

Policy Brief

Promoting Fair Competition in ASEAN's Digital Economy: Strengthening Policies for a Level Playing Field

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Key Messages:

- Competitive digital markets are critical for promoting innovation, reducing prices, and enhancing product quality and variety, benefiting consumers and businesses, especially MSMEs.
- Dominant digital platforms and the dynamics of platform-based business models can lead to anti-competitive behaviour, market manipulation, and higher barriers to entry.
- ASEAN Member States (AMS) must tailor regulations specific to digital market competition, ensuring they are both tech- and sector-neutral to address evolving market dynamics effectively.
- Strengthening regional initiatives such as the ASEAN Competition Action Plan (ACAP) 2025 and improving collaboration with external competition authorities are vital for addressing cross-border competition issues and enhancing regulatory capacity.
- Consumer education on rights and identifying anti-competitive practices, coupled with mandating transparency from digital platforms on algorithms and data practices, is essential for fostering a fair digital marketplace.

ASEAN's digital economy is growing rapidly, offering both significant opportunities and challenges. Ensuring a competitive digital market is essential for fostering innovation, reducing costs, and enhancing product quality and choice for consumers and businesses, particularly MSMEs. This policy brief assesses the current digital market competition landscape in ASEAN, emphasising the need for robust competition policies to mitigate anti-competitive behaviours and establish a level playing field. It discusses key initiatives like the ASEAN Competition Action Plan (ACAP) 2025 and the ASEAN Guidelines for Sharing Merger Cases, while examining the complexities of digital markets, including the influence of dominant platforms, algorithmic impacts, and data privacy considerations. Policy recommendations focus on aligning provisions in the ASEAN Digital Economy Framework Agreement (DEFA) with regional standards and international best practices, enhancing regulatory capabilities, fostering regional cooperation, and promoting consumer education and protection.

A competitive digital market curbs anti-competitive behaviour, benefiting consumers and businesses by lowering prices and enhancing quality and product choices. It also drives innovation and offers MSMEs a fair opportunity to compete with larger enterprises (APEC, 2022; Keck et al., 2022). Figure 1 below highlights key attributes of digital market competition policy.

All AMS have implemented competition laws that are tech- and sector-neutral, though AMS must develop or adapt regulations specifically for digital market competition. At the regional level, the updated ASEAN Competition Action Plan (ACAP) 2025 guides the ASEAN Experts Group on Competition (AEGC) in supporting competition agencies' capacities, including the development of an ASEAN Investigation Manual on Competition Policy and Law (CPL) for the Digital Economy. To protect businesses and consumers against cross-border competition distortions, the ASEAN Guidelines for Sharing Merger Cases serve as a reference for developing the ASEAN Information Portal on Merger Cases (ASEAN, 2023).

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Figure 1. Attributes of Digital Market Competition Policy



Source: OECD, 2022a; UNCTAD, 2023; OECD, 2022.

Competition policy and law are also integral to ASEAN's economic integration efforts, including +1FTAs, and the ASEAN Framework Agreement on Competition (AFAC) is currently being finalised. DEFA commitments should build on and complement these efforts, aligning with existing ASEAN FTA treaty commitments.

The ASEAN digital economy is currently dominated by major platform providers, both regional and international, such as Google, Microsoft, Amazon, Grab, GoTo, Shopee, and Lazada. Policymakers face the challenge of balancing market innovation for all businesses, including startups, while safeguarding public interests and maintaining fair digital market competition.

The new data economy, platform-based business models, and cross-market digital ecosystems interact in ways that may affect fairness and transparency in digital markets. Left unchecked, these dynamics can create and reinforce new market power positions, enabling firms to extend their

dominance across markets. Dominant platforms and restrictive agreements, which can include price-fixing, can weaken competition (BMWK, 2019).

In the digital space, some firms act as both platform providers and competitors on the same platforms. Additionally, algorithms and data collection practices play a significant role; firms with large user data repositories gain a market advantage, raising concerns about potential biases, privacy rights, and entry barriers. The reliance on algorithms may also lead to market manipulation, with pricing potentially disconnected from actual market conditions (OECD, 2017).

In the cloud services sector, ASEAN businesses reportedly pay 20%–40% more than their US-based counterparts, attributed to unfair pricing, lack of local competition, and brand premiums (Tan, 2023). High costs and limited broadband access also indicate a lack of competition in the broadband value chain (Sefrina, 2024). Strengthening digital competition policy is essential to address these disparities.

Regulation and Enforcement Against Anti-competitive Behaviours in the Digital Economy

As ASEAN's digital economy grows, regulatory and enforcement actions against anti-competitive practices are rising. On 27 May 2024, Indonesia's Competition Authority (KPPU) announced an investigation into Lazada over alleged violations of Anti-Competition Law No. 5 of 1999 (Digital Policy Alert, 2024). Similarly, Singapore's Competition and Consumer Commission (CCCS) published findings from a study on greenwashing practices on e-commerce platforms, identifying vague environmental claims and technical jargon (CCCS, 2023).

Challenges in Reforming Competition Policy

While the AEC Blueprint 2025 seeks to advance regional integration, competition policies remain largely national, with variations in development levels and priorities. Developing soft laws and encouraging cooperation between AMS competition authorities may be more achievable (Lall & McEwin, 2015). AMS can collaborate with foreign competition agencies, though barriers exist in sharing confidential information (UNESCAP, 2021). Confidentiality is legally mandated, and only a few AMS permit waivers to facilitate information sharing, an area requiring attention to enable regional and international cooperation (ASEAN, 2020).

There is growing debate around the need for ex-ante petition law enforcement. Digital markets evolve rapidly, making ex-ante approaches, which proactively prevent anti-competitive behaviour, particularly relevant. The EU's Digital Markets Act exemplifies this, with recent policy interventions projected to reduce markups, increase GDP by 0.6%–1.1%, and lower prices by 0.3%–0.7%, stimulating demand and growth (Cardani et al., 2023). Similarly, Australia's ACCC, appointed as the initial Digital ID regulator, collaborates across regulatory bodies on digital platform oversight.

Implementing similar approaches in ASEAN requires careful consideration of regional dynamics and capacities. By studying external examples and understanding ASEAN market nuances, AMS can make informed decisions on regulating digital competition and fostering innovation.

Policy Recommendations

- Ensure DEFA provisions are adaptable to AMS capabilities while aligning with competition standards under the Regional Comprehensive Economic Partnership (RCEP) and the ASEAN Framework Agreement on Competition (AFAC).
- Work towards establishing ASEAN-wide competition policy objectives, fostering collaboration on enforcement priorities, and setting informal regional goals.
- Develop regional capacity-building programmes for regulators, covering tools, legal frameworks, investigative skills, and personnel exchanges for hands-on training.
- Review internal policies within AMS to facilitate cooperation and information exchange with Dialogue and External Partners, including protocols for confidentiality waivers.
- Increase collaboration between competition, consumer protection, and data protection agencies to support coordinated enforcement and create joint guidelines to balance competition remedies and privacy issues.
- Launch consumer education campaigns on digital rights, data protection, and anti-competitive practice awareness.
- Mandate transparency from digital platforms on algorithm usage and data practices to foster accountability and prevent anti-competitive behaviour.

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