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The Challenge of Upholding the State's Digital Sovereignty in Facing Data Monopoly Practices by Foreign Over-The-Top Platforms in Indonesia

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Abstract: Enforcing digital sovereignty in Indonesia faces serious challenges due to the dominance of foreign Over-The-Top (OTT) platforms in controlling national data and digital markets. These data monopolization practices by global companies not only create technological dependency but also limit state control over the flow of strategic information, which should be part of national sovereignty. Although Indonesia already has several legal instruments, such as Law Number 11 of 2008 concerning Electronic Information and Transactions and its amendments, Law Number 27 of 2022 concerning Personal Data Protection, Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, and Law Number 6 of 2023 concerning Job Creation, the implementation of these regulations still faces significant obstacles in addressing the power of the transnational digital economy. One of the main obstacles lies in jurisdictional issues that limit the effectiveness of national law enforcement against global entities operating without a physical presence in Indonesia. This research emphasizes the need to strengthen national regulations with stronger legal instruments against foreign OTTs, develop international cooperation in cross-border data governance, and empower local digital infrastructure as strategic steps to strengthen Indonesia's digital sovereignty. Therefore, efforts to address data monopoly practices by foreign OTTs require not only national legal reforms but also cross-sector and cross-national synergy to address global digital geopolitical challenges.

Keyword: Digital Sovereignty, Data Monopoly, Foreign Otts, Personal Data Protection, Business Competition.

INTRODUCTION

The development of the digital era has fundamentally changed patterns of social, economic, and political interaction (Mua & Heatubun, 2024). Foreign Over-The-Top (OTT) platforms such as Google, Meta, Netflix, and Amazon have become dominant players in providing digital services widely used by the Indonesian public (Sudibyo, 2022). Their

presence provides easy access to information, entertainment, and communication, but also creates a high dependence on global digital infrastructure (Sinulingga & Nasution, 2024). This situation creates a power imbalance between the state and digital corporations, especially since the majority of user data is under the control of foreign entities. This reality raises serious questions about how far the state is able to maintain its digital sovereignty.

The issue of user data monopolization is one of the most prominent problems of foreign OTT dominance (Ambardi et al., 2025). Data collected from Indonesian citizens' activities is used as a strategic resource to develop business models that increasingly benefit foreign parties (Junaedi et al., 2023). Data monopolies are not only related to economic interests but also to issues of national security, citizen privacy, and political stability (Aji, 2023). Unilateral access to public data has the potential to lead to abuse of market power and information manipulation (Kurnianingrum, 2023). This makes data monopolies a serious challenge that requires stronger and more effective legal regulations.

Digital sovereignty has emerged as a crucial concept in addressing these challenges. This sovereignty affirms that the state has the full right to regulate, protect, and monitor its citizens' data, including the flow of information into and out of national jurisdiction (Huda et al., 2024). Understanding digital sovereignty also encompasses the state's obligation to prevent cyberspace from being dominated by foreign parties. In other words, digital sovereignty is inseparable from state sovereignty, as recognized under international law (Hamonangan & Assegaff, 2020). This concept emphasizes that data control is integral to a nation's territorial and economic control.

The relationship between digital sovereignty and state sovereignty is clearly evident in the principles of international law that guarantee a state's right to protect national interests (Atqiya et al., 2025). International law affirms that a sovereign state has full jurisdiction over its territory, including cyberspace, which is a vital part of modern global interactions (Sinaga et al., 2022). At the national level, digital sovereignty is reflected in various laws and regulations designed to protect personal data, maintain business competition, and prevent monopolistic practices (Gani, 2023). Strengthening digital sovereignty is part of a national strategy to ensure that political, legal, and economic sovereignty are not eroded by global corporate dominance.

Monopolies and abuse of dominant position have a clear legal dimension, regulated in Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition (Nainggolan & Purnamasari, 2025). This regulation emphasizes the prohibition against business actors who control the market excessively, resulting in injustice for other business actors and consumers (Imron, 2024). In the digital ecosystem, monopolies occur not only through conventional market dominance but also through the control of data as a primary commodity. Data monopolies allow large businesses to unfairly strengthen their positions and stifle opportunities for local businesses to grow (Tumangkar et al., 2024). The existence of this regulation confirms that data monopoly is a legal issue that deserves scrutiny.

