



## ABSTRACT

Assessing Virtual Market Justice: The Potential of Ihtikar and Gharar on Digital

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*The rapid development of the digital economy has positioned e-commerce platforms as crucial accelerators for Micro, Small, and Medium Enterprises in Indonesia, while simultaneously presenting challenges of potential market distortion mediated by dominant algorithmic power. This research aims to assess virtual market justice by analyzing the potential for ihtikar and gharar on digital platforms amidst inflation. Using a qualitative method with a library research approach, this study examines how algorithmic mechanisms can create market distortions. The research findings indicate that; virtual market justice is threatened by systematic anti-competitive practices such as algorithmic discrimination; ihtikar and gharar on digital platforms manifest as a monopoly on market access and operational uncertainty due to 'black box' mechanisms; and the digital inflation contribution is evident in how these distortionary practices exacerbate the negative impacts of inflation on MSMEs and consumers. This study concludes that there is a fundamental conflict between current platform business models and the Islamic principle of justice, thereby recommending the strengthening of the regulator's role as a form of modern hisbah.*

**Keywords:** Virtual Market Justice, Ihtikar and Gharar on Digital Platform, Digital Inflation Contribution



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## Introduction

The global economy in recent years has faced significant inflationary pressures, triggered by a combination of the continuing effects of the COVID-19 pandemic and the energy crisis. (Asri Meilandari, 2025) The pandemic disrupted global supply chains, which were further exacerbated by geopolitical tensions such as the Russia-Ukraine war, leading to soaring prices for energy and food commodities. (Silalahi et al., 2023) In response, many central banks worldwide, especially in the United States and Europe, implemented tight monetary policies by sharply increasing benchmark interest rates to curb inflation. (Silalahi et al., 2023) While aimed at stabilizing prices, this policy has caused significant consequences such as slowing global economic growth and increasing recession risks, which directly reduced public purchasing power and heightened economic uncertainty in various countries, including Indonesia. (Ramandini et al., 2024)

Amidst these economic challenges, digital transformation has emerged as one of the drivers of national economic resilience, particularly for the Micro, Small, and Medium Enterprises (MSMEs) sector. (Silalahi et al., 2023) The COVID-19 pandemic acted as an accelerator for digital technology adoption, where many business actors flocked to digital platforms to ensure their operational continuity. (World Bank, 2021) Digital platforms, such as e-commerce and ride-hailing services, have become crucial infrastructure enabling millions of MSMEs to survive and grow. A study by INDEF showed that digitalization brought a significant positive influence on MSMEs, marked by increased annual turnover and additional workforce. In fact, 88.37 percent of MSMEs that switched from offline-to-online experienced an increase in turnover, while 99.40 percent of digitally-born MSMEs (online from the start) also recorded increased revenue compared to when they first started. (Amali et al., 2025)

However, behind its vital role, the digital ecosystem presents a series of "frictions" and complex new challenges related to healthy business competition. Market power concentrated in a few giant platforms creates the potential for abuse of dominant



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positions, one of which is through non-transparent algorithmic mechanisms. This phenomenon became a serious concern when the Business Competition Supervisory Commission (KPPU) in 2024 investigated PT Shopee International Indonesia for alleged discriminatory practices through algorithmic settings that prioritized its affiliated courier service, PT Nusantara Ekspres Kilat. (Wijayanto et al., 2024) On other platforms, the issue of TikTok's "Project S" also emerged, raising public concern about predatory pricing practices and allegations of platform use of local MSME sales data to create competing products at much lower prices. (Rahman, 2024) Various complaints from MSMEs about the tight competition on digital platforms, which is the main challenge according to 96,46% of business actors, indicate strong suspicions that the current digital market architecture potentially creates distortions and unfair business competition. (Amali et al., 2025)

This condition creates a dilemma: on one hand, digital platforms are heroes for MSMEs, but on the other hand, they potentially become arenas for unfair competition regulated by algorithmic codes that cannot be audited by the public. This modern phenomenon demands a deeper analysis, not only from the perspective of conventional competition law but also from the perspective of ethics and more fundamental economic justice, such as that offered by Islamic Economics. Therefore, this study aims to answer the question: To what extent do algorithmic working mechanisms on e-commerce platforms potentially create market distortions resembling the practices of *ihthikar* (hoarding/monopoly) and *gharar* (uncertainty), and how is this phenomenon analyzed using the framework of healthy competition in the perspective of Islamic Economics? Through this analysis, the research aims to contextualize classical Fiqh Muamalah concepts within modern digital market phenomena and offer a critical review of business competition issues in the digital realm.



