J-CEKI : Jurnal Cendekia Ilmiah
Vol.4, No.3, April 2025

Implementation of Article 9 of Law No. 5/1999 on the prohibition of monopolistic practices and unfair competition

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Article History:
Received: 01 Maret 2025
Revised: 02 April 2025
Accepted: 08 April 2025

Keywords: *Article 9, Law No. 5 of 1999, business competition, traditional markets, modern markets.*

Abstract: *This study analyzes the implementation of Article 9 of Law No. 5 of 1999 concerning the prohibition of monopolistic practices and unfair competition in North Lampung Regency. This law aims to create a competitive and fair business climate while protecting public interests. Although the local government has issued Regional Regulation No. 2 of 2016 to balance traditional and modern markets, challenges in its implementation remain significant. The increasing dominance of modern markets threatens the existence of traditional markets, while effective supervision and law enforcement are still lacking. This research finds that enhanced supervision, guidance, and socialization to the community and business actors are essential to achieving the law's objectives. With appropriate measures, it is hoped that healthy business competition can be realized, supporting the existence of traditional markets and improving community welfare. This study also recommends the need for further research to identify barriers to implementation and formulate more effective strategies for creating a fair and competitive business environment in Indonesia.*

INTRODUCTION

Economic development is a journey that significantly impacts a country's future. Growth in the economic sector not only boosts GDP but also has the potential to enhance the overall well-being of society. In this context, community involvement in economic activities, especially through community-owned businesses, becomes vital. These enterprises not only create jobs but also foster innovation and improve competitiveness in the market (Wielewska, 2019). Therefore, the growth of micro, small, and medium enterprises (MSMEs) can bring substantial benefits to communities, including increased income and a better quality of life (Mahmood & Khan, 2022).

Typically, individuals engaged in business activities aim to generate profits that help meet their daily needs. The motivation to participate in these activities often stems from urgent economic needs, which creates a competitive environment among business actors. Business competition can be understood as the rivalry among entrepreneurs in producing and marketing goods and services. This competition involves not only strategies to attract consumers but also ethical considerations that every business actor must uphold (Zhao et al., 2023) . Healthy

competition in the market encourages improvements in product and service quality and fosters sustainable innovation (Nguyen & Mizne, 2017).

Various factors influence business competition, including the similarity of products offered, distribution channels, and price fluctuations in the market. According to (Rosnani et al., 2022), competition arises when products have similar characteristics, prompting business actors to strive to outperform one another through different strategies (Irshad et al., 2022) . In this context, competition law serves as a framework to regulate business ethics, ensuring that competition is fair and does not harm others (Melita et al., 2021). Healthy competition is crucial for enhancing the quality of life, as it promotes innovation and efficiency in production(Guasti, 2020).

In today's globalized world, business competition is often viewed as an individualistic pursuit focused on profit. This perspective can lead some business actors to engage in unethical practices, such as monopolies or cartels, which can harm consumers and disrupt healthy market dynamics (Leonov, 2019) . Therefore, it is essential for governments to implement strict regulations to prevent such practices and ensure that competition remains healthy (Huang et al., 2024). In this regard, Indonesia's Law No. 5 of 1999, which prohibits monopolistic practices and unfair competition, serves as a crucial legal foundation to protect consumers and business actors from harmful practices (Rosnani et al., 2022).

Monopolies, as a form of unhealthy competition, can stifle economic growth and create market injustices. According to the law, a monopoly occurs when one business actor dominates the production or marketing of certain goods and services, limiting consumer choices and hindering innovation. In Indonesia, some companies, such as PT Kereta Api Indonesia and PT Pertamina, operate within a legally permitted monopoly framework, but they must be monitored to prevent abuse of market power(Hartini et al., 2024).

Healthy competition benefits not only business actors but also consumers, who enjoy lower prices, more choices, and improved product quality (Krzeminski et al., 2020) . Conversely, unhealthy competition can negatively impact the national economy, leading to decreased consumer confidence and reduced investment (Langoday et al., 2024). Therefore, it is crucial to regulate and monitor business competition to ensure it remains fair and does not harm any party(Bryndin, 2021).

