
Administrative Law Analysis of Governmental Supervision over Online Transportation Application Companies in Indonesia

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Abstract

The rapid growth of online transportation services has transformed the governance of transportation by placing application companies in a strategic position that influences operational standards, service quality, and the relationship between drivers and users. However, the regulatory framework governing governmental supervision of these companies remains unclear, particularly regarding the legal status of application companies as objects of administrative supervision and the mechanisms for enforcing compliance. This study aims to analyze the regulation of governmental supervision and the implementation of supervisory mechanisms over online transportation application companies from the perspective of Administrative Law. This research employs normative legal research using statutory and conceptual approaches. The findings reveal that the Minister of Transportation Regulation Number 12 of 2019 imposes various obligations on application companies, including safety, security, and service responsibilities, yet fails to explicitly designate them as subjects of governmental supervision. This regulatory ambiguity creates legal uncertainty and weakens the effectiveness of supervision. Furthermore, the existing supervisory framework lacks clear procedures, evaluation standards, follow-up measures, and administrative sanctions, resulting in ineffective enforcement. The novelty of this study lies in its examination of online transportation application companies as subjects of administrative supervision and in its identification of the inconsistency between regulatory obligations and supervisory authority within the existing legal framework. The study argues that a comprehensive reconstruction of supervisory norms and enforcement mechanisms is necessary to ensure legal certainty, accountability, and effective governance of online transportation services in accordance with the principles of Administrative Law.

INTRODUCTION

As the supreme legal framework governing national economic development, Article 33 paragraph (4) of the 1945 Constitution requires that Indonesia's economy be organized in accordance with the principles of economic democracy, justice, sustainability, environmental awareness, independence, and balanced national development. This constitutional mandate not only serves as the philosophical basis for the management of the national economy, but

also constitutes a constitutional mandate that gives the state the authority and responsibility to regulate, control, and supervise economic activities in order to achieve justice and the public interest.¹ Every economic policy formulated by the government must be based on the principles of public benefit and social justice, so that every policy made by the government can benefit all levels of society². Therefore, economic development must ensure that the needs of the people are met in every policy, including in the transportation sector, which plays a strategic role in supporting mobility and community welfare.

The advancement of information technology has brought about fundamental changes in the national economic structure, shifting toward a digital-based economic system.³ This model facilitates direct interaction between service providers and users through digital applications across regions, transcending administrative boundaries.⁴ Online transportation services have provided the public with ease of access, created new employment opportunities, and contributed significantly to the growth of the national digital economy.⁵ The emergence of online transportation services has not only facilitated public access but has also established a new market structure controlled by application companies as the service system providers. Access to quality public transportation constitutes a fundamental state responsibility in promoting public welfare and supporting economic growth.⁶ In this context, the exercise of the controlling function constitutes an inseparable aspect of transportation governance, as it is directly related to the execution of State authority, the assurance of compliance with statutory regulations, and the provision of legal protection for all parties involved.

Controlling is an essential governmental function in the transportation sector to ensure compliance with statutory regulations.⁷ Controlling involves evaluating the actual

¹ Ayuta Puspa Citra Zuama et al., "*Telaah Regulasi Ojek Online di Indonesia dalam Perspektif Filsafat Fenomenologi Hukum*," Reformasi Hukum 25, No. 1., 2021, p. 22. <https://doi.org/10.46257/jrh.v25i1.182>.

² Audila Syafira, *Peran Dinas Perhubungan Kota Medan Dalam Pengawasan Transportasi Umum Rute Marel-an-Amplas (Studi Dinas Perhubungan Di Kota Medan)*, 2 (2022), 13.

³ Devia Syahfitri Purba et al., "*Analisis Perkembangan Ekonomi Digital Dalam Meningkatkan Pertumbuhan Ekonomi Di Indonesia*", Jurnal Masharif al-Syariah: Jurnal Ekonomi dan Perbankan Syariah, Volume 10, No. 1, 2025, 1, 27.

⁴ Artanti, A. S., Sari, D., Putra, B. T., Pratama, C. A., Sosial, F. I., Universitas, P., and Putra, W., Analisis Perkembangan Ekonomi Digital Pada Perekonomian Masyarakat Di Indonesia, *Journal of Gender Equality and Social Inclusion (GESI)*, 2025.

⁵ Sonya Hermina Kusumaning Maruru dkk., "*Tinjauan Hukum Terhadap Regulasi Dan Pengawasan Layanan Transportasi Online (Studi Kasus Grab Di Indonesia)*", Intelektiva., Volume 6., No. 2., 2024, 177 .

⁶ Nasha Indi Pratama Putri, "*Pengaruh Transportasi Umum Terhadap Perkembangan Antar Wilayah Administrasi di Jakarta*", Jurnal ManajemenBisnisTransportasi dan Logistik, Volume 8., No.1, Juni 2022, p. 64.

⁷ Abdul Khakim, *Dasar-Dasar Hukum Ketenagakerjaan Indonesia*, Cetakan Ke-4 Edisi Revisi (Penerbit PT Citra Aditya Bakti, 2014), 197.

implementation of duties against established plans and must be exercised based on clearly defined authority⁸, as the technical governmental institution responsible for the administration of national transportation.⁹ The Ministry of Transportation exercises supervisory and regulatory authority in the transportation sector based on attributive powers conferred by Law Number 22 of 2009 on Road Traffic and Transportation. Within the framework of Administrative Law, such authority constitutes the legal basis for governmental intervention aimed at ensuring the safety, orderliness, efficiency, and accountability of transportation services in the public interest.¹⁰

Digital transformation in transportation has created legal challenges not fully addressed by Law Number 22 of 2009, which did not anticipate application-based transportation despite granting the government authority to exercise control.¹¹ In response to this legal vacuum, the government issued Minister of Transportation Regulation Number 12 of 2019 on the Protection of the Safety of Motorcycle Users for Public Interest (Minister of Transportation Regulation Number 12 of 2019).¹² This regulation constitutes the first formal recognition of online transportation services, particularly application-based passenger transportation using motorcycles.¹³ However, the practical effectiveness of this regulation largely depends on the compliance of application companies, as the primary operators of online transportation platforms, with the obligations and standards established under the regulatory framework.

