

A REVIEW OF PREDATORY PRICING REGULATIONS IN DIGITAL BUSINESS IN INDONESIA: ISLAMIC LAW APPROACH

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ABSTRACT

This study examines the need for regulating predatory pricing in Indonesia's digital business. The rise of digital businesses, both marketplace-based and social media-based, has recently created a new phenomenon where large producers enter the market at prices significantly below the prevailing rates. This situation poses challenges, as these significantly lower prices offered by producers can threaten the sustainability of Micro, Small, and Medium Enterprises (MSMEs). Moreover, the absence of clear regulations regarding trading through social media at below-market prices could potentially lead to monopolies by large business actors. This study employs a normative juridical research method using legislative and conceptual approaches to analyse the adequacy of existing competition law in regulating predatory pricing within the digital economy. Relevant statutory instruments are examined alongside conceptual developments in predatory pricing theory to assess their applicability to digital market structures. Furthermore, this study integrates *maslahah* theory as a normative analytical framework to evaluate regulatory objectives in light of public interest, economic justice, and market sustainability. The findings demonstrate that regulating predatory pricing in digital markets is imperative to maintaining price stability, protecting MSMEs, and ensuring national economic resilience. More importantly, the study reveals that conventional predatory pricing standards require contextual adaptation to address the unique characteristics of digital platforms, including network effects, data-driven market power, and cross-subsidisation strategies. At the global level, this research contributes to the evolving discourse on digital competition law by offering a perspective from a developing economy with a strong MSME orientation. The integration of *maslahah* theory provides an alternative normative framework that complements law-and-economics approaches, offering comparative insights for policymakers and scholars seeking inclusive, ethical, and sustainable regulatory models for digital markets worldwide.

Introduction

The development of digital business has increasingly demonstrated a strong presence in cyberspace. Various digital business applications have emerged alongside the shift in human activity from offline to online (Lieberman et al., 2020). This cultural change indicates a paradigm shift in business transactions that are freer and considered more profitable. Furthermore, changes in consumer behavior from offline to online in buying and selling transactions have reinforced the significance of digital commerce (e-commerce) in the current digital era (Chaudhary, 2020; Hadiyantina & Ramadhan, 2021).

E-commerce-based business transactions are regulated by Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE). According to the provisions of Article 1, point 2, electronic transactions (e-commerce) are legal acts carried out using computers, networks, and other electronic media. This rule exists as a form of control over digital transaction traffic, which is currently being developed. In the expansion of digital business, various e-commerce applications implement promotional innovations to attract consumers. Several social media applications, such as Facebook, Instagram, and TikTok, which initially operated in the realm of friendship-based social networking and short videos (video reels), are beginning to shift towards social commerce (Oktania & Indarwati, 2022). Consequently, price wars and promotions have become inevitable. Remarkable cashback offers and massive discounts are utilized as marketing strategies to attract consumers.

The practice of price wars will inevitably lead to monopolies by large business actors and unhealthy competition. Additionally, conventional (offline) business actors, who incur higher operational costs, will feel increasingly marginalized due to competition with e-commerce and social commerce, which can maintain significantly lower prices. This is because conventional business actors must cover shop rental costs, employee salaries, capital financing, and other operational expenses, which are often absent in digital media. Competition and price wars lead to predatory pricing practices, characterized by unfair pricing that eliminates consumers' bargaining positions (Panjaitan, 2021). Large business actors become more dominant in the market compared to smaller and medium-sized business actors. In light of this situation, President Jokowi has issued a warning regarding the dangers of price wars for business actors in Indonesia, specifically for Micro, Small, and Medium Enterprises (MSMEs). Given the risks posed to the country's economic system, the government should take action to anticipate and control these unhealthy practices.

Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition (Anti-Monopoly Law) prohibits predatory pricing practices intended to eliminate other business actors. Article 20 states that business actors are prohibited from setting excessively low prices aimed at eliminating competitors. Setting very low prices can result in predatory pricing practices, as this behavior has the potential to drive competitors out of the market. Kurnia Toha, Chair of the Business Competition Supervisory Commission (KPPU), outlined three conditions for classifying an activity as predatory pricing: first, the price is below the market price; second, the low prices are aimed at eliminating business competitors; and third, the business actors intend to raise prices once the competitors are gone. These three conditions serve as sufficient parameters for assessing whether a particular business actor is classified as predatory or not.

One of the early predatory pricing cases was the KPPU Council Decision Number: 03/KPPU-L/2020, concerning a violation of selling practices at a loss by PT. Conch South Kalimantan Cement, which was upheld by the Commercial Court decision Number: 1/Pdt.Sus-KPPU/2021/PN.Niaga. Jkt.Pst, as well as the cassation decision of the Supreme Court of Indonesia Number 951K/Pdt. Sus-KPPU/2021 on August 21, 2021. In this decision, PT. Conch was found guilty and ordered to comply with the KPPU decision to pay a fine of Rp. 22,352,000,000, to be deposited into the state treasury. Similar cases have also emerged in the digital sector, including those involving PT. Grab and PT. TPI (Effendi, 2020), as well as a price war between e-wallet providers GoPay and OVO (Panjaitan, 2021).