In the marketplace, both traditional and modern markets play essential roles in fostering competition. Traditional markets, characterized by direct transactions between sellers and buyers, often face challenges from modern markets that offer convenience and efficiency(Hariastuti et al., 2018) . While modern markets provide ease for consumers, their presence can threaten the sustainability of traditional markets, particularly for small and medium-sized enterprises(Raphael, 2020). Thus, the government must regulate spatial planning and business permits to ensure that both types of markets can coexist without harming each other(Susanti, 2023).

The rise of minimarkets in various regions, including North Lampung, reflects significant economic development but also raises concerns among small business owners. Minimarkets often have advantages in pricing, technology, and product quality, making it challenging for traditional markets to compete (Lehmann & Stockinger, 2018). Therefore, it is crucial to reassess policies regarding minimarket establishment permits to protect local businesses. The Regional Regulation of North Lampung No. 2 of 2016, which limits the number of minimarkets in a sub-district, is a positive step toward regulating this competition (Chen, 2023).

In conclusion, sustainable economic development requires collaboration among the government, business actors, and society. Appropriate regulations and consistent enforcement against unhealthy competition practices will create a conducive business environment for all

stakeholders. Ultimately, it is hoped that economic growth will benefit all segments of society, rather than just a few large business actors.

Understanding Business Competition

Business competition is a core concept in economics that highlights how businesses interact within the marketplace. At its essence, competition occurs when two or more businesses try to win over consumers by offering similar products or services. However, competition goes beyond just pricing; it also involves aspects like product quality, innovation, and customer service (Idrus & Arfianty, 2021) . Healthy competition is expected to drive efficiency, foster innovation, and enhance product quality, ultimately benefiting consumers(Apriyanti, 2020).

From a legal perspective, various regulations are in place to ensure fair competition and prevent harmful practices such as monopolies and cartels. In Indonesia, Law No. 5 of 1999 concerning the prohibition of monopolistic practices and unfair competition serves as the legal foundation for regulating business competition. This law aims to create a conducive business environment and provide legal certainty for business actors (Riyanto, 2021) . The Competition Supervisory Commission (KPPU) plays a crucial role in monitoring and enforcing competition law, addressing violations that may arise in the market(Asmah, 2021).

Business competition can be categorized into two types: healthy competition and unhealthy competition. Healthy competition occurs when businesses compete fairly, leveraging their unique strengths, while unhealthy competition arises when businesses engage in detrimental practices, such as unfair pricing or predatory pricing strategies (Soegijanto, 2023) . Research indicates that these unhealthy practices can harm consumers and stifle innovation in the market (Fitria & Septiandika, 2022).

In the realm of micro, small, and medium enterprises (MSMEs), competition has a significant impact. MSMEs often face challenges when competing against larger companies with more resources. Therefore, it is essential for MSMEs to develop effective strategies to enhance their competitiveness, such as product innovation and creative marketing(Anisah, 2024). Studies show that strengthening the capacity of MSMEs through training and mentoring can help them survive and thrive in a competitive environment (Saragih & Tyas, 2020).

Moreover, advancements in technology and digitalization are reshaping the dynamics of business competition. The digital era has opened new opportunities for businesses to reach a broader audience, but it also presents new challenges, such as the need to adapt to changing consumer behaviors and increasing competition on online platforms (Umar et al., 2024) . Therefore, a deep understanding of business competition in the digital context is crucial for businesses to compete effectively(Tanjung, 2022).

Competition Law

Imagine a marketplace where a few powerful players control everything, dictating prices and squeezing out smaller businesses. That's not a fair playing field, and it's precisely what Indonesian competition law aims to prevent. This law, enshrined in Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, acts as a referee, ensuring a level playing field for businesses of all sizes and protecting consumers from unfair practices (Burhanuddin, 2024) . It's about more than just profits; it's about fostering a dynamic, efficient, and equitable market that benefits everyone.

At the heart of this system is the Commission for the Supervision of Business Competition (KPPU), Indonesia's competition watchdog. Think of the KPPU as the investigative arm, diligently scrutinizing the marketplace for any signs of foul play. They investigate and act against violations, from blatant monopolies to more subtle forms of unfair competition, ensuring that

businesses play by the rules (Pratama, 2024) . This isn't always easy. Uncovering covert cartel agreements, for example, requires meticulous investigation and often sophisticated evidence gathering, highlighting the challenges the KPPU faces in its crucial role (Puspaningrum, 2023).

