

Alleged Predatory Pricing through Flash Sale Practices on the Tiktok Shop Application

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Abstract

Technological advances have a major impact on the economic sector in this digital era, one of which is the use of digital media for business activities through e-commerce. Initially the TikTok application was a social media application, over time Tiktok developed to present innovative buying and selling activities through Tiktok Shop. The features provided by Tiktok Shop often offer massive promotions in a limited time or what is also known as a flash sale. But unfortunately, the innovation of the flash sale program presented at Tiktok Shop raises issues related to business competition such as the alleged predatory pricing listed in article 20 of Law No. 5 of 1999 (Anti-Monopoly Law) in the Tiktok Shop application. The purpose of this study is to show that it is true that there are allegations of predatory pricing carried out by flash sale practices by business actors in the Tiktok shop and how the role of the KPPU steps in responding to allegations of predatory pricing. The research method used is normative law, using a statutory approach and a legal concept approach, to analyze a legal issue based on primary, secondary and tertiary law. The results of this study indicate that, the practice of flash sales on the Tiktok Shop application automatically cannot be categorized as predatory pricing which can cause monopolistic practices or unfair business competition. This is because the practice of flash sales on Tiktok shop does not fulfill the elements and conditions of predatory pricing in accordance with Law No.5 of 1999. Furthermore, related to this phenomenon, KPPU has not been able to state the truth of predatory pricing that occurred in the Tiktok Shop application due to the absence of incoming reports, KPPU also makes preventive efforts in preventing unfair business competition practices.

Keywords: *Predatory Pricing, Flash Sale, KPPU.*

INTRODUCTION

Along with the times, technological developments have shown a significant positive impact on every aspect of life, both in terms of social, culture, and of course the economy. With this development, the digital-based business sector must pay more attention to its regulation. Law plays an important role in ensuring the efficiency and effectiveness of the national economy and regularity in practice. As outlined in Article 2 of Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition (Law 5/1999),

business competition law plays a role in safeguarding the public interest as an effort to improve people's welfare, create a conducive business climate, prevent monopolistic practices and unfair business competition, and create effectiveness and efficiency in business activities.(P. Indonesia, 1999)

One of the business activities in the economic sector that has become a phenomenon at this time is trade transactions which were previously limited to conventional face-to-face patterns, now carried out online through internet media. Activities related to customers, suppliers, and vendors through computer networks connected to the internet are known as electronic commerce (e-commerce).(Hotana, 2018) Along with the increasing use of e-commerce, more and more business actors are involved in increasingly competitive e-commerce transactions. Therefore, there is a need for a legal umbrella that strictly regulates filling roles in electronic- based business operations such as in e-commerce.

Predatory pricing is not always prohibited under Article 20 of the Law on the Prohibition of Monopolistic Practices and Unfair Competition, also known as the Unfair Business Competition Law (Anti-Monopoly Law), but it must be proven that predatory pricing has the potential to cause very unfair business competition.(Jayani et al., 2022) This is further supported by the many alleged predatory pricing practices in the e-commerce sector. This phenomenon is also enforced by the prohibition of trading activities through Tiktok Shop by the government in Indonesia. This happened because of the many complaints from offline shop merchants because it was considered to make them lose money. Shopping and selling online is like two sides of a coin. On the one hand it makes it easier, but on the other hand it can kill offline businesses. The price game in Tiktokshop is considered unhealthy because the prices of goods sold in Tiktokshop are sometimes much cheaper than buying in shopping centers directly. Because of the ease of transactions offered by e-commerce service providers, many companies compete to offer attractive promotions. In the TikTokshop application, one of the promotions offered is the practice of flash sales, which offers discounts or discounts within a certain period of time.