The emergence of price wars and unfair competition practices in the digital industry cannot be separated from the perspective of Islamic law as one of the applicable and universal legal norms (*syumul*) (Wan Ismail et al., 2024; Djamil, 1997). Islamic law is an inseparable part of the Islamic religion; hence, its application is always grounded in belief in Allah SWT, rather than solely on rational argument (Tibi, 1990). Addressing predatory pricing requires that Islam informs all business transactions, including those

conducted through digital media, to achieve the values of social justice and general welfare. Price wars in e-commerce and social commerce transactions can be categorized as predatory pricing. Therefore, this study aims to analyze the typology of predatory pricing in digital business practices in Indonesia. In addition, the prohibition on predatory pricing and the urgent need for regulation in Indonesia will be evaluated.

This study focuses on the urgency of regulating predatory pricing to strengthen the spirit of safeguarding healthy business competition in Indonesia from the perspective of Islamic economic law. Healthy business competition is vital for economic development and maintaining national economic security and stability. Numerous studies on predatory pricing have been conducted, including those by Panjaitan (2021), Bostoen (2019), and Wibowo et al., (2022). Generally, these studies emphasize the need for clearer and firmer regulations regarding predatory pricing practices. Furthermore, balancing the interests of all parties in the business world is crucial to deliver benefits (*maslahah*) for everyone involved.

Compared to previous reports, this study presents *maslahah* theory in the discourse of Islamic economic law as an analytical tool. An Islamic perspective that emphasizes aspects of justice, balance between both parties, transparency and accountability, and integrity (Wanto Muslehuddin, 2005) requires a different viewpoint in examining the phenomenon of predatory pricing. Therefore, this study offers a new paradigm for regulating predatory pricing as an accountable and proportional safeguard for assets (*hifz al-mal*) and the ummah (*hifz al-ummah*). The results will provide additional information regarding the urgency of regulating predatory pricing in Indonesia.

Methodology

This study employed a normative juridical research method, which focuses on examining legal norms, principles, doctrines, and statutory regulations governing predatory pricing in Indonesia's digital business ecosystem. The normative juridical approach was selected because the core issue addressed in this research concerns legal regulation, normative gaps, and doctrinal coherence, rather than empirical market behaviour. As predatory pricing constitutes a legal concept defined and constrained by competition law, a doctrinal analysis is essential to evaluate the adequacy, consistency, and applicability of existing legal frameworks in responding to contemporary digital market dynamics (Marzuki, 2005). To ensure analytical depth, this study utilised two complementary approaches: legislative and conceptual (Ibrahim, 2007). The legislative approach was employed to systematically examine relevant statutory instruments, including competition law provisions, implementing regulations, and policies related to digital commerce and fair competition. This approach enabled the identification of regulatory gaps, ambiguities, and enforcement challenges, particularly in relation to below-cost pricing practices on digital platforms and social media-based trade. The findings derived from this approach also serve as a normative basis for proposing regulatory refinement or the formulation of new legal instruments aimed at enhancing legal certainty.

The conceptual approach was employed to examine the development of predatory pricing doctrines in both classical competition law and digital market contexts. This approach enabled a critical assessment of the interaction between traditional legal concepts, such as market dominance, cost benchmarks, and intent and distinctive features of digital business models, including network effects, cross-subsidisation, and platform-based competition. Legal materials were collected through systematic document-based research, comprising primary legal materials (statutory provisions, regulations, and official policy documents), secondary legal materials (peer-reviewed journal articles, scholarly books, and expert commentaries), and tertiary materials (legal dictionaries and encyclopaedias). All materials were classified and reviewed to ensure relevance and analytical coherence. Legal analysis was conducted using descriptive-analytical and prescriptive techniques. Descriptive analysis mapped the existing regulatory framework and doctrinal positions on predatory pricing, while analytical interpretation assessed their normative adequacy in responding to digital market dynamics. Prescriptive analysis was then applied to formulate normative recommendations aligned with legal principles, competition policy objectives, and the public interest.

Results

E-commerce and Digital Business in Indonesia

The development of digital business has become an increasing trend due to its capacity to generate greater profits compared to conventional trading patterns (door-to-door marketing) (Ezekiel, 2021). The growth of the digital industry and commerce, coupled with easy internet access, is creating new opportunities for innovation in marketing. In the business world, marketing strategy is a crucial component in running any business (Lusiana & Novitaningtyas, 2020). Therefore, companies and business actors will constantly seek breakthroughs to improve marketing performance, including through e-commerce. The marketing strategy of business actors is gradually shifting from conventional approaches to e-commerce.