Law No. 27 of 2022 concerning Personal Data Protection expands the scope of the law by positioning data as both an economic object and a human right that must be protected. This law emphasizes that personal data may not be exploited without a clear legal basis and must be managed with the principles of accountability and transparency (Junaedi A. M., 2025). Within this framework, data monopolies are considered a violation of individual rights and a threat to state sovereignty (Cahyadi, 2018). The PDP Law is strategic because it provides a new legal instrument to regulate digital data governance, which was previously only partially regulated. The presence of this law affirms the state's commitment to strengthening data protection as a strategic resource.

Over-the-Top platforms have unique characteristics that distinguish them from traditional telecommunications services. OTTs operate over the internet without requiring their own physical infrastructure in the target country, enabling them to dominate the market at low cost but with broad reach. This business model allows foreign OTTs to accumulate substantial profits from Indonesian users without contributing equally to the national economy (Khanna et al., 2025). This situation poses significant challenges for regulators, as it is difficult to enforce tax obligations or data protection obligations. These characteristics demonstrate the strong position of OTTs in Indonesia's digital ecosystem.

The dominance of OTTs in Indonesia's digital ecosystem is evident in their central role in public communication, e-commerce, and content distribution. The presence of OTTs makes the public highly dependent on foreign services for daily activities, from social interactions to economic transactions (Setiawan, 2018). This dependence makes it difficult for the government to control data flows and maintain market balance. This situation increases the potential for data misuse because control rests entirely with foreign corporations. These challenges emphasize the need for a comprehensive legal approach to restructuring the national digital ecosystem.

The theory of state sovereignty provides a philosophical and legal basis, stating that the state is the supreme entity with full authority over its territory and people (Wijaya & Mubin, 2024). This theory is relevant when states are confronted with transnational corporations attempting to dominate the digital space. Foreign control of data is seen as a reduction in state sovereignty that must be prevented through legal instruments. States are obligated to ensure that sovereignty applies not only on land, sea, and air, but also in the digital space. This assertion serves as a foundation for developing legal strategies to address data monopolies.

Competition law theory provides a framework for understanding the impact of monopolies on market structures. Healthy business competition is considered a prerequisite for economic justice and public welfare (Noerhadi, 2021). Data monopolies practiced by foreign OTTs create market distortions because local players struggle to compete with such vast data resources. This theory emphasizes the need for state intervention through fair regulations to prevent power imbalances. Competition law enforcement is a crucial instrument in preventing excessive domination and protecting the public interest.

Digital regulation theory presents an answer to the complexities of regulating activities in cyberspace. This theory emphasizes that the digital space requires legal governance that is adaptive and responsive to technological developments (Syarifuddin et al., 2024). Digital regulation is not only about consumer protection but also about safeguarding state sovereignty from external intervention. This theory reinforces the understanding that law must transcend conventional boundaries to encompass cross-border digital activities. The application of digital regulation theory in Indonesia serves as a conceptual foundation for formulating digital sovereignty policies.

METHOD

This paper employs a normative legal research method with a statutory and conceptual approach. The statutory and conceptual approach is used to examine and analyze the applicable regulatory framework in Indonesia regarding digital sovereignty, data management, and monopolistic practices by foreign Over-The-Top (OTT) platforms. The legal instruments that are the focus of the study include Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE) and its amendments, Law Number 27 of 2022 concerning Personal Data Protection (PDP), Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, and Law Number 6 of 2023 concerning the Stipulation of Government Regulations in place of the Job Creation

Law into Law. It allows researchers to assess how far national legal norms provide protection for digital sovereignty and how they are implemented in facing global jurisdictional challenges. Meanwhile, a conceptual approach is used to understand the concept of digital sovereignty in the context of international law and global governance, including how the concept of state sovereignty is adapted to the reality of technological domination by cross-border entities. By using this dual approach, the research not only emphasizes the formal legal aspects outlined in national regulations but also integrates conceptual thinking on digital sovereignty, data protection, and fairness in digital competition. This method is expected to provide a comprehensive overview of the challenges and solutions for upholding Indonesia's digital sovereignty in the face of data monopoly practices by foreign OTTs.

