The Urgency of Legal Regulation on the Use of Artificial Intelligence in Digital Marketing Practices in Indonesia

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Article Info	Abstract
	The purpose of this study is to analyze the legal status of Artificial Intelligence (AI) in digital marketing practices in Indonesia and assess the urgency of establishing specific legal regulations governing its fair and accountable use. As digital technology advances, AI is increasingly being used by businesses to automate promotional processes, personalize advertising, and analyze consumer behavior through large-scale data processing (big data analytics). However, the use of AI in this context raises complex legal issues, particularly regarding personal data protection, legal liability, and algorithmic transparency. This study uses a normative juridical approach by analyzing various relevant laws and regulations, including Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), Law Number 8 of 1999 concerning Consumer Protection, and Law Number 27 of 2022 concerning Personal Data Protection (PDP Law). The results of the study indicate that in Indonesia's positive legal system, AI is still viewed as a legal object (instrumental entity) that does not have independent responsibility. Therefore, all legal consequences of its use remain the responsibility of businesses, developers, or electronic system organizers. Based on this, this study confirms that a specific legal framework regarding AI is needed that emphasizes the principles of transparency, accountability, fairness, and protection of digital privacy rights, so that the use of AI in digital marketing can take place ethically, responsibly, and in accordance with the principles of national legal certainty.

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1. INTRODUCTION

The development of Artificial Intelligence (AI) technology has brought significant changes to the digital marketing system in Indonesia. AI algorithms are now widely used to target ads, manage product recommendations, and more. to predicting consumer behavior on digital platforms like Tokopedia, Shopee, and Meta Ads. The use of AI in promotions has been proven to increase efficiency and effectiveness because AI can also act as an analytical tool for decision-making, marketing planning, and strategy through content personalization and real-time big data analysis. However, the use of this technology also poses legal risks that cannot be ignored, such as personal data breaches, manipulation of consumer behavior, and the spread of misleading information through digital advertising automation systems.

However, the rapid adoption of AI in marketing practices has prompted regulatory scrutiny globally. Concerns over data privacy, algorithmic transparency, and the ethical implications of AI-based decision-making processes have prompted governments and

regulatory bodies to intervene with laws and guidelines. For example, regulations like the General Data Protection Regulation (GDPR) in Europe and the California Consumer Privacy Act (CCPA) in the United States aim to protect consumers' data rights and ensure transparency in data use, posing significant compliance challenges for marketers leveraging AI technologies.

From a national legal perspective, Indonesia does not yet have a comprehensive legal framework governing the use of AI in the context of digital marketing. Existing legal instruments such as Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), Law Number 8 of 1999 concerning Consumer Protection, and Law Number 27 of 2022 concerning Personal Data Protection (PDP Law) only generally regulate aspects of data protection and electronic transactions, without addressing legal liability for automated, algorithm-based decisions. Consequently, a legal vacuum exists in determining legal liability if AI systems generate discriminatory advertising, manipulate consumer perceptions, or use personal data without explicit consent.

This situation raises fundamental questions about how AI will be used in digital marketing practices in Indonesia and the extent to which the national legal framework can provide adequate legal protection for consumers. Furthermore, the absence of specific regulations regarding algorithmic accountability and transparency in automated decision-making has created a legal vacuum (*legal vacuum*) that has the potential to harm the public as the object of digital promotion. Therefore, this study seeks to formulate normatively the urgency of establishing legal regulations regarding the use of Artificial Intelligence in digital marketing practices, with the aim of finding an ideal, comprehensive, and appropriate legal protection model that aligns with the principles of justice and legal certainty in the Indonesian national legal system.

This study aims to look at normative analysis of the *urgency of establishing AI marketing regulations from* the perspective of Indonesian national law. This research not only exposes legal gaps (*legal gap*) existing, but also offers conceptual arguments regarding digital consumer protection, algorithm accountability, and legal certainty in the application of AI in the marketing sector, by referring to international practices such European *Union Artificial Intelligence Act (2023)*.

2. RESEARCH METHODS

This research is normative legal research that uses statutory, conceptual, case, and comparative approaches. Primary legal materials include Law No. 27 of 2022 concerning Personal Data Protection, Law No. 8 of 1999 concerning Consumer Protection, and Law No. 2 of 2025 concerning Electronic Information and Transactions. Secondary legal materials consist of relevant books, scientific journals, and international reports. Data analysis was conducted qualitatively using descriptive-analytical methods. to discover and understand the context of using AI in digital marketing practices.

