From Divergence to a Hybrid Regulatory Model for Digital Platforms Disruption: EU vs. Asean

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Abstract

This paper offers an original perspective on how jurisdictions with different economic priorities respond to the disruptive impact of digital platforms, focusing on the EU and ASEAN. It contrasts the EU's hard-law, ex ante paradigm—embodied in the Digital Markets Act and the Artificial Intelligence Act—with ASEAN's flexible, soft-law governance, centred on the ASEAN Digital Masterplan 2025 and the ongoing Digital Economy Framework Agreement (DEFA) negotiations. The analysis examines Vietnam's Draft Law on Digital Transformation, which introduces ambitious obligations for dominant platforms and stands as a regional hard-law experiment closer to the EU approach. Engaging with ASEAN's increasingly active debate on platform regulation and the balance between growth and competition, the paper contributes analytical tools and policy insights for regional reform. Moving beyond the hard-law/soft-law divide, it advances a hybrid-progressive regulatory model for ASEAN that modulates the intensity of obligations according to platform scale and power and progressively strengthens national and regional enforcement capacities, fostering a more integrated, contestable, and investment-conducive ASEAN digital market.

Research purpose:

Comparatively assess the regulatory experiences of the EU and ASEAN – assuming Vietnam as bridging case – in order to identify the most suitable regulatory model for ASEAN's digital markets, capable of ensuring market contestability while fostering innovation and the region's economic growth.

Research motivation:

Digital platforms operate in globalised markets, creating competitive risks in every region of the world. A unified response or a convergence of regulatory models, as proposed in this research, helps reduce the risks of international regulatory fragmentation and enables emerging economies to establish contestable markets ab initio, thereby preventing the emergence of market concentration phenomena such as those experienced in Europe.

Research design, approach, and method:

The study adopts a qualitative comparative approach, analysing key European and ASEAN instruments (DMA, AI Act, ASEAN Digital Masterplan 2025, DEFA, and Vietnam's Draft Law), and integrates decisions of competition authorities and scholarly literature, in order to identify common challenges and to assess the feasibility and effectiveness of a hybrid and progressive regulatory model.

Main findings:

Building on this comparative insight, the paper advances an original proposal for a hybrid and progressive regulatory model. This model combines EU-style targeted ex ante obligations—such as on interoperability, data portability, and algorithmic accountability—with ASEAN's flexible governance, allowing enforcement to be graduated and proportionate to platform scale and market impact. Such a calibrated framework can enhance market contestability ab initio, while safeguarding innovation, inclusiveness, and the growth potential of ASEAN's digital economy.

Practical/managerial implications:

The proposed hybrid and progressive approach, inspired by the DMA's "Brussels Effect", allows ASEAN policymakers to draw on established EU regulatory standards without replicating their full rigidity, preserving a flexible and gradual coordination framework that respects the differences between the two economic and legal systems. At the same time, the model benefits businesses: large global platforms, already compliant with the DMA, can re-use the technical standards adopted for EU compliance, reducing costs and the risks of regulatory fragmentation; local SME platforms remain subject to proportionately less stringent obligations, while gaining from a level playing field that supports scalability and innovation.

Keywords: Digital Markets Act, AI Act, ASEAN Digital Masterplan, Digital Transformation Law, ex-ante regulation, soft law

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1. INTRODUCTION

Digital platforms have become structural pillars of the global economy, operating through inherently disruptive business models (Christensen, 1997). These models simultaneously generate opportunities and challenges. On the opportunity side, platforms enable firms to create new value, foster technological innovation through the use of personal data (for instance, AI systems), facilitate the emergence of new markets such as cross-border e-commerce and social media, and to provide large-scale personalized services, including targeted advertising. On the challenge side, platforms contribute to the concentration of power in the hands of a few global players who control entire sector of digital markets, set market rules, drive innovation, and restrict the entry of competitors such as SMEs and innovative start-ups (Crémer, de Montjoye, & Schweitzer, 2019; Stucke & Grunes, 2016).

Amid these ongoing transformations, governments worldwide must decide whether to adopt preventive regulatory measures or to allow markets to evolve through the emergence of new business models and technological innovations, in the absence of specific regulatory frameworks.

The European Union has opted for the former. With the Digital Markets Act (Digital Markets Act, 2022), which became fully applicable in 2024, the EU has established a binding hard law framework directed at digital gatekeepers, with the aim of ensuring fairness and contestability in highly concentrated digital markets. The objective is to curb the excessive concentration of power in the hands of large technology undertakings, to facilitate the entry and competitiveness of SMEs and start-ups and fostering fair and contestable markets. The European strategy is clear: to anticipate market dynamics and regulate platforms *ex ante* through specific obligations and prohibitions, rather than relying exclusively on *ex post* sanctions once harm to consumers and markets has already materialized.

In parallel, the EU has introduced a comprehensive regulatory framework for artificial intelligence with the Artificial Intelligence Act (AI Act, 2024), which also entered into force in 2024. The Regulation adopts a risk-based approach, distinguishing between prohibited, high-risk, and limited-risk AI systems, while imposing corresponding transparency and traceability requirements (Veale & Borgesius, 2021). The European model is driven by a sense of urgency that legitimises reliance on hard law: the need to regulate digital business models and to steer the trajectory of technological development before they escape public oversight and undermine the resilience of the European economic fabric.

By contrast, ASEAN (the Association of Southeast Asian Nations), as a rapidly developing economy overall, characterized by the absence of a centralized institution comparable to the European Union and by the principle of non-interference in the internal affairs of its Member States, has relied on (necessarily) different instruments in the regulation of digital platforms: soft law measures and gradual, flexible forms of harmonization, oriented towards the economic and technological growth of the various states that compose the ASEAN mosaic. In recent years, at a macro level, ASEAN has undertaken significant initiatives such as the ASEAN Digital Masterplan 2025 (ASEAN, 2025a) and the ongoing negotiations on the ASEAN Digital Economy Framework Agreement (ASEAN, 2024), which aims to establish common principles on e-commerce, data governance, artificial intelligence, and interoperability. Alongside these regional frameworks, at the domestic level ASEAN Member States display diverse approaches: while a foundation of soft law and regulatory flexibility remains, there are also instances of binding legal measures for platform regulation and a strengthening of competition enforcement.

Among these experiences, Vietnam, which serves as the case study of this paper, is undergoing a dynamic phase of regulatory activity, in which the Law on Digital Transformation (Draft of Digital Transformation Law, 2025) stands out—still under negotiation and expected to be finalised by the end of 2025.

Singapore, for instance, introduced the Model AI Governance Framework and a co-regulatory approach that has become a global benchmark (PDPC, 2020). Thailand and Malaysia have likewise advanced reforms, respectively through a Royal Decree on digital platform services (Royal Decree on Digital Platform Services, 2022), and ethical guidelines on artificial intelligence (MCMC, 2024), reflecting a heterogeneous regional trajectory that remains, overall, oriented towards soft law.

The contrast between the EU's prescriptive *ex ante* regulation and ASEAN's reliance on soft law, regional coordination, and evolving national policies highlights crucial questions about the governance of digital business models:

1. What are the main features of the European Union's regulatory approach in digital markets and artificial intelligence, in particular through the Digital Markets Act and the AI Act?
2. What are the key points of divergence and the potential areas of convergence between the DMA/AI Act and ASEAN initiatives, in particular the DEFA and national legislations?
3. In what ways does the draft Vietnamese Law on Digital Transformation differ from or align with the European model set by the DMA?
4. What is the most appropriate regulatory model for ASEAN, and to what extent can the Brussels Effect of the DMA contribute to shaping a framework suited to emerging digital markets?

This study seeks to move beyond a merely descriptive comparison between the approaches of the European Union and ASEAN countries to digital platforms, with the broader objective of outlining a hybrid-progressive regulatory model tailored to the ASEAN system. It aims to fill a significant gap in the literature by advancing the argument that a balanced combination of modular *ex ante* obligations and strengthened *ex post* enforcement may represent the most effective way to align, in the long term, the divergent economic and institutional realities within the ASEAN region. Within this

framework, the Vietnamese experience is examined not merely as a domestic case, but rather as a strategic testing ground and a starting point for considering the potential of an innovative regulatory paradigm capable of shaping ASEAN's future regulatory trajectory.

Against this background, the article pursues three interrelated objectives: first, to map the regulatory and soft-law obligations emerging in both regions; second, to undertake a comparative analysis of their implications for platform business models; and third, to develop critical reflections on possible avenues of convergence and paths towards hybrid-progressive harmonisation.

The article is structured as follows: it begins with an analysis of the European context, proceeds with an examination of the ASEAN regional framework and the Vietnamese case study, and concludes with a comparative assessment from which policy recommendations for ASEAN countries are derived. The research is based on a review of the relevant legal framework (regulations, statutes, decrees, and official guidelines), together with key policy documents (including the DMA and AI Act for Europe, the DEFA, the ASEAN Digital Masterplan, and the draft Vietnamese Law on Digital Transformation), supported by academic literature. The legal analysis is complemented by a business-oriented perspective, aimed at evaluating the cost of regulatory obligations that could potentially be implemented in ASEAN countries. The results of this research are informed by the author's academic experience within the European Commission, DG Competition – Unit J.2 Digital Markets Act, tasked with the enforcement of the DMA.

2. THEORETICAL BACKGROUND: GLOBAL DIGITAL MARKETS BETWEEN INNOVATION AND REGULATION

Digital platforms have become the backbone of the global economy, operating through inherently disruptive business models, built on multi-sided intermediation: the ability to connect different groups of users—consumers, advertisers, vendors, developers—creating value through the management of these interactions (Rochet & Tirole, 2003). This architecture not only fuels extraordinary economies of scale and scope but, more importantly, generates both direct and indirect network effects: the more users participate on one side of the platform (end users), the greater the value for users on the other side (business users), and vice versa (Tucker, 2018). The nature of competition itself shifts: rivalry no longer unfolds "within the market", as competition among a plurality of actors for market shares, but rather "for the market", where the competition concerns the control of entire digital ecosystems and the data they generate (Evans & Schmalensee, 2016).

Market power is, in essence, rooted in the control of (potentially) unlimited datasets. User data are collected through online activities; the processing of such data (with algorithms) renders observable information on consumer behaviour (online and offline), preferences (eg. political affiliation, sexual orientations etc), and willingness to pay. These informations enable platforms to construct detailed user profiles (profilation) to (i) personalise digital services and foster innovation, (ii) refine recommendation algorithms, and (iii) maximise revenues through personalised advertising.