One of the most significant indicators of the weaknesses in governmental supervision of online transportation services was the large-scale protest organized by thousands of online motorcycle taxi drivers affiliated with Asosiasi Garda Indonesia in Jakarta on 20 May 2025.

⁸ Muchsan, *Sistem Pengawasan Terhadap Perbuatan Aparat Pemerintah Dan Peradilan Tata Usaha di Indonesia* (Liberty Yogyakarta, 2007), 38.

⁹ Kementerian Perhubungan Republik Indonesia, *Tugas Pokok dan Fungsi*, 13 September 2022, <https://dephub.go.id/post/read/tugas-pokok-dan-fungsi?cat=QmVyaXRhfHNiY3Rpb24tNjU>, Last modified Oktober 13, 2025.

¹⁰ Sonya Hermina Kusumaning Maruru, *et. al.*, *Tinjauan Hukum Terhadap Regulasi Dan Pengawasan Layanan Transportasi Online (Studi Kasus Grab Di Indonesia)*.

¹¹ Sidiqah, M., The Implication of the Development of Technology on Land Transportation Law in Indonesia, *SASI*, 29. (3) 495, 2023.

¹² Ahmad Agung Febrianto, *et. al.*, “Efektivitas Peraturan Menteri Perhubungan Nomor 12 Tahun 2019 tentang Keselamatan Pengguna Sepeda Motor yang Digunakan untuk Kepentingan Masyarakat dalam Mewujudkan Keselamatan dan Keamanan di Magelang,” *Borobudur Law and Society Journal* 2, no. 1 (2023), 2. <https://doi.org/10.31603/9940>.

¹³ Akbar, S., and Hikmawati, E., Status Hubungan Hukum Ojek Daring Dengan Perusahaan Jasa Transportasi Di Era Gig Economy Ditinjau Dari Permenhub Nomor 12 Tahun, *Lex Jurnalica*, 2019.

The protest was accompanied by a nationwide suspension of application-based transportation services, commonly referred to as an off-bid action, in response to the revenue-sharing policies implemented by application companies. The drivers alleged that the deductions imposed by certain application companies reached nearly fifty percent of their daily earnings, despite the existence of regulatory guidelines governing service fees under Minister of Transportation Regulation Number 12 of 2019. This phenomenon demonstrates the substantial influence exercised by application companies over the operational and economic aspects of online transportation services.

At the same time, it reveals the limited effectiveness of existing governmental supervision in ensuring compliance with regulatory standards and protecting the rights and interests of driver-partners. Consequently, the incident highlights the need for a clearer and more effective supervisory framework capable of addressing the growing regulatory challenges posed by digital transportation platforms.¹⁴ This phenomenon indicates that application companies possess significant control over operational and economic aspects of online transportation services, while governmental controlling mechanisms remain insufficient to ensure compliance with regulatory standards and the protection of driver-partners' rights.

Previous studies on the governance of online transportation in Indonesia have highlighted a range of legal and regulatory issues. Sidiqah (2023) demonstrates that the rapid development of digital transportation has outpaced existing legal frameworks, resulting in regulatory uncertainty and governance challenges. However, the study primarily focuses on the implications of technological development for transportation law and does not address the construction of governmental supervision, the legal status of application companies as objects of administrative oversight, or the effectiveness of supervisory mechanisms from an Administrative Law perspective.¹⁵ From a contractual standpoint, Amri and Dewi (2023) argue that partnership arrangements foster an imbalance of legal protection for drivers¹⁶,

¹⁴ Larissa Huda dan Lidia Pratama Febrian, "Bakal Off Bid Besok, Driver Ojol Minta Maaf Layanan Akan Lumpuh dan Lalu Lintas Macet," *Kompas.com*, Mei 2025, <https://megapolitan.kompas.com/read/2025/05/19/11075291/bakal-off-bid-besok-driver-ojol-minta-maaf-layanan-akan-lumpuh-dan-lalu> Accessed on Monday, 13 October 2025, at 8:42 p.m.

¹⁵ Meliyani Sidiqah, "The Implication of the Development of Technology on Land Transportation Law in Indonesia," *SASI* 29, No. 2 (2023).

¹⁶ Mochammad Amri and Sri Anggraini Kusuma Dewi, "Legal Relations Between Drivers and Online-Based Transportation Companies," *Yurisdiksi: Jurnal Wacana Hukum dan Sains* 19, No. 1 (2023).

while Lusiana et al. (2022) complement this by stating that such multi-contract transactions remain permissible under Islamic Economic Law via the *istihsan* approach.¹⁷

Furthermore, Salsabila and Yasarman (2024) identify that governmental supervision remains ineffective due to overlapping institutional authorities and weak controlling mechanisms.¹⁸ Conclusively, while previous research has focused heavily on transportation regulation, partnership relations, and Islamic legal perspectives, limited attention has been given to these enforcement mechanisms from an administrative law framework. Existing studies generally emphasize partnership relations, transportation regulations, legal protection, and transaction validity within civil and Islamic law perspectives.

Consequently, limited scholarly attention has been devoted to governmental supervision from an Administrative Law perspective, particularly with respect to the ambiguity of supervisory authority, the legal status of online transportation application companies as objects of administrative supervision, and the effectiveness of supervisory mechanisms under Minister of Transportation Regulation Number 12 of 2019. To address this gap, the present study examines the legal construction of governmental supervision over online transportation application companies within the framework of Administrative Law.

