

# Optimizing the Principles of Healthy Business Competition and the Role of KPPU for a Fair Economy in the Digital Era

Sudiruddin, Agung Satrio Wibowo, Didit Darmawan, Siti Nur Halizah, Rahayu Mardikaningsih

Sunan Giri University of Surabaya, Indonesia

## ARTICLE INFO

### Article history:

Received 18 September 2022

Revised 20 October 2022

Accepted 24 November 2022

### Key words:

Business Competition Supervisory Commission (KPPU),

Digital monopoly,

Monopolistic practices of business actors,

Business competition in the digital era.

## ABSTRACT

Technological developments have assisted businesses in developing their businesses actor. The application of the principle of fair business competition in Indonesia, in accordance with Article 33 of the 1945 Constitution, plays an important role in improving public welfare and promoting the country's economic development. Through Law Number 5 Year 1999, this regulation prohibits monopolistic practices and abuse of dominant position, creating a fair and transparent business environment. The Business Competition Supervisory Commission (KPPU) has a crucial role in enforcing this regulation by conducting supervision, investigation, and enforcement of violations. KPPU is also focusing on the digital sector, where new challenges arise due to the dominance of large companies. By increasing transparency, education, and collaboration with international institutions, it is hoped that Indonesia can create a healthier and more sustainable business ecosystem, which in turn will improve community's quality of life and overall economic growth. Legal protection for business actors is anticipatory, prohibiting acts of unfair competition, and imposing sanctions. Repressive protection occurs if there is a violation of Law Number 5 Year 1999. Competition in the digital market is increasingly complex, with access to consumer data control and the increasing market power of digital platforms. KPPU is expected to play a role in supervision and law enforcement in the digital economy in accordance with statutory regulations.

## INTRODUCTION

The philosophy of the Indonesian state enshrined in Article 33 of the 1945 Constitution, which is linked to the fourth paragraph of the Preamble of the 1945 Constitution, affirms the commitment to promote general welfare. This article underlines that achieving prosperity is a shared responsibility, in which every citizen has a significant role. The economic aspect is the main foundation for realizing this goal. General welfare requires the active participation of every individual, and one way to achieve this is by advancing the economy of every citizen.

Economic competition is inevitable in a society that is expected to compete healthily to fulfill their needs. This competition is not only a necessity, but also serves as a driver to increase productivity and innovation. Every citizen is expected to play an active role in advancing their economy, as through healthy competition, they can achieve personal success and prosperity. Economic competition becomes a process

that not only promotes economic growth, but also creates jobs. By competing fairly and innovatively, citizens can strengthen the country's economic competitiveness (Wahyuningsih, 2023). Understanding and readiness to face competition in the economy is a strategic step that needs to be taken to realize the desired welfare.

The desire to excel in the economy and business activities drives competition, which often reflects complex human nature. Fair competition has significant positive impacts on businesses actor and consumers, such as lower prices, increased product variety, and improved product quality. Businesses involved in fair competition will continue to innovate and improve their operational efficiency to remain competitive in the market. Consumers benefit from a wide selection of products at competitive prices and better quality. Conversely, unfair competition, such as unfair, price manipulation, and restrictions on market access, can harm other business actors and consumers,

\* Corresponding author, email address: [dr.agungsatrywibowo@gmail.com](mailto:dr.agungsatrywibowo@gmail.com)

and create unfairness in the market. This condition can also harm the national economy. Effective supervision and enforcement of rules to ensure fair and healthy business competition is essential (Hotana, 2018).

Law Number 5 Year 1999 regulates monopolistic practices, rather than explicitly prohibiting them. Single market dominance in the form of a monopoly is not automatically condemned, provided that the practice complies with the principles of fair business competition recognized in the Law. Monopolistic practices are prohibited if they do not meet certain conditions based on the principle of fair competition, which emphasizes the importance of fair competition and not harming the public interest. The assessment of whether a monopolistic practice violates the Act depends on whether the practice harms or benefits the public interest. If a monopolistic practice can prove that it does not harm the public interest and even provides benefits, the practice is considered in accordance with the law. Conversely, if a monopolistic practice is proven to harm the public interest by creating market imbalances or restricting competition, it is considered a violation of Law Number 5 Year 1999 (Ramadhani & Gultom, 2022).