E-commerce serves as a medium that facilitates the buying and selling of goods and services through electronic transactions. This concept was first introduced in the 1960s in the form of a business organization that implemented the use of Electronic Data Interchange (EDI) for data exchange among business organizations (Khurana et al., 2020). As technology advanced, e-commerce significantly boosted productivity and efficiency in terms of financing and ease of carrying out various transactions. It enables businesspeople to connect with related organizations, thereby minimizing production and delivery times, in line with Toyota's "Just in time production" and "Just in time delivery" management systems. The use of e-commerce following this production system can ultimately result in a globally competitive position (Taher, 2021). These various advantages attract consumers and entrepreneurs to transition towards digital business by leveraging the various conveniences and facilities available. Sales of goods and services through digital media continue to rise consumer preferences shift.

Data from the Ministry of Cooperatives and MSME indicated that since the pandemic, e-commerce sales figures for MSMEs in the e-commerce sector have increased by 26%, reaching 3.1 million transactions per day. Similarly, data from Bank DBS Indonesia shows that the number of purchases and sales through e-commerce increased by 66% during the pandemic. This data demonstrate the growing consumer preference for e-commerce (Waseso, 2024). However, the various existing facilities and conveniences are not always profitable. Several parties, specifically MSME actors, ultimately must be willing to cease operations due to losses in competition with larger competitors. Major businesses often engage in large-scale promotions and offer prices significantly below market rates, gradually displacing MSMEs with limited capital.

Based on the description above, the rise of digital business reveals a new phenomenon where large entrepreneurs, importing companies, and even major manufacturers are joining the market by taking advantage of various facilities and conveniences in e-commerce. Consequently, the prices offered are significantly cheaper than retail rates. This practice of selling at a loss (predatory pricing) triggers an unhealthy business competition climate that is not conducive and prone to price manipulation. In general, predatory pricing serves five main objectives (The Business Competition Supervisory Commission Council, 2019):

- i. Shutting down competing businesses in the same relevant market;
- ii. Limiting competitors by imposing loss-selling prices as an entry barrier;
- iii. Securing large profits in the future;
- iv. Compensating for past; or
- v. Using promotional pricing to introduce new products as a marketing strategy.

By identifying the purpose of predatory pricing, specific efforts and strategic steps can be used to recreate a healthy business competition climate that does not harm any party.

Predatory Pricing and Problems in Digital Business

In the October 2023 edition of Tempo Magazine, TikTok Shop, as a trade medium, began to receive serious attention from the government because its presence, with fantastic price competition, disadvantaged small businesses with limited capital. Many traders in the market complained of losing almost all their customers. The influx of cheap foreign goods into the country rendered local products unable to compete in an open market without clear boundaries and regulations. Numerous small business actors have ceased operations due to unhealthy competition.

In response to this situation, the Minister of Cooperatives and MSMEs, Teten Masduki, described predatory pricing in online media as selling goods below cost (HPP) and labeled it as unethical business competition aimed at gaining market share. Therefore, the government issued Minister of Trade Regulation Number 31 of 2023 concerning Business Licensing, Advertising, Guidance, and Supervision of Business Actors in Trading Through Electronic Systems. This regulation emphasizes providing equal business opportunities for traders and maintaining the prices of goods and services against price manipulation practices, both directly and indirectly. The marketing strategy of selling at a loss in the context of business competition can be classified as a form of violation. As stated in Article 20 of the Anti-Monopoly Law, this practice is explicitly prohibited. Therefore, every trading activity suspected of violating these provisions will be examined and addressed by KPPU. Entrepreneurs who object to KPPU decisions can appeal to the Commercial Court and seek cassation from the Supreme Court.

In light of recent predatory pricing practices that have occurred recently, 90% of goods sold online are imported, which can cripple domestic products, specifically MSMEs. Even though consumers, particularly those with low purchasing power, may feel they benefit, this situation can paralyze domestic production. Consequently, the unemployment rate increases, and people's purchasing power continues to decline. This prolonged condition will damage the national economic system due to a chaotic trading environment. Meanwhile, the government must also pay attention to people's purchasing power and continue to monitor large scale business actors with significant market shares who have the potential to dominate and act as price setters or leaders (Chalkley et al., 2022).

Discussion

Review of Islamic Economic Law Against Predatory Pricing

Legal Arguments for Regulation of Predatory Pricing Practices from a Maslahah Perspective

Syatibi stated that the law of Allah SWT will always accompany human blessings. Al-Ghazali emphasized that *maslahah* must constantly align with the objectives of the Shari'ah. Therefore, when injustice occurs, it signifies the absence of *maslahah* in those actions (al-Ghazali, 1980). The Anti-Monopoly Law and Minister of Trade Regulation No. 31 of 2023 substantially share the same spirit and motivation. These regulations depict government efforts to prevent manipulative practices in the business world, specifically within digital-based e-commerce and social commerce. The rise in the phenomenon of predatory pricing in the market raises important questions as to whether the government will seriously address these manipulative business practices, which are detrimental to many parties, especially MSMEs.

