

Business Law Analysis Of Umkm Related To Business Competition

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Abstract. This article explain the important position of law business in providing protection to MSMEs in the context of business competition in Indonesia. MSMEs as we know one of the vital parts of our nationality. Even so, MSMEs often face obstacles on terminology of Indonesian business competition. This study applied the normative legal approaches. It focuses on the collection, mapping and analysis of numerical data. The study will analyze the effectiveness of regulations of the Law No. 5 of 1999 whose concern the monopolistic market and unfair business competition. In addition, the comparative method of several cases aims to dig up detailed and in-depth information on the topics to be discussed. The results of this study indicate that although there are regulations, their implementation and effectiveness still face various challenges. This can be seen in various countries related to the challenges faced. Factors such as lack of legal awareness among MSME actors, dominance of large companies and limited access to law and finance are the main obstacles in realizing healthy business competition.

Keywords: Business Law, SMEs, Business Activities, Business Competition

1 Introduction

MSME is a market term for Micro, Small and Medium Enterprises. Thus, MSME can be described in general as a business carried out by individuals, small business groups, or households. In the context of Indonesia as a developing country, the existence of MSMEs is very vital in supporting an inclusive community economy. In almost all developing countries, MSMEs make a significant contribution to increasing community income. MSMEs in their function have productively and simultaneously presented added value to produce goods and services. Therefore, of course this vital role is directly proportional to its contribution in paying taxes and increasing infrastructure development. Increasing community income through MSMEs also automatically increases purchasing power, thus encouraging national consumption, creating a sustainable economy(1). Even so, unethical business competition and market monopolies are the main obstacles for MSMEs to be able to develop their businesses.

MSMEs often face monopoly pressure from the input market side, such as the difficulty of obtaining credit, technology, and quality human resources. This makes the productivity of MSMEs lower than market businesses. To overcome this, the UMI (Ultra Micro Financing) program is designed to provide affordable and easily accessible financing solutions for MSME

actors who have not been able to reach bank credit, while technology can be used for administration, financial transactions, communication, and sales, so that MSMEs can be more competent in the market, and human resource development can be through community activities that increase awareness of MSMEs can be easier competent in the market. For this reason, Law Number 5 of 1999 also regulates several prohibitions on monopolistic practices and unfair competition. Others with the hope of providing legal certainty and equal legal protection for every business actor in Indonesia.

Business competition is very important to be supervised by law to prevent unfair competition monopolies (2). Competition law is designed to prevent monopolies and unfair competition because the impact of monopolies greatly inhibits the development of MSMEs, such as limited consumer choice, monopolies make consumers not have the freedom to choose products according to their wishes. Inhibiting technological innovation, in a technological environment a single company has no pressure to innovate because there are no competitors that can threaten its position. This can hinder the development of technology and innovation in the industry. Market inefficiency, Monopolies can cause market inefficiencies because single companies do not have the incentive to optimize costs and increase efficiency. This can increase prices and reduce product quality. Inhibiting the growth of small and medium enterprises, Monopolies can inhibit the growth of small and medium enterprises because large companies can oppress competitors in an unfair manner. Therefore, legal protection for business is very important in order to protect MSMEs from monopoly business competition. This study aims to determine the extent of legal protection for MSMEs from market monopolies (3).

2 Method

This research uses the normative method. This method uses the analysis of literature. It analyzes the effectiveness of regulations. For example, The Law No. 5 of 1999 which concerns about the monopolistic market and the unfairness of business competition. Other influential policies by collecting in-depth data on the cases discussed and combining them with a conceptual approach. The material data is carried out by collecting all legal materials relevant to the problem being studied through document studies with the stages of inventory, systematization, synchronization, and harmonization of various related legal documents, and making comparisons with several other countries.

3 Results and Discussion

Each country has different legal regulations, including Indonesia which regulates community activities, including business competition. Business competition law aims to create public order and economic efficiency through guarantees of healthy and honest business competition. This is done to prevent monopolistic practices and consumer exploitation, and to ensure that competition between business actors continues in a healthy manner. To prevent this, The Law number 5 year 1999 concerning the prohibition of monopolistic practices and healthy business

competition was established.

The purpose of establishing this law ; (a) preventing monopolies and unfair business competition practices. This law aims to avoid market domination by one or several business actors that could harm consumers and other business actors ; (b) Encouraging Healthy Competition. Creating a fair and equal competitive climate where all business actors have the same opportunity to compete in the market ; (c) Protecting consumer interests: protecting consumer rights so that they can enjoy goods and services of good quality and reasonable prices ; (d) Enhancing Economic Efficiency: Encouraging efficiency in the economy through competencies that drive innovation and improve the quality of products and services ; (d) Creating Justice in the Business World: Ensuring that all business actors, including small and medium enterprises, have equal opportunities in the market(4)

The Law Number 5 year 1999 explain the Prohibition of Monopolistic Practices and Unfair Business Competition is designed to prevent monopolistic practices and unfair business competition in several ways integrated into the law. Here are some ways to achieve this goal ; (1) Definition and Sanctions Arrangement. This law provides a clear definition of business actors, so that healthy and unhealthy businesses can be distinguished. Merger Notification: Business actors must notify the government of merger plans, so that they can be monitored and potential monopolies can be anticipated ; (2) Supervision and Judiciary. KPPU (Business Competition Supervisory Commission): This law establishes KPPU as a supervisory institution tasked with supervising and following up on monopolistic practices and unfair business competition. Procedural Law: This law also discusses clear procedural law, including the process of filing objections and appeals, as well as the authority of institutions in carrying out investigative, prosecution and trial functions. (3) Price Agreement Settings. Agreements Resulting in Different Prices: Business actors are prohibited from making agreements that result in buyers having to pay different prices, so as to prevent discriminatory practices. Price Determination: Business actors are prohibited from making agreements with competitors to determine the price for the quality of goods and/or services that must be paid by consumers. (4) Community Social Supervision. Reporting Monopolistic Practices: The public can report monopolistic practices and unfair business competition to the KPPU, thereby increasing public social supervision of the private sector (5) Supervision by KPPU. Business Competition Supervisory Commission (KPPU): The establishment of KPPU as Indonesia's anti-monopoly authority to carry out structural reforms to achieve business competition in Indonesia. KPPU continues to carry out consolidation to create business competition guidelines and to examine public complaints related to this matter(5).

