



Analysis of Digital Marketing Regulation in Modern Legal Perspective

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Abstract

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The development of digital marketing as part of the digital economic transformation has brought significant changes to business activities, particularly in the relationships between businesses, consumers, and digital platforms. This study aims to analyze the effectiveness of regulations governing digital marketing and to examine the urgency of strengthening these regulations in the face of rapidly advancing technological developments. The research method employed is a normative legal approach using legislative and conceptual frameworks, through an analysis of regulations related to electronic transactions, consumer protection, and personal data protection. The findings indicate that, normatively, the regulations have provided a sufficient legal foundation; however, their implementation still faces various challenges, such as limited oversight, low legal awareness, and the complexity of legal relationships within the digital ecosystem. Furthermore, the urgency of strengthening regulations is increasing in tandem with the high risk of violations of consumer rights and the misuse of personal data. Therefore, more adaptive, harmonious, and responsive regulations are needed to keep pace with technological developments, in order to create an effective, fair, and sustainable legal system that supports the growth of the digital economy.

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1. Introduction

The development of digital technology in recent years has brought significant changes in various aspects of life, including in economic and business activities. This transformation is marked by the increasing use of social media as a means of marketing and transactions that allow business actors to reach consumers more widely without the limitations of space and time. This phenomenon encourages the birth of digital marketing practices that are growing rapidly, especially for micro, small, and medium enterprises (MSMEs), who use digital platforms as a strategy to increase the competitiveness and sustainability of their businesses (Harahap et al., 2021). In addition, social media also functions as a means of interactive communication that allows for a two-way relationship between business actors and consumers, thereby strengthening consumer involvement in the marketing process (Taan et al., 2021).

Along with the increasing intensity of the use of digital platforms in economic activities, various legal implications have also emerged that need serious attention. Digital marketing activities that involve electronic transactions are directly related to the provisions of Law Number 11 of 2008 concerning Information and Electronic Transactions which regulate the legality of electronic transactions and the responsibilities of parties in the digital space. This regulation is the main legal basis in ensuring legal certainty in information technology-based transactions, including the recognition of electronic documents as valid evidence (Rodli, 2021). However, rapid technological developments are often not kept up with adaptive regulatory

updates, creating potential inconsistencies between legal norms and practices in the field.

On the other hand, consumer protection in digital transactions is also an important issue that cannot be ignored. In digital marketing practices, consumers are often faced with incomplete, even potentially misleading information, causing losses both economically and non-economically. This is closely related to the provisions in Law Number 8 of 1999 concerning Consumer Protection which affirms the right of consumers to obtain true, clear, and honest information about the goods and/or services offered. Nonetheless, the implementation of consumer protection in the digital context faces its own challenges, especially due to the dynamic, fast-paced, and difficult nature of social media to be thoroughly monitored (Darnia et al., 2023).

In addition to the consumer protection aspect, the development of the digital economy also raises problems related to personal data protection. In digital marketing practice, the use of personal data is one of the main instruments in determining a more effective and targeted marketing strategy. However, without adequate regulation, the use of such data has the potential to be misused by certain parties. Therefore, the presence of Law Number 27 of 2022 concerning Personal Data Protection is very important in providing legal certainty and protection of individual privacy rights. This regulation comprehensively regulates the rights of data subjects, the obligations of data controllers, and sanctions for violations that occur (Daeng et al., 2023). However, the effectiveness of the implementation of this law still requires further evaluation, especially in the context of the evolving digital marketing practices.

Furthermore, the use of digital platforms in business activities also shows a change in the structure of the relationship between business actors, consumers, and platform providers. Digital platforms not only function as intermediary media, but also have a role in determining the distribution of information through algorithmic systems that can influence consumer preferences and behavior. This condition raises questions about the extent of the legal responsibility that platforms have in ensuring security, fairness, and transparency in digital transactions (Pratama, 2023). On the other hand, MSME actors are also required to be able to adapt to technological developments in order to maintain their existence and increase competitiveness in the midst of increasingly fierce global competition (Maharani & Nurlukman, 2023).