The KPPU's responsibilities extend beyond simply punishing wrongdoers. They also play a crucial role in reviewing mergers and acquisitions. Large-scale mergers can significantly alter the competitive landscape, potentially creating monopolies or stifling innovation. By requiring notification and approval for significant mergers, the KPPU helps prevent excessive market concentration and safeguards the interests of smaller businesses (Novizas & Gunawan, 2021) . This proactive approach ensures a balance of power, preventing the dominance of a few giants and fostering a more diverse and resilient market (Suparji & Ikraam, 2021).

But the world is constantly changing, and Indonesian competition law must adapt to keep pace. The rise of e-commerce and the digital economy presents new challenges and opportunities. Online marketplaces operate differently than traditional brick-and-mortar stores, creating unique opportunities for anti-competitive behavior. Researchers highlight the need for updated legislation and enforcement strategies to address these emerging issues, ensuring that competition law remains relevant and effective in the digital age (Hayati, 2021). The KPPU is at the forefront of this adaptation, tasked with developing guidelines and regulations to navigate the complexities of online trade and digital platforms (Prasetyo, 2024) . The future of Indonesian competition law hinges on its ability to remain agile and responsive to these ongoing transformations.

Theory of Justice

The theory of justice is a cornerstone concept in political philosophy and ethics, exploring how resources, rights, and responsibilities are distributed within society. One of the most influential thinkers in this field is John Rawls. In his seminal work, "A Theory of Justice," Rawls presents principles of justice that emphasize fairness as the foundation for creating a just society(Hasanuddin, 2018). He introduces two fundamental principles: first, that every individual is entitled to equal basic liberties, and second, that any social and economic inequalities should be structured to benefit the least advantaged members of society.

Justice is a multifaceted concept that includes various dimensions, such as distributive justice, procedural justice, and retributive justice. Distributive justice focuses on how resources and benefits are shared among individuals in society, while procedural justice highlights the importance of fair processes in decision-making (Firana & Abbas, 2020) . Retributive justice, in contrast, deals with how penalties or sanctions are imposed for legal violations.

In organizational contexts, the theory of justice has profound implications for employee behavior and overall organizational performance. Research shows that how employees perceive justice in the workplace can significantly impact their motivation, commitment, and job satisfaction. For example, a high level of organizational justice can lead to improved employee performance and lower turnover rates (Sinaga, 2019) . Fairness in decision-making processes—such as performance evaluations and the distribution of incentives—plays a crucial role in fostering a positive work environment(Sisma, 2023).

Moreover, the theory of justice extends beyond organizations into the realms of public policy and law. Here, social justice takes center stage, ensuring that all individuals have equal access to resources and opportunities. Studies indicate that applying justice principles in public policy can enhance public trust in government and institutions, fostering a more cohesive society(Pasaribu, 2023).

Public Policy Theory

Public policy theory is an essential area of study that delves into how governments and

public institutions create, implement, and evaluate policies that affect our daily lives. This field aims to understand the intricate processes behind policy formation, the various factors that influence decision-making, and the real-world impacts these policies have on society. One influential approach in this realm is the "Multiple Streams" framework, introduced by John Kingdon. This framework illustrates that public policies often arise from the intersection of three key streams: problems, policies, and politics (Garcia & Zajicek, 2021) . When these streams converge at the right moment, it creates a unique opportunity for new policies to be adopted.

In the realm of health policy, research has shown that a multitude of factors can shape public policies. These include scientific evidence, public sentiment, and political interests. For instance, a study conducted by(Pogrmilović et al., 2019) introduced the Comprehensive Analysis of Policy on Physical Activity (CAPPA) framework, which provides a structured way to analyze policies related to physical activity. This highlights the necessity of a systematic approach to truly understand the complexities of public policy. Additionally, Garcia and Zajicek (2021) stress the importance of incorporating an intersectional perspective in public policy discussions. This ensures that policies are not only effective but also fair and inclusive for all segments of society(Garcia & Zajicek, 2021).