RESULTS AND DISCUSSION

Legal Regulations Regarding Digital Sovereignty and Data Monopoly Practices

Law No. 11 of 2008 concerning Electronic Information and Transactions, amended by Law No. 19 of 2016, provides the basic framework for regulating digital activities in Indonesia. Article 40 paragraph (2a) of the ITE Law states that the government is obliged to protect the public interest from all types of disruptions resulting from the misuse of electronic information and electronic transactions. The article emphasizes the state's authority to monitor digital activities, including those carried out by foreign platforms. Article 40 paragraph (2b) even authorizes the government to halt access to prohibited electronic information, including from Over-the-Top service providers. This regulation provides the legal basis for the government to uphold digital sovereignty.

Law No. 27 of 2022 concerning Personal Data Protection is a critical milestone in strengthening digital sovereignty. Article 2 of the PDP Law emphasizes that personal data protection is part of human rights protection. Article 4 explains the rights of data subjects, including the right to information regarding the purpose of data processing and the right to delete data. Articles 55 to 58 provide administrative sanctions for violations, while Articles 67 to 69 impose criminal penalties for misuse of personal data. This provision demonstrates the state's commitment to regulating data as a strategic resource and affirms its position as a protected legal object.

Law No. 6 of 2023 concerning the Enactment of the Job Creation Government Regulation in Lieu of Law (Perppu) into Law expands regulations related to the telecommunications and digital sectors. Articles 175 to 176 of the Job Creation Law strengthen regulations on the implementation of electronic systems, including the obligation for foreign Electronic System Providers (PSEs) to register. This provision provides legal legitimacy for the government to require foreign OTT platforms to comply with Indonesian regulations. PSE registration, further regulated in Ministerial Regulation No. 5 of 2020, provides a concrete instrument for the government to enforce compliance.

Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition is also closely relevant to the issue of data monopoly. Article 1, number 1, defines monopoly as control over the production or marketing of goods and services by a single business actor or group of business actors. Article 17, paragraph (1) prohibits business actors from controlling the production or marketing of goods and services that could result in monopolistic practices or unfair business competition. This article can be extended to address the control of digital data by dominant OTT platforms, thus providing a legal basis for the KPPU (Commission and Informatics Commission) to conduct oversight.

The Ministry of Communication and Informatics plays a central role as the primary regulator of the digital sector. Through Ministerial Regulation No. 5 of 2020 concerning Private Electronic System Providers, every foreign OTT operating in Indonesia is required to register and provide access to its system upon government request. Article 5 of this regulation

emphasizes the registration obligation for OTTs, while Article 14 provides the legal basis for the government to request data access for oversight purposes. This provision is intended to strengthen state control over foreign OTT activities.

The Business Competition Supervisory Commission (KPPU) has a constitutional mandate to enforce Law No. 5 of 1999. Article 36 of this law authorizes the KPPU to conduct investigations, summon relevant parties, and impose administrative sanctions. In the case of a data monopoly, the KPPU can examine whether foreign OTTs have abused their dominant position to the detriment of local businesses. Article 25, paragraph (1) of Law No. 5 of 1999 explicitly prohibits dominant business actors from using their power to dictate trade conditions or restrict markets. The KPPU (Commission for the Supervision of Digital Entities) plays a crucial role in ensuring digital sovereignty is not eroded by foreign monopolies.

The National Cyber and Crypto Agency (BSSN) also plays a vital role in safeguarding digital sovereignty. Based on Presidential Regulation No. 53 of 2017 in conjunction with Presidential Regulation No. 133 of 2017 concerning BSSN, this agency has the authority to manage national cybersecurity. BSSN is tasked with protecting critical information infrastructure, including strategic data managed by ESOs. Article 3 of Presidential Regulation No. 53/2017 states that BSSN is tasked with implementing technical policies in the areas of cybersecurity, cryptography, and encryption. This role ensures that data controlled by foreign OTTs does not pose a threat to national security.

