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Unregulated Self-Preferencing in ASEAN Digital Platform Ecosystems

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Abstract

The rapid expansion of digital platforms in Southeast Asia has intensified concerns regarding self-preferencing practices within vertically integrated ecosystems, which often operate in opaque and difficult-to-detect forms. This study examines the inadequacy of existing antitrust frameworks in Indonesia, the Philippines, and Vietnam in addressing such anti-competitive conduct. The research aims to assess the normative sufficiency of these legal systems and identify regulatory gaps in tackling self-preferencing in digital markets. This study employs a doctrinal legal research method combined with a comparative approach. The findings reveal that all three jurisdictions face significant limitations, particularly due to

the absence of explicit prohibitions on self-preferencing mechanisms to address algorithmic bias, particularly in its early stage. Indonesia demonstrates the most substantial deficiencies, while the Philippines and Vietnam offer relatively more flexible interpretative tools, albeit still insufficient in addressing the complexities of digital ecosystems. The study concludes that the current, primarily ex-post approach in the relevant frameworks needs to be supported by an ex-ante mechanism, which leads the study to recommend the introduction of explicit legal recognition of self-preferencing and expansion of vertical integration provisions, along with other safeguards to prevent further competitive damage from self-preferencing.

Abstrak

Kata Kunci:
Hukum Persaingan Usaha, Platform Digital, Hukum Bisnis Digital, Self-Preferencing, Integrasi Vertikal, ASEAN

Perkembangan pesat platform digital di kawasan Asia Tenggara telah memunculkan persoalan serius terkait praktik self-preferencing dalam ekosistem yang terintegrasi secara vertikal dan bersifat sulit terdeteksi. Penelitian ini mengkaji kekurangan kerangka hukum persaingan usaha di Indonesia, Filipina, dan Vietnam dalam menangani perilaku anti-persaingan tersebut. Tujuan penelitian ini adalah untuk menilai kecukupan normatif sistem hukum yang ada serta mengidentifikasi kesenjangan regulasi dalam mengatasi praktik self-preferencing di pasar digital. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan komparatif. Hasil penelitian menunjukkan bahwa ketiga negara memiliki kelemahan signifikan, terutama karena tidak adanya larangan eksplisit terhadap self-preferencing untuk mengatasi bias algoritmik, khususnya di tahap awal. Indonesia menunjukkan kelemahan paling mendasar, sementara Filipina dan Vietnam memiliki fleksibilitas normatif yang lebih baik, namun tetap belum memadai dalam menghadapi kompleksitas platform digital. Penelitian ini menyimpulkan bahwa pengaturan yang menggunakan pendekatan ex-post perlu didukung oleh pendekatan ex-ante, yang mengarahkan penelitian ini kepada rekomendasi pengembangan hukum melalui pengakuan eksplisit self-preferencing dan perluasan pengaturan integrasi vertikal, serta langkah-langkah pengamanan lainnya untuk mencegah dampak negatif praktik self-preferencing terhadap iklim persaingan.

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Introduction

Over the last few years, digital platforms have transformed many aspects of the global economy (Awan et al., 2022) and changed the fundamentals of how people are doing business (Ruggieri et al., 2018), while also accelerating economic growth (Fu et al., 2021). This development has also brought many changes to the legal landscape, including legal implications that are often difficult to navigate around (Kharitonova & Sannikova, 2021). From the general governance of digital platforms to the delicate nature of its aspects like privacy rights and consumer protection, the antitrust legal dimension creates complex tensions where the enforcement of competition laws must navigate many legal aspects that are intertwined, highlighting how the scope of antitrust as a legal issue is often broader and may consist of many legal fields (Kolawole, 2024). This enforcement must be done thoroughly to ensure that the relevant market of digital platforms reach an equilibrium between innovation and competition, ensuring that users as consumers get the best possible offers of digital services (Petropoulos et al., 2020).

From the classical standpoint, antitrust mechanisms are typically installed as a key aspect of a legal system to prevent significant barriers to market entry, which can end up giving less options for consumers as it can significantly stifle competition (Spulber, 2023). However, these mechanisms are often inadequate in addressing the challenges posed by self-preferencing behavior in vertically integrated digital platforms, as traditional antitrust frameworks struggle to address the complex interdependencies inherent in digital platform ecosystems, and how their sections ultimately impact each other (Anggraini et al., 2024). More importantly, big corporations with multiple vertical integrations are often protected by the principle of separate legal personality, despite the direct roles of individuals behind corporations in damaging competitive climate of the market (Sugandi et al., 2024). The traditional

frameworks and their analytical tools designed for linear value chains prove inadequate when applied to multi-sided markets where platforms can leverage dominance in one market to foreclose competition in adjacent markets (Jusmadi, 2023). Self-preferencing as a prevailing practice in the digital space can be difficult to identify as it often operates through subtle algorithmic adjustments rather than explicit contractual restrictions, making detection and enforcement particularly challenging for competition authorities, especially when the relevant legal frameworks are not adequate (Adolfsson, 2024).

Southeast Asia is a region that represents a particularly dynamic digital economy landscape, with its digital economy projected to reach over USD 600 billion by 2030, a figure nearing the triple amount of its value in 2023 (Huang, 2024). Indonesia is one of the dominant economic forces in this region, with its digital marketplace contributing 46.9% of Southeast Asia's total e-commerce gross merchandise value of USD 114.6 billion in 2023 (Dharmaraj, 2024). The Philippines also demonstrates remarkable digital platform growth, as data shows users spending an average of 3 hours and 34 minutes daily on social platforms, well above the 2 hours and 23 minutes global average. Focusing on the specific section of e-commerce, Vietnam's market surpassed $25 billion in 2024, growing by 20% compared to 2023 and accounting for approximately 9% of the country's total retail sales (Hoa, 2025). Combined with the common issue associated with digital platforms regarding how they are often not tied to clearly defined set of responsibilities due to their multiple functions and uses today (Sudirman & Disemadi, 2023), addressing this issue is of paramount importance to ensure that the current speed of economic growth in Southeast Asia can be supported by adequate legal certainty, particularly around competition.