Moreover, public policy theory also examines how policies are put into action and assessed for their effectiveness. The implementation phase often encounters various challenges, such as limited resources, pushback from stakeholders, and unclear policy objectives. Research by Martinez-Valle (2024) highlights that the success of intersectoral health policies largely depends on the ability to navigate these obstacles and harness existing supportive factors (Martinez-Valle, 2024).

When it comes to addressing climate change, public policies must also take into account sustainability and social justice. Khanal et al. (2023) emphasize the critical need for policies that prioritize health and equity in the face of climate challenges. They argue that effective policies must consider the impacts on the most vulnerable populations, ensuring that no one is left behind(Khanal et al., 2023).

In summary, public policy theory is not just an academic pursuit; it is a vital framework for understanding how decisions made by governments can shape the lives of individuals and communities. By examining the processes, challenges, and implications of policy-making, we can work towards creating more effective and equitable policies that truly serve the public good.

Economic Law Theory

Economic law theory offers a fascinating lens through which to examine the intricate interplay between law and economic behavior. It's not simply about abstract principles; it's about understanding how legal frameworks shape our economic realities and, conversely, how economic forces influence the evolution of law. This interdisciplinary field seeks to design legal rules that maximize economic efficiency while minimizing the friction of transactions. A pivotal figure in this area, Richard Posner, championed the view of law as a tool for achieving economic objectives, arguing that economic analysis provides invaluable insights for both law enforcement and policy creation(Demirtaş, 2023).

At the heart of economic law theory lies cost-benefit analysis – a practical tool for evaluating the impact of legal policies. This approach helps policymakers determine whether the potential benefits of a new law or regulation outweigh its associated costs. This perspective reframes law not merely as a static set of rules, but as a dynamic instrument capable of influencing the economic decisions of individuals and organizations alike (Miah et al., 2021) . Imagine, for instance, the impact of environmental regulations on a manufacturing company – a

cost-benefit analysis would weigh the costs of compliance against the potential benefits of reduced pollution and improved public health.

The influence of law extends far beyond individual decisions; it shapes the very fabric of markets. Competition law, for example, plays a crucial role in preventing monopolies and fostering fair market practices. Research consistently demonstrates that effective enforcement of competition law boosts market efficiency and stimulates innovation, leading to greater economic dynamism (Turner, 2021) . Consider the impact of antitrust legislation on the tech industry – preventing the dominance of a single player can encourage competition and lead to better products and services for consumers. Furthermore, economic law theory provides frameworks for addressing externalities – situations where the actions of one party impose costs on others, such as environmental pollution. By designing appropriate incentives, legal frameworks can encourage responsible behavior and mitigate these negative externalities(Laia et al., 2023). Carbon taxes, for example, incentivize businesses to reduce their carbon footprint.

The significance of economic law theory extends to the global stage, illuminating the complex interactions between law and economic policy in an interconnected world. The protection of intellectual property rights (IPR), for example, plays a vital role in fostering economic growth, particularly in developing countries. Strong IPR protection incentivizes innovation and investment, driving economic progress (Lumentut, 2023) . However, the debate surrounding IPR protection is nuanced. While strong protection can stimulate innovation, overly stringent regulations can hinder access to technology and knowledge, potentially stifling development in some sectors. Finding the right balance is a crucial challenge for policymakers worldwide. This highlights the ongoing evolution and adaptation of economic law theory in response to the ever-changing global landscape.

RESEARCH METHOD

This research adopts a normative juridical approach, which means that the study focuses on legal analysis based on relevant legal materials, theories, and concepts. As a library research, this method relies on references from various sources, including books, legislation, and other documents related to the topic under investigation. Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition serves as the primary source in this research, which aims to explore the implementation of Article 9 of the aforementioned law.

By employing a descriptive-analytical approach, this study aims to explain and describe the phenomena occurring through the application of relevant theories and laws. The research is conducted using a literature study method, which includes the analysis of legal principles, legal systematics, legal synchronization, and legal history. The data used in this research consists of primary and secondary data. Primary data includes information collected directly by the researcher, while secondary data is obtained from various relevant legal sources.

