

# The Birth of American Antitrust and the Development of Business Competition in Indonesia in the Era of the Covid-19 Pandemic

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**Abstract.** The birth of Antitrust policy in America, through the protest of labor groups who voiced that the antitrust policy was passed into law in America. At the same time, America adheres to the principle of free competition. In Indonesia, antitrust policy emerged during the era of the monetary crisis, the birth of antitrust policy thanks to the encouragement of the world bank which required the state to present antitrust in order to obtain loans. The pandemic period is a bad time for the government to run its economy, every country must be able to maintain the economic viability of their country in order to keep it running during the pandemic, an economic boost is certainly very much needed in this condition, especially the impacts arising from the pandemic that hit Indonesia. Therefore, the behavior of business actors must uphold healthy competition so that it continues to run well and the economy remains stable.

**Keywords:** Antitrust; The birth of American antitrust; Indonesian Business Competition; and the Covid-19 Pandemic

## 1 Introduction

The process of colonization established the regional economy as the forerunner to the birth of American industrialization. This resulted in agricultural products from a number of natural resources that were tapped by the Colonial. In a period of growing and developing agricultural production, the Colonial continued to make fishing and whaling its main industries.

In 1775 the population grew and the colonial cities grew during the early American Revolutionary War which led to lower taxes being levied at that time. Rejection occurred in the United States when the British Crown tried to place new, higher customs taxes on colony traders which sparked resistance from Americans, sparked a revolutionary war and liberated America as a free country. In this case the British Crown or the British Parliament asserted that they had the right to impose taxes on the colonists.

The expansion and progressive development of the manufacturing-based economy in America brings changes to American business laws, these regulations are more supportive of American economic growth and industrial development. The development of American industry was driven by various discoveries about technology that gave rise to new styles of American business that had an impact on society. A thriving industry, technological

inventions are developments that support the American economy to become more advanced, but behind it a few people are busy mastering privately the central areas that cause unfair business competition and kill competitors.

The free competition system (*Leisez Fiere*) adopted by the American people makes the state unable to take a major role in regulating its economic activities, unfair business competition activities such as trusts, cartels, monopolies become domination in the national economy. The impact of unfair business competition in America has prompted the creation of an antitrust movement that demands that the government take a major role in the enforcement and fairness of business competition in America.

Thanks to the struggle of the American antitrust movement, many countries have realized that it is important for the government to have control over business competition in their country. Including one of them in Indonesia, as a country that was affected by the monetary crisis in 1998 required Indonesia to ask for assistance through the world bank to provide loans so that the economy in Indonesia could continue to run stably. After going through a period of monetary crisis, Indonesia slowly began to reorganize the economy and national infrastructure development for the implementation of domestic development. But along the way, Indonesia is one of the countries that has been seriously affected by the emergence of the COVID-19 pandemic which first appeared in Wuhan, China.

Although according to the World Bank, from 1999 to 2020, Indonesia was able to maintain its economic growth and fulfill the requirements to achieve itself as a country with upper middle income status.[1] However, the Covid-19 pandemic has caused many businesses to close out of business. From the description of the background above, the author wants to examine how the struggle for the birth of the antitrust movement in America was made? And how is the condition of business competition in Indonesia in the conditions of the Covid-19 pandemic?.

## **2 Discussion**

In the transitional period of America as a free country after 1776, the provisional constitution was enacted by America through the confederation which created economic chaos because it was considered a failure to run the government because it only included a one-house legislature, and the absence of a national court system, at the same time there was a control vacuum in trade. between countries.

Improved technology can help America in providing railroads that previously used tied wood and often experienced the lack of strength of the rail bonds so that it was certainly dangerous at the time. Railroad construction began in the 1830s and has built more than 3,300 miles of railroad tracks in America.

When the construction of the railway began, the construction triggered human interactions that led to communication with each other, where in this case when communication was needed, Samuel F.B Morse invented the telegraph to help people convey messages from person to person. In the transitional period, the development of technology is believed by some to threaten the role of society in the work in the industry at that time, so that the application of technology in America is fairly slow.

In its development, American society gradually began to accept the role of technology that emerged at that time with the emergence of technological works. Like a double-edged sword, this technological development has both positive and negative impacts. On the positive side, America's technological advances led the country to develop and facilitate the lives of its

people, but on the opposite side, technological advances at that time led to unfair business competition such as monopoly and trust, because the main businesses that developed were only carried out by one person. If there is a competitor, the influential person will boycott so that his business opponent closes his business.

In addition to trust and monopoly, a merger system was also carried out, a system that was trending in 1884-1887 was indeed considered very profitable for several companies who wanted to try to merge and claim other companies to be under their company, but in fact this system was considered not fair enough so that resulted in an economic depression in that span of the year.

The economic concept of Laissez-Faire is a concept that was first adopted by an economist, Adam Smith. The understanding of the concept is the role of the government to let the country's economy run in accordance with the Natural Economic Law. This philosophy of course minimizes government action in the realm of the free, competitive economy which is summarized in this philosophy is the idea of supply and demand..

## **2.1 The Birth of the American Antitrust Movement**

In American history it is known to have a large oil company which was held by Rockefeller in 1890 named the Standard Oil Company. Standard Oil in carrying out its business practices he buys his business competitors by selling oil at low prices, and he integrates his company vertically and horizontally with dozens of other oil refiners. This treatment makes Standard Oil dominating because it controls horizontally and acquires all oil refineries, starting from supplier dominance and process dominance and distribution dominance.[2]

Unhealthy business practices in America have prompted labor organizations such as the Knights of Labor and The American Federation of Labor (AFL) to protest against those who hold power over the American economy. The Knight held an annual convention in 1886 in Richmond, Virginia, and delegated labor leaders to join the convention with the aim of protesting against the trust system which was considered to have taken power or dominated the American economy.[3]

America as an adherent of a market economy system with its nature which believes that the economy will regulate it naturally and the limitations of the government in regulating the economy. But then people began to realize that the business style of some big companies can destroy business competition. In the absence of economic competitiveness, it will have an impact on the community's economy.

