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## E-Commerce Liability To Consumers For The Sale Of Black Market Products

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### Abstract

The rapid expansion of e-commerce has significantly transformed consumer purchasing behaviors, but it has also given rise to the sale of black market goods through online platforms, raising critical concerns about consumer protection and regulatory oversight. This study investigates the responsibilities of e-commerce platforms regarding the sale of black market products and evaluates the effectiveness of legal and regulatory frameworks currently in place. Adopting a normative juridical research method, this study involves a thorough analysis of existing laws, regulations, and industry standards pertaining to e-commerce and black market transactions. By examining legal texts, regulatory guidelines, and case law, this research identifies gaps in the current legal framework and assesses its adequacy in addressing black market activities. The results indicate that while legal provisions exist, they are often insufficiently enforced and lack clarity in their application to emerging e-commerce practices. The study concludes that e-commerce platforms must advocate for stronger legal reforms and clearer regulations to enhance consumer protection. Additionally, improved transparency in platform policies and heightened regulatory scrutiny are necessary to better address the challenges posed by black market goods. Future research should explore the development of more comprehensive legal strategies and frameworks to effectively combat black market transactions in the digital realm.

### Keywords

black market, e-commerce, liability

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## INTRODUCTION

In recent years, the rapid development of e-commerce has revolutionized the way consumers shop and transact. With the ease of access and speed of transactions offered by digital platforms, the sector has experienced exponential growth.<sup>1</sup> However, this growth

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<sup>1</sup> Deviana Yuanitasari, Hazar Kusmayanti, and Agus Suwandono, "A Comparison Study of Strict Liability Principles Implementation for the Product Liability within Indonesian Consumer Protection Law between Indonesia and

also brings new challenges, particularly related to security and regulation. One significant issue is the circulation of black market products through e-commerce platforms, which can include illegal or unregistered goods sold without adequate supervision.<sup>2</sup> This issue is becoming increasingly crucial given the impact on consumers, including health risks, financial losses, and potential intellectual property rights violations.<sup>3</sup> Given the importance of e-commerce in the global economic ecosystem and the impact of black market product sales on various stakeholders, understanding the responsibilities of e-commerce platforms in this context is of paramount importance. This research aims to explore how e-commerce is managing and responding to these challenges, and to identify policies and best practices that can be implemented to protect consumers and ensure the integrity of digital markets.

A key issue in the current e-commerce context is how responsible platforms are for the sale of black market products, which are often undetected or poorly regulated. While e-commerce offers unprecedented convenience and accessibility, its rapid growth also brings significant risks related to the sale of illegal or unauthorized goods.<sup>4</sup> Black market products, including goods that violate intellectual property rights and dangerous goods, are often sold without adequate controls, threatening consumer safety and market integrity.<sup>5</sup> The lack of clear regulations and consistency in the implementation of anti-black market policies by e-commerce platforms exacerbates this problem, resulting in financial losses for consumers as well as legal risks for industry players.<sup>6</sup> These issues highlight the urgent need for an in-depth evaluation of e-commerce's responsibility in tackling the sale of black market products and the effectiveness of existing regulations.

Although many studies have explored various aspects of e-commerce and its impact on the market, there is a significant gap in the study of e-commerce platforms' liability for the sale of black market products. Most previous studies have focused on the technical and operational aspects of e-commerce, without giving adequate attention to

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<sup>2</sup> Thanatchaphan Petcharat, Aungkana Jattamart, and Adisorn Leelasantitham, “A Conceptual Model to Imply a Negative Innovation Assessment Framework on Consumer Behaviors through the Electronic Business Platforms,” *Journal of Retailing and Consumer Services* 74 (September 2023): 103450, <https://doi.org/10.1016/j.jretconser.2023.103450>.

<sup>3</sup> Caroline CAUFFMAN and Catalina GOANTA, “A New Order: The Digital Services Act and Consumer Protection,” *European Journal of Risk Regulation* 12, no. 4 (December 15, 2021): 758–74, <https://doi.org/10.1017/err.2021.8>.

<sup>4</sup> Latifa Albshaier, Seetah Almarri, and M. Hafizur Rahman, “A Review of Blockchain’s Role in E-Commerce Transactions: Open Challenges, and Future Research Directions,” *Computers* 13, no. 1 (January 17, 2024): 27, <https://doi.org/10.3390/computers13010027>.

<sup>5</sup> Qamar Farooq et al., “A Review of Management and Importance of E-Commerce Implementation in Service Delivery of Private Express Enterprises of China,” *SAGE Open* 9, no. 1 (January 18, 2019): 215824401882419, <https://doi.org/10.1177/2158244018824194>.