The capacity of large technology firms to exploit data thus becomes a genuine barrier to entry. Smaller or new entrants, lacking comparable datasets and user bases, are unable to replicate such economies of scale or to provide "free" services without leveraging vast quantities of data for advertising purposes (Crémer et al., 2019). Empirical evidence confirms the economic significance of data monetisation: without user tracking, the average price of digital advertising decreases by up to 23%, while restrictions on cookies translate into estimated annual losses of nearly €1 billion in the European display advertising market (Laub, Miller & Skiera, 2024). A recent report issued by Meta (2025) estimated that personalised advertising generated more than €213 billion in revenues across the European Union.

These underscore both the intrinsic economic value of data in disruptive business models and the structural asymmetry between incumbent platforms, equipped with vast and potentially unlimited datasets, and new entrants—such as SMEs and innovative start-ups—facing high barriers to entry.

A further structural concern is the users' lock-in phenomenon. Switching to a rival platform often entails the loss of contacts, content, or access to integrated services (the so-called switching costs). This is compounded by the use of dark patterns, such as interface designs that induce users to disclose personal data and discourage migration to alternative providers (Klemperer, 1995). Users are concentrated in few platforms; switching to other operators (new entrants) is discouraged by strong lock-in mechanisms, the lack of interoperability across digital ecosystems, and data portability (European Commission, 2019). It is therefore unsurprising that the European Commission has identified interoperability and data portability as essential conditions for ensuring market contestability (European Commission, 2019). Dominant platforms, however, have little incentive to promote such tools (Autorité de la concurrence & Bundeskartellamt, 2019). Beyond the operational costs of implementing compatible technologies, interoperability and portability weaken their ability to retain users. Consequently, absent legally binding obligations, spontaneous adoption appears unlikely and, from a business perspective, counterproductive.

In digital markets, moreover, platforms do not act as mere intermediaries between two sides without direct involvement. Incumbents operate as de facto private regulators: they set access rules, establish technical standards, define ranking criteria, and collect fees. As several commentators have noted, the power they exercise resembles a form of normative authority without democratic legitimacy (Khan, 2017).

The spread of algorithmic and artificial intelligence systems has further intensified asymmetries in B2C relations and the concentration of market power. Recommendation algorithms, dynamic pricing systems, and generative models further

exacerbate information asymmetries and strengthen the market power of innovative incumbent platforms. Opacity in decision-making processes, algorithmic discrimination, and the manipulation of consumer choices (Gal & Rubinfeld, 2019) render users unaware of how their data are processed and of the logic underpinning algorithmic decisions that affect them (Sunstein, 2016).

Viewed in the aggregate, these dynamics rapidly lead to a concentration of market power in the hands of a few digital operators.

The effects of these features in digital markets are self-evident: it suffices to observe that in 2023, the five major big tech companies—Alphabet, Amazon, Apple, Meta, and Microsoft—the so-called GAMMA—generated total revenues exceeding $1.5 trillion (PwC, 2024). An amount equivalent to more than the GDP of several emerging economies. Geographically, these platforms hold dominant positions in Europe and the United States, with a strong presence also in Asian and Latin American markets. Google is the global leader in search engines (market share over 90%); Amazon holds around 40% of U.S. e-commerce, while also rapidly growing in Southeast Asia (OECD, 2022; Statista, 2024).

The author does not seek to deny the opportunities and the value of the innovations introduced by big tech over the past two decades, nor the broader technological progress and job creation in many countries, including Europe. The World Bank confirms that the digital economy accounts for over 15% of global GDP, while noting that online advertising alone generates $600 billion annually (World Bank, 2023). Furthermore, the McKinsey Global Institute report highlights that digital technologies and artificial intelligence in economic sectors could generate up to an additional $13 trillion by 2030 (McKinsey, 2018).

The question is that such positive elements cannot be properly assessed without taking into account the factual situation: there are no real alternatives to the well-known big tech companies, and for SMEs and innovative start-ups it is almost impossible to replicate the advantages stemming from data, economies of scale and scope, and the strong network effects enjoyed by the dominant firms (Crémer et al., 2019; Motta & Peitz, 2020). It follows that competition is severely weakened and an entire economic fabric—such as that of SMEs and innovative start-ups—is excluded from competition in digital markets (Ezrachi, 2018). Such concentration of private power raises profound questions of legitimacy and underscores the imperative of a public regulatory response capable of restoring balance (Ezrachi & Stucke, 2016).

While this is established with respect to the European Union (Digital Markets Act, 2022), similar instances are also observed in the Asian context. SMEs, which represent more than 97% of the business fabric, depend on foreign big tech companies for market access, which determine the conditions, prices, and access standards (ASEAN, 2024).

3. DISCUSSION: THE EUROPEAN APPROACH TO THE GOVERNANCE OF DIGITAL MARKETS AND TECHNOLOGY

3.1 THE DIGITAL MARKETS ACT (DMA)

The backbone of the European single market is represented by small and medium-sized enterprises. According to estimates by the European Commission, they represent over 99% of European businesses, generate more than €38 trillion, and employ about 163 million people—equal to two-thirds of total private employment (European Commission, 2020). Despite this centrality, their ability to compete in digital markets is severely hampered, with reduced growth and scalability of SMEs (Crémer et al., 2019). Empirical studies have shown that self-preferencing practices in search engines drastically reduce the visibility of smaller competitors (European Commission, 2017), while the imposition of proprietary payment systems in app stores limits the ability of independent developers to monetize their services (European Commission, 2025b). As a result, SMEs, despite constituting the backbone of the European economy, struggle to fully benefit from the opportunities offered by digitalization.

The limitations of European competition law emerge clearly in this context. *Ex post* instruments have proven too slow, due to the length of antitrust proceedings, and largely ineffective. The Google cases decided by the European Commission are illustrative: in 2017, a fine of €2.42 billion for the Google Shopping abuse (investigation opened in 2010); in 2018, a record €4.34 billion fine related to Android (investigation opened in 2015); and in 2025, a further €2.95 billion fine for abusive practices in online advertising technology (investigation opened in 2021) (European Commission, 2017; 2018; 2025a). Despite the magnitude of these sanctions, the anticompetitive effects persisted, showing that fines by themselves are insufficient to rebalance already consolidated markets (Motta & Peitz, 2020). To this day, no alternative competitor to Google has managed to emerge in search engines.

This temporal mismatch between technological innovation (and/or anticompetitive practices) and regulatory response has generated the so-called regulatory gap (OECD, 2022), reflecting the slowness and structural inefficiency of institutions in keeping pace with market disruption. From this arises the growing awareness—emerging both in the academic literature and in the policy debate—of the need for *ex ante* regulation of digital platforms.

Therefore, in order to foster the growth of SMEs and secure their effective access to digital markets, the European Union has undertaken a genuine paradigm shift. Rather than limiting itself to sanctioning abusive practices through traditional *ex post* competition law tools, the EU has pioneered, globally for the first time, a preventive *ex ante* approach, directly regulating the business models of large digital platforms. The Digital Markets Act Regulation (DMA), adopted in 2022 and fully applicable since March 2024, represents the clearest expression of this new philosophy (Digital Markets Act, 2022).

The rationale is straightforward: to safeguard fairness and contestability in digital markets by preventing a handful of

global actors, the so-called gatekeepers, from unilaterally setting the rules of digital competition.
The DMA distinguishes between three qualitative conditions for designation (significant impact on the internal market; an "important gateway" core platform service; and an entrenched and durable position, or foreseeable near-term entrenchment) and quantitative thresholds that create a rebuttable presumption. Where the presumption does not apply, the Commission may rely on indicators such as network effects and data-driven advantages, economies of scale and scope, user lock-in and switching costs, vertical integration or a conglomerate structure enabling data combination and leveraging, and other structural features (Art. 3 DMA). With regard to the designated platforms, the European Commission identified six gatekeepers: Alphabet, Amazon, Apple, ByteDance, Meta, and Microsoft (European Commission, 2023). SMEs, not meeting the high thresholds required for designation, do not fall within the scope of the Regulation.
The innovative core of the DMA is constituted by prohibitions and obligations (the "dos and don'ts") laid down in Articles 5, 6, and 7. These provisions set out self-executing prohibitions and obligations (Art. 5 DMA) — such as self-preferencing in search results (e.g., Google), the cross-use of personal data without the user's consent, and restrictions preventing app developers from steering users towards alternative offers or payment systems — alongside obligations subject to further specification by the Commission (Arts. 6–7), including effective data portability across platforms, fair access to business users' data, advertising transparency regarding fees and performance metrics, and the interoperability of number-independent interpersonal communication services. The overall aim is to curb lock-in effects, reduce information asymmetries and excessive concentrations of power, and regulate key aspects of dominant platforms' business models.
As regards institutional design, the European Commission acts as the sole enforcer of the DMA, thereby preventing risks of national fragmentation or forum shopping (Art. 39). The powers conferred upon the Commission are extensive: it may conduct investigations, impose remedies, and levy fines of up to 10% of global turnover (20% in cases of recidivism).
Enforcement has not remained theoretical. In 2025, the Commission issued its first non-compliance decisions: Apple was fined for infringing Article 5(4) DMA by restricting the use of alternative distribution and payment channels; Meta was sanctioned under Article 5(2) for its "consent or pay" model, which was found to lack a genuine low-data alternative (European Commission, 2025b). These cases confirm that the DMA is not a symbolic instrument but one that directly reshapes revenue models, compelling structural adjustments in advertising systems and personal data processing. This constitutes the core innovation: the DMA does not merely address isolated behaviours but intervenes in the very economic rationale underpinning digital business models. The European prescriptions thus transcend compliance duties, functioning as structural levers that affect global scalability, user experience, and data monetisation strategies, in order to create a fair and contestable digital (internal) market.
Its implications are profound: by obliging gatekeepers to reconfigure their revenue models and governance structures, the EU not only protects competition, particularly SMEs and innovative start-ups, and consumers, but also redefines the global balance between regulation, entrepreneurial freedom, and technological innovation.
The regulation also provides for a mandatory review in 2026, which may expand the list of prohibited or required practices in light of technological evolutions. Already in 2025, the Commission launched a consultation on the possible inclusion of AI-related conduct, such as manipulative recommendation algorithms or AI-driven dark patterns (European Commission, 2025c). This confirms that the DMA is not a static instrument but a dynamic framework designed to adapt to the relentless evolution of digital markets.