3. RESEARCH RESULTS AND DISCUSSION
3.1. Understanding the Position of AI in Digital Marketing Practices

The development of Artificial Intelligence (AI) technology has fundamentally changed digital marketing practices in Indonesia. AI in marketing is becoming increasingly important and opening new ground in marketing research, strategy, and action, and customer relationships and experiences. As the prevalence and diversity of advancements increase, AI applications continue to grow across industries and sectors. This is also true for AI applications in marketing. Data-driven AI applications personalize and customize products, services, and marketing mix variables. The overall customer journey and service process to engage customers will optimize the value of the experience. This study aims to

identify and systematize opportunities for AI application in marketing. Normatively, the position of AI is still questionable because the positive legal system has not yet seen whether AI will be classified as a legal subject or a legal object. In its use for promotional, advertising or other commercial activities, there are no regulations that definitely accommodate this, so that the interpretation of regulations is still within the scope of the ITE Law and the PDP Law.

The implementation of AI in digital marketing practices is utilized as an automation tool and a data-driven decision-making tool. This is based on an algorithmic system that provides recommendations to buyers by analyzing the user's internet browsing history through a system of *machine learning*. This behavior raises questions about data security, particularly regarding the data collection conducted by AI to make recommendations and personalize customer profiles. The rapid demand for AI algorithms has led to systems conducting massive data analysis and collection, potentially leading to significant cybercrime. Cyber-attacks pose a major privacy threat by exploiting weaknesses in AI systems to obtain sensitive customer data without permission.

Based on civil law principles, tools such as AI are still positioned as legal objects (*instrumental entity*), so that responsibility remains with the human or legal entity operating it. Therefore, within the Indonesian legal framework, AI cannot yet be categorized as a legal entity with its own rights and obligations, but rather as a representation of the actions of the legal entity controlling it. Seeing the fact that AI has extraordinary potential to fill human limitations, in the marketing context, it becomes a central issue in the collaboration between humans and technology, so that policy regulations on the use of AI become an important thing to consider.

The role of AI in digital marketing also overlaps with consumer protection laws, as stipulated in Law Number 8 of 1999 concerning Consumer Protection. AI has the potential to automatically profile consumers and determine personalized advertising content. While this increases marketing efficiency, such practices can violate the right to privacy and the right to obtain accurate information. From a normative legal perspective, AI cannot act autonomously outside established legal boundaries; therefore, data controllers (*data controllers*) and electronic system providers remain legally responsible if AI commits acts that harm consumers. Through these provisions, the Consumer Protection Law seeks to provide a strong legal basis to protect consumers from manipulative practices in the digital era and provide the necessary rights and protections in electronic transactions. Ensuring consumer protection is crucial to instilling a sense of security in meeting life's needs, and must be based on the values of justice and impartiality. The legal basis for consumer protection is outlined in Article 2 of UUPK 8/1999.

Several legal principles form the basis for various rights and obligations. The principle of benefit grants consumers, businesses, and producers the right to obtain benefits without imbalance. The principle of justice ensures that consumers and businesses have equal rights and obligations. The principle of balance emphasizes the balance between the rights and obligations of producers and consumers in accordance with consumer protection laws. The principle of security and safety ensures that consumers can enjoy the benefits of the products they use without endangering their safety or property. The principle of legal certainty provides legal guarantees for producers and consumers in exercising their rights and fulfilling their obligations, where the state guarantees this legal certainty.

Internationally, the trend of AI regulation in digital marketing is starting to develop through the EU Artificial Intelligence Act (2024), which emphasizes the principle of human *oversight*, *transparency*, and *accountability against* any automated system. This principle is relevant to Indonesia, particularly in regulating the use of AI that could potentially violate consumer rights and freedom of information. In the context of national

law, similar principles can be found in Articles 36 and 46 of the Personal Data Protection Law, which regulate the obligations of electronic system operators to ensure the security and accuracy of personal data processing. Therefore, although Indonesia does not yet have a specific law on AI, general principles in information technology law can serve as a basis for regulating legal responsibilities in the use of AI in digital marketing.

Thus, the legal status of AI in digital marketing practices in Indonesia is currently instrumental and not yet autonomous, with legal responsibility remaining with developers, system administrators, or business actors utilizing the technology. However, given the rapid development of artificial intelligence and its potential impact on consumers' digital rights, legal reforms are needed through specific regulations on AI. These regulations must address legal accountability, algorithmic ethics, personal data protection, and transparency principles to ensure that the use of AI in digital marketing is not only economically efficient but also legally and ethically fair.