The novelty of this research lies in its analysis of the inconsistency between the normative obligations imposed on application companies and the absence of clear supervisory authority and enforcement mechanisms within the existing regulatory framework. Furthermore, this study evaluates the extent to which the current supervisory regime complies with the principles of legal certainty and good governance. By doing so, the research seeks to contribute to the development of a more coherent administrative framework for the supervision of online transportation services and to formulate legal recommendations aimed at strengthening accountability, regulatory effectiveness, and administrative justice.

This study employs normative legal research using statutory and conceptual approaches. The statutory approach is utilized to examine laws and regulations governing road transportation, electronic systems, and government administration, particularly those related to governmental supervision of online transportation application companies. The conceptual approach is applied through the analysis of legal doctrines, principles, and

¹⁷ Lusiana, Muhammad Harun, Fauziah, and Muhammad Abdillah, "Istihsan Concept in Multi Contract Online Transactions of Go-Food Services in The Go-Jek Application," *Nurani: Jurnal Kajian Syari'ah dan Masyarakat* 22, No. 1 (2022): 95–108.

¹⁸ Adinda Putri Salsabila and Yasarman, "Tanggung Jawab Hukum Dinas Perhubungan dalam Pengawasan dan Regulasi Transportasi Online di Indonesia," *Decisio: Jurnal Ilmiah Hukum* 1, No. 2 (2024): 15.

scholarly perspectives in Administrative Law. The legal materials consist of primary legal materials in the form of legislation, secondary legal materials including legal literature and scholarly journal articles, and tertiary legal materials such as legal dictionaries and reference sources. These materials are analyzed qualitatively through legal interpretation to identify normative issues, including legal uncertainty, vagueness of norms, and inconsistencies in the regulatory framework governing governmental supervision. The analysis is prescriptive in nature, aiming to formulate legal arguments and recommendations concerning the construction of supervisory authority, supervisory mechanisms, and administrative enforcement within the framework of Administrative Law.

DISCUSSION

Governmental Controlling Regulations for Online Transportation Application Companies

The emergence of application-based transportation services has created new challenges for governmental supervision, particularly in ensuring that digital transportation platforms operate in accordance with legal standards and the public interest. As entities that facilitate and regulate interactions between drivers and service users through digital systems, application companies exercise significant influence over operational, economic, and service-related aspects of online transportation. This development necessitates an effective supervisory framework capable of ensuring compliance with statutory obligations, protecting the rights and interests of both drivers and users, and preventing practices that may undermine fairness, accountability, and legal certainty.

Within the framework of Administrative Law, governmental supervision serves as an essential instrument for maintaining regulatory compliance and ensuring that the operation of online transportation services remains consistent with the principles of good governance and the objectives of public service administration.¹⁹ The concrete authority of the Government to conduct controlling in the transportation sector is attributively derived from Law Number 22 of 2009 concerning Road Traffic and Transportation.

Article 5 of Law Number 22 of 2009 on Road Traffic and Transportation establishes the legal foundation for governmental involvement in the administration of transportation.

¹⁹ Astuti, B. and Daud, M. R., *Kepastian Hukum Pengaturan Transportasi Online*, *Al-Qisth Law Review*, 6. (2), 2023: 205–44.

The Law places responsibility for road traffic and transportation under the authority of the State and mandates the Government to carry out its development through a range of regulatory functions, including planning, regulation, control, and supervision. Within the framework of Administrative Law, these functions constitute an integral part of the Government's attributive authority to ensure that transportation services are administered in accordance with statutory requirements and the public interest. Accordingly, supervision is not merely a discretionary governmental activity but a legal instrument through which the Government ensures compliance, accountability, and the effective implementation of transportation policies.²⁰

The Government's supervisory authority in the transportation sector derives directly from powers attributed by Law Number 22 of 2009 on Road Traffic and Transportation. This authority is further operationalized through Article 6, which authorizes the Government to establish norms, standards, procedures, and criteria, as well as to oversee their implementation within the transportation system. From the perspective of Administrative Law, attributed authority constitutes the primary source of legal legitimacy for governmental action, enabling the Government to exercise supervisory functions and ensure compliance with statutory obligations. Accordingly, the authority to supervise online transportation services, including the activities of application companies, forms part of the State's legally recognized administrative powers derived from legislative mandate.²¹

Accordingly, the authority of the Ministry of Transportation to conduct controlling over the administration of transportation, including application-based transportation services, is legally valid and derives directly from the normative construction of Articles 5 and 6 of Law Number 22 of 2009 concerning Road Traffic and Transportation. This authority further constitutes the legal basis for the formulation and implementation of subordinate technical regulations.²² Further analysis of the normative construction of Articles 5 and 6 of Law Number 22 of 2009 on Road Traffic and Transportation reveals limitations in the regulation of the objects of controlling. Article 6 paragraph (1) letter (e) of Law Number 22 of 2009 concerning Road Traffic and Transportation stipulates that governmental administration

²⁰ Roziqin, R., Ukasah, S. A. and Budianto, B., Pembinaan Dan Pengawasan Pemerintah Pusat Terhadap Pemerintah Daerah Dalam Penyelenggaraan Pemerintahan Daerah, *Journal de Jure*, 15 (2), 2023: 2655–4348.

²¹ Amelia Cahyadini, *et. al*, *Hukum Pengawasan* (PT Remaja Rosdakarya, 2023), 13.

²² Hendarwanto, A., Amin Zaini, N. and Sejati, H., Online Transportation Law Reform for Justice and Sustainability, *R2J*, 7. (1). 2024.

includes controlling over the implementation of established norms, standards, guidelines, criteria, and procedures.