## Literature Review

### Platform Economy and Algorithmic Market Mechanisms

The platform economy has fundamentally changed the landscape of business competition. Digital platforms like e-commerce no longer function as passive markets that merely connect sellers and buyers; they have evolved into private regulators. (Zuboff et al., 2019) They have the power to set the rules of the game, curate which products get visibility, determine cost structures, and even manage vast amounts of transaction data. In this ecosystem, platforms hold significant control over market access, making businesses like MSMEs highly dependent on the policies and mechanisms they implement. This concentrated market power creates an environment where the potential for anti-competitive behavior is higher than in conventional markets.

One of the main risks in the platform economy is the abuse of dominant position, a practice prohibited in Article 25 of Law No. 5 of 1999. (UU Nomor 5 Tahun 1999, 1999) A dominant position is defined as a situation where a business actor has no significant competitors or holds the highest position in the market. Although holding a dominant position is not illegal in itself, its use to inhibit or eliminate competitors is a serious violation. A concrete example of this alleged abuse is the case investigated by the KPPU, where PT Shopee International Indonesia was accused of using its dominant position to prioritize its affiliated courier service, PT Nusantara Ekspres Kilat, thereby potentially closing off access for other courier service providers to compete fairly within its platform. (Wijayanto et al., 2024)

This abuse of dominant position is often executed through biased and discriminatory algorithmic mechanisms. Algorithms, which are essentially sets of computational instructions, are designed to optimize specific goals, such as platform profitability or platform-defined user satisfaction. (Roy, 2017) Consequently, algorithms can systematically provide different treatment to certain business actors, a



practice prohibited in Article 19 letter d of Law No. 5 of 1999. This phenomenon of algorithmic bias can manifest in unfair product recommendations, search results that prioritize affiliated merchants, or even "shadow-banning" allegedly occurring on the TikTok platform, where the visibility of local MSME products is reduced to make way for the platform's own products.(Rahman, 2024)

Furthermore, platforms with dominant positions can use predatory pricing strategies as a weapon to kill competition. This practice involves setting prices below production costs with the aim of driving competitors out of the market, only to raise prices again once a monopoly is achieved. The "Project S" issue on TikTok serves as a relevant case study, where there are concerns that the platform uses data analysis of best-selling MSME products to then produce similar goods in China and sell them at extremely low prices in the Indonesian market. Such practices not only harm domestic MSMEs directly but also damage the healthy and fair market structure in the long run.(Rachmadi usman, S.H., 2013)

### **The Framework of Healthy Competition in Islamic Economics**

The primary foundation of all economic activity in Islam, including market mechanisms, is the principle of justice (al-'adl). Justice in the market context means ensuring no party is oppressed (zulm), there is equal opportunity for all business actors, and full transparency in every transaction. The market must not be an arena where the strong prey on the weak.(Rahman, 2024) Therefore, any modern market structure or mechanism, including those based on algorithms, must be tested based on its ability to uphold this principle of justice. If a mechanism inherently creates discrimination and hinders small businesses, then that mechanism is substantially contrary to the foundations of an Islamic market.

Monopolistic practices and exploitative market control are strictly prohibited in Fiqh Muamalah through the concept of ihtikar. Classically, ihtikar is understood as the act of hoarding staple goods to sell at high prices during times of scarcity.(M. Umer Chapra, 2000) However, the substance ('illah) of this prohibition is to prevent the



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control of essential resources to damage price mechanisms and harm the public. In the digital economy context, the most crucial "resources" are visibility and market access. Thus, the prohibition of ihtikar can be contextually reinterpreted. The act of a platform systematically using algorithms to "hoard" traffic and visibility only for its affiliated products, while "hiding" competing MSME products, can be analogized as a form of algorithmic ihtikar or ihtikar al-fursah (hoarding of opportunity).

Another relevant key principle is the prohibition of gharar, which is excessive uncertainty or ambiguity that can lead to disputes or losses. (Auda, 2008) The nature of platform algorithms as a "black box" creates a significant condition of gharar for MSMEs. Sellers often lack clear information as to why their products suddenly gain exposure or why their sales drop drastically. Dependence on such a non-transparent mechanism makes business planning extremely difficult and places MSMEs in a vulnerable position, which substantially contains elements of gharar in the partnership relationship between the platform and its merchants.