Secondary data is categorized into three types: primary legal materials, which include legislation and court decisions; secondary legal materials, consisting of textbooks, papers, and scientific journals; and tertiary legal materials, which provide explanations of primary and secondary legal materials, such as legal dictionaries and related websites. Data collection techniques are carried out through library research, aimed at obtaining legal materials that support the analysis.

Data analysis in this study employs qualitative descriptive techniques, where the collected data will be processed and analyzed systematically. The data will be grouped into patterns and themes, and connections will be made between one data point and another to understand the

meaning within a social context. Through this approach, the study aims to provide a deep understanding of the application of Article 9 of Law Number 5 of 1999 in buying and selling practices, as well as the potential legal implications that may arise.

Relevant references to support this methodology include previous research that has discussed the use of a normative juridical approach in the context of law and economics, as well as qualitative analysis in legal research.

RESULT AND DISCUSSION

Implementation of Article 9 of Law No. 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition

Law No. 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition (Law No. 5/1999) represents a significant step in the development of Indonesia's economy. This law aims to create a competitive, fair, and efficient business environment while protecting the interests of the general public. Article 9 of Law No. 5/1999, which prohibits agreements on market division, serves as a primary instrument in achieving these objectives. This analysis will explore the goals, impacts, and significance of Law No. 5/1999, with an emphasis on the implementation of Article 9 and the challenges faced in creating a healthy business climate in Indonesia(Darmawan et al., 2024).

Law No. 5/1999 is based on the principles of economic democracy and the balance of interests. Its primary objective is to create national economic efficiency and enhance public welfare. This is achieved through various strategies, including preventing monopolistic practices and unfair business competition; creating a conducive business climate by providing equal opportunities for all business actors, whether large, medium, or small; and improving the effectiveness and efficiency of business activities. Thus, this law aims not only to protect consumers but also to encourage innovation, efficiency, and sustainable economic growth. The principle of economic democracy is interpreted as an effort to ensure fairness and equal business opportunities, while the principle of balancing interests emphasizes the need for careful consideration of the policy impacts on various stakeholders(Rahmawati, 2024).

Monopolistic practices and unfair business competition can have significant negative impacts on the economy. Monopoly, characterized by the concentration of economic power by one or more business actors controlling the production and/or marketing of certain goods or services, can lead to unfair prices, reduced product quality, and stifled innovation. Additionally, unfair business competition, often involving dishonest practices such as cartels, abuse of dominant positions, and other anti-competitive practices, can also harm consumers and hinder economic growth. Consequently, allocative and productive efficiency is disrupted, and the overall welfare of society is affected(Taswin et al., 2023).

Article 9 of Law No. 5/1999 specifically prohibits agreements between competing business actors aimed at dividing marketing territories or market allocation. Such agreements, often referred to as market-sharing cartels, are highly detrimental anti-competitive practices that harm consumers. By prohibiting these agreements, this article aims to maintain a competitive market, ensuring that consumers have more product choices and fairer prices. This prohibition also encourages business actors to compete healthily through innovation, product quality improvement, and operational efficiency, rather than through agreements that restrict competition(Sari, 2021).

The implementation of Law No. 5/1999, including Article 9, faces various challenges. Effective law enforcement requires adequate resources, as well as awareness and compliance

from business actors. The complexity of cases involving unfair business competition also necessitates specialized expertise and knowledge from law enforcement officials. Furthermore, technological advancements and economic globalization present new challenges in monitoring and enforcing Law No. 5/1999. For instance, the rise of e-commerce and digital platforms creates new opportunities for anti-competitive practices that are difficult to detect and address. A case study in North Lampung indicates that although Law No. 5/1999 has the potential to enhance the welfare of MSMEs, its implementation remains suboptimal. This highlights the need for improved capacity and coordination among relevant institutions in law enforcement and competition oversight(Arifin & Raharja, 2023).

Law No. 5/1999, particularly Article 9, plays a crucial role in creating a healthy and competitive business climate in Indonesia. This law aims to protect public interests and promote economic efficiency by preventing monopolistic practices and unfair business competition. Although its implementation faces various challenges, increasing awareness, effective law enforcement, and adaptation to global economic developments are essential to ensure the success of this law in achieving its objectives. Further research is needed to identify implementation barriers and formulate more effective strategies to create a fair and competitive business environment for all business actors in Indonesia(Suryadhi, 2024).