3.2 THE ARTIFICIAL INTELLIGENCE ACT (AI ACT)

In parallel, and closely connected to the challenges arising from the deployment of artificial intelligence systems in digital markets, the adoption of the Artificial Intelligence Act in 2024 (AI Act, 2024) marked a fundamental milestone in the evolution of European technology policy, introducing the first comprehensive and binding horizontal framework for AI governance worldwide. Its underlying rationale is both innovative and intuitively straightforward: the European Union has opted for a distinctly risk-based approach, grounded in the idea that not all applications of AI present the same risks, and that regulation must be calibrated according to their potential impact. This entails a fourfold classification.
First, there are unacceptable-risk systems, which are subject to an outright prohibition. These include systems designed to manipulate human behaviour through subliminal techniques or to implement large-scale social surveillance.
Second, there are high-risk systems; these cover applications of AI in sensitive sectors such as education, employment, healthcare, and critical infrastructure. The Regulation does not prohibit such systems but instead imposes strict compliance obligations, including *ex ante* conformity assessments, traceability requirements, mandatory registration in a European database, and continuous monitoring after the system has been placed on the market.
Third, there are limited-risk systems, such as chatbots and deepfakes, which—although not generating risks as severe as the previous categories—may mislead or manipulate users; here too, transparency obligations apply, ensuring that individuals are clearly informed when interacting with an artificial intelligence system.
Finally, the broadest category encompasses minimal-risk systems. The Union exempts these from regulatory obligations in order to avoid hindering innovation and to foster European technological competitiveness, precisely because of the absence of risk elements (Veale & Borgesius, 2021).
Uncertainties remain, however, regarding the actual effectiveness of such a regulatory approach to AI. Large digital platforms possess vast financial resources and exceptional technical capabilities to enable them to formally comply with

new obligations without substantially reducing their competitive advantage (Watcher, 2024). Added to this is the rapid pace of technological innovation, particularly in the development of generative AI, which often outstrips the boundaries of written rules, forcing legislators and enforcement authorities into a constant process of updating and adaptation (Hua & Belfield, 2023).

Moreover, the very desirability of regulation can be debated. Too little regulation risks allowing disruptive business models and AI systems to proliferate without adequate safeguards, thereby reinforcing the concentration of economic power in the hands of a few global actors and simultaneously jeopardising digital consumer rights and fundamental rights (Gal & Rubinfeld, 2019). Conversely, overregulation through excessively stringent provisions may hinder technological experimentation and discourage the development of innovative solutions, particularly by start-ups and SMEs that lack the compliance resources of large platforms. Some scholars have warned, for instance, that an overly prescriptive approach risks stifling the digital ecosystem, limiting the adaptive capacity of firms and fostering forms of "defensive compliance" that ultimately reduce incentives to innovate (Caffarra & Scott Morton, 2021).

Ultimately, the decisive test will lie in whether these new rules succeed in producing tangible changes in the behaviour of big tech companies and in rebalancing digital markets on a lasting basis. If so, *ex ante* regulation could prove to be an enabling factor for fairer and more sustainable competition. If not, it may turn into an excessive constraint that hampers not only technological innovation but also the creation of economic value derived from data and artificial intelligence.

4. DISCUSSION: THE ASEAN APPROACH TO THE GOVERNANCE OF DIGITAL MARKETS AND TECHNOLOGY

4.1 ASEAN DIGITAL MASTERPLAN AND THE DIGITAL ECONOMY FRAMEWORK AGREEMENT (DEFA)

The situation is markedly different in the Member States of the Association of Southeast Asian Nations (ASEAN). In recent years, the region has increasingly recognised that digital transformation constitutes one of the main drivers of economic growth and regional integration. With a population of approximately 680 million people—predominantly young and with high levels of digitalization—Southeast Asia's digital economy reached USD 218 billion in GMV and around USD 100 billion in digital economy revenues in 2023 (Google, Temasek, & Bain, 2023). Projections by ASEAN and the World Economic Forum estimate a potential expansion to USD 1–2 trillion by 2030 (World Economic Forum, 2025). Faced with such growth potential, the need for a regulatory framework capable of both sustaining the development of the digital economy and reducing regulatory fragmentation among Member States has emerged with strong urgency.

A first significant step was taken in 2021 with the adoption of the ASEAN Digital Masterplan 2025 (ASEAN, 2025a), which outlines a regionally shared vision for the coming digital society. The Masterplan sets out a series of "desired outcomes," such as building a competitive, inclusive, and secure digital ecosystem. In particular, regarding platform governance, the Masterplan highlights priorities such as promoting fair and contestable markets, developing digital ecosystems to support micro, small, and medium-sized enterprises (MSMEs), fostering data and payment system interoperability, facilitating cross-border e-commerce, and establishing common standards on cybersecurity, AI ethics, and consumer protection.

Unlike the European Union, where the Digital Markets Act (DMA) aims to constrain the power of gatekeeper platforms, given their concrete ability to hinder the emergence of SMEs and innovative competitors, ASEAN primarily views platforms as enabling infrastructures for economic growth and market modernisation. Platforms are seen as tools through which SMEs can reach new consumers, lower transaction costs, and overcome the geographical and logistical barriers that have historically constrained regional integration (Tech for Good Institute, 2023).

Building on this rationale, ASEAN launched negotiations in 2023 for the Digital Economy Framework Agreement (ASEAN, 2024), which is scheduled to be concluded in 2025. The DEFA constitutes the first regional agreement targeting exclusively the digital economy, aimed at transforming the digitalisation into a stable and inclusive driver of regional development. The framework is, nonetheless, ambitious: the World Economic Forum states that the full implementation of the DEFA could add USD 2 trillion to ASEAN's regional GDP by 2030, consolidating its role as one of the most dynamic digital hubs worldwide (Kao, 2025).

The DEFA aims to address three major challenges shaping the region's digital economy. First, regulatory fragmentation: member states have adopted heterogeneous rules in areas such as data protection, cybersecurity, AI, and competition, complicating the scalability of digital business models. Second, asymmetries in technological and institutional capacities between countries such as Singapore and Vietnam on the one hand, and Laos or Cambodia on the other, which risk exacerbating the region's internal digital divide. Third, the need to strengthen consumer and business trust in digital services, by establishing common standards to mitigate risks of abuse, fraud, and data breaches (ERIA, 2023; Tech for Good Institute, 2023).

To tackle these challenges, the DEFA sets out priority areas of action: facilitating cross-border e-commerce, developing interoperable digital payment systems, harmonising standards on data protection, cybersecurity, and AI governance, and fostering the inclusion of MSMEs in the regional digital marketplace. Particular emphasis is placed on digital platforms, presented as «*engines of innovation, commerce, and human connection*» (Kao, 2025). In other words, the DEFA does not seek to impose restrictive constraints but rather to build a favourable environment for platform development, encouraging their expansion and facilitating the entry of local players into the regional market.

This pro-growth model of platform governance—while carrying the risk of leaving space for anti-competitive practices—is consistent with the region's priorities of attracting investment, bridging internal divides, and strengthening economic cohesion.

In relation to competition law, ASEAN operates on a markedly different plane from the EU. National antitrust authorities are often young, under-resourced, and display uneven levels of enforcement across the region (Tech for Good Institute, 2025). It is therefore unsurprising that the regional approach privileges soft law instruments and coordination mechanisms (ASEAN, 2025c).

The adoption of the ASEAN Competition Action Plan 2026–2030 (2025) represents a significant advance in the region's efforts to address the evolving challenges of digital markets and to strengthen the capacity of national competition authorities. The new Action Plan replaces the previous Competition Action Plan 2016–2025 (ASEAN, 2020) and sets out four strategic action areas. In Action Area 4, "Promote fair markets in ASEAN for Sustainable, Inclusive and Resilient Growth", the region adopts a proactive stance in identifying and addressing evolving market dynamics, technological advances, and regulatory challenges that may affect competition law and its enforcement. With the rapid pace of technological development, ASEAN competition authorities recognise the need to adapt swiftly to emerging developments in order to remain effective. Particular attention is devoted to artificial intelligence, big data, and digital markets; the Action Area explicitly acknowledges the need to anticipate and address these challenges to foster «*fair and inclusive competition in the region*». Planned initiatives include research on the impact of AI systems on competition law—an area that remains relatively unexplored even in the European context—the development of ASEAN guidelines on fair competition in digital markets with a focus on data monopolisation and competition among platforms, and further study of the interaction between industrial policy and competition. This approach reflects a dynamic attitude towards the challenges posed by digital markets, drawing on harmful practices and competition concerns observed in global digital markets and aiming to anticipate their emergence within the ASEAN context; such efforts rely on soft-law instruments, thereby enhancing the awareness of national competition authorities regarding competition investigations and enforcement activities. The effectiveness of these initiatives, however, ultimately depends on the capacities of national competition authorities and on the resources effectively allocated to such investigations.

4.2 COUNTRY-LEVEL APPROACHES TO PLATFORM REGULATION AND AI IN ASEAN

While ASEAN as a whole has embraced a flexible and developmental approach, the regulatory trajectories of individual Member States reveal both convergences and divergences in the governance of digital platforms, competition enforcement, and artificial intelligence. Vietnam, as the fastest-growing digital economy in the region, offers a particularly illustrative case, while Singapore, Malaysia, Thailand, and Indonesia highlight the diversity of regulatory choices and enforcement practices that collectively shape the ASEAN landscape.

4.2.1 VIETNAM

Over the past five years, the Vietnamese e-commerce market has grown at an annual rate exceeding 25%, reaching a value of over USD 20 billion in 2023 and placing the country among the five fastest-growing digital economies worldwide (Google, Temasek & Bain, 2023). The country's growth is not limited to its economic dimension; it has been accompanied by the development of a dynamic regulatory framework in the digital domain.

Precisely because of the innovative features introduced, Vietnam's regulatory model is taken as a case study alongside that of ASEAN at the regional level, which will subsequently be compared with the European experience under the Digital Markets Act (DMA).

Tracing the chronological development of Vietnamese regulation, on the antitrust front, the 2018 Competition Law expanded the notion of abusive practices to include conduct related to data power and network effects (OECD, 2018). Although antitrust enforcement has so far remained cautious and focused primarily on cartels and mergers, recent developments indicate increasing scrutiny of exclusionary practices in digital markets. In 2022, the Authority also announced its intention to strengthen merger review in the digital sector, particularly with regard to the acquisition of start-ups by large platforms, reflecting concerns—shared globally—about so-called "killer acquisitions" (Nguyen, Tran & Tran, 2024).