MSMEs in Indonesia tend to lag in adapting to current developments in modernization and the digital era. The government has responded to the rise of social commerce, such as the TikTok Shop application, which has disrupted some business actors. Minister of Trade Zulkifli Hasan emphasized that social commerce applications are only allowed to promote goods and services. The social commerce applications were also likened to television, which only promotes products. The steps taken by the government are viewed positively in maintaining trade balance and market prices, as well as in mitigating injustice and preserving welfare.

In the preamble to the Anti-Monopoly Law, economic development must aim to achieve people's welfare based on Pancasila and the 1945 Constitution. Every citizen has the same opportunities in terms of the production and marketing of goods and services in a climate-friendly manner. Government policies addressing predatory pricing should prioritize human values, considering that public policy is a tool used to resolve conflicts in society (Sriwidodo, 2023).

Article 3 of the Anti-Monopoly Law states that the regulation represents the government's effort to foster a conducive business climate through healthy business regulations. Therefore, each business actor has the same opportunities, whether large, medium, or small scale. Even in the latest regulations, through Minister of Trade Regulation Number 31 of 2023, business actors are obligated to have a permit. This arrangement is considered quite responsive to the many digital applications that run businesses without permission. These positive steps should be acknowledged as they limit the space for unscrupulous business actors who engage in predatory pricing in the market.

Regarding predatory pricing, KUPPU, the government agency responsible for overseeing business competition, issued guidelines in 2009 for the implementation of Article 20 of Law No. 5 of 1999, which address selling at a loss (predatory pricing). These guidelines were developed to ensure that KPPU fulfills its supervisory functions over the implementation of Law No. 5 of 1999 accurately and effectively. They provide a definition of selling at a loss, describe relevant elements, offer indicators for identifying such practices, and outline procedures for conducting tests to detect them.

The comprehensive and systematic legal norms certainly cannot function effectively without a professional and accountable law enforcement process. The recent increase in predatory pricing cases indicates that the monitoring and law enforcement functions mandated by law remain weak. The state's goal of achieving social welfare is closely linked to the objectives of *syara'* (*maqasid syari'ah*). Ensuring the fulfillment of human needs, which are primary (*dharuriyyat*), secondary (*hajjiyyat*), and tertiary (*tahsiniyyat*) needs, constitutes a crucial responsibility for state administrators (Alias et al., 2024; Fahrurrozi & Saleh, 2022).

The government must remain vigilant in monitoring developments in this area. The increase in manipulative business practices and resulting unhealthy business competition, such as predatory pricing, necessitates the implementation of stricter and consistent policies and regulations. Consequently, opportunities for unhealthy competition should be curtailed, thereby safeguarding the interests of the public and the wider community. Promoting healthy business competition will enhance the economy and contribute to national economic resilience, alongside advancements in the humanitarian sector.

On a global scale, the impact of predatory pricing is evident in several countries (Panjaitan, n.d.). Regulations regarding predatory pricing in digital business vary across jurisdictions. However, some general principles are commonly applied, prohibiting the practice when it is intended to eliminate competitors or create a market monopoly.

Maslahah Approach in the Study of Islamic Economic Law

Maslahah etymologically derives from the word *as-salah*, which means goodness, usefulness, propriety, appropriateness, harmony, and suitability. In simple terms, it can be understood as anything that offers significant goodness and benefits (Febriyarni, 2016; Manzur, 2002). Terminologically, *maslahah* can be defined as the pursuit of benefits and the prevention of harm (*mudharat*) to safeguard and uphold the objectives of Islamic law (*maqasid syari'ah*). The aim is to protect religion (*hifz ad-din*), life (*hifz an-nafs*), reason (*hifz al-'aql*), lineage (*hifz an-nasl*), and property (*hifz al-mal*). All actions taken to maintain these five objectives are referred to as *maslahah* (al-Ghazali, 1980).

Imam al-Ghazali asserts that benefit must always accompany the objectives of the *Shari'ah*, even when this contradicts human intentions and desires. This is because humans have tendencies that drive them to make certain desires as goals. The primary criterion for determining benefit is not human desires but the objectives of *Shari'ah*. Therefore, al-Ghazali formulated provisions for identifying *maslahah*. First, these activities and actions must align with *Shari'ah* principles. Second, actions that possess *maslahah* value must not be contrary to *nash syara'* (al-Quran and hadith). Third, *maslahah* must be essential (*dharuriy*) and applicable to the majority of people (al-Ghazali, 1980).

Another perspective on *maslahah* comes from Imam Syatibi, who stated that the essence of *maslahah* lies in upholding human rights by promoting benefits and rejecting harm. There is consensus among Muslims that actions not grounded in scriptural texts and lacking *maslahah* (goodness) must be rejected (asy-Syatibi, n.d). Imam Syatibi articulated that "where there is benefit, there is God's law" (Praja, 2009). Islamic law possesses an inherent capacity to adapt to new social conditions (Masud, 1989). Scholars define *maslahah mursalah* as follows "Granting *Shari'ah* law to a case that is not contained in the texts

and *ijma'* based on maintaining independent benefits, namely benefits that are not confirmed by the Shari'ah and are not rejected" (Djazuli & Aen, 2000).