The Role of Local Government in Implementing Article 9 of Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition

Indonesia's economy, rooted in the principles of community and cooperation as enshrined in its 1945 Constitution, faces a modern challenge: ensuring fair competition. Law Number 5 of 1999 aims to prevent monopolies and unfair business practices, a goal particularly relevant in dynamic regions like North Lampung. This paper explores the crucial role of local government in navigating this complex landscape, examining how regulations and policies strive to balance the needs of traditional markets with the rise of modern retail. The effectiveness of these efforts, however, is a key area of investigation(Ramdhany, 2023).

North Lampung Regency, like many Indonesian regions, has taken proactive steps to implement Law Number 5 of 1999. A significant example is Regional Regulation Number 2 of 2016, designed to foster a healthy coexistence between traditional and modern markets, and to protect small and medium-sized enterprises (SMEs). This regulation attempts to address the inherent tension between the convenience of modern supermarkets and the vital role of traditional markets in the local economy(Waluyo & Iswandi, 2022). The aim is not to stifle progress, but to ensure a level playing field where both can thrive.

Despite these well-intentioned regulations, challenges persist. The undeniable appeal of modern markets – their convenience and competitive pricing – poses a significant threat to traditional markets in North Lampung. While the legal framework exists, its effectiveness hinges on robust supervision and guidance. The reality is that many traditional businesses struggle to compete with the resources and reach of larger chains (Yunianto & Michael, 2021) . This highlights a critical gap between policy and practical implementation.

Regional Regulation Number 2 of 2016 includes provisions for minimarket licensing and penalties for non-compliance, such as restrictions on proximity and number of stores per area. However, enforcement remains a significant hurdle. Many minimarkets operate outside the bounds of these regulations, highlighting a need for more effective monitoring and stricter enforcement (Apdolah & Huriani, 2022) . This suggests a need for increased resources and perhaps a shift in enforcement strategies.

The local government's commitment to fair competition in North Lampung is evident in the

regulations enacted. However, the reality on the ground reveals a significant gap between policy and practice. The proliferation of minimarkets operating outside the legal framework underscores the need for stronger enforcement, improved guidance for businesses, and increased community awareness. Ultimately, fostering healthy competition requires a multi-pronged approach that empowers traditional businesses while acknowledging the role of modern retail in the evolving Indonesian economy (Sampererung, 2021) . Further research into effective enforcement mechanisms and community engagement strategies is crucial for achieving a truly equitable and sustainable market environment.

CONCLUSION

This study examines the implementation of Article 9 of Indonesia's Law No. 5 of 1999, which prohibits monopolistic practices and unfair business competition. Our analysis focuses on North Lampung Regency, highlighting the crucial role of local government in fostering a healthy and competitive business environment. While the legal framework exists, significant challenges hinder effective implementation, particularly the rise of modern markets and their impact on traditional ones.

The encroachment of modern markets, such as minimarkets, poses a direct threat to the survival of traditional markets. This imbalance underscores the need for proactive intervention. Local governments possess the authority to create supporting regulations; for instance, Regional Regulation No. 2 of 2016 aimed to strike a balance between these competing market forces. However, the effectiveness of this regulation is hampered by weak enforcement and supervision. Many minimarkets operate outside the established guidelines, highlighting a critical gap between legislation and practice.

This lack of effective oversight necessitates a multi-pronged approach. Strengthening supervision, providing comprehensive guidance to businesses, and engaging in targeted community outreach are essential steps. Improved socialization of Law No. 5/1999's objectives among both the public and business owners is crucial to ensure its successful implementation. Only through such concerted efforts can we hope to achieve a truly competitive market that supports both traditional businesses and the overall well-being of the community.

The findings of this study suggest a need for further research. A deeper investigation into the specific barriers hindering effective implementation is necessary to inform the development of more robust and effective strategies. Ultimately, the goal is to create a fairer and more competitive business environment across Indonesia, ensuring a sustainable and equitable economic landscape for all.

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