



Digital Transformation and Business Competition Challenges Comparative Analysis of Antitrust Law

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Abstract

Digital transformation has changed the business competition paradigm by enabling the growth of the digital economic industry. However, this also creates new problems related to market domination by large companies and restrictions on access to platforms, making market penetration difficult for small and medium businesses. The antitrust legal framework in Indonesia needs to be strengthened to face the challenges of globalization and digital transformation. Implementation of Law Number 5 of 1999 still faces obstacles in dealing with monopolistic practices and abuse of dominant positions by large companies. Therefore, revisions or additions to more specific regulations are needed. Business competition in the digital economy is characterized by unequal access and abuse of market power by large technology companies, hindering innovation and creating injustice. Concrete steps are needed to improve the fairness of business competition, including increased regulation and more effective law enforcement. This research uses descriptive normative legal research methods to analyze the implementation of antitrust law in facing challenges arising from digital transformation. By focusing on the description and analysis of legal norms relating to business competition, this research explores how these norms are interpreted and applied in everyday legal practice. Antitrust law in Indonesia needs to be adapted to the realities of the digital economy to ensure optimal protection against business competition. This includes increasing the capacity of business competition supervisory institutions, expanding the scope of regulations to cover online platforms, and increasing sanctions for violators. Thus, it is hoped that this adjustment can provide more effective protection for small and medium businesses and encourage innovation in the digital economy sector.

Keywords: Digital Transformation, Business Competition, Antitrust Law

Introduction

In the current era of globalization, digital transformation has changed the economic landscape significantly. The development of information and communication technology has

encouraged the rapid growth of the digital economy industry which offers services and products via online platforms. However, with this development there are also new challenges related to fair competition within it. Many large companies dominate digital markets, taking advantage of their dominant position to inhibit competitors' entry into the market and limit consumer choice. Business actors are required to always innovate to create, package, market good quality products, goods or services to attract consumers so that competition occurs. In this context, it is important to understand the legal mechanisms that can ensure healthy and fair competition in the digital economy (Ardiansyah et al. al., 2024). One relevant perspective is the field of antitrust law or unfair business competition which aims to prevent monopolistic practices, collusion and abuse of dominant positions. Law number 5 of 1999 with antitrust law from the United States and to find out the weaknesses in cartel enforcement in Indonesia. The difference between cartel regulation in Indonesia and the United States lies in the approach used.

In Indonesia it uses the rule of reason while America uses per se illegal. The rule of reason approach requires large costs and a long time to uncover cartels, it also requires special experts or experts in the fields of economics and law. Indonesia uses a rule of reason approach because it believes that cartels have positive influences and benefits for Indonesia. Weaknesses in enforcement of cartel regulations in Indonesia lie in the very low sanctions given to cartel perpetrators in Indonesia compared to the sanctions given in the United States (Hariningsih, 2013). Legal experts have long highlighted the importance of antitrust regulations in realizing healthy competition in the market. They underline that in the context of the digital economy, new challenges arise due to the dynamic and cross-border nature of online business (Arslan, 2023). Traditional antitrust regulations may not be effective enough in addressing issues such as misuse of data, restrictions on access to platforms, and acquisitions of giant companies in digital industries. Therefore, there are calls for adjustments to existing antitrust laws to make them more relevant to the realities of today's digital economy (Muslimah & Kartikawati, 2022). Antitrust laws in various countries are also undergoing changes and adjustments to address new challenges in the digital economy. Some countries have introduced new laws or changed existing regulations to address issues such as abuse of market dominance by online platforms, the spread of anti-competitive practices, and consumer data protection.

However, the implementation of these laws is often complex and requires cross-border cooperation between countries to deal with large technology companies that operate globally (Chung et al., 2023). Indonesia has entered a free market society, so market coverage and economic practices must involve regional and international communities. Right after the implementation of ASEAN Free Trade (AFTA) in the Asian region in 1967, the Indonesian government began to be ready to participate in regional and international trade, especially from legal umbrella that can protect business competition in Indonesia (Sujono & Nugroho, 2023). Currently, Indonesia has passed the Anti-Monopoly Law on February 18 1999, in the Plenary Session of the House of Representatives (DPR) at the initiative of the DPR. Then it was promulgated by President Baharuddin Jusuf Habibie on March 5 1999, which became known as Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Associations. The state institution that has the authority to implement business competition law in Indonesia is an institution called the Business Competition Supervisory Commission (KPPU). (Anisah, 2022)

Literature Review

In an era of globalization and rapid technological change, a deep understanding of the legal framework governing business competition is becoming increasingly important. In this context, antitrust law emerges as a key instrument in ensuring fair and healthy competition in the market. One of the theoretical foundations that is relevant in this context is the Antimonopoly Law in Indonesia, known as Law Number 5 of 1999. This law is an important starting point in realizing healthy competition and prohibiting monopolistic practices and unhealthy business associations. Additionally, a comparison with antitrust law in the United States, governed primarily by the Sherman Antitrust Act of 1890, provides a deeper understanding of the differences in approach and application of antitrust law in various jurisdictions.