In the application of short-duration video hosting services, TikTok, sees an opportunity to digitize business activities through TikTok Shop. Unlike other e-commerce, such as Shopee or Tokopedia, TikTok provides more features, both to the seller and to consumers, namely the use of live streams as a method of buying and selling activities.(Putri Riyanto, 2021) In the live stream method, sellers can sell through the seller's main account or involve content creators as affiliates who will explain the description of the items being sold. In addition to making it easier for buyers to understand the products being sold, the live stream feature also often offers massive promotions in a limited time or what is also known as a flash sale so as to increase consumer purchasing power to immediately buy in the live stream session. In fact, flash sales are often accompanied by sizable discounts for a product, up to a price of Rp. 99,- (ninety-nine rupiah). The price offered is far below the market price, indicating that e-commerce businesses are selling at a loss or predatory pricing. Selling at a loss may lead to intense competition among businesses, but it will also prevent smaller businesses from entering the same market, or even prevent them from entering the market. If this happens, it will lead to monopolistic practices and unfair business competition.(Fitri & Lesmana, 2021)

Based on the above background, the problem formulation for this research is as follows: First, How is the juridical analysis of allegations of predatory pricing or selling at a loss based on the current law; Second, How is the role of the KPPU institution on the allegations of predatory pricing in the practice of flash sales on the Tiktok shop application based on Law No.5 of 1999? Furthermore, the objectives in this study are as follows To find out the allegations of predatory pricing with flash sale practices associated with the current Law and to find out the role of KPPU in supervising business competition against alleged predatory pricing in flash

sale practices associated with Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition.

RESEARCH METHOD

This research is written using a normative research approach, which is research that examines the law from an internal perspective whose object is legal norms. (Pasek Diantha, 2016) This legal research uses a legal concept approach and a legislative approach to deal with this problem, especially this legal research focuses on written legal norms in the form of Law No.5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition. The source of data in the research is secondary data consisting of primary legal materials, namely legal materials that have binding force, secondary legal materials, namely legal materials that do not have a strong position and only provide an explanation of primary legal materials, and tertiary legal materials are legal materials that provide information about primary legal materials and secondary legal materials (bibliography) (Dimiyati & Wardiono, 2004). Data collection and legal materials are obtained through literature studies or library research. The method of analyzing data and legal materials used is qualitative, namely a research mechanism that produces data that is descriptive analysis.

DISCUSS AND ANALYSIS

Juridical analysis of allegations of predatory pricing or selling at a loss based on the current law

The increasingly advanced human civilization balanced with the rapid growth of business has led to increasingly fierce business competition. This competition encourages every e-commerce service business to provide the best trade transaction services that consumers can enjoy. Many businesses in the e-commerce sector continue to try to use different marketing strategies to attract customers and dominate the market. Some of the ways that Tiktokshop does this are by providing various discounts on products sold with discount vouchers, offering free shipping (discounted shipping costs), and flash sale programs.

This problem began when Tiktok as a social commerce platform that combines social media functions with e-commerce. Lately it has often been rumored that Tiktokshop has killed micro, small and medium enterprises or MSMEs in Indonesia. A recent report highlighted the impact of Tiktok Shop on micro, small and medium enterprises (MSMEs) in Indonesia. The situation is related to the prices offered by traders in Tiktok Shop which are considered lower than market prices, creating difficulties for traders in business competition. A recent report shows that sellers in Tanah Abang Market have experienced a decline in buyers due to the existence of Tiktok Shop. According to the Minister of Trade Zulkifli Hasan, said that buying and selling transactions on Tiktok shops can be said to be a predatory pricing practice because the platform dares to sell goods at half the wholesale price. This can clearly damage competition in the market. Furthermore, Zulkifli Hasan explained that one of the characteristics of predatory pricing practices is that it usually runs for several months, before finally the platform returns to selling goods at normal prices. And this action can damage business competition in Indonesia in the long run. (Angela, 2023)