The issue of digital sovereignty is also related to cross-border policies related to international data flows. Cross-border data flows raise jurisdictional issues because Indonesian citizens' data is often processed and stored in overseas data centers. Article 56 paragraph (2) of the Personal Data Protection Law stipulates that the transfer of personal data abroad must guarantee protection equivalent to that provided by Indonesian law. This provision provides a legal instrument to ensure that citizens' data is not freely exploited without adequate protection. This regulation emphasizes the state's efforts to maintain control over data crossing borders.

A comparison with the European Union's General Data Protection Regulation (GDPR) demonstrates very strict data protection standards. Article 5 of the GDPR establishes basic principles for data processing, such as lawfulness, fairness, and transparency. The GDPR also grants data subjects broad rights, including the right to be forgotten, as stated in Article 17. Meanwhile, the United States relies more on sectoral and industry-based approaches, such as privacy regulations in the financial or healthcare sectors. This comparison teaches Indonesia the importance of harmonizing national policies with international standards.

Existing national regulations demonstrate that Indonesia is moving toward strengthening digital sovereignty. The ITE Law provides a basic legal foundation, the PDP Law places data as a strategic legal object, the Job Creation Law strengthens the obligations of foreign PSEs, and the Business Competition Law provides instruments to address data monopolies. Institutions such as the Ministry of Communication and Informatics, the KPPU, and the BSSN strengthen the institutional structure responsible for safeguarding digital sovereignty. This integration of regulations demonstrates that while significant challenges remain, the legal foundation has been established to ensure that Indonesia does not lose control of its digital space.

Challenges in Upholding Indonesia's Digital Sovereignty Against Foreign OTTs

Indonesia's dependence on digital infrastructure provided by foreign OTTs poses a serious challenge to maintaining digital sovereignty. Cloud computing services, productivity applications, social media, and even streaming platforms are largely sourced from global

companies that wield complete control over data and algorithms. This situation places Indonesia in a weak position because the domestic digital ecosystem lacks comparable alternatives. Any disruption, policy change, or restriction from foreign parties has the potential to impact millions of users and the national economy.

Indonesia's bargaining power over foreign OTTs remains very limited despite its significant user base. The Indonesian digital market is often treated merely as a consumption target, with no opportunity to influence the policy direction of global companies. Foreign companies can set service prices, control content distribution, and even determine internal rules applicable to Indonesian users. This condition demonstrates the government's difficulty in enforcing balanced regulation when the country's bargaining power is unequal to the power of foreign capital and technology.

Limited national regulations are another obstacle to upholding digital sovereignty. The ITE Law and the PDP Law provide a clear legal basis, but they are not yet strong enough to ensnare foreign OTTs operating without a physical presence in Indonesia. Existing enforcement instruments are still oriented more toward individuals or local companies, making them difficult to apply to global entities. Law enforcement is often hampered by the gap between legal norms and operational practices on the ground. This situation creates loopholes that foreign platforms exploit to continue operating without significant obstacles.

The implementation of Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition also faces obstacles when confronted with global business actors. The KPPU (Commission for the Supervision of Monopolistic Practices), however, its jurisdiction is limited to companies with legal entities in Indonesia. Foreign platforms can evade oversight by operating through branches or representatives without direct legal ties. This obstacle demonstrates that oversight of data monopolies requires an international mechanism that goes beyond national regulations.

The challenge of cross-border jurisdiction further complicates law enforcement efforts against foreign OTTs. Indonesian user data is often stored in overseas data centers, making it difficult for law enforcement officials to gain legitimate access. The process of requesting international legal assistance through the Mutual Legal Assistance (MLA) mechanism is often lengthy and not always successful. This situation undermines the effectiveness of citizens' legal protections, as the government cannot continuously reach entities violating the law in the digital space. State sovereignty is ultimately constrained by jurisdictional boundaries.