To develop a healthy economy, the Indonesian government established the KPPU as a supervisory institution for the business competition sector. The main focus of KPPU is to enforce competition law in accordance with Law Number 5 Year 1999, including the imposition of administrative sanctions on parties that violate competition norms. KPPU plays an important role in maintaining discipline and fairness in the business world, preventing unfair practices that harm other business actors.

Enforcement of business competition law is not only the responsibility of KPPU, but also the shared responsibility of all business actors. Each party must be committed to complying with fair competition rules and avoiding practices that harm competitors or consumers. Active cooperation between the government, supervisory institutions, and business actors is essential to create a fair, transparent, and competitive economic environment (Rizki & Rosadi, 2019).

Economic globalization has opened up the economic systems of countries around the world, creating a more open and free market, driven by technological advances. The use of the internet and technology is now a major necessity in everyday life, including in the economic field, where digitalization helps business actor grow their business (Fahmi et al., 2022). Amidst this progress, monopoly-related challenges have emerged in Indonesia, reflecting the dynamics of domestic business competition. Several large companies, with their various technologies,

have received attention for allegedly engaging in monopolistic practices, particularly through large profits from services. These cases show that in competitive Indonesia, some companies focus on maximizing profits for their business.

The KPPU is tasked with overseeing any allegations of abuse of dominant position, sales with certain conditions, and discriminatory practices in the distribution of digital applications. Monopolistic practices committed by business actors have become an important issue, especially in internet products.

The application of the principle of fair business competition in Indonesia has great potential to improve public welfare and encourage the development of the country's economy, in line with the mandate of Article 33 of the 1945 Constitution which emphasizes the importance of the economy as the foundation of collective welfare. By creating a climate of fair competition, businesses actor can innovate and improve operational efficiency, which in turn will benefit consumers in the form of more competitive prices and high-quality products. On the other hand, the role of the KPPU is very important in enforcing fair competition rules, especially in the face of monopolistic practices and abuse of dominant positions, especially in the digital sector. KPPU functions to ensure that all business actors comply with the principles of fair competition, prevent practices that can harm other business actors and consumers, and maintain market balance so that there is no injustice that can hinder sustainable economic development.

This research aims to analyze the application of fair business competition in Indonesia and its impact on welfare and economic development, as mandated by Article 33 of the 1945 Constitution. This research also aims to explore the role of the KPPU in enforcing fair business competition rules, with a focus on KPPU's efforts in dealing with monopolistic practices and abuse of dominant positions, especially in the digital sector, which can affect the competitive climate and the economy as a whole.

## RESEARCH METHOD

This study falls into the category of normative legal studies. The approach used in this study is reform-oriented research, which intensively evaluates the fulfillment of current legal provisions and provides recommendations for necessary regulatory changes. This descriptive study examines relevant legal regulations and theories, and analyzes their implementation in society. The focus of this study is then directed at the effectiveness of Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition,

specifically related to the position of business actors and legal protection from monopolistic practices in the digital era. This study uses three main approaches, namely the statutory approach, conceptual approach, and case approach. The analysis applied in this study is qualitative, by interpreting the legal materials that have been processed. The interpretation method is used to interpret the law, identify legal norms lacunae, legal norm antinomies, and ambiguous legal norms. Analysis of legal materials is carried out by providing a review that can consist of opinions that support, oppose, criticize, or provide additions, followed by making conclusions based on the theory that has been used. By using this approach, the study is expected to make a significant contribution to the understanding of monopoly issues in business competition in the digital era, as well as provide a basis for recommendations for relevant regulatory changes.