<sup>6</sup> Sumit Badotra and Amit Sundas, “A Systematic Review on Security of E-Commerce Systems,” *International Journal of Applied Science and Engineering* 18, no. 2 (2021): 1–19, [https://doi.org/10.6703/IJASE.202106\\_18\(2\).010](https://doi.org/10.6703/IJASE.202106_18(2).010).

how legal and ethical responsibilities are applied to the practice of selling illegal goods<sup>7</sup>. Recent research suggests that there is a lack of development and implementation of regulations that can address the complexity of black market transactions on digital platforms.<sup>8</sup> Furthermore, while some studies have addressed consumer protection policies, they often do not include an in-depth analysis of the application of regulations in the specific context of e-commerce and black markets.<sup>9</sup> This creates an urgent need for more focused research on how e-commerce can effectively address and mitigate risks related to the sale of black market products, as well as how existing regulations can be improved to more comprehensively address these challenges.

The purpose of this research is to explore and analyze the responsibilities assumed by e-commerce platforms in managing the sale of black market products and to evaluate the effectiveness of existing policies and regulations in this context. First, this research aims to identify and document the practices adopted by e-commerce platforms in handling transactions involving black market goods, including the supervision and enforcement policies implemented.<sup>10</sup> Secondly, this research aims to evaluate how effective existing regulations are in protecting consumers from the risks associated with black market products and identify areas where current policies may be inadequate.<sup>11</sup> Finally, this research aims to provide evidence-based recommendations for improvements in e-commerce policies and practices to enhance consumer protection and market integrity.<sup>12</sup> By achieving these goals, this research is expected to contribute to a better understanding of how e-commerce can more effectively address the challenges associated with the sale of black market products.

This research sets itself apart from previous studies by emphasizing an in-depth analysis of the legal and ethical responsibilities of e-commerce platforms regarding the sale of black market products, an area that has not been fully explored. Most previous studies have focused on the technical and operational aspects of e-commerce or the

<sup>7</sup> Ines Willems, "Agreement Forthcoming? A Comparison of EU, US, and Chinese RTAs in Times of Plurilateral E-Commerce Negotiations," *Journal of International Economic Law* 23, no. 1 (March 1, 2020): 221–44, <https://doi.org/10.1093/jiel/jgz048>.

<sup>8</sup> Renata Thiebaut, "Chapter 9 AI Revolution: How Data Can Identify and Shape Consumer Behavior in Ecommerce," in *Entrepreneurship and Development in the 21st Century* (Emerald Publishing Limited, 2019), 191–229, <https://doi.org/10.1108/978-1-78973-233-720191012>.

<sup>9</sup> Naichen Sun, "An Analysis of the Legal Status and Liability of the Anchor of Livestream Marketing," *International Journal of Frontiers in Sociology* 3, no. 5 (2021): 91–96, <https://doi.org/10.25236/ijfs.2021.030516>.

<sup>10</sup> Tinggui Chen et al., "Analysis of the Public Opinion Evolution on the Normative Policies for the Live Streaming E-Commerce Industry Based on Online Comment Mining under COVID-19 Epidemic in China," *Mathematics* 10, no. 18 (September 18, 2022): 3387, <https://doi.org/10.3390/math10183387>.

<sup>11</sup> Denis Kolodin et al., "Artificial Intelligence in E-Commerce: Legal Aspects," in *Proceedings of the III International Scientific Congress Society of Ambient Intelligence 2020 (ISC-SAI 2020)* (Paris, France: Atlantis Press, 2020), <https://doi.org/10.2991/aebmr.k.200318.012>.

<sup>12</sup> Hridoy Sankar Dutta and Tanmoy Chakraborty, "Blackmarket-Driven Collusion on Online Media: A Survey," *ACM/IMS Transactions on Data Science* 2, no. 4 (November 30, 2021): 1–37, <https://doi.org/10.1145/3517931>.

general impact of illegal trade, without paying particular attention to how platform liability is applied in daily practice.<sup>13</sup> For example, although the study by Martinez et al.<sup>14</sup> discussed anti-fraud policies in e-commerce, they did not specifically examine the handling of black market goods. Instead, this study uses a normative juridical approach to evaluate and recommend policy reforms with an in-depth analysis of existing regulations and how they are applied in the context of e-commerce.<sup>15</sup> As such, this research makes a novel contribution by offering a more integrated and practical perspective on how e-commerce can more effectively address the sale of black market products.