Data monopoly practices carried out by foreign OTTs further worsen Indonesia's position in the global digital arena. Data generated by millions of users is used as fuel to develop artificial intelligence, digital advertising, and market analysis. Companies that control large amounts of data have a competitive advantage that is difficult to match. This situation leaves local businesses behind because they lack access to data on an equivalent scale. This inequality reinforces the dominance of a handful of foreign corporations in the digital economy.

Data has been called the "new oil" due to its highly strategic value in the digital economy era. Controlling large amounts of data means controlling consumer behavior, political preferences, and even social interaction patterns. Foreign OTTs that control Indonesian citizens' data essentially hold control over information that can be exploited for various purposes. The risk of data exploitation without state control is even greater because data flows across national borders without adequate oversight mechanisms. This situation makes the issue of data monopoly not only an economic issue but also a matter of political sovereignty.

Global cases such as those involving Meta/Facebook demonstrate how a data monopoly can have serious repercussions. The Cambridge Analytica scandal is evidence that

user data can be exploited to influence public opinion and even election outcomes. Such practices provide an important lesson for Indonesia: data monopoly is not simply a business issue but is directly related to democracy and political stability. If unaddressed, similar cases could occur in Indonesia, with far-reaching consequences.

Threats to national security are the most crucial impact of weak oversight of foreign OTTs. Sensitive citizen data controlled by foreign parties can be used for purposes detrimental to national interests. Digital infrastructure controlled by foreign companies also opens up the potential for cyberattacks that are difficult to anticipate. This concern places digital sovereignty as an integral part of national defense that must be seriously protected. National security no longer depends solely on military strength, but also on the ability to control digital data.

The economic and socio-political impacts of data monopolies demonstrate that digital sovereignty is not an abstract issue but is actually felt by the public. Market injustice occurs because local actors are unable to compete with the capital and data power of foreign companies. Dependence on foreign platforms also reduces the country's ability to develop its domestic digital industry. On the socio-political side, data monopolies have the potential to be exploited to manipulate public opinion, spread hoaxes, and even polarize society. All of this demonstrates that the challenge of upholding digital sovereignty is multidimensional and must be addressed seriously.

CONCLUSION

The challenge of upholding Indonesia's digital sovereignty in the face of the dominance of foreign Over-The-Top (OTT) platforms primarily relates to the massive control of user data and digital markets, which weakens the country's position. Although a national regulatory framework is in place through Law Number 11 of 2008 concerning Electronic Information and Transactions and its amendments, Law Number 27 of 2022 concerning Personal Data Protection, Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, and Law Number 6 of 2023 concerning the Stipulation of the Government Regulation in Lieu of the Job Creation Law into Law, the implementation of these regulations remains weak when dealing with global digital entities. The biggest obstacle lies in cross-border jurisdiction, where foreign OTTs often operate without a physical presence in Indonesia, making it difficult for authorities to enforce the law and collect legal obligations, whether related to taxation, competition, or the protection of people's personal data. This situation poses a serious risk to Indonesia's digital sovereignty, as control of digital data and infrastructure rests with foreign actors who are not fully subject to national law. To address these challenges, Indonesia needs to strengthen national regulations with more stringent legal instruments, including requiring foreign OTTs to establish legal entities in Indonesia and submit to national jurisdiction. Furthermore, international cooperation on cross-border data governance must be expanded, for example through active participation in global and regional forums governing data security and digital business competition. Domestically, empowering local digital infrastructure, such as the development of a national cloud service, local applications, and an independent digital economy ecosystem, must be a strategic priority to reduce dependence on foreign platforms. Optimizing the role of strategic institutions such as the Business Competition Supervisory Commission (KPPU), the Ministry of Communication and Informatics (Kominfo), and the National Cyber and Crypto Agency (BSSN) is also crucial, both in their supervisory, enforcement, and data protection functions. Inter-agency synergy, strengthened regulatory capacity, and the courage to uphold digital sovereignty will be key for Indonesia in confronting data monopolistic practices by foreign OTTs and maintaining national digital independence.

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