

Competition Law Implementation in the Herbal Industry to Prevent Adverse Practices for Businesses and Consumers

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ARTICLE INFO

Article history:

Received 4 October 2022

Revised 12 November 2022

Accepted 27 December 2022

Key words:

Competition law,
Herbal industry,
Regulation,
Monopolistic practices,
Transparency,
Supervision,
SMEs

ABSTRACT

The herbal industry in Indonesia is experiencing rapid growth, along with increasing society awareness of the importance of natural health products. This development also brings challenges related to the effective application of business competition law to prevent practices that harm business actors and consumers. This research examines the application of business competition law in the herbal medicine industry with a focus on applicable regulations, supervision of market practices, and efforts to prevent monopolistic and cartel practices. Based on the analysis of regulations, such as Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, as well as BPOM (Food and Drug Monitoring Agency) regulations on traditional medicine, it is found that stricter supervision, marketing transparency, and education to business actors are key to maintaining healthy competition in the market. It is important for the government and relevant institutions to improve supervision, and develop policies that can support the sustainable development of the herbal medicine industry, without harming consumers. With a stricter and more appropriate application of the law, the herbal industry is expected to develop fairly, healthily, and meet good quality standards.

INTRODUCTION

The herbal industry in Indonesia has a long history that is closely related to the culture and traditions of the society. Jamu not only serves as a traditional medicine, but also as a symbol of local wisdom that has been passed down from generation to generation. In recent years, this industry has experienced significant development, both in terms of products and distribution. Many companies, both large and small, have begun to explore the potential of the herbal market by offering various product variants tailored to the needs of modern consumers (Halizah et al., 2022). Increased interest in herbal products, along with the tendency of consumers who are increasingly concerned with healthy lifestyles, has also contributed greatly to the growth of this sector (Gunjan et al., 2015). The government is also increasingly paying special attention to the development of the herbal medicine industry as part of efforts to support a sustainable traditional medicine industry based on Indonesia's cultural wealth. The herbal industry is seen as a promising economic sector as well as a means of preserving the nation's culture and identity.

Behind this rapid growth, the herbal industry is also faced with a number of challenges, especially those related to competition law. One of the main issues that arises is how to ensure fair competition between herbal industry players, amidst the rise of new players entering the market. The production process of herbal, which is not always standardized, and the lack of supervision of products on the market, often create loopholes for unfair competitive practices (Pratama et al., 2019). In the long-term, this can damage the credibility of the herbal medicine industry as a whole in the eyes of consumers. In this case, laws regulating business competition, such as Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, play an important role in keeping this industry developing in an equitable manner (Matompo, 2020). Consistent law enforcement against business actors who commit unfair practices, such as distribution monopolies or price cartels, will create a healthier and more conducive business climate (Hardyansah et al., 2021). The herbal industry should be able to grow sustainably without compromising the principles of fairness and transparency in business.

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Existing regulations are not fully capable of covering the dynamics of the herbal industry. Regulations related to product labeling, quality assurance, and distribution supervision are still limited and require updates to be more responsive to market changes. For example, although there are already regulations governing the quality and safety standards of herbal products, the supervision of products circulating in the market is still very minimal (Hutabarat, 2017). This makes it difficult to ensure that the products offered to consumers meet the expected standards and, at the same time, creates an opening for unfair competitive practices. Many small business actors find it difficult to meet the standards set by existing regulations, thus risking violations that can harm the industry as a whole (Helmi et al., 2019).

Technological developments and innovations in herbal products are great opportunities for this industry to continue to grow. This opportunity must be balanced with the application of fair competition principles, in order to avoid cartel practices, monopoly, or other market misdirection (Ahamat et al., 2020). To ensure that the herbal industry can develop sustainably and benefit all parties, it is important to develop more comprehensive regulations, strengthen supervision, and encourage business actors to better understand and comply with applicable competition laws.

The main problem that arises in the Indonesian herbal industry is the imbalance between the rapid growth of the industry and the regulations governing business competition. Unfair competition, such as monopolistic practices or mislabeling of products, hinders the fair development of the herbal industry. The lack of supervision on the quality and distribution of herbal products is also a problem that often creates uncertainty for consumers and other business actors. Existing regulations have not been able to fully respond to the rapidly changing market dynamics, creating loopholes for business actors to take unauthorized profits.