The literature has explored many antitrust issues over the years. In a study, (Hylton, 2019) highlighted

antitrust as one of the most important emerging legal challenges that need to be addressed, as the world continues to adopt and utilize digital platforms. The study takes the conservative stance against reforming antitrust laws despite raising concerns regarding possible antitrust implications of digital platforms, by noting that platform monopolies take place because of economies of scale, as opposed to anti-competitive practices. This stance is refuted by a study conducted by (Gilbert, 2023), which focuses more on the economic perspective, directly contradicting the main proponent of the previously highlighted study. One of the key aspects that the study highlighted as needing reform is the liability of firms with dominant power that engages in practices that handicap their competitions, citing the immense financial gains of those anti-competitive firms. Similar call for reforms has also been made, as another study, conducted by (Salop, 2021), which warned that increased efforts and attention to the enforcement of antitrust laws may tragically fall short in addressing the unique needs of today's markets, particularly in the digital platform section.

Focusing on vertical integration, many scholars have also tried to analyze the legal implications of such practices in the digital platforms, with studies like one conducted by (Grzejdziak, 2024) highlighting vertical integrations are significantly influenced by concentration of powers across all sections. A study carried out by (Salop & Culley, 2016) also underscored vertical integrations in a study, albeit with broader focus on market dynamics. The latter highlighted how the broader implications of vertical integrations are rather difficult to analyze in through the antitrust context, which can theoretically be applied in the digital-specific focus of the former. Interestingly, the broader implication of vertical integration is noted by Salop and Culley as a practice that does not always end up improving efficiency and bring about the desired results in firms, which ultimately

affect its antitrust implications. Self-preferencing, on the other hand, was briefly mentioned in a study conducted by (Lu, 2021) as a part of antitrust concerns that may arise from vertical integrations in the digital space. Due to the complex nature of self-preferencing, the study highlighted the need for a framework that can cover more elements of self-preferencing, as a development from the traditional competition law, which the study suggested may not be adequate in tackling present-day digital antitrust issues.

From the literature analysis, it is apparent that there is still a substantial gap in understanding how vertical integration can open the risks of self-preferencing, particularly in ASEAN countries like Indonesia, the Philippines, and Vietnam. This gap is what this paper is precisely trying to fill, to expand the literature around modern antitrust issues within the digital space. By assessing the adequacy of the relevant Indonesian, Philippine, and Vietnamese framework for antitrust, this study hopes to compare the differences in the shortcomings and/or advantages that each country has in a comparative manner. Furthermore, it is imperative to recognize the inherent limitation of this study, which is the lack of empirical evidence to assess the overall enforcement effectiveness, as the study focuses more on the theoretical legal analysis behind the legal norms that are present within the relevant antitrust framework.

Method

This study employs the doctrinal research method to focus on the legal norms that exist within the relevant frameworks (Disemadi, 2022). In the purest sense, the doctrinal research method involves the normative, black letter law analysis of secondary data in the form of primary law sources, as a lens of analysis into a specific legal issue (Tan, 2021). Additionally, this study also employs the comparative approach to compare the normative adequacy of each country analyzed. The primary law source analyzed for Indonesia is Law No. 5 of 1999 on

Prohibition of Monopolistic Practices and Unfair Business Competition, also known as the Antitrust Law. For the Philippines this paper examines Republic Act No. 10667 which is the Philippine Competition Act along with its 2016 Implementing Rules and Regulations. The Vietnamese legal framework is assessed through Law No. 23/2018/QH14, serving as Vietnam's Competition Law.

Result and Discussion

Antitrust Implications and Normative Constructs Around Self-Preferencing in Vertical Integration

It has been mentioned previously that antitrust systems are typically installed as a legal mechanism that prevents significant barriers to market entry, which as noted previously, would end up giving less options to consumers. Less options for consumers ultimately harm consumers' interest because it gives the dominant actor within a market significant leverage over their own consumers and lowers the need for innovation. This is even more serious when lack of consumer knowledge on certain legal issues and the common theme of digital development outpacing legal development (Adristy et al., 2024) are taken into account. Unfortunately, this problematic setting is found across many markets, showing that firms with dominant market powers are less likely to allocate significant amounts of funds for research and development (R&D) (Sun et al., 2021). Aspects such as centrality, which is closely related to market dominance (Plekhanov et al., 2023), and to some extent, vertical integration (Lavassani & Movahedi, 2021), have been found to reduce the incentives of R&D (Calvano & Polo, 2021).

Within the digital space, the market interplay is unfortunately not as straightforward as the traditional market. Algorithm transparency and trade secret protection ultimately remain as the biggest barriers to antitrust enforcement in the digital space, which highlights the clash between relevant legal fields. However, antitrust principles must nonetheless be enforced and applied rigorously to ensure that consumers'

interests are protected and there are enough incentives for innovation, which are all important for the continuation and the growth of the relevant market. Therefore, it is imperative that legal analysis be conducted in a holistic manner, where flexibility and scope of evidence can give ways to allow evidence that are not extensive but nevertheless crucial to determine anti-competitive practices (Dunne, 2022). This is imperative to address the bigger picture of antitrust implications on some of the practices that are actively affecting the digital space (Pesce, 2024), considering many aspects that affect the market dynamics, including strategic and organizational factors to be combined with quantitative evidence (Pesce, 2024).