The term *maslahah* occupies a central position in Islamic law discourse. This concept is one of several sources and postulates of Islamic law. Although it falls into a disputed category (*mukhtalaf*), it remains central to the discourse (*maqasid syari'ah*). A key argument for recognizing *maslahah mursalah* as a valid method of legal reasoning (*istinbāt al-hukm*) is that the enactment of Islamic law aims to realize benefit and prevent harm. The concept of *maslahah* also allows scholars (*ulama*) to continually develop Islamic law (Djazuli and Aen, 2000).

In Islamic legal discourse, one area of focus includes *mu'amalah* and Islamic economic law. Islamic economic development differs from capitalist economic development, which is based on the assumption of rational humans (*homo economicus*). The core assumption here is that individuals seek to optimise economic utility in pursuit of maximum profit with minimal sacrifice (Lunati, 1997). In contrast to capitalist economics, Islamic economics is founded on Islamic ideology, namely Al-Qur'an and hadith (Syakur, 2018). Furthermore, scholars in Islamic economic law have long established foundational reference points in the *istinbath al-ahkam* process, one of which is *maslahah mursalah* (Daud Ali, 2015). Modern economic activities not explicitly addressed in the texts of the Al-Qur'an or hadith are developed through a process of *ijtihad* to uphold the benefit for humanity.

Discourse on Predatory Pricing Regulations: Philosophical, Juridical, and Sociological Considerations

The current landscape of legal developments and changes has become a "global trend" that greatly influences the dynamics and development of national law, including business law (Rahardjo, 2001). Therefore, Pancasila, as the ideological foundation of the state, must always be integral to the formation of any regulations. Pancasila is the source of all Indonesian law, also referred to as the fundamental norms (*staatsfundamentálnorm*) and the philosophy of life (*philosophische grondslag*) (Panjaitan, n.d.). As the philosophical foundation of the state, Pancasila gives rise to legal ideals (*rechtsidee*) and serves as the basis for a distinct legal system aligned with Indonesia's national spirit (*volkgeist*) (Marzuki, 2021). In the context of human life, legal ideals are transformed into general principles and rules that apply within society, function as guidelines in the administration of law, including the discovery, formation, application, and enforcement (Wreksosuhardjo, 2001).

Indonesia's economic development is established based on Pancasila, which serves as the state philosophy and ideology. The societal way of life, which emphasizes the values of mutual cooperation and social justice, must be manifested in daily business practices. Business ventures, as a form of supporting the country's economic progress, must be in line with the values envisioned by Pancasila and the 1945 Constitution (Idayanti et al., 2019). Consequently, business actors are expected to mitigate market injustices and create significant opportunities for equal participation in economic activities. The Anti-Monopoly Law clearly states in its considerations that the creation of business competition must be carried out based on noble human values and provide open access for all actors. The discourse on predatory pricing regulations introduced by the government is, in fact, a manifestation of moral and social responsibility in upholding values and eliminating colonialism and oppression in the business and industrial sectors. The presence of healthy business competition, infused with transcendental values, will help achieve an ideal society characterized by adequate social welfare.

The dynamics of development in digital business traffic management must continue to evolve, especially as the number of internet users increases daily. According to the We Are Social Report Digital 2021, the number of internet users in Indonesia was only 72.7 million in 2015. After six years, this figure skyrocketed by 178.68% to reach 202.6 million. Data from the Central Statistics Agency (BPS) also shows that internet penetration continues to grow in Indonesia. Alongside this, the number of active social media users has increased significantly. This data suggests that the number of internet users in both public and business sectors has the potential to position Indonesia as a global digital giant. The Minister of Communication and Information, Rudiantara, predicted that e-commerce will become the backbone of the national economy.

Indonesia possesses sufficient resources to emerge as a country with a leading e-commerce industry in the future. According to data analysis by Ernst & Young, the sales value of online businesses in the country increases by 40% annually. The country is estimated to have approximately 93.4 million internet users and 71 million smartphone users. However, this positive potential is not without drawbacks. Various manipulative practices and violations of rules in operating a digital business continue to disrupt the dynamics of the sector. Therefore, it is essential to provide the public with management guidelines for conducting digital business, applicable both internally and externally.

From a legal perspective, predatory pricing practices are explicitly regulated in the Anti-Monopoly Law. Article 20 states that business actors are prohibited from setting excessively low prices with the intent of eliminating competitors. Moreover, several other regulations govern predatory pricing practices, including Minister of Trade Regulation Number 31 of 2023. The existence of the Anti-Monopoly Law is pivotal in eradicating predatory pricing practices in Indonesia. Many countries also have antitrust laws regulating business practices that adversely affect competition.