Immediately after, and beyond the reforms in the field of antitrust law, Vietnam has distinguished itself through the introduction of a framework—albeit fragmented and dispersed across a set of different instruments—on the governance of digital platforms.

First, reference may be made to the Code of Conduct on Social Networks (Government of the Socialist Republic of Vietnam, 2022), conceived as a soft law instrument addressing transparency, content moderation, and the accountability of platforms operating within the national territory. Second, particularly significant are the legislative measures adopted in recent years, most notably the Decree on Personal Data Protection (2023) and the subsequent Personal Data Protection Law (PDPL), which will replace the former decree and enter into force on 1 January 2026 (2025), the Protection of Consumer Rights Law (2023), and the E-Transactions Law (2023). These instruments impose binding legal obligations on digital platforms and intermediaries, such as the regulation of consent for data processing, the use of data for targeted advertising purposes, algorithmic advertising, the accountability of platforms vis-à-vis consumers, and the retention of transactional data.

The distinctive merit of these measures lies precisely—and this deserves to be emphasized—in the shift from the previous framework of merely programmatic guidelines to legally binding and effectively enforceable standards (Tilleke & Gibbins, 2023).

In the field of artificial intelligence, Vietnam adopted the National Strategy on Artificial Intelligence (Government of the Socialist Republic of Vietnam, 2021). As the title suggests, this is a strategy rather than a binding legislative instrument. Its primary objective is to position the country as a regional hub for AI by 2030; this trajectory is, however, accompanied by ethical and safety guidelines, particularly in sensitive sectors such as healthcare, education, and financial services. Notably, in 2023, the Ministry of Information and Communications launched consultations with a view to introducing binding guidelines on transparency, accountability, and the mitigation of algorithmic bias—a step marking the transition from declaratory principles to the initial stages of regulatory consolidation (Bui & Nguyen, 2023). Moreover, in 2024, the government advanced this trajectory by announcing pilot regulatory sandboxes for the implementation of AI in financial services and smart cities, designed to test risk-based approaches prior to the adoption of sector-wide legislation. This conceptual trajectory ultimately culminated in 2025, which, as will be examined later, can be described as the year of digital regulation for Vietnam. On 14 June 2025, the Digital Technology Industry Law (2025) entered into force. With the adoption of the DTI Law, Vietnam introduced the most advanced national legal framework on artificial intelligence, distinguishing itself as the first ASEAN country to regulate digital industrial technologies, including semiconductors and AI. The law operates as a political lever for national transformation, aiming to foster the growth of technology enterprises while simultaneously steering the potentially disruptive trajectory of AI innovation, thereby positioning Vietnam as a genuine regional hub.

4.2.1.1 DRAFT OF DIGITAL TRANSFORMATION LAW

In the field of digital platform and digital economy regulation, despite its fragmented character, the measures adopted thus far outline a promising regulatory landscape. A decisive step, nevertheless, occurred in 2025 with the Draft of Digital Transformation Law (2025), the latest draft available at the time of writing dates to 19 August 2025, issued by the Ministry of Science and Technology (led by the former Minister of Information and Communications), in implementation of Resolution No. 03/NQ-CP (2025). The public consultation on the draft concluded on 11 September 2025, and final approval is therefore expected in the subsequent months.

The Draft Law recognizes the digitalization of Vietnam's economy as a national strategic priority, conceived as a driver of the country's future growth both at the macro and micro levels. Digitalization and the valorization of personal data—acknowledged as a key factor of the digital economy—are identified as prerequisites for market entry and for the development of Vietnamese SMEs and domestic platforms (Art. 4).

This objective inevitably implies the need for a level playing field between incumbent firms (both global and domestic) and potential new entrants (e.g., SMEs). In the absence of regulation capable of curbing imbalances of power, the efforts toward digital modernization risk being undermined. The law therefore does not merely set out support policies for SMEs (such as resources and enhanced digital skills), but also aims to reduce competitive asymmetries between large-scale platforms and smaller operators, while simultaneously serving as an instrument to strengthen Vietnam's position (and that of its enterprises) vis-à-vis global markets.

In this context, the new Draft Law—while drawing on earlier versions—introduces, for the first time, a positive and structured regime of obligations incumbent on digital platforms.

At a systemic level, the obligations applicable to platforms are modular. While "specialized" platforms are subject to less stringent obligations (such as reporting, generic standards, and monitoring), intermediary platforms—i.e., platforms that connect end users/consumers with business users/SMEs that use the platform's services to facilitate transactions—and dominant intermediary platforms are subject to progressively more stringent obligations.

In detail, the core of the platform regulation lies in Chapter IV (Digital Economy). A first innovation is set out in Article 32, which establishes the general obligations of operators of intermediary digital platforms (number 1–7). In particular, they must: transparently publish the terms of service, governance policies, and users' rights and duties; communicate the reasons for any suspension or termination of service; ensure transparency regarding the algorithmic criteria employed; adopt measures to control unlawful content; establish complaint-handling mechanisms; provide information and data to state authorities; and comply with any additional obligations laid down in sector-specific legislation.

These obligations appear to be more closely aligned with those established under the Digital Services Act (2022) rather than with the obligations set out in the Digital Markets Act. A second—and more significant—innovation is represented by Articles 35, 36, and 37, which introduce a comprehensive system of obligations for intermediary digital platforms holding a "dominant position" in the Vietnamese market. This regulatory framework is of particular interest, as it has notable implications from a competition law perspective and, in its design, approximates the European model established by the DMA.

Article 35(1) sets out the criteria for the designation of a dominant position, providing for two alternative tests:

a) compliance with the requirements laid down by national competition law for determining significant market power; *or*

b) reaching the threshold of monthly active users equal to or greater than that prescribed for "very large" platforms under the E-Transactions Law. The latter sets the threshold at more than 10% of the Vietnamese population, corresponding to over 101 million users as of 2024.

Pursuant to Article 35(2), platforms that meet either of these criteria are required to comply with the obligations set forth in Articles 36 and 37.
Article 36(1) refers to the general obligations already laid down in Article 32 of the law, while paragraph (2) introduces obligations of clear competition-inspired orientation, such as the prohibition on using data generated by commercial users to compete directly with them and the prohibition of imposing conditions that obstruct, restrict, or unduly favor, to the detriment of participating organizations or individuals (self-preferencing).
Paragraph (3) guarantees users the right to portability and access to data, including those derived from the activities of commercial users. Paragraph (4) establishes the obligation to ensure interoperability with other platforms and with core digital services, as well as the right for the user to freely select, install, or remove pre-installed applications and services. In addition, Article 36(5) provides for reporting obligations through audits and periodic reports to supervisory authorities, while paragraph (6) imposes cooperation with the competent authorities through the provision of truthful, timely, and complete information, functional to monitoring competitive impact and consumer protection.
Article 37 innovatively introduces obligations for dominant platforms regarding algorithmic transparency; here it should be noted, this imposition proves to be even more innovative than the DMA, which does not (at the current stage) contain provisions on AI. In particular: (1) the disclosure of the criteria and fundamental principles employed by algorithms; (2) the obligation to provide information on substantial modifications that may affect the positioning or revenues of users and businesses; (3) the establishment of mechanisms for explanation and feedback; (4) prohibition on the use of algorithms for anticompetitive, manipulative, or discriminatory purposes—an obligation that does not find an explicit parallel in the DMA; (5) protection of trade secrets; (6) obligation to provide the authority with information on implemented algorithms.
Given its innovative nature, (7) the Government reserves the right to define in detail the modalities for the implementation of such algorithmic transparency.
With regard to the supervisory mechanisms and compliance obligations of intermediary digital platforms in a dominant position, enforcement is entrusted to the Vietnamese national competition authority. It is vested with broad competence, which includes: (1) oversight of acts of abuse of dominant position and monopoly in the provision of digital services and in data processing; (2) monitoring and assessment of concentration operations (mergers and acquisitions) that may produce negative effects on the structure or level of competition in the digital market; (3) inspections and examinations, both periodic and extraordinary, in cases where indications of violations of antitrust legislation emerge.
In addition, the competition authority is required to coordinate with the Ministry of Science and Technology and with other competent ministries, in particular for:
a) the assessment of competitive impacts arising from mergers, acquisitions, and transfers of digital technologies and data;
b) the issuance and updating of guidelines and specific technical regulations concerning dominant platforms and core digital services.
The potential adoption of the Digital Transformation Law would make Vietnam a forward-looking and innovative jurisdiction. On the one hand, it promotes the expansion of local platforms, the digitalization of SMEs, and the fair sharing of data as drivers of the country's growth; on the other, it introduces one of the most rigorous frameworks in the region for platform regulation, as well as one of the most advanced AI regimes within the ASEAN mosaic. This reflects both the willingness and the practical ability to adopt regulatory instruments consistent with a rapidly growing economy, while at the same time protecting the interests of end users and business users.
Beyond the national level, Vietnam's regulatory trajectory carries geopolitical resonance: by imposing strict requirements on global technology companies and promoting domestic innovation, the country positions itself not only among the most dynamic digital economies but also as a potential regulatory "trend-setter" within ASEAN, capable of influencing regional debates on platforms, competition, and AI oversight.

4.2.2 ASEAN MEMBER STATES

Singapore

Singapore likewise offers an advanced model based on soft law and co-regulatory approaches. In recent years has built a comprehensive regulatory and institutional ecosystem that serves as a model for the entire region, with an approach strongly oriented towards fostering trust in digital markets while simultaneously supporting platform growth and attracting foreign investment.
In the area of competition, the Competition and Consumer Commission of Singapore (CCCS) demonstrated its capacity to intervene in digital markets with the landmark Grab/Uber merger (2018). The competition authority found that the transaction would harm competition in the ride-hailing sector, increase fares, and reduce consumer choice. Consequently, it imposed a fine of 13 million Singapore dollars in addition to behavioural remedies, including the removal of driver exclusivity clauses and measures to safeguard multi-homing across platforms (CCCS, 2018). This case highlights how, even in the absence of a national regime similar to the DMA, strong domestic enforcement can effectively discipline dominant digital platforms.
With respect to artificial intelligence, Singapore introduced the Model AI Governance Framework in 2019, updated in 2020, which remains one of the world's first initiatives to provide concrete guidance on the ethical and responsible use

of AI (PDPC, 2020). The framework is based on principles of transparency, accountability, and explainability, and is accompanied by practical tools, such as the AI risk assessment toolkit developed in collaboration with international partners (Veale & Borgesius, 2021). This reflects Singapore's ambition to position itself as a global hub for safe and trustworthy AI development.