Many artists have made direct sales on Tiktok Shop using the live stream method and also provide fantastic discounts such as Raffi Ahmad, Baim Wong, Sarwendah, Ruben Onsu, Nikita Mirzani, Fuji Utami and Louise Scarlett. They can get a turnover of up to billions of rupiah. For example, Baim Wong, who sells imported household furniture, admits that he can make sales of up to Rp. 9.6 billion in 20 hours. (Ulfa, 2023) In addition, the business actor at Tiktok Shop is Mami Louise on the Tiktok account @louissescarlettfamily, she has achieved success

as a well-known Tiktok Shop content creator and affiliate creator, has achieved extraordinary success. as the first Indonesian female affiliate creator to sell various products worth more than IDR 15 billion in one day, through a specially curated live shopping event, namely "Gebrakan by Mami Louise!". This fantastic sales record took place on July 29, 2023, featuring the best local beauty products of the year. The 18-hour non-stop "Gebrakan by Mami Louise!" event, hosted by Mami Louise and her team, attracted over 2.8 million viewers to participate in interactive segments, giveaways with prizes worth millions of Rupiah, and hourly flash sales with prices starting from Rp.1,000. (Liputan6.com, 2023)

The unfortunate thing is that most of the goods promoted by these celebrities are imported goods sold at very low prices, which can threaten the sustainability of small businesses. Products sold on the Tiktok Shop platform are often sold at disproportionate prices. For example, there are business actors who sell clothes for five thousand rupiah or wool blankets for ten thousand rupiah, and so on. Minister of Cooperatives and Small and Medium Enterprises (Menkop UKM) Teten Masduki, revealed his findings regarding the sales price of perfume for IDR 100 and shorts for IDR 2,000 during the live shopping event at Tiktok Shop. Of course, these prices are far below the capital cost if the product is produced domestically. Teten suspects that there is a predatory pricing practice carried out by TikTok Shop. (Murwani, 2023)

Flash sale is a sales system carried out by tiktokshop business actors. Usually flash sales last only a short time, about one to three hours. Discounts offered during flash sales are usually greater than discounts in general. (Lianovanda, 2022) The purpose of flash sale promotions is to increase the number of sales, namely by providing large discounts, limited product sales, and a short time making buyers have an urgency to immediately buy products or impulse buying. Buyers are more interested in buying flash sale products because of the lower price. Thus, tiktokshop business actors have a greater opportunity to be recognized because they will attract new consumers.

Tiktok shop holds flash sales on the same date and month, usually called "beautiful dates". For example, on the 9th of the 9th month, the 10th of the 10th month, the 11th of the 11th month. In connection with the year-end promo and also Harbolnas (National Online Shopping Day), the peak of this flash sale is on the 12th of the 12th month. The discount offered by Tiktok Shop during the 12.12 flash sale will be much greater than before. In relation to the alleged predatory pricing using the flash sale method, it can refer to the provisions contained in Law No.5 Year 1999, precisely Article 20, which states that: "Business actors are prohibited from supplying goods and services by selling at a loss or setting a very low price with the intention of eliminating or killing their competitors in the relevant market so as to result in monopolistic practices and/or unfair business competition."

To determine whether an act of a business actor violates Law No.5 of 1999, two approaches are known: rule of reason and per se illegal. (Lubis, 2009) The rule of reason approach is an approach shown to evaluate the effect of a business actor's action by considering factors such as the background of the action, the business reason behind the action, and the position of the actor in a particular industry. So that after considering these factors, it is necessary to first prove whether there is a prohibited effect in competition law or not (Siswanto, 2002), Meanwhile, the per se illegal approach is intended to evaluate a business actor's action without the need to prove whether there is a prohibited effect or not. (Lubis, 2009) There are at least three conditions for a business actor to be indicated as committing predatory pricing as stated by former KPPU chairman Kurnia Toha. The first condition is that the price is below the cost or below the market price; second, it is intended to kill business competitors; third, after the competitors are dead, the perpetrator will increase the price to recover losses during the predatory period and obtain unreasonable profits. (Azka, 2019)