## **RESULT AND DISCUSSION**

### **Implementation of Fair Competition for the Welfare and Economy of the Country**

Regulating competition through Law Number 5 Year 1999 is important to prevent unethical practices and protect consumer interests. This regulation prohibits monopoly and creates a fair business environment with strict enforcement. Transparency and openness also support fair competition. The role of the community, consumers and businesses is crucial in creating an ethical business culture. Education on the principles of business ethics can shape the positive behavior of business actors, which in turn supports the sustainability of the business ecosystem and has a positive impact on the economy and society.

The application of the principle of fair business competition in Indonesia has a very important role in improving public welfare and encouraging the country's economic development. Article 33 of the 1945 Constitution affirms that the economy is structured as a joint venture based on the principle of kinship. In this context, fair business competition is one of the main pillars to achieve this goal, as it can create a fair and sustainable business climate.

One way to implement the principle of fair competition is to encourage transparency in business practices. When companies operate transparently, consumers can make better decisions based on accurate information. This not only increases consumer trust in products and services, but also encourages companies to improve quality and innovation. Fair competition will encourage companies to innovate and improve efficiency, which in turn can improve the welfare of society.

The application of the principle of fair competition can also reduce harmful monopolistic and oligopolistic practices. When the market is controlled by a few large companies, consumers are often trapped in limited choices and high prices. With strict regulations against anti-competitive practices, the government can create an environment where all businesses, both large and small, have equal opportunities to compete. This will create a more dynamic and diverse market, which ultimately benefits consumers.

The application of the principle of fair competition also contributes to job creation. When more companies operate in a sector, they will need more labor to meet market demand. With the increase in the number of jobs, the unemployment rate can be reduced, and community will have more opportunities to improve their standard of living. This is in line with the mandate of Article 33 of the 1945 Constitution which emphasizes the importance of public welfare.

Healthy business competition can promote inclusive economic growth. When MSMEs (Micro, Small and Medium Enterprises) are given the opportunity to compete in the market, they can contribute significantly to the economy. MSMEs have the potential to create jobs and increase community's income. With support from the government in the form of supportive policies, MSMEs can grow and thrive, thereby strengthening the local and national economy.

Regulations that support fair competition can also attract foreign investment. Investors tend to seek stable and competitive markets. When Indonesia applies the principles of fair competition, this will increase the country's attractiveness in the eyes of investors. Foreign investment can bring new capital, technology and knowledge that can accelerate economic growth and create new jobs (Hapsari et al., 2022).

The application of the principle of fair business competition also contributes to improving the quality of products and services. In a competitive environment, companies are required to continuously innovate and improve quality in order to maintain market share. This not only benefits consumers, but also encourages companies to invest in research and development. The resulting innovations can increase the competitiveness of Indonesian products in the global market.

Healthy competition can encourage corporate social responsibility. In an effort to attract consumers, companies are increasingly recognizing the importance of sustainable and responsible business practices. By applying ethical principles in business,

companies focus not only on profits, but also on the social and environmental impacts of their operations. This is in line with the sustainable development goals mandated in the 1945 Constitution.

The implementation of fair competition principles must be supported by consistent and effective government policies. The government needs to ensure that existing regulations can be applied fairly and equitably to all business actors. Strict oversight of anti-competitive practices enables the government to foster a conducive business environment. This will ensure that the goals of general welfare and economic development of the country can be achieved in accordance with the mandate of Article 33 of the 1945 Constitution.

Law Number 5 Year 1999 serves as a tool of social control and social engineering to protect the public interest, prevent monopoly, and create fair business competition. It prohibits market control by a single business actor that may harm consumers and competitors, thereby maintaining a fair and effective business climate. The law prohibits actions such as refusal to partner, obstruction of consumer access, restriction of product circulation, discrimination against business actors, predatory pricing, and fraudulent pricing. All of these practices inhibit fair competition, create market imbalances, and harm consumers. Enforcement of the Act helps create a transparent market and supports sustainable economic development.