This provision presupposes that every mode of transportation subject to controlling is already governed by clear normative regulations serving as the legal basis for such controlling. The problem arises because Law Number 22 of 2009 concerning Road Traffic and Transportation does not recognize application-based motorcycle transportation as a category of public transportation, resulting in the absence of specific technical norms that regulate both the operation and the controlling of motorcycle-based online transportation services.²³

The absence of regulation recognizing motorcycles as a mode of public transportation under Law Number 22 of 2009 on Road Traffic and Transportation has resulted in a legal vacuum in the regulation of application-based transportation. Article 47 paragraph (3) letters (a) and (b) of Law Number 22 of 2009 concerning Road Traffic and Transportation merely classify motorcycles as motor vehicles, without including them within the category of either private motor vehicles or public motor vehicles.²⁴ This condition prompted the Government to formulate sectoral regulations as a response to the development of digital transportation practices, which was subsequently realized through the issuance of Minister of Transportation Regulation Number 12 of 2019 concerning the Safety Protection of Motorcycle Users for Public Interest.²⁵

The legal issue does not merely lie in the fulfilment of regulatory needs. Minister of Transportation Regulation Number 12 of 2019, in fact, reveals further problems when closely examined, as it simultaneously imposes a number of legal obligations on application-based transportation companies in the operation of online transportation services.²⁶ This condition gives rise to a normative imbalance between the imposition of administrative obligations and the absence of explicit government controlling instruments over their implementation. From the perspective of Administrative Law, every obligation established by law and regulations

²³ Pinara Gusti, D., Supriyono, B., Wardhono, H., Rozikin, M., and Slamet Riyadi, B., Public Policy: Inconsistency of Online and Conventional Land Transportation Regulations in Indonesia on Social Conflict Implications, *International Journal of Criminology and Sociology*, 2021.

²⁴ Satoto, E. and Sulhan, S., Legal Certainty of Online Motorcycle Taxis as Public Transportation in Indonesia, *Rechtsnormen: Journal of Law*, 2, (4), 2024.

²⁵ Chrysnanda Dwilaksana, *Ojek Online: Problematika dan Peluang Pengaturannya di Indonesia* (Rajawali Pers, 2019), 13.

²⁶ Akbar, S., and Hikmawati, E., Status Hubungan Hukum Ojek Daring Dengan Perusahaan Jasa Transportasi Di Era Gig Economy Ditinjau Dari Permenhub Nomor 12 Tahun, *Lex Jurnalica*, 2019.

must, in principle, be accompanied by clear controlling authority in order to ensure compliance and accountability of the regulated legal subjects. Therefore, in order to comprehensively assess the extent to which the vagueness of controlling norms in Minister of Transportation Regulation Number 12 of 2019 affects the effectiveness of application-based transportation services, it is necessary to first analyze the normative obligations directly imposed upon application companies as the juridical basis that necessitates the existence of a governmental controlling function.

Normatively, Minister of Transportation Regulation Number 12 of 2019 does not merely regulate the conduct of motorcycle users, but also imposes concrete obligations upon application companies as operators of application-based transportation services.²⁷ These obligations can be identified in several provisions that explicitly position application companies as legal subjects responsible for ensuring the fulfillment of safety and security standards. Article 3 paragraph (1) of Minister of Transportation Regulation Number 12 of 2019 stipulates that the use of motorcycles for public purposes must comply with aspects of safety, security, comfort, affordability, and orderliness. This provision is further reinforced by Article 3 paragraph (2), which states that the fulfillment of these aspects applies to services provided through the use of applications. Based on this formulation, application companies cannot be separated from the obligation to ensure compliance with the service standards stipulated by the regulation.

Article 4 of Minister of Transportation Regulation Number 12 of 2019 stipulates the safety requirements that must be fulfilled in the provision of transportation services, including, *inter alia*, the obligation for drivers to possess a valid driving license, the requirement that vehicles be roadworthy, and the use of safety equipment in accordance with prescribed standards. Although these norms are formally addressed to drivers, from a systematic legal perspective such obligations are also inherently attached to application companies, as they are the entities that recruit, verify, and manage drivers through their application-based systems.

The obligations of application companies are further strengthened under Article 5 paragraph (2) of Minister of Transportation Regulation Number 12 of 2019, which explicitly

²⁷ Agatha Jumiaty, Esti Aryani and Erlin Suci Ikayani, Policies for Regulating Partnership Relationships in Land Transport Businesses in The Era of The Industrial Revolution 4.0, *Indonesian Journal of Law and Justice*, Vol. 2. (4), (2025).

provides that, in terms of security, application companies are required to provide at a minimum identity of passengers making bookings through the application, the identity of drivers and motorcycles in accordance with actual data, a customer complaint service telephone number and an emergency feature (panic button) within the application.²⁸ This provision directly imposes administrative obligations on application companies to develop and implement internal systems, features, and operational mechanisms aimed at ensuring the safety and security of both users and drivers.

Article 6 of Minister of Transportation Regulation Number 12 of 2019 contains specific prohibitions imposed on drivers in the provision of transportation services, which indirectly place application companies under an obligation to conduct guidance and control over their driver partners to ensure compliance with such prohibitions. This obligation of guidance demonstrates that application companies do not merely function as technological intermediaries, but also act as normative actors bearing responsibility for maintaining standards of conduct and safety in the operation of application-based transportation services.

A further weakness of Minister of Transportation Regulation Number 12 of 2019 is clearly reflected in the provision of Article 19, which states that “The Government and/or Regional Governments shall exercise controlling over the use of motorcycles for public interest.” This formulation is overly general and gives rise to fundamental juridical issues. First, the provision does not explicitly designate application companies as the objects of controlling. The phrase “use of motorcycles” allows for broad interpretation, raising ambiguity as to whether the controlling function is directed solely at the physical conduct of drivers as individuals, or whether it also encompasses the policies and systems established by application companies, which in practice exercise substantial control over motorcycle usage through fare algorithms, order-matching mechanisms, and partnership schemes. This lack of clarity obscures the legal position of application companies as private actors that, in factual terms, perform regulatory functions.