If we look at the formulation of the article, Article 20 of Law No. 5 Year 1999 applies rule of reason approach, which prohibits the practice of selling at a loss or predatory pricing that results in monopolistic practices and/or unfair business competition. Therefore, the provisions in Article 20 of Law No. 5 Year 1999 can also explain the elements of predatory pricing, which if connected to the practice of flash sales are as follows:

1. The element of Business Actors, in this element refers to article 1 point 5 of Law No. 5 of 1999 which stipulates that "Business actors are every person or business entity, whether in the form of a legal entity or not a legal entity established and domiciled or conducting activities within the jurisdiction of the Republic of Indonesia, either alone or jointly through agreements, organizing various business activities in the economic field."
2. The element of Supply, in this element refers to article 15 paragraph (1) of Law No.5 of 1999 which indicates that "Supplying is providing supplies, both goods and services, in the activities of buying and selling, leasing, renting, and leasing."
3. The element of Goods, in this element refers to the article referring to Article 1 number 16 of Law No. 5 Year 1999 which explains that "Goods are every object, both tangible and intangible, both movable and immovable, which can be traded, used, or utilized by consumers or business actors."
4. The element of Services, in this element refers to article 1 point 17 of Law No. 5 Year 1999 which explains that "Services are any services in the form of work or achievements traded in the community to be utilized by consumers or business actors."
5. According to economic theory, selling at a loss is a condition in which an entrepreneur sets the selling price of his product or service below the average total cost of production. A profit will only be made by an entrepreneur if he is able to set the selling price of the product or service above the average total cost, or at least enough to cover costs if the price set is equal to the average total cost, especially if the price is still above the average variable cost. If an entrepreneur produces at a price below average variable costs, then it can be considered that the price is already unreasonable, and the practice of selling at a loss by the entrepreneur can be indicated as having a certain intention. (Rokan, 2010)
6. Very Low Price Element, in this element, business actors are considered to sell a product at a price that they set far below the price set by all other business actors selling similar products. To measure whether this element is fulfilled or not, a price comparison is conducted with other business actors using the horizontal comparison method. (Rokan, 2010)
7. Element With Intent, in this element the phrase "with intent" can be explained that generally, the practice of selling losses is carried out by dominant business actors for several purposes. These objectives include destroying competitors' businesses in the same market, inhibiting potential new competitors by applying a loss price as an entry barrier, gaining significant profits after successfully eliminating their competitors, recouping losses incurred when selling at a loss, and reducing the potential for large losses through a warehouse wash strategy of certain goods that are difficult to sell and/or approaching expiration. (Rokan, 2010)
8. In this element, the word "get rid of" or "kill" can be interpreted as an action taken by the main business actor to get rid of or cause its competitors to go bankrupt due to losses that cannot survive in an unstable market situation.
9. Element of Competing Businesses, in this element, competing businesses can be interpreted as other business actors who compete with similar products in the market, thus creating a competition.
10. The element of Market, in this element refers to Article 1 number 1 number 9 of Law No. 5 Year 1999 which explains that "Market is an economic institution where buyers and sellers either directly or indirectly can conduct trading transactions of goods and or services."

11. The element of Relevant Market, in this element refers to Article 1 number 10 of Law No.5 Year 1999 which explains that "Market related to the reach or certain marketing area by business actors for the same or similar goods and services or substitutes for such goods and or services".
12. The element of Monopolistic Practices, in this element refers to Article 1 point 2 of Law No.5 Year 1999 which explains that "Monopolistic practices are the concentration of economic power by one or more business actors which results in control over the production and or marketing of certain goods and or services so as to cause unfair business competition and may harm the public interest."
13. The element of Unfair Business Competition, in this element refers to Article 1 paragraph 6 of Law. No. 5 of 1999 which explains that "Unfair business competition is competition between business actors in carrying out production activities and or services carried out in a dishonest or unlawful manner or hampering business competition."