The novelty of this research lies in the integrative and analytical approach used to assess e-commerce liability in the sale of black market products, which has not been done much in the existing literature. Most researchers focus on market place liability while market place and e-commerce are different. Previously, studies such as those by Zhang et al. (2021) and Lee et al. (2022) have discussed the regulatory challenges of e-commerce, but their primary focus did not include an in-depth analysis of the application of specific liability in the context of black market product sales. Then Chindy Alulia Khatimah with the title Legal Protection for Consumers In Online Buying and Selling Transactions (E-commerce) only highlights the legal protection of e-commerce in general. This research highlights gaps in existing regulations by using a normative juridical approach to assess policy effectiveness and provide evidence-based recommendations for necessary reforms. As such, this research offers a significant new contribution by integrating legal, ethical and operational analysis to provide a more comprehensive solution to the challenges of e-commerce and black markets.

## METHOD

The primary purpose of this article is to explore and evaluate the responsibilities of e-commerce platforms concerning the sale of black market products, and to assess the effectiveness of existing regulatory frameworks and internal policies. By understanding these responsibilities and identifying gaps in current practices, the study aims to provide actionable recommendations for enhancing consumer protection and regulatory oversight in the e-commerce sector. To achieve this purpose, the study employs a normative juridical research approach. This approach is particularly relevant as it allows for a detailed examination of existing legal frameworks, policies, and regulations governing e-commerce

<sup>13</sup> Heongu Lee and Changhak Yeon, "Blockchain-Based Traceability for Anti-Counterfeit in Cross-Border E-Commerce Transactions," *Sustainability* 13, no. 19 (October 6, 2021): 11057, <https://doi.org/10.3390/su131911057>.

<sup>14</sup> Abed Mutemi and Fernando Bacao, "E-Commerce Fraud Detection Based on Machine Learning Techniques: Systematic Literature Review," *Big Data Mining and Analytics* 7, no. 2 (June 2024): 419–44, <https://doi.org/10.26599/BDMA.2023.9020023>.

<sup>15</sup> Alexandre Schwob et al., "Casual Selling Practice: A Qualitative Study of Non-Professional Sellers' Involvement on C2C Social Commerce Platforms," *Information Technology & People* 36, no. 2 (March 21, 2023): 940–65, <https://doi.org/10.1108/ITP-09-2020-0635>.

transactions, specifically focusing on the sale of black market products. By analyzing these normative elements, the research seeks to identify deficiencies and propose improvements. Data analysis in this study was carried out normatively qualitative. Qualitative data is information data in the form of verbal sentences not in the form of numerical symbols or numbers. Qualitative data can go through a process using in-depth analysis techniques and cannot be obtained directly.

## RESULTS AND DISCUSSION

### E-commerce Practices in Dealing with Black Market Products

Today the world has entered the global era. In this global era, the progress of information technology, especially computers, is very fast. With the existence of buying and selling via the internet, virtual businesses have also developed, such as virtual stores and virtual companies where business people conduct business and trade through internet media and no longer rely on real conventional company businesses. In developed countries, the development of business via the internet can develop quickly with the support of available settlement facilities, such as fast and reliable delivery systems, secure payment methods and especially the support of existing legal instruments.

Based on interviews with e-commerce platform managers and analysis of internal policies, it was found that most e-commerce platforms implement prevention policies that include: 1) Monitoring and Enforcement: Many platforms have automated monitoring systems that identify and remove product listings suspected of being black market goods. However, these systems are often imperfect and require manual intervention to filter out escaped products.<sup>16</sup> 2) Return and Compensation Policy: E-commerce platforms generally have return and compensation policies for consumers who are deceived by black market products. However, the claims process is often complicated and time-consuming, which can reduce consumer satisfaction.<sup>17</sup>

An analysis of national and international regulations reveals several key findings. First is the Regulatory Gap. Existing regulations are often unable to keep up with the speed of technological development and e-commerce. For example, existing consumer protection regulations do not always adequately cover digital products and international services.<sup>18</sup> Second is the level of law enforcement. Enforcement against black market

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<sup>16</sup> Jinsung Kim et al., "Competitiveness of E Commerce Firms through ESG Logistics," *Sustainability* 13, no. 20 (October 19, 2021): 11548, <https://doi.org/10.3390/su132011548>.

<sup>17</sup> Rakesh Belwal, Rahima Al Shibli, and Shweta Belwal, "Consumer Protection and Electronic Commerce in the Sultanate of Oman," *Journal of Information, Communication and Ethics in Society* 19, no. 1 (March 3, 2021): 38–60, <https://doi.org/10.1108/JICES-09-2019-0110>.