The use of the phrase “The Government and/or Regional Governments” in the provision on controlling further indicates normative ambiguity in the distribution of authority. Such wording fails to clearly determine which authority bears primary responsibility for the implementation of controlling, thereby creating the potential for an overlap or conflict of

²⁸ Farica, Y. S., Aspek Hukum Tanggung Jawab Penyelenggara Pelayanan Atas Pelanggaran Administratif Dalam UU No. 25 Tahun, *Jurnal Ilmiah Publika*, 13. (1). 2025.

authority between the central government and regional governments in exercising controlling functions.²⁹ As a result, variations and even contradictions in regional regulations emerge, leading to legal uncertainty.³⁰ The principal legal issue examined in this study no longer lies in the absence of regulation governing online transportation, but rather in the quality of the controlling norms established under Minister of Transportation Regulation Number 12 of 2019. The ambiguity of Article 19 constitutes a critical point that reveals a lack of coherence between the broad attributive authority conferred by Law Number 22 of 2009 on Road Traffic and Transportation and the inability of the implementing regulation to operationalize such authority effectively. This condition gives rise to serious implications for the effectiveness of governmental controlling over online transportation application companies.

Minister of Transportation Regulation Number 12 of 2019 is constructed upon the assumption that the primary issue of online transportation lies in the safety of motorcycle users.³¹ Consequently, the regulatory substance is predominantly directed toward physical and technical safety standards, such as the use of safety equipment and vehicle roadworthiness, as reflected in the initial provisions that focus on drivers and motorcycles as the objects of regulation. This approach demonstrates that the regulation continues to rely on the conventional road transportation controlling paradigm, which positions vehicles and individual drivers as the central points of control.

This approach becomes problematic when applied to application-based transportation, as the core characteristic of such services does not lie solely in the mode of transportation, but rather in the application companies that control the relationships between drivers, users, and the market through algorithmic mechanisms. Application companies function as private regulators that determine fares, matching systems, service standards, and sanctions imposed on partner drivers. By failing to position application companies as objects of controlling, Minister of Transportation Regulation Number 12 of 2019 neglects the dimension of market regulation and digital governance, which in fact constitutes the core of online transportation services. This limited perspective subsequently affects the formulation of the controlling norm

²⁹ Fairuz Abdul Haq dkk., “Desentralisasi Dan Harmonisasi Kebijakan: Rekonstruksi Pembagian Kewenangan Antara Pemerintah Pusat Dan Daerah Dalam Negara Kesatuan,” *Qanuniya : Jurnal Ilmu Hukum* 2, no. 2 (2025), 18, <https://doi.org/10.15575/qanuniya.v2i2.1819>.

³⁰ Op.Cit. 15.

³¹ Hamsona, D. A., and Susilowati, I. F., *Perlindungan Hukum Terhadap Keselamatan Penumpang Kendaraan Sepeda Motor Yang Digunakan Untuk Kepentingan Masyarakat*, 2021.

in Article 19, which remains general and non-operational, as it is not accompanied by clear stipulation regarding the objects and mechanisms of controlling.³²

The lack of clarity in the regulation of such authority results in the failure to fulfill the principle of legality and undermines legal certainty in the exercise of the controlling function, as analyzed through the theory of authority. Minister of Transportation Regulation Number 12 of 2019 does not fully operate as an instrument of delegation that clarifies the exercise of governmental authority. Instead, it creates a normative layer that is incoherent with the theory of authority.

Article 19 transforms the legitimate attributive authority granted by Law Number 22 of 2009 on Road Traffic and Transportation into a pseudo-authority that lacks legal force to regulate and control the dynamics of digital market power. Within the framework of Satjipto Rahardjo's theory of legal protection, such ambiguity instead generates legal vulnerability³³ for drivers and users, as the state, through its regulatory framework, fails to allocate adequate authority to protect them from the potential abuse of power by application-based companies.

The degree of seriousness and the quality of the formulation of controlling norms in Minister of Transportation Regulation Number 12 of 2019 must be examined through an evaluative benchmark derived from the national transportation regulatory framework itself. The most valid and relevant benchmark is Minister of Transportation Regulation Number 118 of 2018 concerning the Operation of Special Rental Transportation Services.³⁴ Both regulations originate from the same legal parent, namely Law Number 22 of 2009 on Road Traffic and Transportation, are issued by the same ministry, within a relatively close timeframe, and equally regulate transportation services involving application-based companies. A comparative analysis through the following matrix will examine both regulations across several crucial aspects in order to substantiate the thesis that the weaknesses of Minister of Transportation Regulation Number 12 of 2019 are systematic in nature and could have been avoided. The comparative overview is presented as follows:

³² Izzati, N. R., Ketidakseimbangan Kewajiban Para Pihak Dalam Regulasi Ojek Online: Distorsi Logika Hubungan Kemitraan Ekonomi Gig, *Undang: Jurnal Hukum*, 5. (2). 2022: 325–56.

³³ Muhamad Sadi Kun Budianto, *Hukum Administrasi Negara* (Kencana, 2020), 141.

³⁴ Desril, R., Rachman, M., and Santoso, M. A., Comparison of Online Transportation Regulatory Framework in Indonesia and Several ASEAN Member States, *Pena Justisia*, 2024.