To analyze the antitrust legal implications of self-preferencing in the case of digital platforms, understanding the interplay between in platform ecosystems is key (Jürgensmeier et al., 2024). This is even more imperative when it involves vertical integration, which can enable self-preferencing mechanisms in a subtle manner (Kim, 2024). Unlike traditional markets, vertical integration in the digital space can be done in a more covert manner. Vertical integration, in its problematic forms, can allow powerful corporations to accumulate immense power and control over a market and eventually creating the illusion of choice and competition in the eyes of consumers (Gabison, 2022). Vertical integration can end up incentivizing dominant platforms to foreclose competitors by raising the input costs or manipulating critical service access to direct rivals' and those who can be affected despite operating in a different supply chain level (Petropoulos et al., 2020), which can ultimately harm consumer welfare and innovation.

The antitrust analysis of self-preferencing in vertically integrated digital platforms must first grapple with the multifaceted nature of such conduct and how it is hidden throughout many layers of supply chain in a digital platform ecosystem. Self-preferencing as a potential legal

problem can manifest in several forms, such as preferential ranking of a platform's own products, the use of non-public data gleaned from third-party sellers to gain a significant advantage, and discriminatory fee structures that disadvantage rivals. These practices are not always obvious and systematically visible. They are often embedded within complex algorithmic processes that significantly impact platform design choices, which makes them particularly challenging for regulators to detect and punish. This complexity is compounded by the duality of digital platforms as both marketplace operators and competitors within their own ecosystems. This dynamic inherently creates possible conflicts of interest and raises concerns regarding the normative adequacy of the relevant antitrust framework in tackling these complex legal problems.

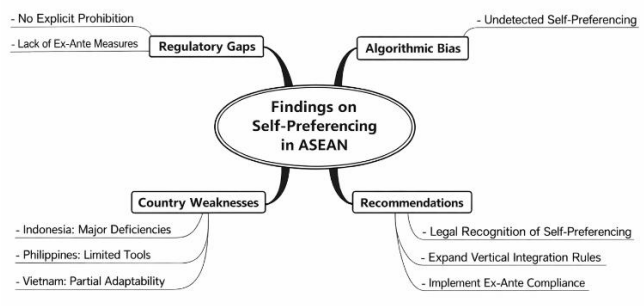
In the analysis of competitive risks associated with self-preferencing, it is prudent to first acknowledge that not all instances of vertical integration or preferential treatment are inherently harmful to competition (Luco & Marshall, 2020). Contrary, vertical integration can in some instances yield noticeable pro-competitive benefits, such as increased efficiency, reduced transaction costs, and enhanced innovation, particularly when platforms leverage their integrated structures to deliver better services to consumers (Dorsey et al., 2020). However, the risk emerges when these efficiencies are used as a pretext to engage in exclusionary conduct that forecloses market access for third-party rivals or artificially extends a platform's dominance into adjacent markets. As generally understood in the context of antitrust, the perpetual state of market power concentrated in small number of market actors can eventually lead to low innovation, which in turn can ultimately harm consumers interests (Bunworth, 2021).

Regulatory responses to self-preferencing have evolved considerably, especially in jurisdictions where digital platforms wield substantial market power.

Legislative initiatives such as the European Union's Digital Markets Act (Peitz, 2023) and Germany's Digitalization Act (Bauer et al., 2022) have been enacted to address the concerning self-preferencing behaviors among many actors, by introducing ex-ante prohibitions that require many aspects of neutrality in ranking and restrictions on the use of competitively sensitive data. These measures reflect a growing consensus that ex-post antitrust enforcement alone may be inadequate to address the unique challenges posed by digital platforms, given the rapid development and the complex, multi-layered nature self-preferencing in digital ecosystems (Rogerson & Shelanski, 2020). Notably, some regulatory proposals go further by advocating for structural separation between platform operations and competitive businesses, aiming to eliminate the conflict of interest at its root.

Unfortunately, not a lot of legal systems around the world have followed the steps taken by the two mentioned examples. The existing regulatory lags that exist in many legal systems must be addressed urgently, as digital platforms continue to expand its grasp on the lives of many people. Additionally, analytical tools for legal enforcement must also be continuously developed to ensure that the frameworks can be utilized to identify and punish self-preferencing behaviors that involve vertical integration. Countries like Indonesia, the Philippines, and Vietnam must consider the issues that have been addressed here and improve beyond some of the leaders in legal development like European Union and Germany, by developing an adequately strong framework of compliance. Ideally, this framework must be flexible and has enough room to apply the holistic approach as mentioned previously, to give legal enforcement agencies enough legal arsenal in tackling this issue in the pursuit of maintaining competitive climate of the digital platform's ecosystem.

Figure 1. Normative Gaps in Regulating Digital Platform Self-Preferencing



Source: Authors' analysis.

The main findings of this study reveal significant regulatory gaps within the antitrust frameworks of Indonesia, the Philippines, and Vietnam. There is no explicit prohibition of self-preferencing practices in all three legal systems. This absence creates substantial difficulty in identifying and addressing covert anti-competitive conduct. Furthermore, the lack of regulatory mechanisms that can capture the earlier stage of self-preferencing before significant harm on competition climate weakens preventive enforcement. Existing legal approaches remain largely reactive and depend on observable market impacts, utilizing the ex-post approach to punish certain acts after anti-competitive harm has materialized, rather than capturing it at an earlier stage. This condition makes early detection of self-preferencing highly challenging. Consequently, the protection of fair competition within digital markets remains inadequate.