Sociologically, the necessity for a healthy competitive climate within society, particularly among business actors, is of paramount importance. Healthy business competition has a positive impact on purchasing and selling power, thereby contributing to the economic stability of the country. The regulation of predatory pricing in the digital business sector is inherently linked to the role of government institutions in establishing more comprehensive legal norms. However, laws as a normative framework are frequently disregarded and inadequately implemented, likely due to a top-down approach to law formation, wherein rulers and legislators treat society merely as an object. For this reason, the law formation process should adopt a bottom-up approach to adequately address the interests of society at lower levels (Rossenfendi, 2018).

The discourse surrounding the regulation of predatory pricing in digital business highlights the urgent need for attention across various aspects. Specifically, several steps the government might undertake to regulate predatory pricing in digital business include:

Renewal of the Anti-Monopoly Law

Regulations pertaining to business competition oversight warrant greater attention from the government. Within a business ecosystem, predatory pricing practices can eliminate competitors in a detrimental manner. If left unchecked, such practices will undermine the Indonesian economic system, potentially leading to an economic and humanitarian crisis.

The philosophical and sociological rationale for regulatory reform is significant. From the perspective of Islamic law, protecting human beings, as well as property and honor, is a fundamental obligation. Strengthening measures to mitigate the risk of fraudulent business practices must be further reinforced through the establishment of normative parameters and indicators of fraud in the market. Robust and consistent regulations can serve as guidelines for business actors to assess and monitor internal performance. This oversight aims to prevent all forms of deviation, fraud, violations, as well as obstacles, errors, and failures in achieving anticipated objectives.

Strengthening Supervisory Bodies

KPPU, as an arm of the Government, is tasked with supervising and regulating business competition, including in the digital industry. According to Article 2 of KPPU Regulation Number 01 of 2014, KPPU functions to supervise and enforce laws prohibiting monopolistic practices and unfair business competition. Although the authority is described extensively in Article 36 of the Anti-Monopoly Law, it often conflicts with the authorities of other institutions in practice. Therefore, efforts are needed to expand the authority in anticipating fraudulent practices in the market while still prioritizing the interests of the general public, ensuring the wheels of the economy are maintained at all levels of society. KPPU also conducts regular market assessments to analyze predatory pricing practices in digital businesses. The results of these assessments can serve as a basis for regulating or limiting these practices.

Collaboration with Industry

The government should collaborate with digital industry players to create regulations that address predatory pricing. In some cases, industry players may establish individual standards or guidelines to protect fair competition.

Conclusion

In conclusion, competition is a natural phenomenon in the business industry. A climate of healthy business competition can increase the stimulus for economic growth, ultimately improving societal welfare. However, this competitive climate is often marred by manipulative practices aimed at serving the interests of certain groups only. One such manipulative practice includes predatory pricing. Predatory pricing is a detrimental business practice of setting extremely low prices to eliminate competitors. The development of digital business, along with various convenient online applications and media, including e-commerce and social commerce, facilitates predatory pricing practices, underscoring the need for more comprehensive regulations. Several regulations, such as Law No. 5 of 1999, were created to monitor business competition. However, these regulations still require reform, including broader supervisory arrangements, both internally for business actors and externally by the government.

In accordance with the *maslahah* principle, the application of predatory pricing must be constrained to prevent significant losses to other business actors and avoid the elimination of competitors. Regulation and supervision of predatory pricing are essential in fostering a sense of justice and comfort within a healthy competitive business environment. The discourse on regulating predatory pricing is imperative for ensuring a more severe legal impact on violators. Breaches of this provision must incur stringent sanctions, which may include administrative penalties such as the suspension of business operational permits, or even criminal sanctions in cases of legal violations. To effectively regulate predatory pricing in the digital business sector, several steps can be undertaken; 1) renewal of the Anti-Monopoly Law, 2) strengthening supervisory bodies, and 3) collaboration with the industry.