To ensure these principles are upheld, Islamic civilization developed the institution of Al-Hisbah, a market supervisory body led by a muhtasib. Its duty was to ensure there was no fraud, deception (tadlis), monopolistic practices (ihtikar), or other injustices in the market. (Nofrianto et al., 2021) The spirit and function of Al-Hisbah are highly relevant for adoption in the modern context. State institutions like the Business Competition Supervisory Commission (KPPU) can be seen as manifestations of the modern hisbah institution. The KPPU's role in investigating discriminatory practices by digital platforms and enforcing Law No. 5 of 1999 is essentially an implementation of the spirit of amar ma'ruf nahi munkar (enjoining good and forbidding evil) in the economic field, ensuring the market operates fairly and protecting weaker business actors from exploitative practices.

## Methods

This study employs a qualitative research method with a descriptive library research approach. This approach was chosen because the research aims to deeply



understand the phenomenon of business competition in the digital market by relying on secondary data in the form of theories, previous research, and other relevant literature sources. Data sources are derived from primary legal materials such as laws and regulations, as well as secondary materials including scientific journals, books, and research reports from credible sources relevant to the topic. All collected data were then analyzed descriptively and qualitatively, where the existing information was systematically described to gain clarity in answering the research problems. (Sugiyono, 2019)

## **Result and Discussion**

### **Case Studies: Potential Distortions in Indonesia's Digital Market**

The dominance of digital platforms in the Indonesian economy is undeniable. Research reports show that platforms like Shopee have become the main sales channel for the majority of MSMEs venturing into the digital world. This highly dominant position, while beneficial in expanding market access for MSMEs, also opens loopholes for unfair business competition practices. (World Bank, 2021) Two prominent cases in recent times clearly illustrate this potential distortion: the KPPU's investigation into Shopee and the "Project S" issue initiated by TikTok.

The first case that garnered spotlight was the KPPU's investigation into PT Shopee International Indonesia and PT Nusantara Ekspres Kilat (Shopee Express) in 2024. The investigation, under case number 04/KPPU-I/2024, focused on alleged violations of Article 19 letter d and Article 25 of Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. The KPPU found strong indications that Shopee had discriminatorily manipulated its platform's algorithm to automatically prioritize its affiliated courier service, Shopee Express, on the seller's dashboard and limit other courier choices for consumers. (Wijayanto et al., 2024) This act of self-preferencing through algorithmic engineering is a clear example of how a platform's dominant position can be abused to hinder competitors and limit consumer choice within its ecosystem.



The second case that caused widespread unrest among MSMEs was TikTok's "Project S." This initiative is a cross-border business model initiated by TikTok's parent company, Bytedance, which potentially creates an unbalanced competition. (Rahman, 2024) The modus operandi is to use internal platform data to identify trending and best-selling products in a country, including Indonesia. Armed with this data, Bytedance-affiliated companies in China then produce similar items and sell them directly to consumers via TikTok Shop at very low or predatory prices. (Rahman, 2024) This strategy not only has the potential to kill local MSME businesses whose products are imitated but also blurs the line between the platform as a market provider and the platform as a seller, which creates serious conflicts of interest and damages a healthy competition climate.

### **Analysis of Market Distortion from a Fiqh Muamalah Perspective**

The phenomenon of market distortion occurring on modern digital platforms can be analyzed in depth using the conceptual framework of Fiqh Muamalah. The principles of justice (al-'adl), which are the soul of Islamic economics, provide a relevant analytical tool to examine practices such as algorithmic bias and predatory pricing. Two key concepts that can be used to analyze this phenomenon are ihtikar (monopolistic practices) and gharar (uncertainty).

### **Algorithmic Ihtikar: Hoarding Access and Opportunity**

Classically, ihtikar refers to the practice of hoarding staple goods to create artificial scarcity for the sake of obtaining excessive profits. The substance of this prohibition is to prevent the control of vital resources that could harm public interest. In the context of the digital economy, the most vital "resources" are not physical goods, but rather visibility and access to consumers. (Syaparuddin, 2017) When a platform like Shopee is alleged to manipulate algorithms to monopolize logistics services, or when TikTok is alleged to use its data to eliminate other sellers, they are essentially engaging in "opportunity hoarding" (ihtikar al-fursah). This practice can be categorized as



algorithmic ihtikar, where algorithms are used as a tool to control market access, obstruct competitors, and unfairly direct profits to affiliated entities. This behavior substantially violates the spirit of the ihtikar prohibition because it damages fair and healthy competition mechanisms.