In this context, it is important to conduct a comprehensive legal study on the effectiveness of existing regulations in regulating digital marketing activities and protecting the parties involved. This study not only aims to assess the extent to which existing regulations are able to respond to the challenges of technological development, but also to identify shortcomings or weaknesses that still exist in the applicable legal system. Thus, it is hoped that appropriate solutions can be found in order to create a more adaptive, responsive, and equitable legal system (Izazi et al., 2024).

Based on this description, this study formulates two research questions, namely how effective existing regulations are in regulating digital marketing activities from a legal perspective, and why the discussion and strengthening of these regulations is important and urgent in the face of the increasingly rapid development of digital technology.

2. Methods

This study uses the normative juridical method as the main approach in examining legal issues related to digital marketing activities in a positive legal perspective. The normative juridical method is legal research conducted by examining literature materials or secondary data as the main source, consisting of laws and regulations, scientific literature, and other relevant legal documents. This approach was chosen because the research focuses on analyzing applicable legal norms, especially in assessing the effectiveness of regulations and the urgency of strengthening the legal framework in dealing with the development of digital technology. Thus, this study not only understands law as a written rule, but also examines the conformity between legal norms and practices that develop in society (Rodli, 2021).

The approaches used in this study include a statutory approach and a conceptual approach. The legislative approach is carried out by reviewing regulations related to digital marketing activities, including Law Number 11 of 2008 concerning Information and Electronic Transactions, Law Number 8 of 1999 concerning Consumer Protection, and Law Number 27 of 2022 concerning Personal Data Protection. The three regulations were analyzed to identify legal norms that govern electronic transactions, consumer protection, and the management of personal data in a digital context. Meanwhile, a conceptual approach is used to understand legal concepts such as legal protection, legal responsibility, and legal certainty in the digital space.

The data sources in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials are in the form of relevant laws and regulations, while secondary legal materials include scientific journals, books, and previous research related to digital law and digital marketing in the last five years. The tertiary legal materials are used to support the understanding of legal terms and concepts. The data collection technique is carried out through literature studies by systematically identifying and studying legal sources.

Data analysis is carried out qualitatively using legal interpretation methods to understand the meaning of norms in laws and regulations and their relationship with digital marketing practices. In addition, prescriptive analysis is also used to provide arguments about how the law should regulate these activities in order to provide certainty, justice, and benefits. Through this approach, the research is expected to be able to provide a comprehensive picture of the effectiveness of regulations and the need to strengthen the law in the face of digital developments (Fista et al., 2023).

3. Results

3.1. Effectiveness of Regulations in Regulating Digital Marketing Activities

The rapid development of digital marketing requires regulations that are able to accommodate the dynamics of technology-based economic activities. In this context, the effectiveness of regulation is an important aspect to assess the extent to which the law is able to function as a regulatory instrument as well as a protection for the parties involved. Regulations related to digital marketing activities have basically been regulated in several laws and regulations, including Law Number 11

of 2008 concerning Information and Electronic Transactions, Law Number 8 of 1999 concerning Consumer Protection, and Law Number 27 of 2022 concerning Personal Data Protection. The three regulations have normatively provided a fairly comprehensive legal framework in regulating electronic transactions, consumer protection, and personal data management.

Normatively, the existence of these regulations shows that the state has made efforts to provide legal certainty in digital activities. The ITE Law, for example, has recognized the legality of electronic transactions and provides a legal basis for the use of electronic documents as legal evidence in legal proceedings (Rodli, 2021). This shows that from a formal legal aspect, the regulation has met one of the indicators of legal effectiveness, namely legal certainty. In addition, the Consumer Protection Law also provides guarantees for consumer rights, including the right to obtain correct and non-misleading information in digital transactions (Andika & Ananda, 2024). In this context, regulations have provided normative protection against potential losses that can be experienced by consumers in digital marketing activities.

However, the effectiveness of regulations is not only measured by the existence of legal norms, but also by their implementation in practice. In reality, there are still various obstacles in the implementation of these regulations, especially in supervising dynamic and cross-border digital marketing activities. Social media as a means of marketing has very fast and difficult to control characteristics, so monitoring the content in circulation is a challenge in itself (Taan et al., 2021). This condition causes that marketing practices are still often found that are not in

accordance with legal provisions, such as excessive or inappropriate information delivery or not in accordance with the actual conditions.