Article 17 paragraph (1) of Law Number 5 Year 1999 stipulates the prohibition for business actors to exercise control over the production and/or marketing of goods and/or services that may result in monopolistic practices and/or unfair business competition. The essence of this provision is to prevent the formation of a very dominant market power or adverse competitive practices. In paragraph (2) of the same article, it is stipulated that a control may be presumed to occur if the goods and/or services concerned do not yet have an equivalent substitute substance, making it difficult for other business actors to compete in the same market. A business actor may also be considered to have control if one business actor or a group of business actor controls more than 50% of the market share in a certain type of goods or services. It can be explained that this provision aims to prevent unhealthy market control and ensure healthy, fair, and effective competition in the business environment (Febrina, 2022).

By understanding the relationship between Article 1 paragraph 2, Article 1 paragraph 6, and Article 17 paragraphs (1) and (2) of Law Number 5 Year 1999, it can be concluded that monopolistic practices and unfair business competition are consequences that arise from monopolistic behavior.

Law Number 5 Year 1999 is present to prevent these monopolistic practices by strictly prohibiting them. The main purpose of the Law is related to the implementation of competition policy, which requires the inculcation of legal norms as the substance of competition law. Non-conformity of business actors' behavior with the provisions of Law Number 5 Year 1999 is considered a violation of competition law. In this case, the violation can be reported to KPPU as a Business Competition Case, which will then be investigated and decided through a hearing of the KPPU Commission Panel. KPPU decisions are announced publicly, ensuring transparency regarding business competition violations. If a violation is proven, administrative sanctions will be imposed in accordance with the provisions of Law Number 5 Year 1999. This system demonstrates the government's commitment to maintaining healthy and fair business competition in supporting sustainable economic growth.

Overall, the implementation of the principle of fair competition in Indonesia has great potential to improve public welfare and drive the country's economic development. By creating a fair, transparent and competitive business environment, Indonesia can achieve sustainable development goals and improve community's lives.

### **KPPU's Role in Enforcing Fair Competition and Overcoming Monopolistic Practices in the Digital Sector**

The KPPU has a very important role in enforcing fair business competition rules in Indonesia, especially in dealing with monopolistic practices and abuse of dominant positions, especially in the digital sector. KPPU is tasked with monitoring and regulating market practices to prevent monopolistic behavior and abuse of market power. Through the investigation of complaints, market studies, and the application of sanctions against entities that violate competition law, KPPU seeks to create a level playing field for all business actors.

The process of resolving business competition cases in Indonesia is regulated by Law Number 5 Year 1999, which provides two main mechanisms for aggrieved business actors. The public or business actors who suffer losses have the right to report alleged violations to the KPPU. KPPU can then use its right of initiative to conduct preliminary and further examinations if it finds irregularities in the business competition process. Any individual or party who feels aggrieved can submit a written report with a clear description of the violation, and the identity of the reporter will be kept confidential to maintain their safety.



The Law also establishes three main principles of prohibition in competition law, namely the prohibition of certain agreements, activities that harm competition, and control of dominant positions that create inequality. This reflects the legislator's commitment to creating a healthy and fair business environment, as well as providing protection for business actors operating within the framework of fair competition.

KPPU has an important role in enforcing Law Number 5 Year 1999, with a focus on monitoring and prosecuting violations of business competition. In accordance with Article 36 of the Law, KPPU is authorized to investigate or examine cases of alleged monopoly and unfair business competition, either based on public reports or findings from internal studies. KPPU's responsibility includes determining whether there is a loss to other business actors or the public due to the violation. If violations are found, KPPU may impose administrative sanctions on the violating business actors. The role of KPPU is not only limited to supervision, but also includes studies, determination of losses, and application of administrative sanctions, making it a crucial institution in maintaining fairness and healthy business competition in Indonesia.

