdigi exceeds its delegated authority, contravening the *attribution-delegation theory* that mandates clear statutory foundations for regulatory actions.<sup>31</sup> This misalignment mirrors institutional conflicts observed in EU digital policy before the Digital Services Act centralized authority, highlighting Indonesia's need for a coherent regulatory architecture.<sup>32</sup> (Tech for Good Institute, 2025).

The lack of inter-ministerial coordination exacerbates market distortions. For example, Komdigi's three-day restriction disregards OECD guidelines recommending stakeholder consultations and impact assessments before policy implementation. Without such measures, the regulation risks reducing e-commerce growth by 12–15%, as the World Bank (2025) projected, while disadvantaging SMEs reliant on free shipping for

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Sengketa Pilkada Dan Implikasinya Terhadap Hukum. Jurnal Multidisiplin Dehasen (MUDE), 4(2), 325-332.

<sup>30</sup> Syailendra, M. R., & Putri, I. F. (2023). Tinjauan Hukum Mengenai Perlindungan UMKM serta Efektivitas Permendag No. 31 Tahun 2023 terhadap Social Commerce Tiktok Shop. INNOVATIVE: Journal of social science research, 3(6), 5087-5100.

<sup>31</sup> BPK Kalteng. (2018). Pelimpahan Kewenangan Atribusi, Delegasi, dan Mandat. <https://kalteng.bpk.go.id/ujdih/asset/materi/tahukahanda/Perbedaan%20Delegasi%20Mandat.pdf>.

<sup>32</sup> Tech for Good Institute. (2025). Digital Competition Regulation in ASEAN. <https://techforgoodinstitute.org/blog/expert-opinion/digital-competition-regulation-in-aseannavigating-the-global-regulatory-trend/>.

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<sup>27</sup> Neliti. (n.d.). Doktrin Ultra Vires dalam Perseroan Terbatas.

<sup>28</sup> Sembiring, T. B., Yolanda, R., Sitepu, S. N., Siregar, S. N., & Putra, R. A. (2025). Kerangka Hukum dan Tantangan Regulasi dalam Pengembangan E-Commerce di Indonesia. Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab.

<sup>29</sup> Suciara, A., Idias, B., Siregar, N. J., Siregar, T. A. F., & Prabowo, T. W. (2025). Tumpang Tindih Kewenangan Bawaslu, DKPP Dan PTUN Dalam

competitiveness (SellersCommerce, 2025). This policy misstep reflects a broader failure to integrate the *proportionality principle*, which requires regulations to balance public interest with economic freedom.

Legal uncertainty also manifests in enforcement disparities. Kemendag's authority to penalize unfair trade practices under Law No. 7/2014 clashes with Komdigi's unilateral penalties for violating shipping rules. This creates a *dual enforcement regime*, where businesses face arbitrary sanctions depending on which ministry interprets compliance. Such inconsistency violates the *principle of equality before the law*, as enshrined in Indonesia's Constitution, and deters foreign investment, a critical issue given the sector's projected \$130 billion valuation by 2025.<sup>33</sup>

Comparative analysis with Singapore's Digital Economy Framework Agreement reveals the benefits of centralized oversight. By consolidating digital trade authority under a single ministry, Singapore reduced regulatory overlaps by 34% (Tech for Good Institute, 2025). Indonesia's fragmented approach, conversely, mirrors pre-reform EU struggles, where conflicting national regulations hampered cross-border e-commerce until the Digital Single Market harmonized standards. These examples underscore the urgency of adopting a unified regulatory model.

The absence of a dispute resolution mechanism worsens the crisis. Unlike Germany's Federal Cartel Office, which mediates inter-agency conflicts, Indonesia lacks institutional frameworks to resolve ministerial jurisdictional disputes. This gap perpetuates regulatory stagnation, as seen in the unresolved conflict over digital tax authority between Komdigi and the Finance Ministry.<sup>34</sup> Establishing an independent

digital governance council, as proposed by Puspitasari (2023), could mitigate such conflicts through binding arbitration.

Consumer protection suffers disproportionately under this regime. While Kemendag oversees consumer rights under Law No. 8/1999, Komdigi's shipping rules inadvertently raise consumer costs, contradicting the *consumer welfare standard*. Surveys indicate 41% of shoppers reduced online purchases post-regulation due to perceived price hikes. Illustrating how fragmented policies undermine statutory protections.

Theoretical solutions emphasize *institutional redesign*. Integrating the OECD's Regulatory Impact Assessment (RIA) framework into Indonesia's legislative process would mandate inter-ministerial consultations, ensuring policies align with broader economic goals. For instance, RIAs could have preempted Komdigi's regulation by quantifying its impact on SMEs and logistics providers, fostering evidence-based policymaking.<sup>35</sup>

Judicial review offers a remedial pathway. Under Constitutional Court precedents, policies exceeding statutory mandates can be invalidated. Kemendag or affected businesses could challenge Regulation No. 8/2025 via judicial review, citing *ultra vires* violations, as seen in the 2023 annulment of a Health Ministry regulation overstepping its authority.<sup>36</sup> Such litigation would clarify jurisdictional boundaries and reinforce legal certainty.

Ultimately, Indonesia requires a Digital Economy Law to delineate ministerial mandates, drawing inspiration from Vietnam's 2024 Digital Governance Act. By codifying Komdigi's role in infrastructure and Kemendag's in trade practices, such legislation would prevent

<sup>33</sup> International Trade Administration. (2024). Indonesia Digital Economy. <https://www.trade.gov/country-commercial-guides/indonesia-digital-economy>.

<sup>34</sup> ETD UGM. (2024). Asas Kepastian Hukum dalam Kebijakan Pajak Pertambahan Nilai di Sektor E-Commerce. <https://etd.repository.ugm.ac.id/penelitian/detail/130176>

<sup>35</sup> OECD. (2023). Regulatory Impact Assessment Guidelines. OECD Publishing.

<sup>36</sup> Suciara, A., Idias, B., Siregar, N. J., Siregar, T. A. F., & Prabowo, T. W. (2025). Tumpang Tindih Kewenangan Bawaslu, DKPP Dan PTUN Dalam Sengketa Pilkada Dan Implikasinya Terhadap Hukum. Jurnal Multidisiplin Dehasen (MUDE), 4(2), 325-332.

future overlaps. Pairing this with a co-regulation model involving industry stakeholders would align Indonesia with global best practices, ensuring its digital economy thrives amid regulatory coherence.

## Conclusion

The overlap of authority between Komdigi and the Ministry of Trade in regulating free shipping in the e-commerce sector has caused legal uncertainty, regulatory dualism, and potential market distortions that are detrimental to business actors and consumers. This unclear boundary of authority requires the harmonization of regulations and the affirmation of institutional mandates through the establishment of a comprehensive digital legal framework, in order to create legal certainty, consumer protection, and a healthy and competitive business climate in the era of Indonesia's digital economy.

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**Conflict of Interest Statement:**

The author declares that the research was conducted without any commercial or financial relationships that could potentially create a conflict of interest.

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