In addition, algorithmic bias emerges as a critical challenge in enforcing competition law in the digital era. Self-preferencing is often implemented through algorithmic systems, which makes it difficult to detect without technical insight and certain degree of disclosure. This makes anti-competitive behavior difficult to detect and prove directly. Current legal frameworks are not sufficiently equipped to address the technological complexity of digital platforms. Additionally, the intersection between consumer protection and data collection practices create an asymmetrical relationship between digital platforms and virtually all the other stakeholders, as digital platform providers can have significant control over massive amount of data

(Hutauruk et al., 2023), further strengthening their dominant position due to significant power over the market (Angterina et al., 2024). The situation is further complicated by trade secret protections that limit access to algorithmic data. As a result, competition authorities face constraints in conducting effective investigations. Therefore, self-preferencing practices tend to remain undetected and unregulated.

One of the most crucial problems that is often identified with regulatory frameworks for antitrust is its tendency to heavily rely on agreement-based approaches to regulate vertical integration. This contrasts with the nature of self-preferencing in digital ecosystems, as it often occurs without external agreements. Furthermore, the urgency for a more adaptive and progressive legal reforms also stem from the fundamental understanding of market dynamics, where competition is ideally governed by several legal norms that do not only allow authorities to punish market stakeholders for anti-competitive acts, but also supervise the market itself to prevent acts that damage the competitive climate or ensure early intervention when a suspicion arises (Zakiyah et al., 2019). Therefore, the spirit behind a normative assessment of the relevant regulatory frameworks around this issue should only focus on the identification of legal gaps, but also on how market supervision can be realized and manifested in a way that would enhance the competitive climate, relative to the identified legal gaps.

Assessment of Normative Adequacy

Indonesia's main framework for antitrust issues is Law No. 5 of 1999 on Prohibition of Monopolistic Practices and Unfair Business Competition (Antitrust Law), which was enacted as a part of broader economic reforms that the Indonesian government promised to IMF in return for financial help during the country's worst monetary crisis (Lubis et al., 2017). Unfair business competition is defined in Article 1 number 6 of the Antitrust Law as *"competition between business actors in*

carrying out the production and/or marketing of goods or services that is conducted in a dishonest manner, against the law, or that hinders fair business competition." Even in this rather broad definition, it does not necessarily cover the unique nature of vertical integration and how it can stifle competitions, as such actions can often be framed as legitimate business strategies, rather than transparently 'dishonest' or 'unlawful' acts designed to harm competitors. More importantly, the term 'fair' in this law is used somewhat loosely; shown with how it is applied to a wide array of prohibitions throughout the law, including those involving oligopolies in Article 4, price-fixing in Articles 5 to 8, market division in Article 9, and vertical integration in Article 14. As a result, law enforcement agencies are often left with broad and ambiguous guidance about the law's precise reach.

The Antitrust Law has its own section governing vertical integration, but this section only consists of one article, which is Article 14. The article governs that, *"Business actors are prohibited from entering into agreements with other business actors with the intention of controlling a number of products that are part of a chain of production of certain goods or services, whereby each segment of the production chain constitutes a result of processing or further development, whether in a direct or indirect sequence, which may lead to unfair business competition and/or cause harm to the public."* This provision is overly reliant on 'agreement' as an integral part of vertical integration and is agnostic to the realities of vertical integration in today's landscape of digital ecosystems, where the decisions behind self-preferencing are entirely a result of internal decisions within the relevant company (Colangelo, 2023).

Other relevant provisions include Article 21 and 25, which govern unfair pricing and abuse of dominant position respectively. The former can technically be applied in the case of self-preferencing, but only to identify one of its later manifestations, which is typically

done in a subtle manner by driving consumers to the disproportionately low price that the integrated, dominant platform—as described in Article 25—has set to drive out competition. Not to mention, these provisions may not be able to address the embedded algorithmic bias in digital platforms, which needs explicit acknowledgement of subtle anti-competitive behaviors. Furthermore, the provisions regarding sanctions given to those who violate the law are generally considered to be outdated, as the current currency value of IDR is nowhere near the value it was during the time that the law was enacted (Putri & Damayanti, 2023). Overall, the law is inadequate in many ways, with the lack of preventive safeguards against self-preferencing being one of the most concerning legal gaps that need to be addressed urgently in future legal developments.

The Philippines' foundational antitrust statute is the Republic Act No. 10667 (Philippine Competition Act) (Rakhmawati & Nurhayati, 2024), supported by the framework's implementing rules and regulations (IRR). The Act defines abuse of dominant position under Section 15 as conduct that "*substantially prevent, restrict, or lessen competition,*" including acts like "*imposing barriers to entry*" or "*setting prices or other terms that discriminate unreasonably between customers.*" The broad nature of this provision broad could theoretically encompass self-preferencing, such as the case of digital platform algorithmically favoring its own services. However, the law seriously lacks textual anchors when it comes to vertical integration, briefly mentioned in Section 2(o), which is a crucial normative analytical tool to identify the structural nature of self-preferencing in vertically integrated digital platforms. Crucially, Section 15 frames violations through traditional exclusionary tactics like predatory pricing or explicit discrimination, which as described in the case of Indonesia, can only be used to identify the impacts of its later manifestations. The Act's emphasis on "*controlling the relevant*

market independently" under Section 4g presupposes classical market dominance metrics, ill-fitting when applied to the landscape of digital ecosystems, where power can be derived from data asymmetry and network effects rather than conventional market share (Jacobides & Lianos, 2021). This definitional vagueness leaves enforcement agencies ill-equipped to tackle self-preferencing embedded in platform architecture, particularly when it involves complex algorithmic bias.