The trust system had a negative impact on the economy, making one of the Anti-monopoly parties move politically by attracting 173,000 votes for president in the 1884 general election with candidate Benjamin Butler. But his party did not last long. In the following years, the movement against trust continued to emerge and roll on and did not result in the disappearance of trust policies in America, while other states were aware of and legalized this anti-trust law.

The states that have started taking legal action are taking the courts for every business arrest lawsuit made by a business opponent. However, the anti-trust policies in these states have yet to ensure that the trust system no longer exists. Because it may be possible that business people can move their business entities to areas that do not yet have antitrust policies. Continued movements against American trust so that the government convened a congress to address the trust policy that had existed in America for a long time by establishing a federal regulatory agency and the Interstate Commerce Act passed in 1887.

The presence of John Sherman became a bright spot for the American antitrust movement. John Sherman as a figure fighting for anti-trust rules to become Federal Law. John Sherman in

his life journey continued his life by working from city to city, when the economic crisis hit America he chose to go home. Then he studied law and later became a barrister and attended many trials as a lawyer/lawyer in courts in the cities of Dayton and Cincinnati.

There was a significant change in population growth in 1830. Other remarkable changes also occurred during the same period. All modes of doing business in the early days have been abandoned. Changes in payment procedures and stipulates the replacement of the Ohio Banking Law into the National Banking Law.

A decade later John Sherman was elected to the US House of Representatives, serving 16 years and during that time he helped limit monopolies by proposing an anti-trust bill. While serving as a senator, John Sherman struggled to limit monopoly at that time not without reason. In addition to unfair competition conditions, John Sherman fought for the anti-trust law because trust conditions greatly impacted the American economy.

He supports protective tariffs and fights against inflation and supports industrial development through government subsidies. Sherman also supports regulations that limit big business and trusts. Sherman's proposed anti-trust bill had long twists and turns and tough debates and extraordinary difficulties because some other senators opposed it. Until finally the efforts of the American anti-trust movement bore fruit, so that the Anti-trust Law which limits the movement of monopoly, trust, domination, and unfair competition can be controlled by the government with these regulations.

## **2.2 Business competition in Indonesia during the Covid-19 pandemic**

The business competition law in Indonesia was first proposed because of the monetary crisis that occurred. To obtain a loan from the World Bank, each country must meet one of the requirements proposed, namely the ratification of the Business Competition Law. This is to minimize the impact that will arise from the monetary crisis and unhealthy business.

The enactment of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition began with the signing of a Letter of Intense (LOI) between the Indonesian government and the International Monetary Fund (IMF) on 29 July 1998 as an important event in the creation of the antitrust law. in Indonesia. On February 18, 1999, Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition received approval from the House of Representatives (DPR) of the Republic of Indonesia and then signed by the President of the Republic of Indonesia on March 5, 1999.[4]

A country's foreign competition through international trade or capital flows is considered a trigger for competition. The size of foreign companies can lead to monopoly power in the host country which causes contraction in domestic competitors, which will also trigger contraction in upstream to downstream production of the domestic market. [5] In an economic democratic system based on Pancasila, the free fight liberalism system that fosters exploitation of humans and other nations, the etatism system in which the state and its state economic apparatus are dominant, urgent, and kills the potential and creative power of economic units outside the sector, must be avoided. country.[6]

As a supervisory agency mandated by law, the Business Competition Supervisory Commission (KPPU) continues to intensively supervise, disseminate information, and impose penalties on business actors who violate the provisions of the law. In 2020, KPPU has successfully handled 39 cases of unfair business competition with the results of 15 decisions issued and providing PNBPN to the state due to business competition violation fines amounting to 37.4 billion from more than 50 percent of the total fines proposed in the decision.[7]

The Covid-19 pandemic has forced many business people to survive in crisis conditions. In addition, the implementation of the Community Activity Restriction (PPKM) policy has many negative impacts on the direction of the government's positive desire to prevent the transmission of Covid-19.

From a survey conducted by the ministry of manpower, almost 88 percent of companies were affected by the pandemic, this impact was felt not only on the scale of MSMEs but also on the scale of large companies. Losses experienced by business actors are generally due to decreased sales which have an effect on reduced production. This also has an impact on the high number of layoffs (PHK) because the majority of companies cannot pay their employees.

The majority of unemployed people increase the crime rate in the community. At least around 5.08 percent of crime has increased since the beginning of 2021, according to the Head of the Public Relations Division of the National Police Public Relations Division. A total of 4,650 events in the first start of 2021 and increased again in the second week to 4,886 events. [8] So that the government must have a real strategy so that business people can still employ their employees during the pandemic by issuing a series of rules and policies that are pro-employee and also owners of business entities. The condition of being vulnerable to unfair business competition will occur if the company does not stably regulate expenses and income.

### **3 Conclusion**

The role of the government as a policy regulator is very necessary in maintaining a stable economic condition, from a stable economic condition it will be able to reduce the number of layoffs that occur and decrease the crime rate in the community as well as the absence of death due to hunger. The steps taken by the state in dealing with the pandemic must be considered carefully and efficiently.

### **Acknowledgments**

The author would like to thank those who have contributed to the preparation of this paper. The author hopes that this paper can be useful for academics, government institutions, and also the public as input in issues of economic stability and business competition during the Covid-19 pandemic. Hopefully what I write can provide benefits in the field of law.

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