3.2. Potential Privacy Data Breaches in the Use of AI in Digital Marketing Practices

The development of Artificial Intelligence (AI) in digital marketing practices makes it easier to understand consumer behavior through big data analysis (*big data analytics*), but on the other hand, it raises the potential for serious violations of the right to privacy and personal data protection. In AI-based marketing systems, consumer data becomes a key asset that is automatically collected, analyzed, and processed to generate user profiles (*consumer profiling*), product recommendations, to targeted advertising (*targeted advertising*).

Fierce competition and technological challenges have changed the way businesses operate in today's environment. The approach of *customer-centric global,* focusing on customer needs, plays a vital role in organizational growth. Artificial intelligence is a new technology that is widely used and allows businesses to track data effectively *while* quickly analyzing and responding to customer needs. This process is often carried out without the explicit consent or full understanding of the data owner, potentially violating the principles of personal data protection as stipulated in Law Number 27 of 2022 concerning Personal Data Protection (PDP Law).

Because AI is considered only a supporting system or tool, not a subject, Law 11/2008 stipulates that electronic agent providers, not AI, are responsible for all legal consequences of electronic transactions or activities carried out with the assistance of AI as an electronic agent. The liability borne by electronic agent providers also includes losses caused by AI operational failures caused by third parties. The Indonesian government issued the Indonesian National Strategy for Artificial Intelligence (Stranas KA) in 2020, which addresses AI ethics and policy, AI talent development, and the data ecosystem and infrastructure for AI development. However, Stranas AI is only an outline of national policy, not a law. However, this does not mean that the Indonesian government does not regulate AI technology. Minister of Communication and Information Technology Regulation No. 3 of 2021, for example, regulates licensing aspects for businesses using AI.

Legally, Article 3 of the PDP Law affirms that every individual has the right to the protection of their personal data as part of human rights. In the context of AI-based digital marketing, violations can occur through data collection and processing practices without a valid legal basis, or through the use of data beyond the original purpose of collection (purpose limitation principle). For example, an AI system used by an e-commerce platform can continuously collect data on user purchasing behavior, location, and interactions for personalized advertising purposes without clear notification to consumers. This situation potentially violates Article 20 of the PDP Law, which requires electronic

system operators to obtain explicit consent from data subjects before processing or sharing personal data.

From an information technology law perspective, the use of AI that is self-learning also raises new problems: the system can develop data processing algorithms that cannot be fully supervised by humans (the phenomenon of black *box algorithms*). When the system accesses or disseminates data without adequate control mechanisms, legal responsibility becomes unclear. Based on the principle of vicarious liability, responsibility remains with the business actor, developer, or organizer of the electronic system as the data controller (*data controller*), even if the actions are performed automatically by AI. There are also gaps in the scope and application of current data protection laws to AI systems. De-identification techniques that remove personal identifiers are used to avoid legal liability, but AI can often re-identify data or infer sensitive attributes from anonymized data sets. Many data protection regulations do not cover inferences made about individuals that do not rely on regulated categories of personal data. Prohibitions against fully automated decision-making are difficult to enforce when AI systems subtly inform or influence human decisions.

In addition to violating individual privacy rights, the potential for data misuse in digital marketing practices also includes discriminatory profiling. For example, AI algorithms can group consumers based on gender, age, or location to determine specific prices or types of advertising (*price discrimination*). Such practices can lead to economic injustice and violate the principle of non-discrimination as stated in Article 9 of the PDP Law, which requires data controllers to process personal data accurately and without misleading. In the context of consumer protection law, this behavior also contradicts Article 8 of Law Number 8 of 1999 concerning Consumer Protection, which prohibits the dissemination of information that is misleading or detrimental to consumers.

Conceptually, personal data breaches in digital marketing reflect an imbalance between individuals' rights to digital privacy and corporate economic interests. The theory of "informational self-determination," as developed in German law and adopted by various international instruments such as the European Union's General Data Protection Regulation (GDPR), asserts that individuals have full control over their personal data, including the right to know, consent to, and delete collected data. In the Indonesian context, this principle is accommodated through Articles 10–16 of the Data Protection Law, which regulate data subjects' rights to access, object to, and delete personal data. However, weak law enforcement and public awareness mean that this protection remains formalistic and not yet substantive.

On the other hand, the complexity of AI technology makes it increasingly difficult to monitor the processing of personal data. Many digital marketing algorithms operate within closed, non-transparent systems (*opaque systems*), so data subjects don't know how their information is being used. This limitation highlights the urgent need for algorithmic transparency and AI ethics audits to ensure the legal and ethical oversight of the use of technology in digital marketing. This principle aligns with the idea of responsible AI, which emphasizes that any artificial intelligence system should be designed to respect human rights, including privacy, fairness, and accountability.