Another distinctive feature is the integrated approach between consumer protection and the digital economy: legislation on contracts and digital advertising has been updated to address misleading practices, such as dark patterns to obtain consent (PDPC, 2022; CCCS, 2025).

Malaysia

In Malaysia, the central policy framework is the Malaysia Digital Economy Blueprint of 2021 (Government of Malaysia, 2021), which sets the objective of transforming the country into a regional digital hub by 2030. Pursuant to this objective, the government subsequently introduced the national guidelines on AI governance and ethics (MCMC, 2024), a non-binding instrument that provides structured guidance on responsibility, fairness, and inclusiveness in the adoption of artificial intelligence. Taken together, these initiatives outline a strategy aimed at facilitating the entry of SMEs into digital markets, promoting the development of secure digital infrastructures, and attracting foreign technological investment. From a competition law perspective, the Malaysia Competition Commission (MyCC) has only recently extended its scrutiny to digital platforms. Enforcement in this domain remains at an embryonic stage and is still largely focused on more traditional sectors of the economy (MyCC, 2022).

Thailand

Thailand, by contrast, has placed stronger emphasis on regulating e-commerce platforms and safeguarding digital consumers. In the field of competition, the Trade Competition Commission (TCC) has strengthened its investigative powers with respect to large platforms, focusing particularly on potential abuses of dominance (TCC, 2021). A major regulatory development was the adoption of the Royal Decree on Digital Platform Services (Royal Decree on Digital Platform Services, 2022), which entered into force on 21 August 2023. The Decree requires platform operators to notify their activities and register key information about their services with the Electronic Transactions Development Agency (ETDA). It establishes, first, notification obligations for platform operators depending on the meeting of certain thresholds, as well as duties to ensure transparency of conditions, fair treatment of commercial users, and mechanisms for complaint handling. The ETDA has also announced that, starting in 2025, enforcement activities will be intensified, signalling a distinctly proactive regulatory and supervisory stance towards platforms.

In parallel, Thailand has incorporated artificial intelligence into its Digital Economy and Society Development Plan (Ministry of Digital Economy and Society, 2022), placing particular emphasis on ethical standards and algorithmic transparency.

Indonesia

Finally, in Indonesia, the Komisi Pengawas Persaingan Usaha (KPPU) has strengthened enforcement in digital markets, launching in 2024 investigations into Shopee and Lazada over alleged discriminatory and self-preferencing practices in logistics services (KPPU, 2024). In parallel, the Digital Transformation Roadmap 2021–2024 sets out objectives for AI development, including fostering local applications and attracting foreign investment (Government of Indonesia, 2021). This case illustrated how, even in the absence of a regional DMA-type regime, strong national enforcement can effectively discipline dominant digital platforms. At the same time, Singapore's reliance on soft-law instruments such as the PDPA and the Model AI Governance Framework shows that ASEAN countries are not limited to reactive enforcement, but are also experimenting with preventive governance tools, albeit in a more flexible and non-binding form.

5. RESULTS

5.1 COMPARATIVE ASSESSMENT EU/ASEAN: CONVERGENCES AND DIVERGENCES

In this section, an innovative comparative reading will be carried out, encompassing the ASEAN and the European approach to digital economy. This analysis seeks to fill a doctrinal gap by systematically examining their convergences and divergences in the governance of digital markets.

Within the EU, the archetypes of the digital economy are already firmly delineated; large platforms are conceived as centers of economic power capable of shaping market access and innovation, often to the detriment of SMEs. ASEAN, by contrast, primarily conceives platforms as infrastructures enabling economic growth, integration and inclusion, while at the same time committing to the removal of market barriers in order to facilitate this process—particularly for micro, small, and medium-sized enterprises (MSMEs). The overarching objective is to promote the growth of the digital economy and the competitiveness of highly interconnected national markets, rather than primarily to suppress concentration dynamics and mitigate their detrimental effects.

This difference in philosophy permeates every dimension of the respective systems: objectives, instruments, data and AI governance, institutional design, and enforcement. In terms of objectives, the EU—through the Digital Markets Act (DMA)—proceeds from the assumption that digital markets are structurally prone to the concentration of economic power, thereby hindering the market entry of SMEs and innovative start-ups. It therefore lays down *ex ante* obligations and prohibitions directed at "gatekeepers" with the aim of restoring contestability and preventing exclusionary and exploitative practices (Crémer et al., 2019). ASEAN, by contrast, starts from a fragmented, heterogeneous, and developing market: the ASEAN Digital Masterplan 2025 (ASEAN, 2025a) establishes long-term "desired outcomes" in terms of

competition and regulation. It acknowledges the value of competition in making ASEAN a digital community and a leading region in the field, while also recognizing the necessity of adopting measures to ensure that the market for digital services remains competitive and open. It favors "appropriate" regulation of digital services, avoiding the imposition of stringent rules *ab initio*, acknowledging that «*overly burdensome regulation may limit investment and hinder market development*» and calling instead for a balanced approach (ASEAN, 2025a).

The Digital Economy Framework Agreement (ASEAN, 2024), under negotiation since 2023, is conceived as a roadmap for harmonization in the areas of digital trade, payments, data flows, AI, and cybersecurity, with the objective of reducing barriers and promoting platforms as «*engines of innovation and human connection*» (Kao, 2025; ASEAN, 2024). It is therefore not surprising that the recent Competition Action Plan (ASEAN, 2025b) is proactive in identifying, preventing, and addressing regulatory challenges that may affect digital markets (such as monopolization). However, as already noted, the intervention is aimed at building convergence across all competition authorities of ASEAN Member States through the implementation of soft-law instruments such as Guidelines. No regulatory initiative or specification of prohibitions in these sectors is envisaged. In short: EU = containment and rebalancing; ASEAN = enablement and integration.

This regulatory divergence translates into opposite instruments. The EU relies on hard law with the DMA and the AI Act. In ASEAN, soft-law coordination prevails: the ADM 2025 sets out clear objectives and guidelines, where the approach to the regulation of digital services is cautious. The DEFA seeks to reduce fragmentation and promote interoperability, not to sanction gatekeepers (Tech for Good Institute, 2023).

Two architectures thus reflect different levels of maturity and distinct priorities: a unified and developed market with strong regulation in the EU; flexible cooperation in a plural and rapidly developing regional context such as ASEAN. Looking at the substantive dimension of digital market regulation, the contrast is sharp. The DMA designates gatekeepers on the basis of quantitative and qualitative thresholds and imposes structural obligations—interoperability, portability and fair access to data, prohibitions on self-preferencing and anti-steering—with the objective of reshaping the incentives of dominant platforms. Such obligations are imposed solely and exclusively on those operators. In the ASEAN experience, regulators fear that excessive regulation—given the stage of economic development—would be inappropriate; they do not, however, underestimate the risks of concentration, as in the case of Google, which holds over 90% of the search market share (ASEAN, 2025a). Digital enforcement, though encouraged, remains uneven: Singapore demonstrated readiness in the Grab/Uber merger case (with remedies and fines confirmed on appeal), while other authorities remain more cautious or focused on traditional sectors (CCCS, 2018; 2021; MyCC, 2022).

Institutional design and enforcement explain much of this divergence. The EU centralizes powers in the European Commission, vested with investigative, sanctioning, and remedial authority—including fines of up to 10% (20% in cases of recidivism) of global turnover and, in extreme cases, structural remedies. In ASEAN there is no normative equivalent: the DEFA is aimed at harmonizing and facilitating (e-commerce, payments, standards), not at codifying specific platform violations or establishing centralized sanctions (Kao, 2025; ASEAN, 2024). ASEAN does not possess any comparable supranational authority: enforcement is decentralized to national agencies (competition, privacy, telecommunications, consumer protection), with uneven resources and competences.

The immediate market impacts reflect this divide; the European response is rapid and centralized, whereas in ASEAN "behavioral change" on the part of platforms is driven more by market incentives, regional soft pressure, and the potential strengthening of competition enforcement. Whereas the EU can impose interoperability or prohibit self-preferencing, ASEAN focuses on persuading Member States to converge on standards and to induce operators towards pro-competitive conduct without the threat of sanctions, opting instead for aligned and reinforced enforcement. The effectiveness of an *ex ante* approach is not theoretical: gatekeepers have already begun to comply with the obligations laid down in the DMA since March 2024. Indeed, the compliance with obligations are driven by the sanctioning risks and remedies of the DMA: the 2025 Apple (anti-steering) and Meta ("consent or pay" advertising model) cases resulted in commitments, revisions, and, more generally, the DMA has guaranteed new operational rights for developers, advertisers, and end users (European Commission, 2025b). In ASEAN, the effects are more gradual and growth-oriented: if properly implemented, the DEFA should reduce the costs of cross-border transactions, enable interoperable payments, channel SMEs and vendors into regional markets, and strengthen trust in digital exchanges (Kao, 2025; ASEAN Secretariat, 2024). The underlying logic is that, by integrating markets and standards, ASEAN may build a critical mass sufficient to foster competition both between and within platforms, without—for the time being—imposing the EU's binding regulatory model.

The asymmetry is equally evident in AI governance. The EU's AI Act prohibits certain high-risk uses, such as mass surveillance, and imposes strict obligations for other high-risk systems, including risk assessments, traceability, registries, and monitoring (Veale & Borgesius, 2021). ASEAN, by contrast, relies on soft law and national plans: Singapore's Model AI Governance Framework, Vietnam's and Indonesia's AI strategies, and the DEFA's impetus towards common guidelines (PDPC, 2020; Government of Vietnam, 2021; Government of Indonesia, 2020; ASEAN, 2024). Once again: EU = prescription and accountability; ASEAN = guidance and capacity-building.

In conclusion, excessive regulation could risk deterring investment and technological innovation in ASEAN countries, potentially generating more harm than benefit, particularly in an economic context characterized by rapid growth and still undergoing consolidation.

To clarify the divergences and potential convergences between the two models, Table 2 summarizes the distinctive features of the EU and ASEAN approaches, highlighting how *ex ante* hard law and cooperative soft law pursue different

objectives but may, ultimately, be regarded as complementary.