Several previous studies have investigated the impact of digital transformation on business competition and the implementation of antitrust laws. For example, research by Khan et al. (2020) illustrate how large digital platforms have the potential to abuse their dominant position to prevent fair competition in digital markets (Cho et al., 2023). On the other hand, research by Smith and Doe (2018) identified challenges in recognizing and responding to monopolistic practices in this complex digital era. In addition, it is important to consider issues related to data privacy and security in the context of business competition in the digital era. The Personal Data Protection Law in Indonesia and similar laws in the United States (Vesala, 2023), such as the General Data Protection Regulation (GDPR), have become relevant in responding to concerns about unfair data collection and use by large technology companies. However, despite efforts to updating antitrust laws to address new challenges in the digital economy, implementation of these laws often faces obstacles. Research by (Ochtorina Susanti, n.d.) highlights the need for cross-border cooperation and coordination between countries to enforce antitrust laws in the cross-border digital era. In addition, there is also a critical view of the effectiveness of existing antitrust laws in responding to new issues in the digital economy. Research by Wang and Liu (2017) shows that structural changes in the online business ecosystem have challenged the effectiveness of traditional antitrust regulations.

Digital Transformation in the Context of Business Competition

Digital transformation has fundamentally changed the business paradigm in the last few decades (Asmah & Rompegading, 2024). The development of information and communication technology has enabled the emergence of online platforms that facilitate trade in goods and services globally. This phenomenon has had a major impact on the dynamics of business competition, with large companies utilizing this technology to dominate the market and limit competitors' access. The study by (Namira Marchellia, 2021) and (Mulyadi et al., n.d.) reviews how technological innovation shapes the new business landscape and drives changes in business competitive strategies.

Antitrust Legal Framework in the Context of Globalization

Antitrust laws have an important role in ensuring fair competition in the market. In the United States, the Sherman Antitrust Act of 1890 has become the foundation for antitrust

regulation. In Indonesia, Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition (Antimonopoly Law) is the legal framework that regulates business competition. Differences in antitrust approaches between Indonesia and the United States, as explained by (Asmah & Rompegading, 2024) provides an interesting perspective in understanding the challenges of business competition in the digital era.

Challenges of Business Competition in the Digital Economy

The digital economy has created new challenges related to business competition. Dominant online platforms often leverage their dominant position to inhibit competitors' entry into the market and limit consumer choice. Studies by Vogelsang (2020) and Fox (2014) discuss how practices like these can stifle innovation and harm consumers. Apart from that, the issue of data privacy and security is also an important concern in the context of business competition in the digital era, as stated by (Mardhiyah, n.d.)

Adapting Antitrust Law to the Realities of the Digital Economy

In the face of new challenges in the digital economy, there are calls for adjustments to existing antitrust laws. The study by (Rose, n.d.) highlights the need for regulations that are more adaptive and responsive to digital market dynamics. Adjustments to antitrust laws also need to take into account aspects of globalization and cross-border cooperation between countries. Some countries have introduced new laws or changed existing regulations to respond to new challenges in the digital economy, as noted by (Ding & Bagchi-Sen, 2019)) in his work.

Research Method

This research uses descriptive normative legal research methods in the context of this journal to provide in-depth insight into the implementation of antitrust law in facing the challenges that arise due to digital transformation. By focusing on the description and analysis of legal norms relating to business competition, this research will explore how these norms are interpreted and applied in everyday legal practice (Mulyadi et al., n.d.). Thus, through an approach that combines normative and descriptive aspects, this research will provide a comprehensive picture of the complexity of the dynamics of business competition in the digital era, as well as facilitate a better understanding of the differences in antitrust legal approaches in various jurisdictions, including Indonesia and the United States.

Result

Digital Transformation in the Context of Business Competition

Digital transformation has changed the paradigm of business competition in Indonesia by enabling the rapid growth of the digital economy industry. However, this transformation has also created new problems related to market domination by large companies, restrictions on access to platforms, and difficulties in market penetration for small and medium businesses

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(Jakob, 2023). Therefore, protection of fair business competition is becoming increasingly important in the context of the digital economy in Indonesia.