The Act's treatment of vertical integration proves equally indirect and structurally deficient for digital contexts. Section 20 prohibits mergers and acquisitions that "*substantially prevent, restrict or lessen competition,*" which only applies strictly to inter-entity transactions, mirroring the normative gap found in Article 14 of Indonesia's overly reliant on "agreements" Antitrust Law. This is also manifested in the presumption of dominance at fifty percent market share under Section 27, elaborated further in Rule 8 Section 3 of the framework's IRR (implementing rules and regulations), offers little practical recourse, as demonstrating algorithmic self-preferencing's anti-competitive effects demands granular data transparency absent from the Act. The main strength that the Philippine framework possess is perhaps its IRR's Rule 8 Section 2, which allows the holistic approach, when combined with Rule 8 Section 3 as both provisions can work in conjunction and in isolation, giving a flexible legal enforcement analytical tool to determine whether abuse of market dominance has occurred.

Ultimately, the Philippine framework shares Indonesia's core flaw: ex-post enforcement paralysis against digital self-preferencing. The lack of safeguards for earlier legal intervention and its subsequent obligations, particularly as to how it is applied in the EU as a wall of compliance for platforms to disclose algorithms or neutralize self-preferencing preemptively, remains the most critical flaw of the Philippine framework, despite being supported with an IRR. Without amendments to explicitly address algorithmic bias or

vertical integration in digital ecosystems, the Act is considerably blunt in the face of self-preferencing's unique harm, unequipped for platform markets where anti-competitive effects manifest in a manner that is difficult to detect due to the possible vertically integrated structure that may have already existed in many platform ecosystems.

Vietnam's main framework to tackle antitrust issues is the Competition Law (Law No. 23/2018/QH14) (Ngoc Son et al., 2024). The law defines anti-competitive behaviors as *"enterprises' practices that cause or may cause anti-competitive effects, including anti-competitive agreement, abuse of a dominant position on the market and abuse of monopoly power."* Albeit broad in nature, this definition includes the aspect of dominant position, which ties the act of self-preferencing. However, the issue of vertical integration is not reflected by this provision, along with the rest of the provisions of the law, as Article 12.4 only governs agreement-based vertical integration, like what was found in the Indonesian and Philippine framework. Article 11 covers a wide range of anti-competitive practices but is rendered completely ineffective as it's entirely reliant on the existence of 'agreement' in the anti-competitive practices. This is especially ineffective when the act of self-preferencing is done under the internal decisions of a market actor with a dominant position.

Vertical integration is governed by Article 31 letter c by stipulating that, *"the relationship of the parties engaging in the economic concentration in the production, distribution or supply chain for a certain kind of goods/service or the business lines of the parties engaging in the economic concentration which are inputs of or complementary to one another,"* as a part of *"assessment of substantial anti-competitive effects caused or probably caused by economic concentration."* This also enables the holistic approach found in the Philippine framework, which can help identify problematic vertical integration without overly relying on 'agreement', a relief from the previously analyzed Article 11's non-

flexible implication. In terms of self-preferencing specifically, Article 27.1 letter d could potentially be utilized to address the acts of offering different commercial conditions for similar transactions. However, the provision's focus on market exclusion does not match the technical manner in which self-preferencing is done today, which is often facilitated by algorithms (Bougette et al., 2022), which involves biases that are hidden within digital architectures (Dendorfer, 2024).

Unfortunately, there are no other provisions that are specific enough to address the issue of self-preferencing in the dynamics of vertically integrated digital platforms. The Vietnamese framework also faces similar problems as Indonesia and the Philippines, with some similarities only with the latter. Overall, the law also lacks preventive safeguard to capture the act of self-preferencing in its early stage, which is a crucial element of compliance in addressing and identifying algorithmic bias that is deeply embedded as an opaque practice of self-preferencing. Much like the previous two, this law is also unequipped in tackling the antitrust issue of self-preferencing in the dynamics of vertical integration.

Based on the analyses, a comparative assessment can be made to determine the relative normative adequacy of each jurisdiction in addressing self-preferencing in digital platforms. To ensure analytical consistency, this study applies several comparative criteria that together create a pattern identifier of normative adequacy for all three countries in the region. Below is the table highlighting the comparative results.

Table 1. Comparative outlook based on four primary criteria

Criteria	**Indonesia**	**Philippines**	**Vietnam**
Explicit prohibition of self-preferencing	No	No	No

Vertical integration beyond agreements	No	Limited	Limited
Flexibility of abuse of dominance provisions	Weak	Moderate	Moderate
Ex-ante regulatory mechanisms	None	None	None
Deterrent sanctions	Weak	Moderate	Moderate

Source: Authors' analysis

As shown in Table 1, Indonesia is shown to have the least coverage on legal elements that can help capture the act of self-preferencing in digital platform ecosystems, positioning its legal development around this critical issue as the most behind out of the three countries in the region. While all three countries lack explicit self-preferencing provisions and ex-ante regulatory mechanisms, Indonesia's framework remains the most rigid due to its heavy reliance on agreement-based vertical integration provisions, limited flexibility in abuse of dominance enforcement for digital markets, and relatively weak sanctions that may not provide sufficient deterrent effect. From the doctrinal standpoint, this gives little room for the country to capture the act of self-preferencing in digital platform ecosystems as a direct violation of antitrust rules. While the frameworks from Philippines and Vietnam can also be considered inadequate, they provide relatively more flexible interpretative tools within their abuse of dominance and economic concentration provisions.