Table 1 – Comparison between the EU and ASEAN approaches to digital market governance

Dimension	European Union (EU)	ASEAN
Main instrument	Hard law *ex ante*: Digital Markets Act (DMA, 2022, applicable from 2024); AI Act (2024).	Soft law & cooperation: ASEAN Digital Masterplan 2025; ASEAN Digital Economy Framework Agreement (DEFA, under negotiation, 2025).
Objective	Ensure fairness and contestability in digital markets, preventing abuses of market power by gatekeepers.	Promote inclusive growth, regional integration, and digital trust, without hindering innovation or platform scalability.
Targeted entities	Large platforms designated as gatekeepers (Alphabet, Amazon, Apple, ByteDance, Meta, Microsoft).	The broader digital ecosystem, with a focus on SMEs and start-ups; platforms seen as enabling infrastructures.
Main obligations/prohibitions	Prohibition of self-preferencing; obligations of interoperability and portability; access to data for business users; alternative billing; advertising and algorithmic transparency.	Harmonisation goals: data flows, cybersecurity, payment interoperability, AI governance; non-binding instruments.
AI governance	AI Act: risk-based approach (prohibited, high-risk, limited, and minimal systems).	National guidelines and frameworks
Enforcement	European Commission with investigative and sanctioning powers (up to 10% of global turnover).	No single regional authority; enforcement left to Member States, with very uneven capacity.
Underlying vision	Containing the power of already consolidated big tech; preventing exclusionary effects.	Supporting the growth of local platforms; avoiding regulatory shocks; attracting foreign investment.
Critical issues	Complexity of compliance; risk of stifling innovation; the Brussels Effect may export high costs globally.	Risk of under-regulation: abusive practices not addressed; fragmented enforcement; forum shopping.
Possible convergence	Brussels Effect: EU standards (interoperability, advertising transparency) reused globally by platforms.	Modular approach: selectively importing some EU standards through DEFA, while retaining ASEAN flexibility.

5.1.1 VIETNAM CASE STUDY: DMA VS DRAFT DIGITAL TRANFORMATION LAW

Vietnam serves as a case study through which the evolution of regulatory models in Southeast Asia can be examined, revealing a "certain degree" of convergence with the European approach. In contrast to other ASEAN Member States, which have predominantly relied on soft law instruments, Vietnam has opted for a *quasi*–hard law approach in the Draft Law on Digital Transformation (2025), (latest draft available dated 19 August 2025). While regulatory fragmentation among ASEAN countries may encourage forum shopping and create normative asymmetries, the innovative character of the initiative clearly stands out: it demonstrates that regulation can be a viable policy option even in rapidly growing economies. The Draft Law not only promotes digital growth and the development of national technological infrastructure, but also establishes binding provisions governing platforms, intermediaries, and practices associated with disruptive digital business models.

In this section, therefore, a more detailed comparative analysis will highlight the actual convergences and divergences between the European model and the innovative Vietnamese framework. Such an investigation is particularly relevant, as it addresses a gap in the existing literature.

***Ex post* and *ex ante* application**

The European Digital Markets Act (DMA) was conceived to address the limitations of *ex post* antitrust enforcement by introducing *ex ante* obligations and prohibitions that pre-empt harmful conduct. Once a platform is designated as a "gatekeeper," it must comply with all obligations under Articles 5–7, without awaiting case-by-case antitrust investigations.

A careful reading of the Vietnamese draft law indicates the presence of a model whose contours remain somewhat ambiguous in relation to the *ex ante*/*ex post* dichotomy. It operates as *ex ante* regulation insofar as the obligations set out in Articles 36 and 37 apply by law once intermediary platforms reach the threshold of dominant position (Article 35). Simultaneously, the formulation of Article 38 appears to create confusion between two legal bases: Competition law (2018) and the new Law on Digital Transformation.

Article 38 entrusts the Competition Authority with «*monitoring, assessing and managing infringements committed by platforms that hold a dominant position in the market*», including: «*(1) Monitoring the abuse of dominant positions and monopolies in the provision of digital services, data processing, distribution of goods and provision of services; (2) concentrations in the digital sector; and (3) regular or ad hoc inspections and audits in the event of signs of violations of competition law*». This provision creates ambiguity: the obligations are framed as binding rules of conduct (*ex ante*), but their enforcement is entrusted to the competition authority, which will monitor violations by dominant platforms, including (1) abuses of dominant positions.

The question is not whether the competition authorities should be given this power, as they are best qualified to monitor and address such obligations. Instead, the question concerns the legal basis: it remains unclear whether a violation of Articles 36 and 37 gives rise to a breach of the Digital Transformation Law (and thus of a public-law rule) or, on the contrary, whether the violation of such obligations constitutes an abuse of a dominant position, albeit a "typified" abuse. The explicit reference to abuse of a dominant position in Article 38(1) does not seem necessary, as this competence is already established under the 2018 Competition Law. Reiterating it in the new law ultimately fosters the perception that breaches of the obligations laid down in Articles 36–37 amount to abuse, rather than constituting a stand-alone regulatory infringement. This perception is further reinforced by the absence of a specific non-compliance clause that expressly qualifies non-compliance with Articles 36–37 as a breach of the Digital Transformation Law and by the absence of a distinct legal status, separate from the notion of dominance, such as the "gatekeeper" status provided under the DMA. Therefore, these elements cast doubt on whether infringements of Articles 36–37 should be regarded as abuses of a dominant position; under a systematic interpretation, however, it would be more consistent to treat them as breaches of regulatory obligations, the enforcement of which is entrusted to the same authority.

This logic differs from that of the DMA, where non-compliance constitutes a breach of public-law obligations rather than an abuse of a dominant position. In order to avoid regulatory overlap between the DMA and competition law, the European Union has deliberately maintained a strict separation between the two legal domains: the *Digital Markets Act* is not a competition law instrument (Recital 10 and Article 1 DMA) (Contaldi, 2021; Manzini, 2021). More specifically, Recital 11 of the DMA clarifies this distinction from competition law: «*Articles 101 and 102 TFEU and the corresponding national competition rules concerning anticompetitive multilateral and unilateral conduct as well as merger control have as their objective the protection of undistorted competition on the market. This Regulation pursues an objective that is complementary to, but different from that of protecting undistorted competition on any given market, as defined in competition-law terms, which is to ensure that markets where gatekeepers are present are and remain contestable and fair, independently from the actual, potential or presumed effects of the conduct of a given gatekeeper covered by this Regulation on competition on a given market. This Regulation therefore aims to protect a different legal interest from that protected by those rules and it should apply without prejudice to their application*». In fact, the two pieces of legislation rely on different legal bases: the Digital Markets Act rests on Article 114 TFEU, which concerns the approximation of national laws, whereas, had it been conceived as a competition regulation, it would have had to rely on Article 103 TFEU, the provision specifically empowering the adoption of regulations or directives to give effect to the principles laid down in Articles 101 and 102 TFEU.

The final draft of the Vietnamese law will be decisive in clarifying whether the legislator intends to establish an autonomous regulatory infringement or, instead, an extension of the prohibition of abuse of a dominant position.

Designation of undertakings

Article 3 of the DMA establishes three cumulative conditions, in addition to quantitative presumptions. It requires that an undertaking (1) has a significant impact on the internal market; (2) provides a "core platform service" functioning as a gateway for business users to reach end users; and (3) enjoys, or is expected to enjoy, an entrenched and durable position. With respect to the presumptions, the first criterion (1) is deemed satisfied where the undertaking has had EU turnover of at least €7.5 billion in each of the last three financial years, or an average market capitalization/equivalent fair market value of at least €75 billion. The second criterion (2) is satisfied where the undertaking provides a core platform service to at least 45 million monthly active end users and more than 10,000 yearly active business users. The third criterion (3) is deemed fulfilled where the above thresholds have been met in each of the last three financial years.

By contrast, Article 35 of the Vietnamese Draft Law provides for alternative, not cumulative, designation criteria: (a) significant market power within the meaning of the Competition Law; or (b) a number of monthly active users equal to or exceeding the threshold of a "very large intermediary platform" under the E-Transactions Law (a statutory threshold set at 10% of the national population).

Here too a distinction emerges. The DMA deliberately departed from the complex mechanisms for determining dominance under the European Commission's communications (European Commission, 2024b), precisely because of the difficulty of applying antitrust sanctions to platforms that do not qualify as dominant under competition law—e.g. those with fragmented market shares—yet are still capable of exercising gatekeeping power and distorting competition in the

European market (Recital 5 DMA). As regards the reference to the "very large platform" thresholds under the E-Transactions Law, the link is clear and departs from antitrust logics. It would be desirable, in the final version, to include a more detailed specification with reference also to different parameters (such as turnover thresholds or market position not linked to dominance), in order to provide a more accurate description of the competitive situation of the platform.

Obligations and prohibitions

First, the research shows overlapping obligations present in both regimes. Both prohibit:

- **Use of business users' data for competition**
  - VN: Art. 36(2), prohibition of using data generated by commercial users to compete directly with them.
  - EU: Art. 6(2) DMA, prohibition on using non-public data generated by business users to compete against them.
- **Self-preferencing (ranking and preferential treatment of own services)**
  - VN: Art. 36(2), prohibition of imposing conditions that unduly favor, to the detriment of participating organizations or individuals.
  - EU: Art. 6(5) DMA, prohibition on favoring the gatekeeper's own services in ranking over those of third parties; conditions must be transparent, fair, and non-discriminatory.
- **Interoperability, choice of provider, uninstallation, third-party app stores**
  - VN: Art. 36(4), interoperability and right to select/install/remove pre-installed applications and services.
  - EU: Art. 6(3) DMA, uninstallation of apps and modification of default settings); Art. 6(4) (effective installation and usability of third-party app stores/apps); Art. 6(7) (interoperability of hardware or software with third-party services); Art. 7 (horizontal interoperability between gatekeepers' interpersonal communication services and those of third parties).
- **Portability and access to data**
  - VN: Art. 36(3), right to transfer and access data by end users; right to access to data generated by business users.
  - EU: Art. 6(9) DMA, (continuous, real-time data portability to alternative platforms); Art. 6(10) (continuous, real-time access to data for business users); Art. 6(11) (search data available under FRAND conditions); Art. 6(12) (FRAND access conditions for gatekeeper app stores/search/social services).
- **Reporting and auditing to authorities**
  - VN: Art. 36(5), audits and periodic or ad hoc reports and obligation of cooperation with truthful information (Art. 36(6)).
  - EU: (procedural provisions of the DMA; see Arts. 29–31), compliance reporting obligations and cooperation in proceedings.

Second, obligations exist under the DMA that are absent (or only indirectly present) in the Vietnamese Draft Law.