References

- al-Ghazālī, A. H. M. (1980). *Al-Mustasfā min 'ilm al-uṣūl*. Dār al-Kutub al-'Ilmiyyah.
- Ali, M. D. (2015). *Hukum Islam: Pengantar ilmu hukum dan tata hukum Islam di Indonesia*. Rajawali Pers.
- Alias, M. A. A., Mohd Jailani, M. R., Wan Ismail, W. A. F., & Baharuddin, A. S. (2024). The integration of five main goals of shariah in the production of science and technology for human well-being. *AL-MAQASID: The International Journal of Maqasid Studies and Advanced Islamic Research*, 5(1), 1–16.
- al-Shātibī, I. ibn M. A. I. (n.d.). *Al-I'tiṣām*. Dār al-Ma'rifah.
- Andriani, D. (2021, March 9). "Bukan predatory pricing, diskon e-commerce justru pacu pertumbuhan UMKM". *Bisnis.com*. <https://ekonomi.bisnis.com/read/20210309/12/1365435/bukan-predatory-pricing-diskon-e-commerce-justru-pacu-pertumbuhan-umkm>
- Azka, R. M. (2019, June 13). "KPPU menduga ada indikasi predatory pricing dalam bisnis transportasi online". *Bisnis.com*. <https://ekonomi.bisnis.com/read/20190613/98/933468/kppu-menduga-ada-indikasi-predatory-pricing-dalam-bisnis-transportasi-online>
- Bostoen, F. (2019). Online platforms and pricing: Adapting abuse of dominance assessments to the economic reality of free products. *Computer Law & Security Review*, 35(3), 263–280.
- Chalkley, M., Hidayat, B., Ramadani, R. V., & Aragón, M. J. (2022). The sensitivity of hospital coding to prices: Evidence from Indonesia. *International Journal of Health Economics and Management*, 22(2), 147–162. <https://doi.org/10.1007/s10754-021-09312-7>
- Chaudhary, H. (2020). Analyzing the paradigm shift of consumer behavior towards e-commerce during pandemic lockdown. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3664668>
- DataIndonesia.id. (2022, February 15). "Rangkuman data perkembangan ekonomi digital Indonesia". *Bisnis.com*. <https://finansial.bisnis.com/read/20220215/563/1500443/rangkuman-data-perkembangan-ekonomi-digital-indonesia>
- Djamil, F. (1997). *Filsafat hukum Islam*. Logos Wacana Ilmu.
- Djazuli, H. A., & Aen, I. N. (2000). *Ushul fiqh: Metodologi hukum Islam*. PT RajaGrafindo Persada.

- Effendi, B. (2020). Pengawasan dan penegakan hukum terhadap bisnis digital (e-commerce) oleh Komisi Pengawas Persaingan Usaha (KPPU) dalam praktik persaingan usaha tidak sehat. *Syiah Kuala Law Journal*, 4(1), 21–32. <https://doi.org/10.24815/sklj.v4i1.16228>
- Ezekiel, A. O. (2021). Marketing strategies: From door to door to evangelism to e-commerce, and m-commerce marketing. *European Journal of Management and Marketing Studies*, 6(3), 74–88. <https://doi.org/10.46827/ejmms.v6i3.1076>
- Fahrurrozi, E., & Saleh, M. (2022). Regulasi, implementasi ritel modern, dan tradisional perspektif maqāṣid al-sharī'ah. *Istidlal: Jurnal Ekonomi dan Hukum Islam*, 6(2), 81–100. <https://doi.org/10.35316/istidlal.v6i2.436>
- Febriyarni, B. (2016). Fiqh al-hadis etika bisnis (tinjauan kesahihan dan pemahaman). *Al-Istinbath: Jurnal Hukum Islam*, 1(2), 141–160.
- Hadiyantina, S., & Ramadhan, N. (2019). State regulation on business entities owned by state universities: Losses and liability. *Brawijaya Law Journal*, 6(2), 234–254.
- Ibrahim, J. (2007). *Teori dan metodologi penelitian hukum normatif*. Bayumedia Publishing.
- Idayanti, S., Hartati, S., & Haryadi, T. (2019). Pembangunan hukum bisnis dalam perspektif Pancasila pada era Revolusi Industri 4.0. *Jurnal Jurisprudence*, 9(1), 90–101. <https://doi.org/10.23917/jjr.v9i1.8091>
- Kementerian Komunikasi dan Informatika Republik Indonesia. (n.d.). “Indonesia akan jadi pemain ekonomi digital terbesar di Asia Tenggara”. Kominfo.go.id. https://www.kominfo.go.id/index.php/content/detail/6441/Indonesia+Akan+Jadi+Pemain+Ekonomi+Digital+Terbesar+di+Asia+Tenggara/0/berita_satker/
- Khurana, M. K., Kushwaha, U. S., Baniya, P., & Yadav, M. (2020). Indian e-commerce industry startup scenario with trends and opportunities. *International Journal for Research in Engineering Application & Management*, 5(11), 157–162. <https://doi.org/10.35291/2454-9150.2020.0083>
- Komisi Pengawas Persaingan Usaha. (2009). *Pedoman pelaksanaan Pasal 20 tentang jual rugi (predatory pricing)*.
- Lunati, M. T. (1997). *Ethical issues in economics: From altruism to cooperation to equity*. Macmillan Press.
- Lusiana, I., & Novitaningtyas, I. (2020). Strategi promosi aplikasi Motorku Express berdasarkan analisis SWOT. *Jurnal Bisnisman: Riset Bisnis dan Manajemen*, 2(2), 1–14. <https://doi.org/10.52005/bisnisman.v2i2.2>
- Ma‘lūf, L. (2002). *Al-Munjid fī al-lughah wa al-a‘lām*. Dār al-Mashriq.
- Manzūr, I. (1386). *Lisān al-‘Arab*. Dār al-Fikr.
- Marzuki, M. N. R. I. N. (2021). Pancasila sebagai staatsfundsnorm Indonesia dalam pembentukan hukum nasional (Perspektif Undang-Undang Cipta Kerja Nomor 11 Tahun 2020 tentang Cipta Kerja). *Jurnal Ilmiah Meta Data*, 3, 541–558.
- Marzuki, P. M. (2005). *Penelitian hukum*. Kencana.
- Masud, M. K. (1989). *Islamic legal philosophy: A study of Abū Ishāq al-Shāṭibī’s life and thought*. S. M. Shahid for International Islamic Publishers.
- Muliono. (n.d.). “Menteri Koperasi dan UKM Teten Masduki mengatakan predatory pricing merupakan persaingan bisnis kotor”. PLUT KUMKM Mamuju Tengah. <https://www.plutkumkm-mamujutengah.com/news/05229/menteri-koperasi-dan-ukm-teten-masduki-mengatakan-predatory-pricing-merupakan-persaingan-bisnis-kotor>
- Muslehuddin, M. (1980). *Philosophy of Islamic law and the Orientalists*. Islamic Publications Ltd.
- Oktania, D. E., & Indarwati, T. A. (2022). Pengaruh perceived usefulness, perceived ease of use, dan compatibility with lifestyle terhadap niat beli di social commerce. *Jurnal Manajemen Fakultas Ekonomika dan Bisnis Universitas Negeri Surabaya*, 10(1), 255–267.
- Panjaitan, Y. A. (2021). Indikasi predatory pricing pada praktik perang harga antara pelaku usaha financial technology (fintech) ditinjau berdasarkan hukum persaingan usaha di Indonesia. *Dharmasiswa: Jurnal Program Magister Hukum Fakultas Hukum Universitas Indonesia*, 1(3), 1615–1629.
- Praja, J. S. (2009). *Teori-teori hukum: Suatu telaah perbandingan dengan pendekatan filsafat*. Pascasarjana UIN Bandung.
- Praja, J. S., Mudzhar, M. A., & Bisri, C. H. (1991). *Hukum Islam di Indonesia dalam pemikiran dan praktik*. Remaja Rosdakarya.