Recommendations for Future Legal Reforms

The problems identified in the previous subsection of analysis ultimately show that all the countries

analyzed need to seriously consider introducing amendments to their relevant frameworks for antitrust, particularly in the face of mass digital adaptation which is only going to spread even more. If left without being addressed, these issues can compound and further complicate the enforcement of antitrust, while also eroding consumer welfare. Not only that, but the relevant countries will also be faced with regulatory lags that may require even more extensive analysis and state-of-the-art understanding of the novel digital technologies to come. This essentially requires a bigger political will, which is also difficult to gather in the case of digital-related issues, as the impacts are often not visible and not directly felt by consumers.

Below is a set of recommendations tailored to address the normative gaps and the need for an earlier set of legal interventions to capture the act self-preferencing, along with its subtle nature. These recommendations can all be taken advantaged of by all three countries and are simplified into a table.

Table 2: Recommendations for future legal developments

Normative Aspects	**Reasonings**
Expansion of vertical integration provision	The prohibition of problematic vertical integration must include those that stem from internal decisions of a market actor that originally already has a dominant position.
Explicit self-preferencing	This issue requires explicit, black letter law, prohibition due to its prevalence in today's digital platform ecosystems, and is important as the basis for an earlier set of legal interventions.

Ex-ante provisions regarding algorithmic bias	Requires a certain degree of algorithmic disclosures and their market impact assessments.

Source: Authors' analysis.

Vertical integration is the most persistent issue that was found throughout all three countries in the analysis, as Indonesia, the Philippines, and Vietnam all rely on agreements-based vertical integration. Not only that, the line between problematic and non-problematic vertical integration has also not firmly established. In Table 2, this study proposes the expansion of vertical integration provision, by including the prohibition of vertical integration that is done without agreements with other parties, stemming from a market actor that can be normatively identified as having a dominant position to begin with. Moreover, the study also proposes the explicit acknowledgement of self-preferencing as a direct anti-competitive behavior, which can also serve as the basis for key legal safeguards that can enable earlier legal intervention, specifically in the form of algorithmic bias. The recommendation for this is important because the practice of self-preferencing that digital technology can enable today requires a certain degree of disclosure to be properly identified. This disclosure can be required periodically or when requested or can be added as a part of the broader disclosure in the investigation of vertical integration done by a dominant market actor.

Additionally, specifically for Indonesia, there is a serious need to amend the current Antitrust Law to address the extremely lenient fines for those who violate the antitrust provisions, stemming from the fact that the law was enacted in 1999, the oldest primary law source analyzed in this study. Unlike other countries in the analysis, Indonesia is still reliant on provisions that may not be able to have any deterrent effect, not only because of how the current IDR

currency differs from the time of the enactment of the law, but also because of the astronomical valuations behind many digital platforms and their huge profits.

Conclusion

Analysis of this study ultimately highlights that all three countries are unequipped to tackle the challenge of self-preferencing in a vertical integration dynamic involving digital platforms. Indonesia presents the most problematic set of normative gaps, as the country is still grappling with fines that no longer present adequate deterrent effects, coupled with broad provisions regarding vertical integration. The Philippines and Vietnam also, to some extent, rely on the existence of agreement behind vertical integration, but are at the very least supported by normative remedies that allow the application of holistic approach to identify problematic vertical integration, by assessing strategic and the broader impacts on the relevant market. The lack of acknowledgement of self-preferencing as a direct anti-competitive practice, followed by the overreliance on ex-post approach, where the existing legal norms can only capture abuses of dominant position after competitive harms have manifested, represent the problems with the highest urgency. This study recommends a set of normative aspects that all three countries can consider, involving the enhancement of vertical integration provision to improve normative clarity, followed by explicit prohibition against self-preferencing and a flexible ex-ante compliance in the form of disclosure. This set of recommendations are made to address the issues of self-preferencing in the dynamics of vertical integration involving digital platforms in a flexible manner.

References

Adolfsson, M. (2024). *Analysing Self-Preferencing in EU Competition Law - Understanding the Similarities and Differences Between Article 102 TFEU and the Digital Markets Act*. Lund University.

Adristy, B. S., Disemadi, H. S., & Sudirman, L. (2024). PERLINDUNGAN MEREK UMKM DI ERA DIGITAL: KEPASTIAN & TANTANGAN PENEGAKAN HUKUM. *Jurnal Restorative Justice*, *8*(2), 174–201. https://www.ejournal.unmus.ac.id/index.php/hukum/article/view/6476

Anggraini, A. M. T., Sabirin, A., Wangga, M. S. E., Abrianti, S., & Fernandez, S. O. (2024). Measuring Vertical Integration in the Technology Sector: Indonesia, the US, and the EU in Unfair Competition. *Journal of Law and Legal Reform*, *5*(4), 1697–1736. https://doi.org/10.15294/jllr.v5i4.12437

Angterina, A., Tan, D., & Sudirman, L. (2024). ANALISA RISIKO DAN POTENSI REGULASI ANTI-TRUST UNTUK SHARING PLATFORM AIRBNB. *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat*, *10*(3), 544–561. https://doi.org/10.55809/tora.v10i3.396

Awan, U., Gölgeci, I., Makhmadshoev, D., & Mishra, N. (2022). Industry 4.0 and circular economy in an era of global value chains: What have we learned and what is still to be explored? *Journal of Cleaner Production*, *371*, 1–9. https://doi.org/https://doi.org/10.1016/j.jclepro.2022.133621

Bauer, M., Erixon, F., Guinea, O., Van der Marel, E., & Sharma, V. (2022). *The EU Digital Markets Act: Assessing the quality of regulation* (02/2022; ECIPE Policy Brief).