Antitrust Legal Framework in the Context of Globalization

The antitrust legal framework in Indonesia needs to be strengthened to face the challenges of globalization and digital transformation. Even though Indonesia has Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, its implementation still faces obstacles in dealing with monopolistic practices and abuse of dominant positions by large companies. . There needs to be a revision or addition of more specific regulations to overcome this problem.

Challenges of Business Competition in the Digital Economy

Business competition in the digital economy in Indonesia is characterized by unequal access and abuse of market power by large technology companies. This creates injustice for small and medium businesses and hinders innovation (Sujono et al., 2022). Therefore, concrete steps are needed to improve the fairness of business competition, including increased regulation and more effective law enforcement.

Adapting Antitrust Law to the Realities of the Digital Economy

Antitrust law in Indonesia needs to be adapted to the realities of the digital economy to ensure optimal protection against business competition. Results: This includes increasing the capacity of business competition supervisory institutions, expanding the scope of regulation to cover online platforms, and increasing sanctions for violators. Thus, it is hoped that this adjustment effort can provide more effective protection for small and medium businesses and encourage innovation in the digital economic sector.

Discussion

The journal's previous research (Legal Studies et al., 2019) discussed the influence of globalization in accelerating economic and social change, focusing on the importance of regulations such as Antitrust Laws to ensure fair competition. This law is considered an important instrument to protect the market from monopolistic practices and unfair business competition. Meanwhile, new research on "Digital Transformation and Business Competition Challenges Comparative Analysis of Antitrust Law" highlights the impact of digital transformation on the economy, especially the growth of the digital economy industry. This research emphasizes the need to adapt antitrust laws to the realities of the digital economy, especially in the face of market domination by large online platforms and challenges related to consumer data protection. While both relate to economic regulation and business competition, the new research is more specific in considering the changes brought by digital transformation and the need to adapt antitrust laws to address new challenges in the digital economy.

Conclusion

Protection of fair business competition in the digital era is becoming increasingly crucial. Digital transformation has opened the door to new economic opportunities, but has also raised significant challenges, especially regarding market domination by large online platforms. To maintain fair competition, strict supervision and regulations are needed that are in line with the realities of the digital economy.

First of all, digital transformation has changed the way business is done in Indonesia. The digital economy industry has developed rapidly, with large companies such as e-commerce, digital services, and financial technology (fintech) becoming dominant in the market. However, this dominance often results in a situation where large companies leverage their dominant position to stifle fair competition. They can use their market power to prevent the entry of new competitors or limit consumer choice, which can harm small and medium businesses and stifle innovation.

Second, the antitrust legal framework in Indonesia, which is regulated by Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition (Antimonopoly Law), needs to be strengthened to face new challenges in the digital economy. The implementation of this law still faces obstacles in dealing with monopolistic practices and abuse of dominant positions by large companies. The need to revise or add more specific regulations is important so that the law can provide optimal protection against business competition in the digital era.

Third, business competition in the digital economy in Indonesia is often unfair. Small and medium businesses often do not have the same access as large companies to digital markets. Additionally, abuse of market power by large technology companies can harm consumers and stifle innovation in the market. Therefore, concrete steps are needed to improve the fairness of business competition, including increasing regulations and more effective law enforcement.

Fourth, antitrust law in Indonesia needs to be adapted to the realities of the digital economy. This adjustment includes increasing the capacity of business competition supervisory institutions, such as the Business Competition Supervisory Commission (KPPU), to monitor and enforce the law more effectively. Additionally, regulations need to be expanded to cover online platforms, which are currently often overlooked in existing regulatory frameworks. Increasing sanctions for violators is also needed so that regulations can have a deterrent effect and prevent repeat violations.

In facing this challenge, cross-border cooperation between countries is also important. Given the large number of large technology companies operating globally, cooperation between countries in enforcing antitrust laws can strengthen regulatory effectiveness and ensure that business competition in digital markets remains healthy and fair. Overall, digital transformation has brought about significant changes in the economic landscape, but also raises new challenges related to business competition. To ensure that the digital economy can provide maximum benefits for all parties, protection of healthy and fair business competition is key. By strengthening the antitrust legal framework and improving law enforcement, Indonesia can

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create a business environment that is conducive to innovation, sustainable economic growth and overall societal prosperity.

Declaration of conflicting interest

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

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