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APPLICATION OF ANTIMONOPOLY LAWS AND ITS INFLUENCE ON BUSINESS COMPETITION IN THE DIGITAL MARKET

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Abstract

Law Number 5 of 1999 states the definition of monopoly, namely a form of control over the production and/or marketing of goods and/or use of certain services by one actor or one group of business actors. What is meant by business actor is every individual or business entity, whether in the form of a legal entity or non-legal entity which is established and domiciled or carries out activities within the jurisdiction of the Republic of Indonesia, either individually or jointly through an agreement, carrying out various business activities. in the field of economics. The aim of this research is to find out how the law applies to monopolies and its impact on business competition in the digital market. To find out the sanctions applied to business monopolists in the digital market and to find out what are the solutions to prevent business competition in the digital market. The data analysis method used in this research is quantitative analysis. The approach in this research is carried out by examining legal sources from conditions that occur in society that has entered the digital economic era. Research development was carried out in the era of regulations governing business competition that were in effect in Indonesia, and also the policy stakeholders involved in this implementation. Conclusion: The application of anti-monopoly law and its impact on business competition in the digital market is that competition in the business world is an absolute requirement or imperative for the implementation of a market economy. Therefore, the KPPU is aware of the importance of law enforcement in the digital economy era. KPPU is an independent body that cannot be influenced by any party, the Government or other parties who have a conflict of interest, in processing, deciding or investigating a case.

Keywords: ***Influence, Application, Digital Monopoly, KPPU***

INTRODUCTION

The emergence of this digital business transition has resulted in changes in regulations to supervise business actors, especially in terms of anti-monopoly and unhealthy business competition. The development of the digital economy is increasing rapidly. In this condition, the general public's transaction behavior changes from face-to-face (offline) to online. The digital industry is also increasingly mushrooming in various types of businesses such as e-commerce to fintech. Not only domestic but also foreign industry players are joining in enlivening the digital economic market in Indonesia.

This digital business transition needs to follow regulatory changes to supervise business actors, especially in terms of anti-monopoly and unhealthy business competition. Chairman of the Business Competition Supervisory Commission (KPPU), Kondrat Wibowo, said that the digital economy forces authorities to adapt in their supervision because online trading uses information technology in communication and transactions so it is not easily monitored. The development of digital business in this reality is still not said to be prosperous, and with the trend of globalization in utilizing technology, the condition of business competition in Indonesia is now increasingly unhealthy. This situation and condition of business in Indonesia requires the Indonesian people to pay more attention and reorganize digital business activities. This aims to ensure that the business world can grow and develop in a healthy manner and that monopolistic business actions will not occur, thereby creating a climate of healthy digital and non-digital business competition. Based on the problems in digital business, an anti-monopoly and business competition legal order was formulated which was outlined in a legal product in the form of Law Number 5 of 1999 concerning the prohibition of monopolistic practices and unfair business competition (hereinafter referred to as the Anti-Monopoly Law). Antimonopoly itself, according to article 1 point 1 of the Antimonopoly Law, provides the definition that monopoly is control over the production and/or use of certain services by a business actor or a business group.

The definition of monopoly itself is closely related to the term monopoly practice, namely a concentration of economic power by one or more business actors which results in control of the production and/or marketing of certain goods and/or services, giving rise to unhealthy business competition and can harm the public interest. Another business activity condition that is as dangerous as monopolistic practices and can harm the public interest is unfair business competition. Thus, it is necessary to pay attention to article 1 point 6 of the Antimonopoly Law which provides the definition of unfair business competition as competition between business actors in carrying out production and/or service activities which is carried out in a dishonest manner or is against the law or hinders competition. Based on the background above, the author is interested in research with the title "Application of Antimonopoly Law and Its Influence on Digital Business Competition".

LITERATURE REVIEW

Understanding Antitrust

"Antitrust" has a meaning that is equivalent to the term "anti-monopoly" or the term "domination" used by European society, whose meaning is also equivalent to the meaning of the term "monopoly". Another term is "market power". “Monopoly”, “antitrust”, “market power” and “domination” are four words that are used interchangeably. And this term shows the form of a situation where someone controls the market, where the market will no longer be available for potential substitute products, there are actions by market players who apply higher prices for market products.