Table 1. Comparison of Minister of Transportation Regulation Number 118 of 2018 and Minister of Transportation Regulation Number 12 of 2019

No	Aspect of Analysis	Minister of Transportation Regulation Number 118 of 2018	Minister of Transportation Regulation Number 12 of 2019	Legal Implications and Analysis
1.	Subject of Controlling Authority	Article 27: “The Minister, the Governor, and the Regent/Mayor, in accordance with their respective authorities, shall carry out guidance and controlling”	Article 19: “The Government and/or the Regional Government shall exercise controlling	Minister of Transportation Regulation Number 118 of 2018 satisfies the principle of clarity by explicitly defining governmental authority, whereas the use of the phrase “and/or” in Regulation Number 12 of 2019 creates interpretative ambiguity and potential legal uncertainty.
2.	Objects or subjects of Legal Controlling	Article 2(d) expressly includes application companies as subjects of regulation, thereby recognizing them as independent legal objects.	Application companies are not recognized as independent legal subjects, being merely mentioned as technological means without specific obligations or responsibilities.	Regulation Number 11 of 2018 normatively recognizes the central role of application companies, whereas Regulation Number 12 of 2019 fails to designate them as primary regulatory subjects, thereby weakening governmental controlling.
3.	Structure and Completeness of the Controlling	Chapter VI on “Guidance and Controlling” consists of six	Chapter VI on “Controlling” contains only one (1) article	Regulation Number 118 of 2018 provides a systematic controlling

	Chapter	(6) interrelated articles (Articles 27 to 32), encompassing the legal basis of authority, scope, and enforcement mechanisms.	(Article 19), without being followed by further provisions regulating the technical and procedural aspects of its implementation.	framework, whereas Regulation Number 12 of 2019 remains general and insufficient to guide governmental controlling.
4.	Mechanisms and Instruments of Law Enforcement	Articles 28-32 regulate controlling mechanisms, graduated administrative sanctions applicable to all regulated actors, including application companies, and the procedures for their imposition.	The regulation lacks provisions on controlling procedures, corrective measures, and administrative sanctions, particularly regarding application companies	Regulation Number 118 of 2018 strengthens accountability through detailed enforcement mechanisms, whereas Regulation Number 12 of 2019 lacks enforceability, thereby reducing its regulatory effectiveness.
5.	Compliance with the Principle of Good Governance (AUPB)	A clear normative construction concerning subjects, objects, and procedures is consistent with the Principles of Legal Certainty, Prudence, and Accountability as stipulated in Law Number 30 of 2014.	The ambiguity in the f Ambiguous authority and the absence of enforcement mechanisms undermine legal certainty, due care, and accountability.	From the perspective of the General Principles of Good Governance, Regulation Number 118 of 2018 reflects a higher regulatory standard than Regulation Number 12 of 2019, which remains insufficient to ensure good governance in the digital transportation sector.

6.	Adaptation to Digital Business Models	By explicitly regulating application companies and sanctions, the regulation accommodates application-based business models.	The regulation prioritizes physical safety while insufficiently addressing the economic and digital operations of application companies.	Although Regulation Number 118 of 2018 governs four-wheeled transportation, it provides a more comprehensive digital-era regulatory mechanism than Regulation Number 12 of 2019, which specifically targets application-based services.
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This analysis shows uneven regulatory quality under Law Number 22 of 2009, as Regulation Number 12 of 2019 fails to adopt the more comprehensive framework of Regulation Number 118 of 2018, resulting in weak and non-operational governmental controlling over application-based transportation. The normative ambiguity of Article 19 not only blurs institutional authority but also obscures the legal status of application companies, which in practice exercise functional authority by regulating relations, setting standards, and imposing sanctions affecting public interests.

Online transportation platforms exercise functional regulatory power through fare setting, partnership rules, algorithmic evaluations, and private sanctions, yet Article 19 of Regulation Number 12 of 2019 limits controlling to motorcycle use, leaving platform policies and algorithms beyond governmental oversight. As a result, the ambiguity of the norm implicitly legitimizes the neglect of application companies as one of the objects of administrative controlling. State controlling becomes partial and superficial, targeting only field actors (driver partners) without reaching strategic decision-makers at the application level. This situation demonstrates a distortion of the controlling function, whereby the state loses its ability to exert oversight over the private regulator that effectively determines the direction, patterns, and socio-economic impacts of online transportation services.

The construction of controlling norms in Minister of Transportation Regulation Number 12 of 2019, which is formulated unclearly and normatively ambiguous, contradicts the Principles of Good Governance as regulated in Law Number 30 of 2014 concerning Government Administration. The Principles of Good Governance constitutes a set of legal

principles that serve as a guideline for government administration in exercising authority such as principle of legal certainty, principle of expediency, principle of impartiality, principle of due care, principle of non-abuse authority, principle of openness, principle of public interest and principle of good public services.³⁵

Based on the analysis, Minister of Transportation Regulation Number 12 of 2019 imposes legal obligations on application-based transportation companies, including security systems, driver supervision, and compliance with safety and service standards. However, these obligations are not supported by clear provisions on governmental controlling authority or mechanisms. The regulation lacks defined controlling stages, evaluation procedures, and administrative follow-up measures in cases of non-compliance. From an administrative law perspective, this imbalance between imposed obligations and the absence of effective controlling mechanisms weakens the construction of controlling authority and risks undermining legal enforceability and certainty in implementation.

Governmental Controlling Mechanisms for Online Transportation Application Companies

The governmental controlling mechanism regulated under Minister of Transportation Regulation Number 12 of 2019 constitutes a manifestation of the state's administrative control function over the dynamics of transportation in the digital era. From a juridical perspective, such controlling is intended to ensure that the operations of online transportation application companies remain within the legal framework and comply with the obligations imposed by the regulator. This form of controlling is not merely an evaluative instrument of activities, but rather represents the government's accountability in exercising its attributive authority to safeguard public safety. However, the effectiveness of such controlling is highly dependent on the clarity of the norms governing the mechanisms of governmental intervention in cases of non-compliance by application companies as the regulated legal subjects.³⁶

The provision concerning the controlling mechanism under this regulation is explicitly stipulated in Article 19, which states that "The Government and/or Regional Governments

³⁵ Syahrul Ibad, "Hukum Administrasi Negara Dalam Upaya Penyelenggaraan Pemerintahan Yang Baik" *HUKMY : Jurnal Hukum* 1, no. 1., 2021, 66, <https://doi.org/10.35316/hukmy.2021.v1i1.55-72>.