The main issue that must be considered is how competition law can be effectively applied in this rapidly growing herbal industry, to prevent practices that are detrimental to business actors and consumers. Along with the increasing interest in herbal products, the number of businesses in this sector has also grown significantly. This condition, while positive for economic growth, can lead to the emergence of harmful practices if not balanced with strong law enforcement. Practices such as monopoly, unfair pricing, or sabotage against competitors through the spread of false information are real threats that can undermine market order and disrupt what should be open and healthy competition.

The purpose of this research is to analyze how the application of competition law in the herbal medicine industry in Indonesia can be effectively implemented, in order to support the development of a fair and sustainable industry. This research aims to understand the challenges faced by the herbal industry in relation to existing competition regulations, and to identify opportunities that can be utilized to ensure fair competition practices. The results of this research are expected to contribute to the formulation of policies that are more responsive to the development of the herbal medicine industry, as well as provide recommendations for regulators to optimize supervision and law enforcement in this sector.

RESEARCH METHOD

This research uses a literature study and normative juridical approach to analyze the challenges and opportunities in developing the herbal industry in Indonesia, especially from the perspective of business competition law. The literature study approach aims to explore various relevant references, both from legal literature, regulations, and previous research, which can provide in-depth insights into the dynamics of the herbal medicine industry and the application of business competition law. According to Arief (2018), the normative juridical approach in legal research focuses on applicable legal norms, both in the form of laws, government regulations, and court decisions relevant to the topic being studied. This approach allows researchers to examine how business competition law is applied in relation to the herbal medicine industry that continues to grow in Indonesia.

Through this approach, researchers will analyze regulations governing the herbal industry, such as Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, as well as other regulations related to the traditional medicine sector. This research will also review various literatures that discuss the challenges faced by herbal medicine industry players, including issues related to product quality standards, distribution, and market supervision. In this research, the researcher will use a legal analysis approach to evaluate the effectiveness of existing regulations and assess whether they are sufficient to support the sustainable development of the herbal medicine industry. The main reference used in this research is the book "Legal Research Methods" by Peter Mahmud Marzuki (2017) which provides a theoretical and methodological basis for conducting normative and analytical legal research.

RESULT AND DISCUSSION

Indonesia's herbal industry, which has become an integral part of the nation's tradition and cultural heritage, is now facing great challenges as the sector continues to grow rapidly. As a product that has been used since the time of our ancestors, herbal is now the first choice for many consumers who are increasingly concerned with health and a natural lifestyle. In recent decades, herbal medicine has increasingly gained a place in people's hearts, mainly due to the increasing awareness of the importance of a healthy lifestyle and the use of natural ingredients. The healthy lifestyle trend that prioritizes herbal products provides a great opportunity for herbal industry players to develop and market their products. This significant surge in demand also creates new dynamics that need to be addressed wisely, especially in relation to regulations governing competition in the herbal medicine market (Hutabarat, 2017).

Amidst rapid growth, competition in the herbal medicine industry has intensified, putting pressure on business actors, especially small and medium enterprises (Reza et al., 2022). Often, these SMEs do not have sufficient resources to compete with larger companies that have more capital and wider distribution networks (Safrina & Susiana, 2013). This inequality in business capacity has the potential to create unhealthy market conditions if not properly regulated. Without proper regulation in competition law, the market can easily be dominated by large players, which can then harm small business actors and stifle innovation (Helmi et al., 2019). As a result, innovation from small businesses can be stifled, and the diversity of herbal products, which is a reflection of local cultural wealth, risks being displaced by mass products from large companies. It is important to have regulations that protect these small business actors, while preventing anti-competitive practices that can harm consumers (Putri et al., 2021).

Business competition law has a very strategic role in creating a healthy and equitable market climate (Matompo, 2020). In the herbal industry, the implementation of this law must be able to maintain a balance between empowering SMEs and protecting consumers from harmful practices (Pratama et al., 2019). Clear regulations and strict supervision are necessary to ensure that the market remains open to all business actors, while upholding product quality and transparency. With the right regulations in place, it is hoped that the herbal industry can continue to develop sustainably, provide broad economic benefits, and at the same time protect consumer interests.

Effective implementation of business competition law can help keep business actors in the herbal industry from falling into monopolistic, cartel, or fraudulent practices that harm consumers. One of the regulations governing this is Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition. This regulation aims to create a healthy market by prohibiting various anti-competitive practices that can hinder small business actors' access to the market or harm consumers with poor quality products. Supervision of the herbal medicine industry must be improved in order for this regulation to be implemented more effectively, especially in a fast-growing market such as the traditional medicine sector. Effective implementation of the law will lead to a more competitive, innovative and responsible herbal market.

