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## **A New Mode of MSME Empowerment Creating a Strong Indonesian Economy (Perspective on Business Competition Law)**

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### **Abstract**

Indonesia is included in the category of world economic power in terms of increasing micro, small and medium enterprises (MSMEs), which amount to 19 million. The business competition law in Indonesia in Law No. 5 of 1999 and the Business Competition Supervisory Commission (KPPU) can make MSMEs an important sector in the Indonesian economy through this institution. MSMEs that carry out business or partner with investors or large businesses reduce unfair business competition that can benefit both parties. However, along with the development of technology and people's habits, business actors, especially the MSME sector, are doing various activities to increase turnover by carrying out various business strategies so that their business can continue. Law No. 20 of 2008 concerning Micro, Small, and Medium Enterprises regulates MSMEs' activities, hoping that MSMEs can realize Indonesia as a world economic power with an empowerment model from upstream to downstream and can be easily recognized and accessed quickly. The research method used is descriptive normative legal research. As a result, the new model of the compass network in empowering MSMEs by accelerating the network, roadmap mode, and images can increase MSME production and be free from the influence of an uncertain economic situation.

**Keywords:** MSME; Business competition law; Economy; Empowerment

### **Introduction**

Business competition is undeniable for economic activists in Indonesia. Law no. 5 of 1999, concerning the prohibition of monopolistic practices and unfair business competition, has the aim of realizing people's welfare; one of these objectives is in chapter ix regarding the transitional provisions of article 50 letter (h), which states that in this law there are exceptions especially related to perpetrators businesses belonging to smes (*UU No. 5 Tahun 1999 Tentang Larangan Praktek Monopoli Dan Persaingan Usaha Tidak Sehat [JDIH BPK RI]*, n.d.).

Competition law is a branch of law that regulates interactions among fellow business actors in carrying out production activities and/or marketing services for goods and/ or services so that they operate in an honest manner or by statutory provisions to provide low prices, quality products, and consumers have many choices (Nurjaya, 2009).

The contents contained in law no. 5 of 1999 are the basis for business competition policy in indonesia; this law has a unique regulatory system in addressing business competition relations for large business actors and small business actors so that business competition law in indonesia takes sides to MSMEs through article 50 letter h (Ningsih, 2019). The role of all parties in making this happen is carried out by related agencies; in this case, the cooperative and small and medium business services through law no. 20 of 2008 illustrates that the indonesian government is very serious about making MSMEs one of the economic strengths (Ambarini, 2019).

Even though before the birth of the anti-monopoly law, there had been provisions regarding losses as a result of unfair business competition carried out by competitors, they could file lawsuits as stipulated in article 1365 of the civil code and article 382 of the criminal code (Sirait, 2019). In that article, it provides an explanation regarding the existence of fraudulent acts in certain fields of business and business that aim to provide benefits to certain parties. It not only resulting in unfair competition but also not always acts that aim to pursue profits by cheating contain losses so that the proof will be very difficult. Difficult so that with the birth of law no. 5 of 1999 can accommodate the shortcomings of previous regulations.

In the last two decades, Indonesia, with the promulgation of the anti-monopoly law, has realized the ideals of economic democracy as stipulated in the 1945 Constitution of the Republic of Indonesia in Article 33 so that people's prosperity is prioritized (Rachmadi Usman, 2022). Over time, the economy in asean has experienced many developments, especially indonesia as the country with the largest population in the asean region. It has the ability and strength to become a country that has great power in the economic field, especially if it is supported by legal instruments, legal structures, and culture. Good law can make this happen to create an economy that can provide a sense of justice in business for all groups.

The kppu wants to apply the principles of fair business competition not only on a national scale but also globally. This is not unnoticed by kppu's monitoring, namely market conditions or maps in business competition, both industry, and MSMEs, which is also one of the 12 indicators. Competitiveness rating assessment from the world economic forum (wef). Wef's actual publication (*Global Competitiveness Report 2019 | World Economic Forum*, n.d.) reports the global competitiveness index figures for 2016-2019; in the report, indonesia is ranked 50th out of 140 countries with an average competitiveness level of 46.77 (Wibowo et al., 2021)

Indonesia's position in 2019, especially after the covid 19 pandemic, which hit almost all over the world. It shows it is necessary to increase competitiveness, trade quality, business quality, and a stable internet network so that indonesia can become a country in southeast asia as a country that has strong economic power. The most powerful through increasing free internet network access for MSMEs; with this network can provide fast access and precise

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visualization for the world of small businesses. It will not be affected by unstable economic conditions; this advantage is simple design and understanding young business strategies understood so that this program can reach all groups.