### **Algorithmic Gharar: Uncertainty in the "Black Box"**

Another relevant muamalah principle is the prohibition of gharar, which is the existence of excessive uncertainty, ambiguity, or lack of transparency in a transaction or business relationship. (M. Umer Chapra, 2000) The nature of platform algorithms as a "black box" creates a significant condition of gharar for the MSMEs selling on them. Sellers often lack a clear understanding of why their products gain high visibility at one time and suddenly "disappear" at another. The dependency of a business's fate on a mechanism whose logic is closed and can change at any time without notice creates extreme uncertainty (gharar fahisy). The partnership relationship between the platform and MSMEs becomes unequal due to fundamental information asymmetry, where one party (the platform) has full knowledge and control, while the other party (MSMEs) can only accept the impact without understanding the cause and effect. (World Bank, 2021)

### **Towards Equitable Digital Market Supervision: The Modern Hisbah Concept**

In the history of Islamic civilization, the enforcement of justice in the market was carried out by an institution called Al-Hisbah, led by a muhtasib. The main task of hisbah was to ensure there was no fraud, monopoly, or other harmful practices, and to protect the rights of consumers and weaker business actors. (Huddin & Fahmi, 2025) This spirit and function of supervision are highly relevant for implementation in the complex modern digital market context.

The role of state institutions like the KPPU is essentially a manifestation of the hisbah function in the contemporary era. The KPPU's proactive actions in investigating alleged monopolistic practices and unfair business competition by Shopee are concrete



examples of implementing the modern hisbah spirit.(Wijayanto et al., 2024) This step demonstrates that the state is present to supervise the behavior of dominant business actors and protect the business ecosystem so that it remains fair and competitive. Similarly, public pressure and the government's response, which led to new regulations such as Minister of Trade Regulation No. 31 of 2023 to regulate social commerce in reaction to the "Project S" issue, can be seen as a collective effort to uphold market justice principles.(Rahman, 2024) Therefore, a strong, transparent, and adaptive supervisory framework inspired by the principles of justice and the control function of the hisbah institution becomes a necessity to ensure that the digital economy can grow in a healthy, innovative, and equitable manner for all parties, especially for the MSMEs that form the backbone of Indonesia's economy.(Silalahi et al., 2023)

## Conclusion

This study concludes that digital platforms in Indonesia play a dilemmatic dual role: on one hand, as vital engines of growth for millions of MSMEs, but on the other hand, as potential arenas for market distortion regulated by algorithmic power. Business practices identified in the case studies, such as algorithmic discrimination and predatory pricing, indicate an abuse of dominant positions that can systematically harm small business actors. From the perspective of Islamic Economics, these centralized and non-transparent digital market mechanisms can be substantially analogized to forbidden practices. The behavior of controlling visibility and market access resembles the concept of ihtikar (monopolistic practice) in its modern form, while the "black box" nature of algorithms creates conditions of extreme uncertainty (gharar) for MSMEs. Thus, there is a fundamental clash between current platform business models and the principle of justice (al-'adl), which is the foundation of the market in Islam.

This analysis shows that the conventional business competition legal framework, although important, needs to be complemented by an economic ethics perspective to understand the dimension of justice more comprehensively. This study finds that the principles of Fiqh Muamalah offer a rich analytical framework for



assessing the socio-economic impact of modern market technology. The historical concept of the Al-Hisbah institution as a market supervisor proves to be still highly relevant as a model for formulating supervisory policies in the digital era. Therefore, proactive actions by regulators like the KPPU in investigating and acting against anti-competitive practices on digital platforms can be seen as a manifestation of the contemporary hisbah function, which is essential for protecting the economic ecosystem from exploitation and ensuring that digital technology brings equitable benefit (maslahah).

### Author Contributions

Heru Setyowiyono : Conceptualization, Methodology, Formal Analysis, Investigation, Writing Original Draft.

Dr. Binti Nur Asiyah, M.Si. : Conceptualization, Supervision, Writing Review & Editing, Project Administration.

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