Monitoring the quality standards of herbal products is very important to prevent practices that harm consumers. Many herbal products circulating in the market do not have clear and controlled standards, which may pose a risk to consumer health. This leads to the need for stricter regulations on the production, distribution and labeling of herbal products, as stipulated in Law Number 36 Year 2009 on Health and BPOM Regulations on traditional medicine. Without proper supervision, the market could be saturated with products that do not meet standards and are unsafe for consumption, which harms consumers and damages the reputation of the herbal medicine industry as a whole (Helmi et al., 2019). With strict regulations and regular supervision, the government can ensure that herbal products in circulation have passed adequate safety and quality tests. This not only protects consumers, but also maintains the reputation of the jamu industry as an important part of the nation's rich culture and health system.

The implementation of competition law must also take into account the advancing technology and innovation in the herbal medicine industry (Pratama et al., 2019). Many business actors now rely on digital platforms to sell their products, which opens up opportunities for unfair practices such as misleading advertising or non-transparent offers. The use of digital technology in the marketing and sale of herbal medicine can exacerbate the information imbalance in the market, leaving consumers without a clear picture of the product they are buying. Regulations governing the advertising and promotion of herbal products in digital media should also be strengthened to ensure that business actors adhere to the principles of transparency and honesty in doing business (Hutabarat, 2017).

The importance of monitoring business competition in the herbal industry is increasing, especially in relation to the potential for cartel practices that can harm the market. A cartel can be formed when a number of business actors work together to unlawfully determine prices or market shares, which ultimately harms consumers and undermines the principle of fair competition. Law Number 5 Year 1999 provides a strong legal basis to tackle cartel practices, but stronger implementation is needed so that such actions can be detected early and avoided before they have a major negative impact. With more active supervision and effective prevention, the herbal medicine industry can grow fairly and competitively, provide optimal benefits to consumers, and encourage sustainable innovation in the traditional medicine sector.

Awareness and understanding of business actors, especially among SMEs, about competition law is still limited (Safrina & Susiana, 2013). Many of them do not have an in-depth understanding of the boundaries that exist in fair competition. This lack of understanding is often not due to an intention to cheat, but rather a lack of access to legal information and adequate education on competition. It is important to organize education and socialization programs that can provide a better understanding of competition law and the consequences of violating these regulations (Siswanto & Hutajulu, 2018). This education program includes knowledge of regulations, and the application of business ethics principles that must be upheld in an increasingly competitive market. Educational programs should at least be tailored to the local context and use approaches that are easy to understand, to be truly effective in raising legal awareness at the grassroots level.

The Indonesian government needs to ensure that law enforcement officials, particularly the Business Competition Supervisory Commission (KPPU), have sufficient resources to conduct effective supervision. KPPU as an institution tasked with enforcing Law Number 5 Year 1999 must have adequate access to investigate unfair competition practices. In the herbal medicine industry, where market dynamics are often not fully transparent, sharp and thorough investigations are crucial so that violations can be identified early and dealt with fairly. Increased coordination between KPPU and BPOM is also needed, given that both have an important role in maintaining market integrity and protecting consumers from harmful practices. This synergy will ultimately strengthen the integrity of the national herbal market, protect consumers, and encourage a fair and healthy business climate.

Equally important is the implementation of strict sanctions against business actors proven to have violated business competition law. In the context of the herbal industry, where there are still many new business actors and MSMEs, unfair practices such as price collusion, abuse of market dominance, or product counterfeiting can harm consumers and suppress other business actors who play honestly. The sanctions must be punitive in nature, and act as a deterrent effect, to prevent other business actors from engaging in the same practices. These sanctions can be in the form of fines or prohibitions to operate in certain markets, which will have a deterrent effect. It should be kept in mind that overly harsh enforcement without considering the scope of the market and the level of infringement may hinder innovation and the development of the herbal industry itself (Hutabarat, 2017).

Not only from the aspect of supervision and law enforcement, transparency in the management of data and information related to the herbal industry is also very important. In this digital era, data is one of the most valuable resources. Data collection, management, and utilization must be conducted in an open and accountable manner. Closure or manipulation of market information, whether by large businesses or digital platforms, can create information imbalances that harm small businesses and disrupt fair market mechanisms. Business actors need to be protected with regulations that govern the ethical and safe use of consumer data. This is to protect consumer privacy, and to ensure that the data is not used to undermine the principles of fair competition, for example through price manipulation or predatory pricing (Rahardi, 2018). These regulations must be aligned with the protection of consumer privacy, while ensuring that competition remains fair.