Currently, indonesia is still unable to compete with other asean countries, namely thailand, with singapore's 40th position in the world, 4th position, and malaysia in 27th position. 4 in the world, after america, china and japan. Efforts to increase indonesia's economic competitiveness are a joint task so that a fair business competition climate as mandated by law no. 5 of 1999 can be realized; the contribution of the government and the cooperative and umkm services and the supervisory commission business competition is needed in realizing this. In addition to empowering natural resources such as agriculture, oil and gas, and finance which can encourage employment and investment, what is no less important in indonesia's economic progress in becoming a force for the world economy are: MSMEs, millennial youth, social media, electronic gadgets, the largest population 4 in the world, shopping/household consumption, e-commerce, startup, legal system, legal structure, and legal culture, unicorn. Analysis of business competition at the level of the product and service industry contributes to a systematic process that will help understand the rapidly evolving business competitive environment (Ko et al., 2020).

It is interesting to study further than the two regulations, between the anti-monopoly law and the MSME law, whether these two rules can provide empowerment and can be used for all MSMEs, in Law No. 5 of 1999 there are exceptions for MSME actors, clearly showing partiality to small and medium business actors, so can this fully work as from the contents of the article, it can be seen that there are still many practices that are not in favor of small business actors who have not fully utilized the rule of law, on the other hand on the rules of Law no. 20 of 2008 also has important points in the regulation namely paying attention to and protecting MSMEs, providing incentives, developing technology and environmental sustainability, developing sources of financing from bank credit and non-bank financial institutions, developing venture capital institutions, from these points MSME should be totaling 19 million with a target of 500 trillion with its flagship product, namely the global market, such as furniture, crafts and culinary (Indonesia, n.d.)it can be optimal in advancing the economy, but the reality has not been able to prosper MSMEs business actors; from 2019 to 2021, the number of MSMEs that have gone bankrupt is as many as 30 million (developer, 2021). Lack of data collection and market control from upstream to downstream makes the MSMEs market uncertain and on target, expertise or skills, decreased tourists, and not supported by adequate technological facilities. This title is very interesting to study and can provide benefits for the economy as well as for business actors from business competition law.

### **Literature Review**

In facing global challenges and strengthening Indonesia's economy, empowering Micro, Small and Medium Enterprises (MSMEs) is crucial. In the economic literature, many studies have highlighted the important role of MSMEs in strengthening a country's economic structure. Along with that, the application of business competition law is becoming

increasingly relevant in the context of empowering MSMEs, especially in realizing a resilient Indonesian economy.

### ***The Role of MSMEs in Indonesia's Economic Growth***

Economic research has emphasized the vital role of MSMEs in Indonesia's economic growth. A study by Sarif (2023) shows that the MSME sector contributes significantly to Indonesia's GDP and job creation. In addition, MSMEs are also the backbone of the economy in various regions in Indonesia, creating economic opportunities for local communities.

### ***Challenges Faced by MSMEs***

Despite their important role, MSMEs are still faced with a number of challenges, including limited access to markets, capital, and limited human resources. Research by Judijanto et al., (2023) highlights these issues and emphasizes the need for supportive policies to improve the competitiveness of MSMEs.

### ***The Importance of Competition Law***

In the legal literature, the existence of competition law is considered crucial in promoting fair competition in the market. Competition law can protect MSMEs from monopolistic and other unfair business practices that may harm them (Putra, 2024; Stevanny & Putri, 2023).

### ***Implications of Competition Law for MSMEs***

The implementation of competition law has significant implications for MSMEs. The study by Wibowo (20XX) highlights how effective law enforcement can help create a fairer business environment for MSMEs, which in turn can improve their competitiveness and growth.

## **Research Method**

This research is a type of normative research with a conceptual approach to laws and regulations. Normative legal research involves studying law as an object and eliminating all non-legal material from the scope of this research (Christiani, 2016). The data used is secondary data in the form of laws, books, journals related to this research, and documents relevant to the title being discussed. In addition, empirical data is used as a support by the authors conducting the study.

## **Result/Findings**

### **Application of Business Competition Law in Empowering MSMEs in Indonesia**

Business competition law in Indonesia has existed for two decades through the KPPU institution having a role in national development as stated in commission regulation No. 2 of 2020 concerning the KPPU's strategic plan provides an even more difficult task, considering that Law No. 5 of 1999 has mandated the KPPU's duties which in general can be discussed, namely, giving advice and consideration to the government through policies that are in line

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with the principles of fair business competition, enforcement of credible and accountable competition law in encouraging a fair competition climate in order to increase investment (Rodger & MacCulloch, 2008). This has an impact on reducing business competition violations, coaching, and assistance to micro, small and medium enterprises (Wie, 2002) in partnership according to the mandate of Law No. 20 of 2008.