In reality, there has been the use of low prices and when compared to other business actors there are price differences that indicate the existence of predatory pricing allegations. In addition, the period of time when the low price was given briefly and then significantly raised back to a higher price indicates the existence of predatory pricing allegations as well. Even so, there are elements that are not fulfilled or at least need to be proven further, or it cannot necessarily be said to be predatory pricing. Referring to the elements and requirements of predatory pricing contained in Law No.5 Year 1999 as described above, the author can further examine that in this flash sale program there are actually several things that are not fulfilled in the elements of predatory pricing mentioned in Article 20 of Law No.5 Year 1999, namely in the following elements: Where in the element of business actors there are 2 (two) business actors involved in it, namely: a) business actors as electronic service providers or intermediaries; b) business actors as providers of goods and/or services so that the elements of business actors in flash sale activities as elements of predatory pricing practices have been fulfilled. However, the element that is not fulfilled in this article is that the business actor acting as an electronic service provider or intermediary does not supply goods or does not act as a provider of goods sold, but rather serves as a promotional tool for products provided by business actors offering goods and/or services.

Furthermore, if we observe the article, there is an element of "with intent", which indicates the intention of the business actor (*mens rea*) to kill other competitors. This intention must be proven, whether the provision of flash sales aims to destroy competitors or is merely a strategy of the business actor to attract consumers' attention. Furthermore, in the element of "Getting rid of or shutting down", the flash sale activity aims to attract consumer buying interest so that sales turnover increases, as well as to spend the stock of goods from excess production and not with the intention of getting rid of the business or shutting down the business of competitors. Thus, the element of eliminating or shutting down competitors' businesses is not fulfilled in flash sale activities as an element of predatory pricing practices because there are differences in the intent and purpose between flash sales and predatory pricing practices.

In the element of "monopolistic practices", the implementation of flash sale does not cause the marketing of certain products to be centralized, because other e-commerce businesses also have the opportunity to participate in flash sale activities without exception, so there is no monopolistic practice. (Fauzi, 2021) Therefore, the element of monopolistic practices in flash sale promotion is not fulfilled as an element of predatory pricing. Furthermore, the element of "Unfair Business Competition" refers to flash sale activities in e-commerce businesses conducted by business actors without violating the law and not hampering business competition, because the products provided in flash sale activities are in accordance with the

provisions of the e-commerce platform and do not violate legal regulations. Therefore, the element of unfair business competition in flash sale promotion is not fulfilled as an element of predatory pricing.

In the author's opinion, the flash sale activities carried out on the Tiktok Shop platform can be considered a form of unfair business competition because it offers a price that is very low from the actual price. However, it is important to return to the previous understanding that the flash sale program carried out by the Tiktokshop platform does not meet the elements of predatory pricing regulated in Article 20 of Law No.5 of 1999. Thus, in its law enforcement, not all acts of discounted very cheap discounts at a certain time can necessarily be called predatory pricing because these activities may have an impact on activities that cause trade monopoly as referred to in Article 20 of Law No. 5 of 1999.

The role of KPPU institutions against alleged predatory pricing in flash sale practices on TikTok Shop applications based on Law No.5 of 1999

The Business Competition Supervisory Commission (KPPU) plays an important role in overseeing alleged predatory pricing practices in flash sale practices on the Tiktok Shop application based on Law No.5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition. In the Indonesian constitutional system, KPPU can be classified as a complementary state institution (state auxiliary organ), which is given by law to enforce business competition law. (Nugroho Adi, 2014) In addition, KPPU is also responsible for ensuring fair business competition and is also responsible for creating a business environment that supports fair business competition.