Bougette, Patrice, Budzinski, Oliver, & Marty, Frédéric. (2022). Self-

Preferencing and Competitive Damages: A Focus on Exploitative Abuses. *The Antitrust Bulletin*, *67*(2), 190–207. https://doi.org/10.1177/0003603X221082757

Bunworth, R. (2021). A presumption of harm in innovation merger cases—creating an unfair barrier? *European Competition Law Review*, *42*(11), 622–630.

Calvano, E., & Polo, M. (2021). Market power, competition and innovation in digital markets: A survey. *Information Economics and Policy*, *54*, 1–18. https://doi.org/https://doi.org/10.1016/j.infoecopol.2020.100853

Colangelo, G. (2023). Antitrust Unchained: The EU's Case Against Self-Preferencing. *GRUR International*, *72*(6), 538–556. https://doi.org/10.1093/grurint/ikad023

Dendorfer, F. (2024). First-party selling and self-preferencing. *International Journal of Industrial Organization*, *97*, 1–25. https://doi.org/https://doi.org/10.1016/j.ijindorg.2024.103098

Dharmaraj, S. (2024, July). *Vietnam and Thailand: SEAs Fastest-Growing E-Commerce Markets*. OpenGov Asia.

Disemadi, H. S. (2022). Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies. *Journal of Judicial Review*, *24*(2), 289–304. https://doi.org/10.37253/jjr.v24i2.7280

Dorsey, E., Manne, G. A., Rybnicek, J. M., Stout, K., & Wright, J. D. (2020). Consumer Welfare & the Rule of Law: The Case Against the New Populist Antitrust Movement. *Pepperdine Law Review*, *47*(4), 861–916.

Dunne, Niamh. (2022). Pro-competition Regulation in the Digital Economy: The United Kingdom's Digital Markets Unit. *The Antitrust Bulletin*, *67*(2), 341–366. https://doi.org/10.1177/0003603X221082733

Fu, X., Elvis, A., & and Ghauri, P.

(2021). Digital platforms and development: a survey of the literature. *Innovation and Development*, *11*(2–3), 303–321. https://doi.org/10.1080/2157930X.2021.1975361

Gabison, Garry A. (2022). White Label: The Technological Illusion of Competition. *The Antitrust Bulletin*, *67*(4), 642–662. https://doi.org/10.1177/0003603X221126160

Gilbert, R. J. (2023). Antitrust Reform: An Economic Perspective. *Annual Review of Economics*, *15*(1), 151–175. https://doi.org/10.1146/annurev-economics-082222-070822

Grzejdziak, Ł. (2024). U.S. and EU Non-Horizontal Merger Guidelines: A Friendly Game of Leapfrog. *German Law Journal*, *25*(9), 1494–1524. https://doi.org/DOI: 10.1017/glj.2024.44

Hoa, P. (2025, March). *Vietnam's e-commerce market: Potential in place*. Vietnam Economic Times.

Huang, Y. (2024, December). *Investing in ASEAN's Digital Economy: Landscape and Challenges*. ACI Perspectives.

Hutauruk, R. H., Sudirman, L., Disemadi, H. S., & Tan, D. (2023). CONVERGENCE OF CONSUMER PROTECTION, INVESTMENT LAW, AND CYBERSECURITY: An in-Depth Analysis of Three-Way Legal Intersections in Investment Apps. *JURISDICTIE*, *14*(1), 127–153. https://doi.org/10.18860/j.v14i1.21180

Hylton, K. N. (2019). Digital Platforms and Antitrust Law. *Nebraska Law Review*, *98*, 272–296.

Jacobides, M. G., & Lianos, I. (2021). Ecosystems and competition law in theory and practice. *Industrial and Corporate Change*, *30*(5), 1199–1229. https://doi.org/10.1093/icc/dtab061

Jürgensmeier, L., Bischoff, J., & Skiera, B. (2024). Opportunities for self-preferencing in international online

marketplaces. *International Marketing Review*, *41*(5), 1118–1132. https://doi.org/10.1108/IMR-03-2024-0094

Jusmadi, R. (2023). The Existence of Digital Platforms and the Challenges in Enforcement of Indonesian Competition Law. *Unnes Law Journal*, *9*(1), 183–204. https://doi.org/10.15294/ulj.v9i1.63114

Kharitonova, Y., & Sannikova, L. (2021). Digital Platforms in China and Europe: Legal Challenges. *BRICS Law Journal*, *8*(3), 121–147. https://doi.org/10.21684/2412-2343-2021-8-3-121-147

Kim, M. J. (2024). *Competition Policy for Online Platforms' Self-Preferencing Conducts* (136; KDI Focus). https://doi.org/10.22740/kdi.focus.e.2024.136

Kolawole, A. (2024). Legal Aspects of Personal Data Protection and the Issues of Competition in Digital Marketplaces. *Journal of Digital Technologies and Law*, *2*(4), 1031–1053. https://doi.org/10.21202/jdtl.2024.48

Lavassani, K. M., & Movahedi, B. (2021). Firm-Level Analysis of Global Supply Chain Network: Role of Centrality on Firm's Performance. *International Journal of Global Business and Competitiveness*, *16*(2), 86–103. https://doi.org/10.1007/s42943-021-00026-8

Lu, Q. (2021). *The Influence of Digital Market Act on Online Platforms' Competition*. Copenhagen Business School.