Based on the information the author summarizes from various secondary data, it is illustrated in the discussion draft anti-monopoly law that there was no mention of exceptions for MSMES business actors ; this was instead brought up by the trade service. It can be seen that the initial discussion of the anti-monopoly law was the initiative of the dpr ri on october 8. This statutory regulation was the first initiative of the dpr, which at that time intended that indonesia could have regulations that could provide a sense of justice for all entrepreneurs, both large and small entrepreneurs (Daly & Fane, 2002) moreover, it could increase investment. On the other hand, the exception for MSMES is in the transitional provisions of article 50 letter h, indicating that the provision of facilities for MSMES actors is still lacking in only 1 letter in the transitional provisions(*UU\_1999\_5.Pdf*, n.d.)

It is excluded that cooperation carried out by small business actors who meet the requirements aims to help each other between entrepreneurs or consumers, is voluntary, and participation or withdrawal from such cooperation is carried out freely without any ties; each member has the same rights (Wie, 2002). Studying the treatise on the discussion of the anti-monopoly bill, the authors see that there are still pros and cons between the government and the dpr. The dpr, which initiated the draft of this regulation, did not include exceptions for MSMES taking into account that with the exception for MSMES. Large business actors can change their business to a small category by dividing the shares or changing the name to someone else's name. Another consideration from the dpr is that with these exceptions, MSMES are unable to compete, causing business competition, especially in producing products for consumers.

This has been proven by the many cases handled by kppu until when large business actors entered into partnerships with MSMES actors, which were unprofitable for small business actors; there were also many tender conspiracies, as well as the dominant cartel in indonesia which was handled by kppu (*8,6 Triliun, Nilai Persekongkolan Tender | KOMISI PENGAWAS PERSAINGAN USAHA*, 2013). Apart from the lack of articles in law no. 5 of 1999, which discusses MSMES and small business actors, the government issued law no. 20 of 2008 concerning MSMES to provide comfort and empower MSMES. National-level regulations can be synonymous with the government on the side of small business actors. So, provincial and district-level governments can maximize this to be more supportive through research, training, and elements of human resources from upstream to downstream so that MSMES can become indonesia's economic power.

Micro, small and medium enterprises (MSMES) have an important and strategic role in national economic development (Suminah et al., 2022). As much as 60% of indonesia's economic strength is in the MSMES industrial sector. The number of MSMES in indonesia has increased significantly every year. However, there are still a quite many MSMES industry

players in indonesia who have not registered their trademarks due to limited capital and a lack of understanding of the benefits of trademark registration for the MSMES industry. Thus, MSMES that do not register their trademarks do not get legal protection because a trademark will get protection if it has registered a mark. This requires policies that regulate so that the Indonesian MSME industry obtains legal protection for its trademarks (Nugroho, 2015).

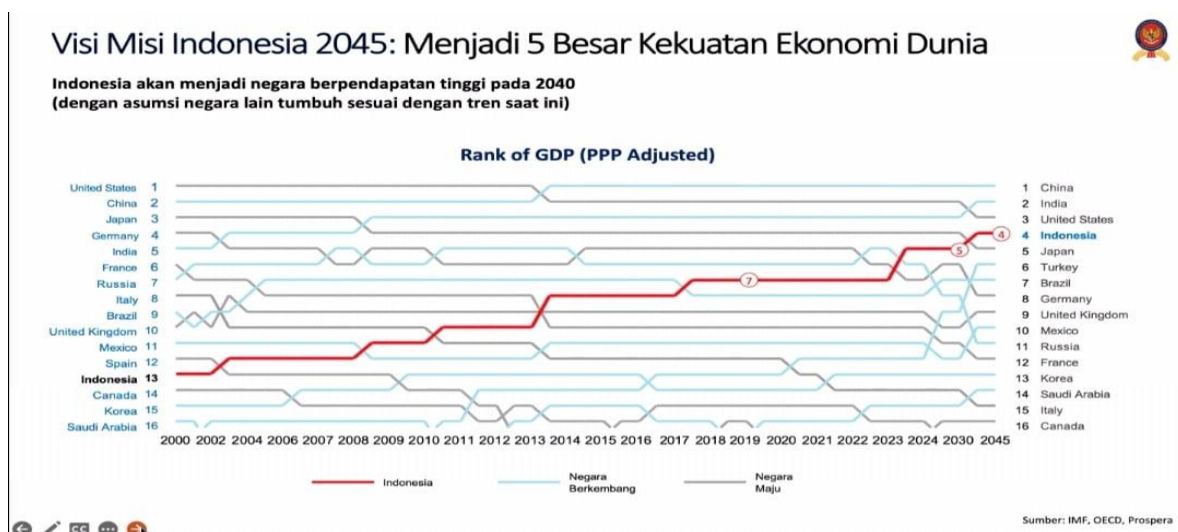
### ***MSME Empowerment through Business Competition Law***