From a normative legal perspective, it can be concluded that the use of AI in digital marketing practices increases economic efficiency but also has the potential to threaten the right to digital privacy. The Personal Data Protection Law (PDP) provides a fairly clear legal framework for protecting personal data, but its implementation still faces serious challenges related to oversight, law enforcement, and accountability in autonomous AI-based systems. Therefore, Indonesia requires specific implementing regulations regarding AI, particularly in the field of digital marketing, to regulate aspects of algorithm

transparency, explicit consent, and sanction mechanisms for system operators who neglect to protect consumers' personal data. This way, a balance between technological innovation and the protection of digital human rights can be achieved equitably.

4. CONCLUSION

The use of Artificial Intelligence (AI) in digital marketing practices in Indonesia has brought significant advances in promotional efficiency and consumer behavior analysis. However, the application of AI also raises complex legal challenges, particularly regarding personal data protection, algorithm transparency, and legal liability for the actions of automated systems. Within Indonesia's positive legal framework, AI is still viewed as a legal object, not a legal subject with its own rights and obligations. Therefore, all responsibility for potential violations, such as data misuse, the dissemination of misleading information, and algorithmic discrimination, remains with the business actors, developers, and administrators of the electronic systems that utilize it.

Although legal instruments such as the ITE Law, the Consumer Protection Law, and the Personal Data Protection Law have provided a legal basis in the digital space, specific regulations regarding the use of AI in digital marketing are still missing, thus creating a legal vacuum (*legal vacuum*) in determining the limits of accountability and protection of consumer privacy rights. Therefore, it is necessary to establish special regulations regarding Artificial Intelligence based on the principles of transparency, accountability, and fairness. This regulation is expected to create a balance between technological innovation and legal protection for the public, while ensuring that the use of AI in digital marketing is ethical, fair, and in accordance with the principles of national legal certainty.

5. BIBLIOGRAPHY

[1] W. M. Lim, S. Kumar, S. Verma, dan R. Chaturvedi, "Alexa, what do we know about conversational commerce? Insights from a systematic literature review," *Psychology and Marketing*, vol. 39, no. 6, hlm. 1129–1155, Jun 2022, doi: 10.1002/mar.21654.

[2] Sudirwo *dkk.*, *Artificial Intelligence : Teori, Konsep dan Implementasi Di Berbagai Bidang*, 1 ed. Jambi: Sonpedia Publishing Indonesia, 2025.

[3] S. Nandi, D. P. Subrahmanyan, dan D. S. Singh, "Impact of Ai Regulatory Implications and Policies on Digital Marketing Strategies and Cognitive Behavior of Consumer," *International Journal of Intelligent Systems And Applications In Engineering*, vol. 12, no. 22, hlm. 1154–1163, 2024.

[4] Z. Aidi, "Implementasi E-Court Dalam Mewujudkan Penyelesaian Perkara Perdata Yang Efektif Dan Efisien," *Masalah Masalah Hukum*, vol. 49, no. 1, hlm. 80–89, Jan 2020, doi: 10.14710/mmh.49.1.2020.80-89.

[5] F. Nugroho, "Artificial Intelligence Regulation and Political Ethics: An Analysis of Indonesia's Position in AI Governance," *JPIA*, vol. 2, no. 1, hlm. 42–51, Jun 2025, doi: 10.59261/jpia.v2i1.10.

[6] Muhaimin, *Metode Penelitian Hukum*, 1 ed. Mataram: Mataram University Press, 2020.

[7] Mushafi, *Metode Penelitian Hukum : Teori dan Praktik*, 1 ed. Jawa Tengah: Eureka Media Aksara, 2025.

[8] J. Simarmata *dkk.*, *Artificial Intelligence Marketing*, 1 ed. Jakarta: Yayasan Kita Menulis, 2023.

[9] U. Maskanah, "Artificial Intelligence in Civil Justice: Comparative Legal Analysis and Practical Frameworks for Indonesia," *Jambura Law Rev.*, vol. 7, no. 1, hlm. 225–242, Jan 2025, doi: 10.33756/jlr.v7i1.27786.

[10] I. W. Suarjana, "Etika Bisnis dan Perlindungan Konsumen dalam Algoritma Rekomendasi Marketplace: Studi Kritis Atas Keberpihakan Sistem AI," *JSM*, vol. 6, no. 8, hlm. 2098–2102, 2025.

[11] H. K. Alhitmi, A. Mardiah, K. I. Al-Sulaiti, dan J. Abbas, "Data security and privacy concerns of AI-driven marketing in the context of economics and business field: an exploration into possible solutions," *Cogent Business & Management*, vol. 11, no. 1, hlm. 2393743, Des 2024, doi: 10.1080/23311975.2024.2393743.