³⁶ Lasinta Virgy, R., and Setiawan, A., Enforcement Of Supervision In Protecting Consumers Against Online Transportation In Indonesia Penegakan Pengawasan Dalam Melindungi Konsumen Terhadap Transportasi Online Di Indonesia, *Jurnal Hukum Media Justitia Nusantara*, 2025.

shall exercise controlling over the use of motorcycles for public interest.” The wording of this article reveals a fundamental flaw in determining the object of controlling within the legislative framework. Controlling should be directed at the legal subject that holds regulatory permits and bears normative obligations, namely the application company. However, through this formulation, the object of controlling is narrowly confined to the “use of motorcycles” or the physical activities of driver-partners in the field, thereby sidelining the corporate entity as the central locus of operational control.

This misidentification of the object of controlling becomes even more evident when examined through the theory of controlling which states by Muchsan that says controlling mechanism should be constructed as an administrative instrument aimed at aligning the implementation of activities with predetermined normative benchmarks.³⁷ In this context, the relevant benchmarks encompass safety obligations, operational standards, and other technical requirements that must be complied with by application companies. Without positioning application companies as one of the objects of controlling, such normative benchmarks cannot be effectively examined for compliance, since the physical use of motorcycles in the field merely constitutes a consequence of system-level policies designed and implemented by the application companies themselves.

In line with this theoretical framework, when examined through the classification of controlling as set out in Presidential Instruction Number 1 of 1989, the controlling mechanism under Minister of Transportation Regulation Number 12 of 2019 should ideally reflect both inherent controlling and functional controlling. Such controlling ought to be carried out by governmental institutions vested with authority in the field of transportation, at both the central and regional levels, in accordance with their respective duties and functions. However, the administrative nature of this controlling requires a systematic process from upstream to downstream, which should not be limited to physical supervision on public roads, but must also encompass functional controlling over the administrative compliance of application companies as transportation service providers.

From a normative perspective, Minister of Transportation Regulation Number 12 of 2019 does not regulate the procedural stages of controlling in a clear and structured manner. First, the regulation neglects the planning procedural stage, as it fails to establish operational standards that define the subjects, objects, and assessment methods for controlling application

³⁷ Muchsan, *Op. Cit.*

companies. The absence of such benchmarks renders the objectives of controlling unmeasurable and deprives the policy of a clear regulatory direction. Second, the absence of explicit regulation regarding the implementation procedural stage causes the controlling function to remain merely declaratory in nature. Without operational guidance such as mechanisms for administrative inspection or periodic monitoring government officials lack the technical legitimacy to exercise their authority in a concrete and effective manner in practice. This condition ultimately creates a legal vacuum in the implementation of systematic and accountable controlling.

The evaluation procedural stage, as an integral component of the controlling process, is also not regulated under Minister of Transportation Regulation Number 12 of 2019. In controlling theory, evaluation constitutes a crucial procedural stage for assessing the conformity between the implementation of activities and the predetermined plans, as well as for serving as the basis for determining corrective measures. This regulation does not contain provisions concerning the obligation to prepare the results of controlling evaluations, whether in the form of reports or recommendations. Consequently, the outcomes of controlling are not systematically documented and cannot be utilized as a foundation for subsequent decision-making.

The unclear of regulation concerning the procedural stages of controlling is further reflected in the lack of provisions governing follow-up measures resulting from controlling activities. Minister of Transportation Regulation Number 12 of 2019 does not provide clarity regarding the administrative or juridical actions that must be taken when non-compliance by application companies with applicable provisions is identified.³⁸ According to Muchsan, controlling actions must be concluded with follow-up measures as a form of correction and restoration of the deviations found.³⁹ In the absence of clear regulation on follow-up mechanisms, controlling is reduced to mere observation and loses its functional effectiveness as an instrument of administrative law enforcement.

The absence of regulation concerning the stages of controlling has a direct implication on the failure to establish a systematic and continuous controlling mechanism. In the absence of clear procedural standards, controlling becomes incidental in nature and heavily dependent on the interpretation of individual officials, thereby rendering its level of effectiveness

³⁸ Mandayani, D. and Nasution, A., Tinjauan Hukum Terhadap Layanan Transaksi Dan Berbasis Aplikasi Online, *RESAM Jurnal Hukum*, 2018: 17–30.

³⁹ Muchsan, *Loc. Cit.*

difficult to measure objectively. Such a condition is legally problematic, as it lacks an operational evaluative basis to assess whether controlling has been conducted in accordance with the principles of Administrative Law. The implementation of the controlling function by the Ministry of Transportation frequently encounters obstacles in the form of rigid sectoral jurisdictional boundaries. Administratively, online transportation application companies are classified as Electronic System Operators (*Penyelenggara Sistem Elektronik/PSE*) under the authority of the Ministry of Communication and Digital Affairs (*Komdigi*). However, such status does not automatically negate the controlling authority of the Ministry of Transportation. Analytically, there exists a clear separation of controlling objects, whereby the Ministry of Communication and Digital Affairs exercises authority over the technical reliability of electronic systems, while the Ministry of Transportation possesses attributive authority under the Road Traffic and Transportation Law to conduct controlling over operational substance, tariff arrangements, and safety aspects.

The principal legal problem in Article 19 of Minister of Transportation Regulation Number 12 of 2019 lies in the absence of a clear coordination mechanism, both vertically and horizontally, which results in the controlling function being exercised in a partial and fragmented manner. The Ministry of Transportation possesses full legal legitimacy to conduct controlling over the compliance of application companies with service standards and the protection of driver-partners' rights. However, the ambiguity of the phrase "and/or" within the controlling provision generates uncertainty in the allocation of authority between the central government and regional governments. Controlling should not be construed as an exclusive or competing authority, but rather as a complementary function aimed at preventing application companies from exploiting their status as Electronic System Operators (PSE) as a "legal shield" to evade administrative responsibility within the transportation sector.