Msmes are one of the government's mainstay products; more than 59.2 million Indonesians rely on this sector for a living, and the lack of utilization of online platforms (e-commerce) (Novanda et al., 2021). The need for the use of information technology to support businesses in the large-scale industrial sector and the small industrial sector (smes) to face global competition (Nugroho, 2015). The empowerment that is desired by business competition law through law no. 5 of 1999 is to provide equal business opportunities for every business actor in creating employment, investment, and people's welfare (Wie, 2002).

In enforcing business competition law, there are two approaches used, namely the rule of reason and per se illegal approaches, with the aim of how business actors' actions do not impede competition. So as not to result in a loss of efficiency, which ultimately harms consumers, even the rule of reason approach by considering an agreement examined carefully both by the authorities and the courts so as not to cause harm to business actors.

### ***Comparison of MSMES in Several Countries***

MSMES in the world are almost in several parts of the world. Based on statista 2021 data, the number of MSMES in the world has reached 332.99 million units; one of the largest numbers of MSMES is in asean, namely indonesia, thailand, malaysia, the philippines, and vietnam. You can understand why the 5 (five) countries in asean have high ratings in terms of the number of MSMES because they are seen from their population. Each country has its name and legal rules that affect the name, capital, and type of business, so each country's name is (ekbis.sindonews.com).



Data source: [kppu.go.id](http://kppu.go.id)

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### **Conclusion**

Based on the description above, efforts to apply business competition law need data collection from upstream to downstream, strategic plans for all business actors, guiding MSME actors to be able to face challenges, and training the actors. MSMEs to take advantage of technology to improve sales strategies and increase turnover. MSME empowerment needs to increase Indonesia to become a world economic power.

### **Declaration of conflicting interest**

The authors declare that there is no conflict of interest in this work.

### **References**

- 8,6 Triliun, Nilai Persekongkolan Tender | Komisi Pengawas Persaingan Usaha. (2013, January 28). <https://kppu.go.id/blog/2013/01/86-triliun-nilai-persekongkolan-tender/>
- Ambarini, N. S. B. (2019). Implementasi Undang-Undang No. 20 Tahun 2008 Dalam Pengembangan Usaha Perikanan Berkelanjutan. *Supremasi Hukum: Jurnal Penelitian Hukum*, 26(2), 32–50. <https://doi.org/10.33369/jsh.26.2.32-50>
- Christiani, T. A. (2016). Normative And Empirical Research Methods: Their Usefulness And Relevance In The Study Of Law As An Object. *Procedia - Social And Behavioral Sciences*, 219, 201–207. <https://doi.org/10.1016/j.sbspro.2016.05.006>
- Daly, A., & Fane, G. (2002). Anti-Poverty Programs In Indonesia. *Bulletin Of Indonesian Economic Studies*, 38(3), 309–329. <https://doi.org/10.1080/00074910215535>
- Developer, Mediaindonesia Com. (2021, September 18). *Gara-Gara Pandemi Covid-19, Diperkirakan 30 Juta Umkm Bangkrut*. <https://mediaindonesia.com/ekonomi/433606/gara-gara-pandemi-covid-19-diperkirakan-30-juta-umkm-bangkrut>
- Global Competitiveness Report 2019 | World Economic Forum*. (N.D.). Retrieved December 27, 2022, From <https://www.weforum.org/reports/how-to-end-a-decade-of-lost-productivity-growth/>
- Indonesia, C. (N.D.). *19 Juta Pelaku Umkm Masuk Ekosistem Digital Per Mei 2022*. Retrieved December 27, 2022, From <https://www.cnnindonesia.com/ekonomi/20220616172828-92-809888/19-juta-pelaku-umkm-masuk-ekosistem-digital-per-mei-2022>
- Judijanto, L., Sandy, S., Yanti, D. R., Kristanti, D., & Hakim, M. Z. (2023). Pengembangan Usaha Kecil Menengah (Ukm) Berbasis Inovasi Teknologi Untuk Mendorong Pertumbuhan Ekonomi Lokal. *Community Development Journal: Jurnal Pengabdian Masyarakat*, 4(6), 12500–12507.
- Ko, N., Jeong, B., Yoon, J., & Son, C. (2020). Patent-Trademark Linking Framework For Business Competition Analysis. *Computers In Industry*, 122, 103242. <https://doi.org/10.1016/j.compind.2020.103242>