In addition, the use of personal data in digital marketing also poses its own challenges in terms of regulatory effectiveness. Although the PDP Law has comprehensively regulated the protection of personal data, its implementation still faces various obstacles, especially in terms of legal awareness of business actors and supervision mechanisms that are not optimal (Daeng et al., 2023). Many business actors do not fully understand the legal obligations related to personal data management, so it has the potential to cause violations that are detrimental to consumers. This shows that the effectiveness of regulations depends not only on the substance of the law, but also on the level of compliance and legal awareness of the parties involved.

On the other hand, the role of digital platforms as intermediaries in digital marketing activities is also an important factor in assessing the effectiveness of regulations. Digital platforms not only provide a means of transactions, but also have control over the distribution of information through the algorithms used. In this case, questions arise regarding the extent of the platform's legal responsibility in supervising the activities that occur in it (Pratama, 2023). Current regulations do not fully regulate in detail the responsibility of platforms, thus creating a potential legal vacuum in terms of accountability in the event of a violation.

Furthermore, the effectiveness of regulations can also be seen from their ability to support the development of business actors, especially MSMEs. Digital marketing provides great opportunities for MSMEs to develop and compete in a

wider market (Harahap et al., 2021). However, regulations that are too rigid or not adaptive can actually be an obstacle for business actors in making optimal use of digital technology. Therefore, a balance between legal protection and regulatory flexibility is needed in order to support innovation without neglecting the aspect of legal protection.

In addition to the substance and implementation factors, the effectiveness of regulations is also influenced by coordination between authorized institutions in carrying out supervision and law enforcement. In practice, law enforcement in the digital field often faces coordination constraints, especially because it involves a variety of different sectors. This can hinder the process of handling violations and reduce the level of public trust in the existing legal system (Izazi et al., 2024). Therefore, synergy between institutions is needed to increase the effectiveness of law enforcement in the field of digital marketing.

Thus, it can be concluded that although normatively the existing regulations are quite adequate in regulating digital marketing activities, in terms of implementation, there are still various obstacles that affect its effectiveness. Factors such as the characteristics of dynamic digital media, low legal awareness, limited supervision, and suboptimal arrangements related to platform responsibilities are the main challenges in realizing the effectiveness of regulations. Therefore, continuous efforts are needed to increase the effectiveness of regulations, both through legal reform, increasing legal awareness, and strengthening supervision and law enforcement mechanisms (Maharani & Nurlukman, 2023).

3.2. The Urgency of Strengthening Regulations in Digital Marketing Activities

The rapid development of digital technology has created fundamental changes in the pattern of economic activity, especially in digital marketing practices that are increasingly complex and dynamic. This condition raises an urgent need for regulations that are not only able to regulate, but also able to adapt to changing technological developments. The urgency of strengthening regulations in this context is inseparable from the increasing potential legal risks that can arise, both for business actors and consumers. In this case, the existence of Law Number 11 of 2008 concerning Information and Electronic Transactions is important as a legal basis in regulating electronic transaction activities, but the development of digital practices shows that these regulations still need to be strengthened to remain relevant to current conditions (Rodli, 2021).

One of the main factors that shows the urgency of strengthening regulations is the increasing complexity of interactions in the digital ecosystem. Social media as a means of digital marketing not only brings together business actors and consumers, but also involves third parties, such as platform providers who have a significant role in regulating the distribution of information. In this condition, legal relations become increasingly complex and require clearer arrangements regarding the rights and obligations of each party (Pratama, 2023). Without adequate regulation, the potential for legal uncertainty will be even greater, which can ultimately harm the parties involved.

In addition, the urgency of regulation can also be seen from the increasing potential for violations of consumer rights in digital transactions. Non-transparent digital marketing practices, such as inaccurate or excessive delivery of information, can mislead consumers and cause losses. In this context, Law Number 8 of 1999 concerning Consumer Protection has an important role in providing protection to consumers. However, the characteristics of digital marketing that are fast and difficult to control require strengthening in the implementation of these regulations in order to be able to provide more effective protection (Darnia et al., 2023). This shows that the existence of regulations alone is not enough, but needs to be supported by more optimal supervision and law enforcement mechanisms.