Previously, the allegation of predatory pricing through Tiktok Shop was raised by the Minister of Cooperatives and SMEs, Teten Masduki. The allegation arose as imported goods were sold in Tiktokshop at very low prices below the cost of production of local products. He said "KPPU should be proactive (investigating), we have to wait for reports (predatory pricing)". (Suryadi, 2023) In responding to allegations of predatory pricing practices in flash sale practices on the Tiktok shop application, the first step taken by KPPU was to respond to this as good input. Head of the Public Relations and Cooperation Bureau of KPPU, Deswin Nur, explained that his party will still study the allegations of predatory pricing in Tiktok. Because according to him, the issue of predatory pricing cannot be attributed solely to low prices at Tiktok Shop. (Catriana, Elsa. Ika, 2023) A different thing was revealed by KPPU commissioner, Guntur Syahputra Saragih, who said that before taking further steps, his party was waiting for reports related to this matter. "Until now, KPPU has not found or received evidence related to this matter from any party," said Guntur. Guntur ensured that KPPU will move after evidence is found, including investigating reports. The report is an opening for KPPU to conduct an examination of predatory pricing. The entire law enforcement process must be based on due process of law, so that the business climate is conducive. (Abdila, 2023) In terms of handling this issue, communication has also been made with the Ministry of MSMEs and the Ministry of Trade. Thus, people who feel they have suffered losses as a result of the practice can report to the Ministry of Cooperatives and Micro, Small and Medium Enterprises (Kemenkop UMKM) or the Business Competition Supervisory Commission (KPPU) directly.

After the emergence of many products sold below market prices at Tiktok Shop, on October 4, 2023 the Government through Permendag 31 of 2023 issued a regulation prohibiting social media from playing a dual role as e-commerce. Finally, Tiktok shop was officially closed in Indonesia. Tiktok Indonesia said the decision to close the Tiktok Shop feature in Indonesia was made to comply with applicable regulations. (C. Indonesia, n.d.) Thus, based on the Regulation of the Business Competition Supervisory Commission No. 2 of 2020 concerning the KPPU Strategic Plan 2020-2024, the steps that will be taken by KPPU in prevention efforts

related to business competition violations in the digital era are as follows: a) Strengthen international cooperation in law enforcement efforts related to alleged violations in the field of business competition that cross national borders; b) Be responsive and sensitive to developments in cases that are currently growing in the digital economy; c) Strengthen facilities and infrastructure as well as develop the competence of investigators to be more effective and have positive benefits for the public interest in handling cases; d) Observe the potential for cases to occur in line with economic growth so that the enforcement of Law No.5 of 1999 concerning the prohibition of monopolistic practices of unfair business competition funds can be carried out effectively.

In order to ascertain whether there is a violation of the law by the parties involved in trade monopoly, the KPPU must conduct an investigation. If there is a report letter regarding the violation of Law No.5 Year 1999, then the KPPU must examine the case to determine whether the parties concerned have violated the regulation or not. The preliminary examination process is conducted within 30 working days after the report letter is received. KPPU may proceed to the next stage if it can prove that there is a violation of unfair business competition by the relevant parties. (Nd et al., 2019)

Business Competition Supervisory Commission (KPPU) in Indonesia was responsible for overseeing business competition. If there are allegations of predatory pricing practices on TikTok Shop, the KPPU may play a crucial role in addressing the issue. Here are some roles that the KPPU might undertake:

- 1) Investigation and Examination: The KPPU can conduct an investigation into the alleged predatory pricing by TikTok Shop. This involves examining evidence, conducting interviews, and analyzing to determine whether such practices violate business competition laws.
- 2) Determination of Legal Violations: If, after the investigation, it is found that TikTok Shop is engaged in predatory pricing, the KPPU can declare that such actions violate business competition laws in Indonesia.
- 3) Enforcement of Sanctions: The KPPU has the authority to impose sanctions for violations of business competition laws. These sanctions may include fines and corrective actions to cease practices that violate the law.
- 4) Providing Recommendations: In addition to imposing sanctions, the KPPU can also provide recommendations to relevant parties, including the government, to take specific measures to ensure compliance with business competition rules.