- Ningsih, A. S. (2019). Implikasi Undang-Undang Nomor 5 Tahun 1999 Tentang Larangan Praktek Monopoli Dan Persaingan Usaha Tidak Sehat Pada Pelaku Usaha Mikro Kecil Dan Menengah (Umkm). *Jurnal Penelitian Hukum De Jure*, 19(2), 207. <https://doi.org/10.30641/Dejure.2019.V19.207-215>
- Novanda, R. R., Saputra, H. E., Priyono, B. S., & Sriyoto, S. (2021). Investigation And Analysis On The Factors Influencing The Use Of E-Commerce For Marketing Smes' Dairy Products: A Case Study At Susdagtel Smes In Bengkulu, Indonesia. *Caraka Tani: Journal Of Sustainable Agriculture*, 37(1), 26. <https://doi.org/10.20961/Carakatani.V37i1.46498>
- Nugroho, M. A. (2015). Impact Of Government Support And Competitor Pressure On The Readiness Of Smes In Indonesia In Adopting The Information Technology. *Procedia Computer Science*, 72, 102–111. <https://doi.org/10.1016/j.procs.2015.12.110>
- Nurjaya, I. K. K. (2009). Peranan Kppu Dalam Menegakkan Undang-Undang Nomor 5 Tahun 1999 Tentang Larangan Praktek Monopoli Dan Persaingan Usaha Tidak Sehat. *Jurnal Dinamika Hukum*, 9(1), Article 1. <https://doi.org/10.20884/1.Jdh.2009.9.1.69>
- Putra, I. (2024). Perlindungan Hukum Usaha Mikro, Kecil Dan Menengah Di Indonesia Dari Praktik Monopoli Dan Persaingan Usaha Tidak Sehat Pada Platform Social Commerce. *Dinamika*, 30(1), 9204–9221.
- Rachmadi Usman, S. H. (2022). *Hukum Persaingan Usaha Di Indonesia*. Sinar Grafika.
- Rodger, B., & Macculloch, A. (2008). *Competition Law And Policy In The Ec And Uk*. Routledge-Cavendish.
- Sarif, R. (2023). Peran Umkm Dalam Meningkatkan Pertumbuhan Ekonomi Di Indonesia. *Maliki Interdisciplinary Journal*, 1(1), 68–73.
- Sirait, A. R. (2019). Faktor-Faktor Penyebab Terjadinya Persaingan Usaha Tidak Sehat Di Indonesia. *Jurnal Justiqqa*, 1(1), Article 1. <https://doi.org/10.36764/Justiqa.V1i1.206>
- Stevanny, S., & Putri, N. L. V. W. S. (2023). Pengendalian Persaingan Monopoli Dalam Hukum Perdata: Upaya Perlindungan Konsumen Dan Pengusaha Kecil. *Mandub: Jurnal Politik, Sosial, Hukum Dan Humaniora*, 1(3), 286–298.
- Suminah, S., Suwanto, S., Sugihardjo, S., Anantanyu, S., & Padmaningrum, D. (2022). Determinants Of Micro, Small, And Medium-Scale Enterprise Performers' Income During The Covid-19 Pandemic Era. *Heliyon*, 8(7), E09875. <https://doi.org/10.1016/j.heliyon.2022.E09875>
- Uu No. 5 Tahun 1999 Tentang Larangan Praktek Monopoli Dan Persaingan Usaha Tidak Sehat [Jdih Bpk Ri]*. (N.D.). Retrieved December 27, 2022, From <https://peraturan.bpk.go.id/Home/Details/45280/Uu-No-5-Tahun-1999>
- Uu\_1999\_5.Pdf*. (N.D.). Retrieved December 28, 2022, From [https://www.dpr.go.id/dokjdih/document/Uu/Uu\\_1999\\_5.Pdf](https://www.dpr.go.id/dokjdih/document/Uu/Uu_1999_5.Pdf)
- Wibowo, Y. S., Susilowati, G., & Nugroho, R. (2021). Analisis Implementasi Kebijakan Keterbukaan Informasi Publik Di Komisi Pengawas Persaingan Usaha Republik Indonesia. *Cerdika: Jurnal Ilmiah Indonesia*, 1(7), 892–909. <https://doi.org/10.36418/Cerdika.V1i7.127>



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Wie, T. K. (2002). Competition Policy In Indonesia And The New Anti-Monopoly And Fair Competition Law. *Bulletin Of Indonesian Economic Studies*, 38(3), 331–342.  
<https://doi.org/10.1080/00074910215540>