In the digital sector, KPPU has adapted its approach to deal with the unique challenges posed by large technology companies. KPPU's focus is on practices that may exploit data or market power to curb competition. By applying guidelines and using data-driven methodologies, KPPU aims to encourage innovation and protect consumer interests, ultimately contributing to a healthier economic environment. KPPU's enforcement actions are based on the Antimonopoly Law, which prohibits various anti-competitive practices, including monopolistic agreements and abuse of a dominant position. KPPU has the authority to investigate and impose sanctions on companies involved in such practices, ensuring compliance with competition law.

In recent years, the KPPU has focused on the digital economy, recognizing the rapid growth and influence of technology companies. The Commission has initiated investigations into practices such as predatory pricing, exclusive contracts, and data exploitation, which can stifle competition and innovation. By addressing these issues, KPPU aims to create a fairer market where smaller players can compete effectively, thereby promoting diversity and consumer choice (Ulya, 2022).

KPPU actively engages in public education and socialization to raise awareness about competition law and importance fair practices. Informing business actor and consumers about their rights and responsibilities,

the commission encourages a culture of compliance and business ethics. This proactive approach not only helps prevent violations, but also empowers stakeholders to report suspicious activities, thereby increasing the overall effectiveness of competition enforcement.

KPPU also collaborates with other regulatory agencies and international organizations to strengthen its capacity and share best practices. This cooperation is critical in addressing cross-border competition issues, especially in the digital realm, where companies often operate globally. By aligning its efforts with international standards, KPPU enhances its ability to address complex competition challenges and protect the interests of Indonesian consumers.

KPPU also plays a role in formulating competition policy and legislation. The Commission provides recommendations to the government on legal reforms needed to adapt to the evolving market landscape, particularly in the digital sector. By advocating for policies that promote fair competition, KPPU contributes to a regulatory framework that supports economic growth and innovation while protecting consumer welfare.

Overall, KPPU's role in enforcing fair competition rules is critical to creating a competitive and dynamic economy in Indonesia. By tackling monopolistic practices and abuse of dominant position, especially in the digital sector, KPPU helps create an environment where businesses can thrive, consumers can enjoy better choices, and the economy as a whole can grow sustainably.

## CONCLUSION

Unfair competition, which involves unlawful acts that hinder business competition, is a major concern in Indonesian competition law. Law Number 5 Year 1999 ensures the prohibition of large market share and unfair market share, to prevent monopolistic practices and unfair competition.

The application of the principle of fair business competition in Indonesia, in accordance with the mandate of Article 33 of the 1945 Constitution, has great potential to improve public welfare and encourage the country's economic development. With strict regulation through Law Number 5 Year 1999, monopolistic practices and abuse of dominant positions can be minimized, creating a fair and transparent business environment. KPPU is crucial in enforcing these rules, especially in the growing digital sector. Through supervision, investigation, and enforcement, KPPU contributes to the creation of a competitive market, where all business actors, both large and small, have an equal opportunity to compete.

The application of the principles of fair business competition can support economic growth and improve the overall quality of life of the community.

Legal protection in Law Number 5 Year 1999 is anticipatory and repressive. The prohibition of actions that lead to unfair competition with the threat of sanctions is an anticipatory effort. Repressive legal protection is applied when the principle of fair competition is violated. In the digital era, platform models, multi-sided markets, and network effects heighten business competition complexity. Violations, such as abuse of dominant position by business actors with large market power, are a risk in the digital ecosystem. Legal protection in the digital economy era requires an active role from KPPU to monitor and enforce the law in accordance with existing regulations.

To enhance fair competition enforcement, the government and KPPU should strengthen regulations and oversight, especially in the dynamic digital sector. Education and socialization on competition law needs to be improved, both to business actors and the public, so that they better understand their rights and responsibilities in creating an ethical business environment. Collaboration between KPPU and international institutions should be strengthened to adopt best practices in competition law enforcement. These measures aim to foster a healthier, more sustainable, and inclusive business ecosystem, enhancing welfare and economic growth in Indonesia.