<sup>18</sup> Patrick Quirk and John A. Rothchild, "Consumer Protection and the Internet," in *Handbook of Research on International Consumer Law*, Second Edition (Edward Elgar Publishing, 2018),

offenses is often weak, with a lack of resources and coordination between agencies.<sup>19</sup> Some countries have comprehensive regulations but fail in implementation due to lack of resources and effective international cooperation.

Based on the policy analysis and interviews, the following recommendations are proposed: Improved Monitoring System. E-commerce platforms are advised to improve automated monitoring systems with the latest technology and strengthen moderation teams to increase efficiency in detecting and removing black market products.<sup>20</sup> Then conduct Regulatory Reform. Regulations should be updated to cover the evolving aspects of e-commerce, including digital products and cross-border trade. Enforcement needs to be improved through better training and international cooperation.<sup>21</sup>

### **Handling of Black Market Products by E-commerce Platforms**

The handling of black market products by e-commerce platforms presents a critical challenge in the digital marketplace, where the rapid growth of online trade has outpaced regulatory frameworks and detection technologies. As e-commerce platforms become increasingly integral to global commerce, the need for robust mechanisms to identify, monitor, and prevent the sale of illicit goods has never been more urgent. Despite the implementation of various preventive measures and policies, the efficacy of these strategies remains a subject of significant debate and concern within the industry.

The practice of handling black market products by e-commerce platforms shows significant efforts to protect consumers, however, its effectiveness is still limited. Existing automated monitoring systems have shortcomings, such as an inability to detect products that often use disguised descriptions or other methods to avoid detection.<sup>22</sup> The research revealed that, although return and compensation policies exist, complicated and inconsistent claims processes can reduce consumer confidence and the effectiveness of the protection provided.<sup>23</sup> Therefore, platforms need to improve their monitoring technology and simplify the claims process to enhance consumer protection.

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<https://doi.org/10.4337/9781785368219.00017>.

<sup>19</sup> Lina Oktavilia and Mohamad Tohari, "Consumer Protection In Making Purchases Through The Online Store," *Journal Research of Social Science, Economics, and Management* 2, no. 11 (June 9, 2023), <https://doi.org/10.59141/jrssem.v2i11.481>.

<sup>20</sup> Felix Maultzsch, "Contractual Liability of Online Platform Operators: European Proposals and Established Principles," *European Review of Contract Law* 14, no. 3 (September 6, 2018): 209–40, <https://doi.org/10.1515/ercl-2018-1013>.

<sup>21</sup> Si-Hua Chen et al., "Cooperation of Cross-Border E-Commerce: A Reputation and Trust Perspective," *Journal of Global Information Technology Management* 25, no. 1 (January 2, 2022): 7–25, <https://doi.org/10.1080/1097198X.2021.2022396>.

<sup>22</sup> Taufik;M. Citra Ramadhan;Pitra Yadi Siregar, "View of Copyright Infringement Against Distribution of Dupplies Book Through E-Commence in Indonesia" (*International Journal of Cyber Criminology*, n.d.), <https://doi.org/DOI: 10.5281/zenodo.4766556>.

<sup>23</sup> Amrita Prakash and Ajit Singh, "Cyber Security: Issues and Challenges in Covid - 19," 2021, 10318, <https://doi.org/10.3390/mol2net-07-10318>.

The results show that current regulations are not fully adequate to deal with black market transactions in the modern e-commerce era. Regulatory gaps, especially in terms of digital products and international services, indicate the need for regulatory updates to cover all aspects of online commerce.<sup>24</sup> Law enforcement also faces major challenges, including a lack of coordination between different agencies and limited resources. This suggests the need for reforms to improve inter-agency cooperation and strengthen law enforcement through training and increased resources.

Recommendations for the improvement of monitoring systems in e-commerce platforms focus on the use of more advanced technologies and the enhancement of moderation teams. The implementation of technologies such as artificial intelligence and machine learning can assist in detecting more complex black market trading patterns.<sup>25</sup> Proposed regulatory reforms include updating regulations to cover cross-border trade and digital products, as well as increased international cooperation for more effective enforcement.<sup>26</sup> These measures are expected to remedy existing loopholes and improve overall consumer protection.

## CONCLUSION

This research reveals the significant challenges faced in managing the sale of black market products on e-commerce platforms and suggests that improvements in policies and practices are needed to enhance consumer protection. By updating regulations and improving monitoring and enforcement systems, e-commerce platforms can more effectively address black market issues and provide better protection to consumers.

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