- **Anti-steering clauses, prohibition of MFN and channel restrictions**
  - EU: Arts. 5(3)–(5) DMA, business users may set different prices/conditions elsewhere; may communicate and conclude contracts directly with customers; users may access content purchased outside the gatekeeper's platform.
  - VN: no explicit anti-steering provisions; instead, the rationale of a level playing field is promoted through interoperability and data portability, but no specific rule on alternative channels exists.
- **Prohibition of tying the use of gatekeeper services (ID, browser engine, in-app payments)**
  - EU: Art. 5(7) DMA, prohibition on requiring the use of gatekeeper identification services, browser rendering engines, or payment services.
  - VN: no equivalent detailed provision; only the general principle of interoperability (Art. 36(4)).
- **Combination and cross-use of personal data across services; alternatives to ad-based "free" business models**
  - EU: Art. 5(2) DMA, prohibition on data combination/cross-use without GDPR consent plus additional DMA consent.
  - VN: addressed within the 2023 privacy/consumer law corpus, not in Articles 35–37 of the Draft Law under review.
- **Advertising transparency for advertisers and publishers**
  - EU: Arts. 5(9)–(10) DMA, detailed disclosure of pricing, remuneration, and metrics on a daily basis.
  - VN: no equivalent symmetrical disclosure of such data to advertisers/publishers.
- **Obligation to notify concentrations (M&A)**
  - EU: Art. 14 DMA, *ex ante* obligation to inform about all digital/data-related concentrations, even if not otherwise notifiable.
  - VN: the Competition Authority assesses the substantive impact of digital M&A, but there is no general procedural obligation of prior notification equivalent to Art. 14 DMA in the text provided.

Finally, one feature makes the Vietnamese Draft Law more advanced than the DMA, introducing additional obligations

for platforms.

- **Algorithmic transparency**
  - VN: Art. 37 requires disclosure of criteria/principles/key factors of algorithms implemented; notification of material changes; mechanisms for explanation and feedback; prohibition on using algorithms for anti-competitive, manipulative, or discriminatory purposes; authority empowered to request information ex officio on algorithm structure/impact; detailed implementation delegated to the Government.
  - EU: the DMA does not currently (2025) contain a comparable set of algorithmic transparency obligations (the issue is addressed in the AI Act, not in the DMA). In 2025, however, the European Commission launched a public consultation on the possible inclusion of provisions concerning AI (both as a core platform service and in terms of transparency obligations). In this respect, the DMA remains a regulatory framework in progress, and from a comparative perspective, the EU may draw inspiration from the provisions of the Vietnamese Draft Law on Digital Transformation.

Sanctioning mechanism

Under the DMA, the Commission may impose fines of up to 10% of global turnover for non-compliance, up to 20% in cases of repeat infringement, and periodic penalty payments of up to 5% of average daily turnover for each day of delay. In cases of systemic infringements, structural remedies may be ordered, including divestitures and break-ups.

The Vietnamese Draft Law contains no autonomous sanctioning regime comparable to the DMA. Instead, it relies on the *ex post* framework of the Competition Law (Art. 38). Enforcement is entrusted to the Competition Authority, which may conduct inspections, request information, monitor abuses of dominance, and review M&A transactions. Pecuniary sanctions are those provided under the Competition Law or to be specified in future implementing acts. In short: *ex ante* obligations are backed by the antitrust enforcement system.

Comparative summary

The comparative analysis yields several notable findings. The Vietnamese approach exhibits significant strengths. It establishes an ambitious and innovative regulatory framework compared to other ASEAN jurisdictions, introducing obligations designed to foster data sharing, mitigate lock-in effects, and enhance the contestability of digital markets. Particularly remarkable is the incorporation of provisions on algorithmic transparency and the use of AI (Article 37), which extend beyond the current scope of the Digital Markets Act (DMA). Nonetheless, certain concerns persist. First, the enforcement mechanism to be triggered in the event of infringements of Articles 36 and 37 remains unclear. The present structure appears to treat breaches of these obligations as forms of potentially abusive conduct, thereby positioning the law in a hybrid space between a "regulatory code of conduct" and traditional antitrust law. The forthcoming final version is expected to clarify this aspect, enabling a more refined and conclusive analysis.

Second, several obligations appear broadly framed and less precisely delineated than their counterparts under the DMA. This lack of precision may be remedied in the final legislative text; alternatively, it might represent a deliberate policy choice, allowing for case-by-case assessment and enforcement under the general rubric of abusive practices.

A more immediate comparison of the two regimes is provided in Table 2 below, which schematically sets out their main differences in terms of designation criteria, obligations, enforcement mechanisms, and sanctioning regimes.

Table 2: EU Digital Markets Act (DMA) vs. Vietnam Draft Law on Digital Transformation (19th August 2025)

Category	EU Digital Markets Act (DMA)	Vietnam Draft Digital Transformation Law (2025)
Enforcement (*Ex ante* / *Ex post*)	*Ex ante* regulation: obligations apply once a platform is designated as a gatekeeper (Arts. 5–7 DMA). Non-compliance is a regulatory breach, not an abuse. Enforcement by the European Commission with strong investigatory and sanctioning powers.	*Ex ante* obligations in Arts. 36–37, but enforcement (Art. 38) is entrusted to the Competition Authority, focusing on abuse of dominance and mergers—thus resembling *ex post* antitrust enforcement. Model to be clarified in the enacted version.
Designation of regulated platforms	Art. 3 DMA: three cumulative criteria + quantitative thresholds (turnover ≥ €7.5bn or market cap ≥ €75bn; ≥ 45m monthly end users and ≥ 10,000 yearly business users; stable position).	Art. 35: alternative criteria: (a) significant market power under Competition Law; (b) threshold of 'very large' platform under Electronic Transactions Law (≥ 10% of national population, about 10m+ monthly active users). More mechanical and nationally anchored.
Obligations – Overlapping	- Ban on using business user data to compete (Art. 6(2) DMA). - Ban on self-preferencing (Art. 6(5)).	- Ban on using commercial user data (Art. 36(2)). - Ban on discriminatory/self-preferencing conditions (Art. 36(2)). - Interoperability and app freedom (Art. 36(4)).

	- Interoperability, choice and app uninstallation (Arts. 6(3),(4),(7)). - Data portability and access (Arts. 6(9)–(12)). - Reporting & audits (Arts. 29–31).	- Data portability and access (Art. 36(3)). - Reporting & cooperation duties (Arts. 36(5)–(6)).
Obligations – Missing in Vietnam law	- Anti-steering clauses (Art. 5(3)–(5)). - Ban on mandatory use of gatekeeper services (Art. 5(7)). - Restrictions on combining/reusing personal data (Art. 5(2)). - Advertising transparency obligations (Art. 5(9)–(10)). - Obligation to notify all digital M&A (Art. 14).	Not expressly provided: no anti-steering, no explicit prohibition of mandatory tied services, no structured advertising transparency, no systematic M&A notification duty.
Obligations – Additional in Vietnam law	DMA does not regulate AI transparency (issue left to the AI Act; 2025 consultation ongoing on potential AI-related obligations).	Art. 37: Algorithmic transparency obligations—disclosure of criteria, notification of substantial changes, explanation & feedback mechanisms, ban on manipulative or discriminatory algorithms, authority powers to request details. Innovative compared to DMA.
Sanctions	Commission may impose fines up to 10% of global turnover (20% for recidivism); periodic penalty payments up to 5% daily turnover; structural remedies for systemic non-compliance (Arts. 29–31).	No standalone sanctioning chapter. Enforcement via Competition Law framework: abuse of dominance sanctions, merger control, inspections. Sanctions not yet specified in draft law; expected to rely on antitrust penalty framework.

5.2 INNOVATION OR REGULATION

One of the most salient question emerging from this research concerns the relationship between regulation and innovation. This issue is not new: whenever legislators introduce rigid rules, there is a recurring concern that such rules may "freeze" markets, slow down the experimentation of new business models, and discourage the entry of start-ups. The dilemma is particularly evident in digital markets, which are characterized by extremely rapid cycles of innovation, cumulative network effects, and strategies of global scalability.

In the European context, the Digital Markets Act (DMA) and the AI Act prioritize regulation, even at the risk of potentially slowing innovation. Supporters of this view argue that the absence of *ex ante* rules in the 2010s allowed big tech to consolidate almost monopolistic positions in key segments such as online search, mobile operating systems, and digital advertising—making the lock-in and data accumulation effects largely irreversible (Crémer et al, 2019). Europe does not conceive regulation as a brake on innovation, but rather as the minimum condition for ensuring that innovation remains contestable and accessible to new entrants. The first applications of the DMA illustrate this tension well: the obligation imposed on Apple to allow alternative payment systems in app stores may reduce short-term rents, but it potentially opens new avenues of innovation for developers and third-party providers (European Commission, 2025b). Similarly, the challenge to Meta's "pay or consent" model introduces limits on mass data exploitation, while at the same time encouraging the search for monetization strategies more respectful of privacy.

The ASEAN approach reflects an opposite philosophy. The ADM 2025 and the DEFA do not start from the need to contain already consolidated powers, but from the conviction that the priority is to create the conditions for such powers to emerge. In markets still at the scale-up stage, imposing rigid obligations on interoperability or algorithmic transparency could discourage investment and reduce the ability of SMEs to leverage network economies. Soft law and regional cooperation instruments provide a more flexible experimental environment, encouraging growth while allowing operators to gradually adapt to shared standards (ASEAN, 2024). The risk, however, lies in the opposite extreme: a regulatory framework that is too light could enable big tech firms to entrench their advantages without counterbalances, making it more difficult to introduce corrective *ex post* rules, as the European experience clearly demonstrates.

The academic literature reflects this tension. According to Caffarra and Scott Morton (2021), excessive regulatory rigidity may stifle innovation. Stucke and Grunes (2016), however, emphasize that markets dominated by hyper-dominant incumbents are not innovative at all; rather, they tend to protect their own rents and block disruptive solutions (e.g., killer acquisitions) that could threaten their existing models. In this sense, the paradox is that regulation, if well calibrated, may

not diminish but instead stimulate innovation, by forcing dominant platforms to open their ecosystems and by promoting dynamic competition.
The findings of this research therefore suggest a nuanced picture: regulation and innovation are not alternatives, but two poles of a balance that needs to be carefully calibrated. A deregulated context exposes markets to lock-in and the consolidation of private power, while overly prescriptive regulation may slow experimentation. The key lies in designing rules that introduce minimal guardrails—interoperability, advertising transparency, algorithmic accountability—without suffocating entrepreneurial freedom and the creativity of digital business models.
It is precisely here that the interaction between the EU and ASEAN can prove fertile: Europe offers a catalogue of tested standards, while ASEAN provides a laboratory of soft law capable of adapting to diverse national development trajectories. Ultimately, the comparative analysis conducted in this research suggests that the real question is not whether to regulate or not, but how to regulate without losing the transformative potential of digital business models.