Etymologically, the word "monopoly" comes from the Greek words 'Monos' which means alone and 'Polein' which means seller. From the root of this word, in simple terms, people then define monopoly as a condition where there is only one seller who offers (supplies) a particular good or service. (Arie Siswanto: 2002). Prior to the issuance of Law Number 5 of 1999, regulations regarding unfair business competition were based on Article 1365 of the Civil Code regarding unlawful acts and Article 382 bis of the Criminal Code. Based on the formulation of Article 382 bis of the Criminal Code, a person can be subject to a maximum prison sentence of one year and four months or a maximum fine of thirteen thousand five hundred thousand rupiah for fraudulent competition if they fulfill the following criteria:

1. There are certain actions that are categorized as unfair competition.
2. Acts of fraudulent competition are carried out in order to obtain, maintain and expand the results of a trade or company.
3. Companies, both owned by the perpetrator and other companies, benefit from this fraudulent competition.
4. Fraudulent competition is carried out by misleading the general public or certain people.
5. The consequences of the act of fraudulent competition cause losses to other people who benefit from the perpetrator's actions.

Law Number 5 of 1999 states the definition of monopoly, namely a form of control over the production and/or marketing of goods and/or use of certain services by one actor or one group of business actors. What is meant by business actor is every individual or business entity, whether in the form of a legal entity or non-legal entity, which is established and domiciled or carries out activities within the jurisdiction of the Republic of Indonesia, either alone or jointly. together through agreements, carrying out various business activities in the economic sector. Article 4 paragraph 2 of Law Number 5 of 1999 states that business actors can be deemed to jointly control the production or marketing of goods or services, if a business group controls more than 75% of the market for a particular type of goods or services. Thus, monopolistic practices must first be proven to have elements that result in unfair competition and harm the public interest.

METHOD

This research uses empirical juridical research. The type of legal material in this research is secondary legal material collected using the literature study method. This type of research refers to sociological legal research, referring to laws that have been implemented and occur in social life and by collecting various facts and theories that are needed. The data analysis method used in this research is quantitative analysis. The approach in this research is carried out by examining legal sources from conditions that occur in society that has entered the digital economic era. Research development was carried out in the era of regulations governing business competition that were in effect in Indonesia, and also the policy stakeholders involved in this implementation.

RESULTS AND DISCUSSION

Application of Monopoly Law and Its Effects

Production capacity, trying to produce at the most efficient point with the main aim of increasing profits received, and trying to reduce management inefficiency. The influence of the digital ecosystem on competition law in Indonesia and the existence of digital platforms not only pose challenges for the protection of personal data, but also for business competition. Violations of unfair business competition always have the potential to manifest in market structures, including digital markets. Currently, the digital market exists for consumer convenience and is growing quite rapidly in Indonesia. Digital platforms not only offer many benefits to society, but also have significant control over consumer data. This poses many challenges. There are not only challenges related to personal data protection, but also unfair commercial competition that may arise. The Asian financial crisis which caused the Indonesian economy to weaken during the New Order era apparently contained wisdom, namely the birth of Law no. 5/1999 and Law no. 8/1999. This has an impact on improvements to the company regarding business aspects, organizational aspects, financial management and legal aspects. (P. Sudibyo, 2018)

These conditions prove that Legislative Regulations have a very significant role in providing supervision and legal certainty for all economic activity actors in Indonesia, as explained in the business competition regulations in Law no. 5/1999. So to be able to compete with giant companies, both domestically and abroad, companies try to strengthen their capital, reduce production costs, pursue certain tax advantages, increase general, maximization profits are expected to emerge from the merger*)*or amalgamation (consolidation) of business entities and takeover of company shares (acquisition), because it can reduce production costs so as to create efficient products. Mergers can be a way out if business actors experiencing liquidity difficulties, so that creditors, owners and employees can be protected from bankruptcy. Mergers can give rise to monopolistic practices and unfair business competition.

Competition in the business world is an absolute requirement or imperative for the implementation of a market economy. Therefore, the KPPU is aware of the importance of law enforcement in the digital economy era. KPPU is an independent body that cannot be influenced by any party, the Government or other parties who have a conflict of interest, in processing, deciding or investigating a case. The authority of KPPU is regulated in Article 36 Paragraph (6) and Article 36 paragraph (7) of Law No.5/1999. Based on the author's point of view, this is an emergency that must be done immediately. According to the author, the KPPU must work together in enforcing fair business competition laws between companies and the Government.

If these two things can be implemented, it is hoped that it can create a climate of healthy competition in Indonesia. Healthy business competition will have a positive impact on economic actors, because it can create motivation or stimulus to increase efficiency, productivity, innovation and the quality of the products produced. In this context, the authority namely the KPPU must pay special attention to markets with such characteristics, especially when analyzing mergers and behavior involving dominant companies. (Khan: 2016) This reality makes it difficult to assess the effects of anti-competitive mergers or actions involving service providers in the digital economy. (Caillaud and Jullien: 2003) This is because losses can often only occur on one side of the market.