Provisions concerning administrative sanctions are, in fact, absent from the operative provisions of Minister of Transportation Regulation Number 12 of 2019. This regulation does not establish any classification of sanctions, the forms of administrative sanctions, nor the procedures for imposing such sanctions on application companies that violate the provisions governing application-based transportation services. From the perspective of Administrative Law, administrative sanctions constitute a crucial instrument (*sanctio*) to enforce compliance and to correct deviations directly without resorting to judicial mechanisms. The absence of

sanctioning provisions results in the lack of clear legal consequences, thereby depriving the controlling function of its enforcement essence.

The deficit in follow-up procedures and administrative sanctions results in the weak coercive force (*dwingende kracht*) of governmental controlling. The controlling conducted tends to operate merely as recommendations or moral appeals that lack the legal legitimacy necessary to ensure the implementation of findings in practice. This normative deficiency causes controlling to lose its corrective capacity, thereby preventing it from functioning as an effective instrument of administrative control in guaranteeing legal certainty and the protection of the public interest. This condition further confirms that the controlling mechanism under Minister of Transportation Regulation Number 12 of 2019 constitutes a *lex imperfecta*, namely an imperfect legal norm that lacks enforceability due to the absence of sanctioning power.

Scholarly opinions reinforce the understanding of the controlling mechanism by emphasizing that controlling, in essence, constitutes a process that must be conducted through systematic and interrelated stages. The controlling function is carried out through a series of activities, including establishing performance standards, measuring performance, evaluating performance, and correcting performance. These stages demonstrate that controlling does not merely terminate at the level of observation or assessment, but must ultimately culminate in corrective actions as a form of follow-up to the results of evaluation.⁴⁰

In line with this view, Pinem and his co-workers outlines the fundamental steps in understanding controlling as a mechanism, namely formulating the desired outcomes, establishing indicators or predictors of results, developing an information and feedback network, and evaluating the information to take corrective action.⁴¹ This perspective affirms that controlling requires clearly defined objectives, measurable indicators, a structured flow of information, and firm corrective mechanisms to ensure that controlling operates effectively and accountably.

When linked to the results of the analysis of Minister of Transportation Regulation Number 12 of 2019, the controlling mechanism stipulated in this regulation has not fulfilled the stages of controlling as articulated by legal and administrative scholars. Minister of Transportation Regulation Number 12 of 2019 does not explicitly formulate the objectives of

⁴⁰ Amelia Cahyadini, *et. al. Op. Cit.*, 44.

⁴¹ Rizky, M., Pinem, A., Sihombing, G. and Sidabutar, F., The Influence of Audit Quality in Controlling Practice Earnings Management, *Jurnal Sistem Informasi, Akuntansi Dan Manajemen*, 3. (2), 2023.

controlling to be achieved, does not establish performance indicators or standards as benchmarks for controlling, and does not develop an information and feedback mechanism that would enable systematic evaluation. Furthermore, the absence of provisions governing follow-up procedures and administrative sanctions renders the corrective stage the final and essential outcome of controlling ineffective and inoperable in practice.

Based on the analysis of the inconsistency between the controlling mechanism stipulated in Minister of Transportation Regulation Number 12 of 2019 and controlling theory as well as the principles of Administrative Law, the Author concludes that normative reconstruction constitutes an urgent necessity such as establishing performance standard, measuring performance, evaluating performance, correcting performance, administrative sanction and reinforcement of cross-sectoral coordination and legal certainty. The entirety of the problems surrounding the controlling mechanism under Minister of Transportation Regulation Number 12 of 2019 ranging from the absence of systematic stages, cross-sectoral coordination barriers, to the lack of administrative sanctions demonstrates that this regulation has failed to realize an effective governmental controlling function. From the perspective of Administrative Law, a controlling mechanism that is partial and devoid of legal coercive force not only generates legal uncertainty for business actors but also undermines the constitutional rights of driver-partners due to the absence of state protection within digital partnership relationships.⁴² Consequently, this normative failure necessitates a reconstruction of the controlling mechanism that is more comprehensive, integrated, and equipped with sanctioning legitimacy in order to ensure legal certainty and achieve administrative justice for all stakeholders within the online transportation ecosystem.

CONCLUSION

This study concludes that the governmental supervision framework governing online transportation application companies under Minister of Transportation Regulation Number 12 of 2019 remains normatively inadequate from an Administrative Law perspective. Although the regulation imposes various obligations on application companies relating to safety, security, and service standards, it fails to clearly recognize such companies as subjects of governmental supervision. This inconsistency creates a disconnect between the imposition of

⁴² Prananda, R. and Aidi, Z., *Tinjauan Yuridis Kedudukan Pengemudi Transportasi Online Dalam Kemitraan Dengan Perusahaan Penyedia Transportasi Online*, 2. (2): 2655–1942, 2019: 135–62.

regulatory obligations and the exercise of supervisory authority, resulting in legal uncertainty and weakening the effectiveness of governmental control.

Furthermore, the supervisory mechanism established under the regulation is not supported by clear operational standards, procedural stages, evaluation mechanisms, corrective measures, or administrative sanctions. As a consequence, governmental supervision operates merely at a declaratory level and lacks the enforceability necessary to ensure compliance by application companies. The ambiguity surrounding the allocation of supervisory authority between the central government and regional governments further contributes to ineffective implementation and fragmented regulatory oversight.

The novelty of this study lies in its identification of the normative inconsistency between the legal obligations imposed on application companies and the absence of a clear supervisory regime governing their activities. Therefore, a normative reconstruction of Minister of Transportation Regulation Number 12 of 2019 is necessary by explicitly designating application companies as objects of governmental supervision, establishing measurable supervisory standards and procedures, providing administrative enforcement mechanisms and sanctions, and strengthening institutional coordination. Such reconstruction is essential to ensure legal certainty, accountability, effective regulatory enforcement, and administrative justice within Indonesia's online transportation sector.

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