6. CONCLUSIONS AND RECOMMENDATIONS: WHICH MODEL BEST FITS ASEAN? THE BENEFITS OF THE EUROPEAN BRUSSELS EFFECT

Based on the comparative analysis conducted, the following conclusions can be drawn. ASEAN, as a regional bloc, considers that excessively stringent regulation may have a negative impact on innovation, digitalisation, and the overall economic growth of the region (ASEAN Masterplan, 2025). At the same time, recent initiatives of coordination measures in the field of competition law (ASEAN, 2025b; 2025c) highlight a growing concern and awareness of the negative consequences of anti-competitive practices for the creation of open and competitive markets, which are deemed essential prerequisites for ensuring sustainable growth and promoting investment in the region. For ASEAN, a soft-law approach is appropriate for growing markets and heterogeneous institutions: it avoids regulatory shocks, attracts investment, and supports local platforms that are still in the scaling-up phase—but it leaves grey areas concerning the potential implementation of anti-competitive practices at a "systemic" level, due to their magnitude, continuity, repetition, and the delayed nature of *ex post* antitrust enforcement, which risks jeopardising the effectiveness of investment and the region's economic growth, as well as the sound development of MSMEs and of national competitor platforms. Markets, therefore, must be competitive and fair to achieve the ambitious objectives. With regard to competition enforcement, cases to date have been isolated and national practices are diverse: Singapore demonstrates that a strong authority can discipline platform behaviour even in the absence of a "regional DMA" (CCCS, 2018; 2021), whereas in other countries enforcement gaps make it more difficult to address discriminatory or exclusionary practices (MyCC, 2022; KPPU, 2022).
Building on the European experience, the structure of ASEAN markets, and the regulatory shift in Vietnam, one may ask: *which is the most appropriate model for ASEAN*?
The comparison points to a context-specific solution. The full transposition of the DMA risks over-regulating digital services and technologies that still require scalability and vertical or horizontal integration. However, relying exclusively on soft law in practice favours lock-in phenomena, allowing big tech companies to consolidate their advantages by exploiting power asymmetries vis-à-vis smaller competitors and regulatory differences across jurisdictions. Moreover, the introduction of regulatory obligations only in certain regions—although representing significant regulatory initiatives—may lead to undesirable regulatory fragmentation and instances of forum shopping.
The approach theorised in this comparative study for the regulation of digital platforms is a hybrid-progressive model, grounded in a convergence with the DMA framework.
The Brussels Effect is the most appropriate lens through which to understand the global spillovers of Europe's regulatory innovations. With Regulation (EU) 2016/679 (GDPR) on the protection of personal data (2016), the EU has already demonstrated its capacity to export regulatory standards: global firms tend to harmonise their policies at the worldwide level rather than maintain fragmented solutions (Bradford, 2020), and Europe's capacity for regulatory anticipation provides a privileged vantage point for assessing which policies are effectively implementable – and which, by contrast, should be refrained from (FEPS, 2022).
A similar dynamic may arise with the DMA and the AI Act: some of the technical and contractual adaptations implemented in Europe can be "reused" elsewhere, particularly where regulators have not yet codified the operational details. This may represent an advantage for ASEAN: the more the EU specifies its obligations (such as advertising transparency, interoperability, and the prohibition of steering practices), the less burdensome it becomes for platforms to extend those standards to emerging markets, as they can re-use technical solutions and standards already developed for the EU. In other words, ASEAN can indirectly benefit from the Brussels Effect while at the same time maintaining a less stringent national regulatory footprint.

Structure of the Hybrid-Progressive Approach

Accordingly, this research first proposes a set of "lines of action" to be adopted in a harmonised manner by all ASEAN Member States, namely:
(1) the establishment of common minimum and binding standards in certain high-impact areas of the digital economy;
(2) the introduction of progressive obligations and rules calibrated to the size and market power of platforms, to avoid disincentives and adverse effects on SMEs and innovative start-ups.
This requires the introduction of a dedicated legal basis and a specific legal status (gatekeepers-like), thereby preventing undue overlaps with competition law. In this respect, the Vietnamese model should be regarded as a potentially valid

reference.
With regard to specific practices, the following are suggested:
(a) the obligation of interoperability between systems, in order to reduce lock-in and foster multi-homing;
(b) the prohibition of self-preferencing, as well as access to data and to intermediary platforms under FRAND conditions;
(c) advertising and algorithmic transparency obligations to address information asymmetries;
(d) the prohibition of steering practices to open up alternative channels for merchants and SMEs.
The proposed model further recommends the adoption of a progressive regulatory trajectory by individual ASEAN countries—moving from soft-law instruments to hard-law measures—beginning with codes of conduct, followed by guidelines, framework laws, and ultimately binding legislation incorporating *ex ante* regulatory provisions similar to those in the DMA.
This pathway must take into account the specific characteristics of each national economy, with the objective of achieving full harmonisation within a short-term timeframe.
According to the author, this approach makes it possible to preserve the pro-growth spirit of the ASEAN model, while at the same time incorporating the most relevant lessons of the DMA in those areas where network effects risk stifling local entry and innovation (Kao, 2025; ASEAN, 2024).
(3) A progressive strengthening of national competition enforcement. In this direction appears to move the new ASEAN Framework Agreement on Competition (ASEAN, 2025c), currently under discussion in 2025, which provides for the enhanced cooperation among national competition authorities and the prevention of abuses, including in the digital sector, with the aim of creating fair and contestable markets. The final version is awaited.
With regard to AI regulation, it is argued that ASEAN can draw lessons from European experience while maintaining a risk-based approach, as the EU provides safeguards (for example, transparency for generative systems, dataset governance, and audits) that can be adopted without importing the full binding force of the AI Act (PDPC, 2020; Government of Indonesia, 2020; Government of Vietnam, 2021). In this context as well, a combination of principles at the DEFA level and graduated national implementation is suited to different levels of technological maturity, thereby preserving ASEAN's objectives of growth, market integration, and balanced regulation (ASEAN, 2024; 2025a).

Cost–Benefit Analysis

From the perspective of the effectiveness of the hybrid-progressive approach, the proposed model takes into account a cost–benefit assessment. Part of the European scholarship has critically warned that excessive regulatory rigidity in Europe may stifle innovation, particularly in vertically integrated services (Caffarra & Scott Morton, 2021). On the other hand, the pre-DMA antitrust experience showed that *ex post* sanctions often arrived too late and were too small in amount to remedy markets already "locked-in" by network effects (Crémer et al., 2019). The proposed approach aims to prevent the emergence of market concentration and delayed enforcement similar to those experienced in the European context, thereby avoiding the very issues that prompted Europe to regulate the digital sector. This would provide the ASEAN region with a preventive framework, ensuring markets capable of meeting the challenges observed at the global level. Moreover, the adoption of common standards and obligations would have immediate potential effectiveness, given their *ex ante* operation; the establishment of dedicated sanctioning mechanisms, separate from traditional *ex post* competition enforcement, would guarantee verifiable and prompt compliance.

Compliance Costs for Businesses

From the perspective of businesses and the compliance costs associated with such a model—particularly with regard to structural and technical adjustments (such as interoperability, data access, data portability, and the prohibition of steering)—the following points are noted. The introduction of common minimum obligations in the digital economy, together with stricter enforcement of competition rules, may impose significant compliance costs on all platforms, with potential negative effects on (positive) disruptive innovation.
That said, the proposed hybrid model offers a coherent solution to this issue for two main reasons:
(i) Compliance costs would fall predominantly on large-scale platforms, while for SMEs and start-ups they would represent a proportionally less stringent burden, comparable to an ordinary cost of doing business. The same logic applies to a strengthening of antitrust enforcement. Furthermore, for globally operating firms, alignment with the new ASEAN provisions would entail lower compliance costs, as they can leverage and adapt the technical measures and standards already established for the EU framework (an additional manifestation of the DMA's Brussels Effect);
(ii) Compliance costs should be regarded as the price to be paid upfront for globally aligned markets, thereby preventing—already during the early stages of ASEAN's digital growth—the consolidation of dominant business models whose effects could prove irreversible for SMEs, start-ups, competitors, consumers, and the national economies of the region.
In the long term, such an investment would result in fairer and more open markets (enhancing overall welfare); moreover, a market governed by a coherent regulatory framework would attract investment by offering guarantees of structural and institutional solidity. Additionally, it would reduce the challenges faced by globally operating firms in navigating parallel regimes (EU vs. ASEAN vs. national legislations), thereby lowering regulatory barriers and enabling them to operate within markets governed by more homogeneous standards.
The step-by-step comparison has shown that the EU and ASEAN start from different premises: the EU seeks to defuse already consolidated market power; ASEAN aims to activate new engines of growth and technological investment, while

nonetheless creating competitive and open markets. The models are therefore not antithetical: ASEAN can use the European framework as a reference, adopting only a limited number of key obligations in those areas where exclusionary effects are most likely, while at the same time maintaining the flexibility and gradualism that have made the region one of the most dynamic digital markets in the world (Kao, 2025; ASEAN, 2025a).

In conclusion, the balance between hard law and soft law is not a binary choice, but a progressive process of modulation, based on each country's industrial trajectory and long-term objectives—leveraging the international diffusion of EU rules where efficient and the ASEAN experimental method where flexibility is required.

Neither model is perfect; it is ultimately a matter of trade-offs between regulation, innovation, and digital/economic growth. Perhaps the hybrid-progressive model offers the most promising synthesis.

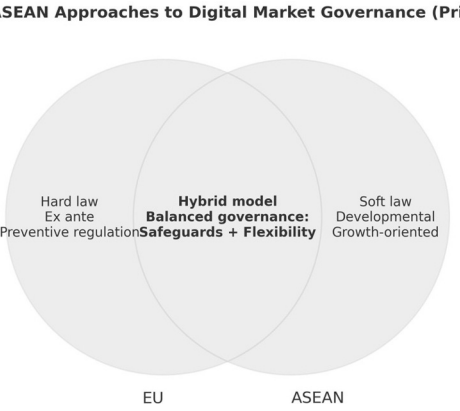

Figure 1. Conceptual framework: EU and ASEAN approaches to digital market governance, with a potential hybrid-progressive regulatory space emerging in the intersection.

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