- Rahardjo, S. (2001). *Problem globalisasi: Perspektif sosiologi hukum, ekonomi dan agama; pembangunan hukum di Indonesia dalam konteks situasi global*. Muhammadiyah University Press.
- Riwanto, A., & Suryaningsih, S. (2022). Realizing welfare state and social justice: A perspective on Islamic law. *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 5(1), 41–51. <https://doi.org/10.24090/volksgeist.v5i1.6430>
- Rohman, A. N. (2019). The existence of masalah mursalah as the basis of Islamic law development in Indonesia. *Krtha Bhayangkara*, 13(2), 251–260. <https://doi.org/10.31599/krtha.v13i2.9>
- Roseffendi. (2018). Hubungan korelatif hukum dan masyarakat ditinjau dari perspektif sosiologi hukum. *Al-Imarah: Jurnal Pemerintahan dan Politik Islam*, 3(2), 189–198.
- Sriwidodo, J., Budisetyowati, D. A., & Taher, P. (2023). Kebijakan publik yang berbasis hak asasi manusia. *Krtha Bhayangkara*, 17(2), 255–272.
- Syakur, A. (2018). Ruang lingkup ekonomi Islam. *Pancawahana: Jurnal Studi Islam*, 13(2), 1689–1699.
- Tibi, B. (1990). *Islam and the cultural accommodation of social change*. Westview Press.
- Wan Ismail, W. A. F., Abdul Mutalib, L., Mamat, Z., Hashim, H., Baharuddin, A. S., Mohammed Hasan, B. M., & Alias, M. A. A. (2024). Analisis terhadap konsep penerimaan dan pengesahan E-Kitabah sebagai kaedah pembuktian menurut perundangan Islam di Malaysia. *LexForensica: Forensic Justice And Socio-Legal Research Journal*, 1(1), 1-12.
- Wanto, D., Hidayat, R., & Repelita, R. (2021). Maqasid shariah's change as theory: From classical to cotemporary maqasid shariah. *Al-Istinbath: Jurnal Hukum Islam*, 6(2), 427–454.
- Wardani, A. S. (2023, October 4). “Ini alasan kenapa TikTok Shop ditutup 4 Oktober 2023 pukul 17.00 WIB”. Liputan6. <https://www.liputan6.com/tekno/read/5414611/ini-alasan-kenapa-tiktok-shop-ditutup-4-oktober-2023-pukul-1700-wib>
- Wibowo, A. T., Prihartinah, T. L., & Suherman, A. M. (2022). The future of legal regulation related to predatory pricing practice in e-commerce implementation in Indonesia. *Webology*, 19(1), 2605–2620. <https://doi.org/10.14704/web/v19i1/web19173>
- Wreksosuhardjo, S. (2017). *Ilmu Pancasila yuridis kenegaraan dan ilmu filsafat Pancasila*. Andi Publisher.