Lubis, A. F., Anggraini, A. M. T., Toha, K., Kagramanto, L. B., Hawin, M., Sirait, N. N., Prananingtyas, P., Sukarmi, Maarif, S., & Silalahi, U. (2017). *Hukum Persaingan Usaha: Buku Teks* (2nd ed.). Komisi Pengawas Persaingan Usaha (KPPU).

Luco, F., & Marshall, G. (2020). The Competitive Impact of Vertical Integration by Multiproduct Firms. *American Economic Review*,

110(7), 2041–2064. https://doi.org/10.1257/aer.20180071

Ngoc Son, N., Bao Anh, C., & Anh Duc, V. (2024). Current legal framework of economic concentration control in the retail sector in Vietnam. *Journal of Infrastructure, Policy and Development*, *8*(11), 1–20. https://doi.org/10.24294/jipd.v8i11.8524

Peitz, M. (2023). How to Apply the Self-Preferencing Prohibition in the DMA. *Journal of European Competition Law & Practice*, *14*(5), 310–315. https://doi.org/10.1093/jeclap/lpad029

Pesce, D. (2024). Digital Transformation and Vertical (Dis-)Integration: The Role of Technological Change and the Importance of the Institutional Context. *IEEE Transactions on Engineering Management*, *71*, 7311–7324. https://doi.org/10.1109/TEM.2023.3268161

Petropoulos, G., Van Alstyne, M., & Parker, G. (2020). *Digital platforms and antitrust* (6; Bruegel Working Paper).

Plekhanov, D., Franke, H., & Netland, T. H. (2023). Digital transformation: A review and research agenda. *European Management Journal*, *41*(6), 821–844. https://doi.org/https://doi.org/10.1016/j.emj.2022.09.007

Putri, U. T., & Damayanti, V. (2023). Disgorgement in Indonesian Competition Law: A Comparative Approach Following the Job Creation Law Enactment. In *Proceedings of the 3rd Borobudur International Symposium on Humanities and Social Science 2021 (BIS-HSS 2021)* (pp. 474–479). https://doi.org/10.2991/978-2-494069-49-7_79

Rakhmawati, C. S., & Nurhayati, I. (2024). Cross-Border Merger and Acquisition In Asean: A Comparative Study To The Merger Control Regulations of

The European Union. *Journal of Private and Commercial Law*, *1*(2), 151–186. https://doi.org/10.20885/JPCOL.vol1.iss2.art2

Rogerson, W. P., & Shelanski, H. (2020). Antitrust Enforcement, Regulation, and Digital Platforms. *University of Pennsylvania Law Review*, *168*, 1911–1940.

Ruggieri, R., Savastano, M., Scalingi, A., Bala, D., & D'Ascenzo, F. (2018). The impact of Digital Platforms on Business Models: an empirical investigation on innovative start-ups. *Management & Marketing*, *13*(4), 1210–1225. https://doi.org/10.2478/mmcks-2018-0032

Salop, S. (2021). Dominant Digital Platforms: Is Antitrust Up to the Task? *Yale Law Journal Forum*, *130*, 563–587.

Salop, S., & Culley, D. P. (2016). Revising the US vertical merger guidelines: policy issues and an interim guide for practitioners. *Journal of Antitrust Enforcement*, *4*(1), 1–41. https://doi.org/10.1093/jaenfo/jnv033

Spulber, D. F. (2023). Antitrust and Innovation Competition. *Journal of Antitrust Enforcement*, *11*(1), 5–50. https://doi.org/10.1093/jaenfo/jnac013

Sudirman, L., & Disemadi, H. S. (2023). THE ROLE OF INDONESIAN ONLINE MARKETPLACES IN INTELLECTUAL PROPERTY RIGHTS INFRINGEMENTS: A COMPARATIVE ANALYSIS. *Jurnal Pembaharuan Hukum*, *10*(1), 90–103. https://doi.org/10.26532/jph.v10i1.30883

Sugandi, D., Tan, D., & Fitri, W. (2024). Perbandingan Doktrin the Piercing of Corporate Veil di Berbagai Negara (Indonesia, Perancis, dan Jerman). *Unes Journal of Swara Justisia*, *8*(3), 581–598. https://doi.org/10.31933/0mc

mbd28

Sun, X., Yuan, F., & Wang, Y. (2021). Market power and R&D investment: the case of China. *Industrial and Corporate Change*, *30*(6), 1499–1515. https://doi.org/10.1093/icc/dtab015

Tan, D. (2021). Metode Penelitian Hukum: Mengupas dan Mengulas Metodologi dalam Menyelenggarakan Penelitian Hukum. *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial*, *8*(5), 2463–2478. https://jurnal.um-tapsel.ac.id/index.php/nusantara/article/view/5601

Zakiyah, N., Prananingtyas, P., Disemadi, H. S., & Gubanov, K. (2019). Al-Hisbah Contextualization in the Business Competition Law in Indonesia. *AL-'ADALAH*, *16*(2), 249–262. https://doi.org/10.24042/adalah.v16i2.5365

RAKYAT DALAM PEMBERHENTIAN PRESIDEN. *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan, Ekonomi Islam*, *10*(1). https://doi.org/10.32505/jurisprudensi.v10i1.869

Susanto, M. (2017). Wacana Menghidupkan Kembali GBHN dalam Sistem Presidensil Indonesia. *Jurnal Penelitian Hukum De Jure*, *17*(3). https://doi.org/10.30641/dejure.2017.v17.427-445

Widya, U. (2022). Pemberhentian Presiden Dan/Atau Wakil Presiden Dalam Undang-Undang Dasar Negara Republik Indonesia 1945 Pasca Perubahan. *Jurnal Lex Renaissance*, *7*(1). https://doi.org/10.20885/jlr.vol7.iss1.art15