In this regard, regulations governing the distribution and circulation of herbal products must also be tightened. Supervision applies to large producers, and to distributors and retailers who play a role in distributing herbal products to consumers. This is important because irregularities in distribution, such as substandard storage or the addition of excessive price margins, can have a direct impact on product quality and the price burden borne by consumers. Without clear regulations and adequate supervision throughout the supply chain, herbal products that do not meet standards or are sold at inappropriate prices can be unfair to consumers (Helmi et al., 2019). Overall, the supervision and tightening of regulations in herbal medicine distribution will strengthen the governance of the national herbal medicine industry and increase public trust in Indonesia's traditional health products.

Going forward, to improve the effectiveness of competition law in the herbal medicine industry, there needs to be collaboration between various parties, including the government, industry players, academics, and the community. This collaboration is important to create a market ecosystem that supports fair competition, as well as to keep the Indonesian herbal industry growing with sustainable innovation and consumer-oriented interests. This collaboration can also serve as a foundation for the growth of Indonesia's herbal industry based on compliance and consumer interests (Si & Berliandaldo, 2019).

One of the great opportunities that can be utilized is the use of technology to supervise and monitor business practices in the market. The use of big data, Artificial Intelligence (AI), and machine learning can be used to detect suspicious transaction behavior and detect possible anti-competitive practices. These technological innovations will help improve the efficiency of supervision, and can provide deeper insights for regulators in making more targeted policies.

Strengthening competition law in Indonesia's herbal industry is an important step towards realizing a fairer and more sustainable market. With clear and firm rules, it is expected to create a healthy business environment, and give trust to consumers. The law certainty in terms of competition will encourage business actors to innovate and improve product quality, which in turn will strengthen the position of the herbal industry in the domestic and global markets. This will create a mutually supportive business ecosystem, where large and small business actors can compete fairly.

The implementation of competition laws can reduce the potential for monopolistic practices or unfair competition that may have hindered the growth of this sector. By encouraging a more open and transparent market climate, the Indonesian herbal medicine industry can avoid losses caused by harmful practices, both for producers and consumers (Pratama et al., 2019). Law protection for small and medium business actors, which are often marginalized in market competition, is needed so that they can grow alongside large industries, enriching the diversity of products available in the market.

As a result, through stronger implementation of competition law, Indonesia's herbal industry will be able to compete fairly at the domestic level, and be ready to compete in the international market. Safe, quality, and affordable herbal products will be increasingly enjoyed by consumers in various parts of the world, while increasing the competitiveness of Indonesian herbal products in the global market.

Thus, the future of the Indonesian herbal industry is expected to be brighter and more sustainable, providing greater economic benefits and contributing to the welfare of society.

CONCLUSION

Effective implementation of competition law in Indonesia's herbal industry is essential to create a healthy and sustainable business climate. Existing regulations, such as Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, need to be enforced with more rigor and precision, especially in monitoring business actors in this rapidly evolving market. The challenges faced by the herbal industry, such as unfair competition, fraud, and products that do not meet standards, require an effective approach, including strengthening supervision of product quality and transparent marketing. For this reason, supervision by authorized institutions, such as KPPU and BPOM, must be improved so that the herbal industry can develop in a fair, healthy manner, and benefit all parties, both business actors and consumers.

Effective implementation of competition law affects herbal medicine industry players, and will improve the overall quality of the market. With clear regulations and strict supervision, business actors will be encouraged to compete fairly, prioritize quality, and transparency in the production and distribution process. Consumers will also get better protection for safe and quality products. Another implication is the need to increase business actors' awareness of competition law and the importance of following existing regulations, as well as understanding their rights and obligations in an increasingly competitive market.

The government, through supervisory institutions such as KPPU and BPOM, needs to strengthen supervision and law enforcement related to business competition in the herbal industry, by optimizing the use of digital technology to monitor product circulation in the market. Educational programs for business actors, especially among SMEs, must also be expanded so that they better understand the existing regulations and the importance of healthy competition. Stricter regulations on advertising and promotion of herbal products in digital media also need to be implemented to maintain market transparency and integrity. Many businesses utilize social media and e-commerce platforms to over-advertise or mislead herbal products. With these measures, the herbal industry is expected to develop in a fairer and more sustainable way.

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