[12] F. Nada, F. F. Abqori, I. Rahadiyan, dan B. A. Riswandi, "Gagasan Pengaturan Artificial Intelligence Sebagai Subjek Hukum Di Indonesia," dipresentasikan pada Harmonisasi Hukum Pidana dalam Perspektif Demokrasi dan Hak Asasi Manusia, Yogyakarta: Prosiding Seminar Hukum Aktual Fakultas Hukum Universitas Islam Indonesia, 2024, hlm. 149–157.

[13] H. Hari, A. Sharma, S. Verma, dan R. Chaturvedi, "Exploring ethical frontiers of artificial intelligence in marketing," *Journal of Responsible Technology*, vol. 21, no. 100103, hlm. 1–13, Mar 2025, doi: 10.1016/j.jrt.2024.100103.

[14] L. Floridi, *The Ethics of Artificial Intelligence: Principles, Challenges, and Opportunities*, 1 ed. Oxford University PressOxford, 2023. doi: 10.1093/oso/9780198883098.001.0001.

[15] Y. D. Novita dan B. Santoso, "Urgensi Pembaharuan Regulasi Perlindungan Konsumen di Era Bisnis Digital," *JPHI*, vol. 3, no. 1, hlm. 46–58, Jan 2021, doi: 10.14710/jphi.v3i1.46-58.

[16] J. R. Saura, V. Škare, dan D. O. Dosen, "Is AI-based digital marketing ethical? Assessing a new data privacy paradox," *Journal of Innovation & Knowledge*, vol. 9, no. 4, hlm. 1–16, Okt 2024, doi: 10.1016/j.jik.2024.100597.

[17] A. M. Junaedi, "Urgensi Perlindungan Data Pribadi Dalam Era Digital : Analisis Undang - Undang No. 27 Tahun 2022 Tentang Perlindungan Data Pribadi," *KNOWLEDGE*, vol. 5, no. 2, hlm. 247–257, Jun 2025, doi: 10.51878/knowledge.v5i2.5269.

[18] B. Rolando, K. Ariyanto, K. R. Alexia, dan R. Hartanti, "Peran AI dan Big Data Dalam Mengoptimalkan Strategi Pemasaran Digital," *AIRA: Penelitian Kecerdasan Buatan dan Pembelajaran Terapan*, vol. 1, no. 1, hlm. 1–17, 2022.

[19] T. P. Kurnianingrum, "Urgensi Perlindungan Data Pribadi Konsumen Di Era Ekonomi Digital," *Trias Palupi Kurnianingrum*, vol. 25, no. 3, hlm. 197–216, 2020, doi: 0.22212/kajian.v25i3.3893.

[20] R. Arum Prastyanti dan K. Mustofa, "Urgensi Regulasi Penggunaan Kecerdasan Buatan (AI) Dalam Ecommerce," *jbh*, vol. 8, no. 2, hlm. 167–176, Okt 2024, doi: 10.36596/jbh.v8i2.1413.

[21] B. C. Cheong, "Transparency and accountability in AI systems: safeguarding wellbeing in the age of algorithmic decision-making," *Front. Hum. Dyn.*, vol. 6, hlm. 1–11, Jul 2024, doi: 10.3389/fhumd.2024.1421273.

[22] M. P. Aji, "Sistem Keamanan Siber dan Kedaulatan Data di Indonesia dalam Perspektif Ekonomi Politik (Studi Kasus Perlindungan Data Pribadi) [Cyber Security System and Data Sovereignty in Indonesia in Political Economic Perspective]," *j. politica dinamika masalah politik dalam n.a. dan hub. int.*, vol. 13, no. 2, hlm. 222–238, Jan 2023, doi: 10.22212/jp.v13i2.3299.

[23] N. E. Dzaky, R. Muaafii, dan M. H. Santoso, "Etika Media Digital dalam Era Kecerdasan Buatan," *Jurnal Seni Rupa Warna*, vol. 13, no. 2, hlm. 193–207, 2025, doi: 10.36806/jsrw.v13i2.714.

[24] I. Martinelli, C. Venessa, dan E. J. Hiumawan, "Urgensi Pengaturan dan Perlindungan Rights of Privacy terhadap Artificial Intelligence dalam Pandangan Hukum sebagai

Social Engineering," *Jurnal Tana Mana*, vol. 4, no. 2, hlm. 157–166, 2023, doi: https://doi.org/10.33648/jtm.v4i2.415.