## REFERENCES

- Fahmi, M. A., Hasbullah, M. A., & Munir, A. (2022). Pengaturan Hukum Persaingan Usaha atas Jasa Keuangan Digital di Indonesia. *MIMBAR YUSTITIA: Jurnal Hukum dan Hak Asasi Manusia*, 6(1), 20-32.
- Febrina, R. (2022). Persaingan Usaha pada Era Digital Menurut Persepektif Hukum Persaingan Usaha. *Jurnal Karya Ilmiah Multidisiplin (JURKIM)*, 2(1), 121-127.
- Hapsari, R. A. E., Hesti, Y. E., & Gea, D. K. E. (2022). Perlindungan Hukum dalam Modernisasi UMKM melalui Penerapan Fintech di Era Digital (Studi Kasus pada Otoritas Jasa Keuangan dan Dinas Koperasi dan UMKM Provinsi Lampung). *Jurnal Penelitian dan Pengkajian Ilmiah Sosial Budaya*, 1(2), 409-417.
- Hasbullah, M. A. (2020). Penegakan Hukum Persaingan Usaha dalam Sektor Ekonomi Digital. *Jurnal Ilmiah MEA (Manajemen, Ekonomi, dan Akuntansi)*, 4(1), 582-597.
- Hayati, A. N. (2021). Analisis Tantangan dan Penegakan Hukum Persaingan Usaha pada Sektor E-Commerce di Indonesia. *Jurnal Penelitian Hukum De Jure*, 21(1), 109-122.
- Hotana, M. S. (2018). Industri E-Commerce dalam Menciptakan Pasar yang Kompetitif Berdasarkan Hukum Persaingan Usaha. *Jurnal Hukum Bisnis Bonum Commune*, 1(1), 28-38.
- Negara, D. S., D. Darmawan, B. Gardi. (2021). The Approach of Consumer Reviews to Product Competitiveness and Management Strategies, *Journal of Social Science Studies*, 1(2), 149 - 154.
- Ramadhani, H. M., & Gultom, E. (2022). Penggunaan Produk GoTo Group dalam Rangkaian Operasi Marketplace Tokopedia berdasarkan Undang-Undang Larangan Praktek Monopoli dan Persaingan Usaha Tidak Sehat: The Use of GoTo Group Products in Tokopedia Marketplace Supply Chain based on Law Concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. *Reformasi Hukum*, 26(2), 189-208.
- Republik Indonesia. (1999). *Undang-Undang Nomor 5 Tahun 1999 tentang Larangan Praktek Monopoli dan Persaingan Usaha Tidak Sehat*. Lembaran Negara Republik Indonesia Tahun 1999 Nomor 33. Sekretariat Negara, Jakarta.
- Rizki, M., & Rosadi, I. (2019). Penyelesaian Perkara Persaingan Usaha oleh Komisi Pengawas Persaingan Usaha di Era Revolusi Industri 4. *Jurnal RechtIdee*, 14(1), 150-163.
- Sabirin, A., & Herfian, R. H. (2021). Dampak Ekosistem Digital terhadap Hukum Persaingan Usaha di Indonesia serta Optimalisasi Peran Komisi Pengawas Persaingan Usaha (KPPU) di Era Ekonomi Digital. *Jurnal Persaingan Usaha*, 1(2), 75-82.
- Ulya, W. (2022). Tinjauan Hukum Perlindungan Konsumen dan Persaingan Usaha dalam Pemanfaatan Big Data Marketplace di Indonesia. *Jurnal Ilmiah Hukum dan Dinamika Masyarakat*, 20(2), 15-29.
- Wahyuningsih, W. T. (2023). Perlindungan Hukum terhadap Konsumen dan Pelaku Bisnis dalam Bisnis Digital E-Commerce. *Demagogi: Journal of Social Sciences, Economics and Education*, 1(1), 40-48.

\*Sudiruddin, S., A. S. Wibowo, D. Darmawan, S.N. Halizah & R. Mardikaningsih. (2023). Optimizing the Principles of Healthy Business Competition and the Role of KPPU for a Fair Economy in the Digital Era, *Journal of Social Science Studies*, 3(1), 95 - 100.