KPPU is an institution that can resolve business competition cases that has a multifunction role and expertise so that it is considered capable of resolving and accelerating the case handling process. As mandated by Law Number 5 of 1999, KPPU has very broad authority, covering the executive, legislative, judicial and consultative areas. However, in terms of carrying out its functions, this institution has authority that seems to overlap.

After the TPPK has completed its supervision, the TPPK reports to the KPPU Commission Meeting. Then the KPPU can provide recommendations in the form of: coaching, registration of partnership agreements and revocation of business licenses by authorized agencies, suggestions or considerations, and/or follow-up to initiative cases in accordance with KPPU Regulation No. 1 of 2019 concerning Procedures for Handling Partnership Implementation Cases (Perkom No. 1 of 2019)(6). Preventive legal protection for MSME actors based on the Business Competition Law which consists of the following ; (a) Preventing Business Actors from Making Price Fixing Agreements, (b) Preventing Business Actors from Discriminating Prices Against Consumers, (c) Preventing Business Actors from Making Price Determination Agreements Below Market Prices, (d) Prevent Business Actors from Making Price Fixing Agreements for Goods and/or Services to be Resold Below the Agreed Price.

Repressive legal protection for MSME actors based on the Business Competition Law which consists of the following Administrative Sanctions, Principal Criminal Procedure, Additional Criminal Penalties KPPU recommends that the implementation of policies and procedures for location, spatial planning, legality, social environment and operating hours be immediately perfected and made effective. To support the sustainability MSME, the Central Government and Regional Governments can provide facilities and incentives as regulated in Article 124, PP Number 7 year 2021(7).

Next, MSMEs only have limited capital to build their businesses. Therefore, the central government in collaboration with local governments needs to provide subsidies so that the costs incurred by MSMEs do not burden finances too much. In addition, the central and local governments need to provide empowerment and coaching in the form of training to improve financial literacy and assistance in accessing financing. This is as stated in Government Regulation Number 7 of 2021, Article 28(8). In terms of partnerships, the Central Government and Local Governments play a role in bridging trade relations between Large and Medium Enterprises and MSMEs. In implementing partnerships, the Business Competition Supervisory Commission is tasked with overseeing the implementation of partnerships

Therefore, collaboration between the central and regional governments must provide a conducive business climate and can create jobs and income for the community. In addition, this collaboration is expected to encourage the interest of community groups to play an active role in building social interactions, economic and political activities. The central and regional governments through the regulations they create are expected to be able to facilitate the circulation of market mechanisms, so that the potential for deviations can be minimized. Legal regulations made by the central government in collaboration with regional governments should pay attention to the principle of balance of interests and business sectors(9). In an effort to improve the capabilities of MSMEs, the central and regional governments are required to organize incubation that aims to create new businesses so that it is expected to strengthen and develop MSMEs.

Business strategies carried out by entrepreneurs in winning the competition between retail markets are generally carried out by expanding the business and setting trade requirements that have the potential to hinder competition. Business expansion is an option and is relatively easy for large retail entrepreneurs due to the strength of established capital, while for traditional retail businesses, capital is one of the obstacles and weaknesses in running a business(10). MSME itself is a productive economic business owned by individuals that provides access to job opportunities from various business sectors(11). Therefore, from that function, MSME is said to have an important role for the national economy.

To maximize the role of MSMEs in the national economy, the government is also trying to ensure that small, micro and medium enterprises can continue to grow in the free market era. One of the KPPU's recommendations to the government is to immediately improve and make effective the implementation of regulations and policy steps that include and are not limited to licensing, location and spatial planning policies, opening hours, and the social environment and also recommends that the government immediately provide guidance and empowerment to MSMEs or small retailers so that they have high competitiveness and can work side by side with medium or large businesses(12).

The recommendation shows that decisions on business competition practices, especially those related to the expansion of retail market businesses, are significantly related to licensing which is the authority of the local government(13). In this case, the Government does not remain silent in helping MSMEs to accelerate their movement in developing their businesses. Various methods are carried out such as support in terms of regulation, taxation, facilitating licensing, wide market access and funding with low interest.

4 Conclusion

The Law Number 5 year 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition aims to maintain healthy and fair business competition in Indonesia. This law is designed to prevent monopolistic practices and unfair business competition, protect consumers, increase economic efficiency, and create justice in the business world. To achieve these goals, this law regulates supervision and sanctions through the Business Competition Supervisory Commission (KPPU), which has broad authority to supervise and take action against monopolistic practices and unfair business competition. KPPU is tasked with monitoring price agreements, supervising partnerships between large business actors and MSMEs, and protecting MSME actors from discriminatory and monopolistic practices. In that context, the position of the Government cannot be underestimated. The government has a role to support MSMEs through simplifying bureaucratic administration, providing tax incentives, and financing infrastructure. These regulations are expected to ensure that public policies and licensing are carried out by paying attention to the balance of interests, thus creating a business environment that is conducive to sustainable and equitable economic growth.

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