Therefore, it is very important to analyze the effects of mergers on both sides of the market. As a general rule, competition authorities analyze the payer's impact on products or services and can have a negative effect in the case of mergers that are subject to merger control. Therefore, in this case, the KPPU as the body that monitors the occurrence of unfair business competition must immediately review the previous law in more detail, namely Law no. 5/1999 and revise it to create healthy business competition, especially in Articles 8 to 18 regarding prohibited acts and in Articles 19 to Article 28 concerning aspects of accountability.

Legal Sanctions for Business Monopolies in Digital Markets

Regarding sanctions, violations against perpetrators of monopolistic practices are threatened with administrative sanctions in the form of orders to business actors to stop activities that are proven to give rise to monopolistic practices, cause unfair business competition, and/or harm society. This is regulated in article 9 paragraph (1) jo. Article 6 paragraph 2 letter c PP No. 44/2021. Apart from that, business actors who are proven to be monopolistic can be subject to a minimum fine of IDR 1 billion as a basic fine, which can be subject to an additional fine of 50% of total profits or 10% of total sales based on a review carried out by the KPPU (Article 6 paragraph (2) letter g Jo. Article 12 PP No. 44/2021.

Solutions to Prevent Business Competition in the Digital Market

How to overcome competitionBusiness is a challenge that business people have to face from time to time. Competition is one of the most important factors that business people must keep in mind when they are trying to grow. A businessman needs to be aware of the fact that competitors are always looking for opportunities and ways to gain an edge over them. Competition not only occurs in the realm of conventional business, but also appears in businesses that are run via the internet or online. The digital era is rapidly changing the way businesses operate, but it is also making it easier for new entrants to enter the market. Here are several ways that can be done to overcome business competition in the digital era:

1. Conduct market research and documentation. Conduct market research and identify consumers or potential customers well. Starting from characteristics, demographics, to other information.
2. Build strong and positive branding. With the right branding strategy, it will help the business become better known to many people, especially the target market.
3. Utilize Social media. With social media you can build strong branding and establish customer interaction.
4. Buildand optimizing the website. A website is a means of building branding, providing information and promotional materials, as well as establishing relationships with the target market.
5. Maximizing email marketing. Marketing emails usually contain promotions, information and other updates related to products or brands.
6. Provide attractive promotions. Creating attractive promotions such as giving discounts or vouchers can be a solution when facing competition with competitors.
7. Providing the best service for customers. This concept is also known as service excellence, which can provide the best possible service to consumers.
8. Overcome the competition with a powerful digital strategy. Business competition can be an opportunity for a business to grow better if it is overcome with the right strategy.

CLOSING

Conclusion

Etymologically, the word "monopoly" comes from the Greek words 'Monos' which means alone and 'Polein' which means seller. From the root of this word, in simple terms, people then define monopoly as a condition where there is only one seller who offers (sup plies) a particular good or service. (Arie Siswanto: 2002).Law Number 5 of 1999 states the definition of monopoly, namely a form of control over the production and/or marketing of goods and/or use of certain services by one actor or one group of business actors. What is meant by business actor is every individual or business entity, whether in the form of a legal entity or non-legal entity, which is established and domiciled or carries out activities within the jurisdiction of the Republic of Indonesia, either individually or jointly through an agreement, carrying out various business activities. in economics. Competition in the business world is an absolute requirement or imperative for the implementation of a market economy. Therefore, the KPPU is aware of the importance of law enforcement in the digital economy era. KPPU is an independent body that cannot be influenced by any party, the Government or other parties who have a conflict of interest, in processing, deciding or investigating a case. The authority of the KPPU is regulated in Article 36 Paragraph (6) and Article 36 paragraph (7) of Law No. 5/1999. Business actors who are proven to be monopolistic can be subject to a minimum fine of IDR 1 billion as a basic fine, which can be subject to an additional fine of 50% of the total profit or 10% of total sales based on a review conducted by KPPU (Article 6 paragraph (2) letter g Jo. Article 12 PP No. 44/2021.

Here are several ways that can be done to overcome business competition in the digital era:

1. Do research marketand documentation.
2. Build strong and positive branding.
3. Utilize Social media.
4. Build and optimize websites.
5. Maximizing email marketing.
6. Provide attractive promotions
7. Providing the best service for customers.
8. Overcome the competition with a powerful digital strategy.

Suggestions

After conducting a study of this discussion, the author's suggestions are as follows:

1. Every digital business actor must implement healthy business practices.
2. It is necessary for business actors to know the application of legal sanctions for acts of business monopoly in the digital era
3. Every provision in digital business must be implemented.
4. To create a good digital business, you want to follow the solutions outlined by the author in this discussion.

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