The urgency of strengthening regulations is also increasingly evident with the increasing use of personal data in digital marketing activities. Personal data is an important asset in determining a more effective marketing strategy, but on the other hand it also poses a risk of misuse that can harm individuals. In this case, Law Number 27 of 2022 concerning Personal Data Protection is present as a response to the need for personal data protection in the digital era. However, the implementation of these regulations still faces various challenges, such as low legal awareness and limitations in supervision (Daeng et al., 2023). Therefore, strengthening regulations is important to ensure that the protection of personal data can run effectively.

On the other hand, the development of digital marketing also brings great opportunities for business actors, especially MSMEs, to expand the market and increase competitiveness. However, in the absence of clear and adaptive regulations,

these opportunities can turn into detrimental risks. Business actors need legal certainty in carrying out their business activities, including in terms of the use of digital platforms and consumer data management (Harahap et al., 2021). Therefore, strong and adaptive regulations are very important to create a digital ecosystem that is conducive to economic growth.

Furthermore, the urgency of strengthening regulations is also related to the need for harmonization between various existing laws and regulations. Currently, regulations related to digital marketing are still spread across various different regulations, so they have the potential to cause overlap or inconsistency in their implementation. This condition can hinder the effectiveness of law enforcement and cause confusion for business actors and consumers (Fista et al., 2023). Therefore, efforts to harmonize regulations are needed to create a more integrated and easy-to-understand legal system.

In addition, the rapid development of technology also requires adaptive and responsive regulations. Regulations that are static will be difficult to keep up with dynamic technological developments, so they have the potential to become irrelevant in a relatively short time. In this context, strengthening regulations not only means adding new rules, but also updating existing regulations to keep pace with the times (Mulyani et al., 2022). This is important to ensure that the law can still function as an effective regulatory instrument.

Another urgency is also related to increasing public trust in the digital system. Trust is an important factor in the success of digital marketing, because without trust, consumers will be hesitant to make transactions online. Strong and effective

regulations can increase public trust by providing legal protection of their rights (Taan et al., 2021). Therefore, strengthening regulations is one of the strategic steps in supporting the sustainable growth of the digital economy.

Thus, it can be concluded that the urgency of strengthening regulations in digital marketing activities is driven by various factors, including the increasing complexity of legal relationships, the high potential for violations of consumer rights, the risk of misuse of personal data, and the need for legal certainty for business actors. In addition, the need for regulatory harmonization and increased public trust are also important factors that strengthen this urgency. Therefore, strengthening regulations is an inevitable step in order to create a legal system that is able to accommodate the development of digital technology effectively and sustainably (Maharani & Nurlukman, 2023).

4. Conclusion

The development of digital marketing as part of the digital economic transformation has had a significant impact on the patterns of interaction between businesses, consumers, and digital platforms. In this context, the existence of legal regulations is crucial to ensuring certainty, fairness, and protection for all parties involved. Based on the analysis, it can be concluded that, normatively, the legal framework governing digital marketing activities is in place and covers key aspects such as electronic transactions, consumer protection, and personal data protection. These regulations essentially provide a sufficient legal foundation to regulate digital activities across various dimensions.

However, from an implementation perspective, the effectiveness of these regulations still faces various challenges. The dynamic nature of digital media, the complexity of legal relationships within the digital ecosystem, and limitations in oversight are the primary factors affecting the suboptimal implementation of regulations. Additionally, the level of legal awareness among businesses and consumers remains a barrier to achieving compliance with applicable regulations. This situation indicates that the existence of regulations alone is insufficient; rather, they must be supported by effective law enforcement mechanisms and improved legal literacy among the public.

On the other hand, the urgency of strengthening regulations in digital marketing activities has become increasingly evident alongside rapid technological advancements. Growing legal risks, including potential violations of consumer rights and the misuse of personal data, demand regulations that are more adaptive and responsive to change. Furthermore, the need for harmonization among regulations and clarity regarding the responsibilities of all parties, including digital platforms, is a critical aspect that must be addressed in future legal development.

Thus, it can be concluded that strengthening regulations is a strategic and urgent step to ensure that the law can keep pace with the evolution of digital technology. This effort aims not only to enhance the effectiveness of existing regulations but also to create a safe, fair, and sustainable digital ecosystem for all stakeholders. Through adaptive regulations and optimal implementation, it is hoped that the law can function to its fullest potential as both a regulatory instrument and a protector in the digital age.

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