In order to refer to the context of supervision by KPPU in accordance with Law No. 5 Year 1999, KPPU has a prevention deputy to supervise business activities in the e-commerce sector. There are several things that can be done by KPPU, namely supervising allegations or indications of violations of business competition by making preventive efforts against monopolistic, discriminatory practices in the form of certain facilities to compete in the relevant market to other platforms; exploitation of providers against consumers or between providers; predatory pricing with business actors selling unreasonably low products; and can provide advice and considerations to the government related to the e-commerce industry in policy making. (Jonathan, 2023) To increase the effectiveness of law enforcement and supervision of digital business actors, KPPU cooperates with related institutions in the field of digital business. Such as the Ministry of Communication and Information.

The effort aims to create a healthy competition environment in digital business. KPPU will conduct investigations and law enforcement if strong evidence is found regarding the alleged predatory pricing in the practice of flash sales at Tiktok Shop. Until now, there has been no official decision from KPPU regarding the alleged predatory pricing at Tiktok Shop. With this strategic plan, KPPU is expected to help create a healthy and equitable business environment and

provide legal certainty for businesses in the digital era. The government's decision to close TikTok Shop was due to business license issues that apply in Indonesia, TikTok only has a license as an Electronic System Operator from the Ministry of Communication and Information as social media, not Trading Through Electronic Systems from the Ministry of Trade as e-commerce. Although there has been no final decision on the TikTok Shop case, KPPU has planned proactive efforts with various actions to prevent violations of the Anti-Monopoly Law in the digital era, as described in the KPPU 2020-2024 strategic plan. The plan shows KPPU's commitment to take comprehensive action to deal with the dynamics of business competition in the digital era.

The closure or restriction of TikTok Shop has been carried out by the government following an investigation into legal violations, such as privacy breaches, national security concerns, or violations of business competition laws. In fact, TikTok Shop has infringed upon the licensing terms for the creation of the social media platform. Regulators, such as the Business Competition Supervisory Commission (KPPU) in Indonesia, are also involved in assessing whether TikTok Shop has committed any business competition-related violations.

CLOSURE

Conclusion

Based on the discussion in this study, the authors concluded the following research results: First, flash sale activities in buying and selling activities at TikTok Shop cannot necessarily be considered as predatory pricing actions that have the potential to result in monopolistic practices or unfair business competition. There are at least three conditions and thirteen elements that must be met for an activity to be categorized as predatory pricing. In practice, there are five elements that are not fulfilled to be categorized as predatory pricing activities based on Article 20 of Law No.5 Year 1999, which regulates the prohibition of business actors to conduct predatory pricing or selling at a loss in business competition. The five elements that are not fulfilled are the Business Actor element, the Intent element, the Eliminate or Kill element, the Monopolistic Practices element, and the Unfair Business Competition element. These five elements show that the flash sale practice in the buying and selling activity at Tiktokshop does not fulfill the elements and requirements of predatory pricing. Because there are differences in the intent and purpose between predatory pricing and flash sales. Second, In the face of allegations of predatory pricing carried out by TikTok Shop, KPPU as an independent institution that oversees business competition has not yet made a decision regarding the predatory pricing actions taken by TikTok Shop. The government has taken action to close or limit TikTok Shop after conducting an inquiry into legal infractions, including privacy breaches, national security issues, or violations of business competition laws. Specifically, TikTok Shop has violated the terms of licensing for developing the social media platform. Regulatory bodies, such as the Business Competition Supervisory Commission (KPPU) in Indonesia, are actively evaluating whether TikTok Shop has engaged in any infringements related to business competition

Suggestion

KPPU must be able to detect early, but still precise, which selling actions are classified as marketing strategies and which include monopolistic practices and unfair business competition. This can be done in various ways, namely First, using various test stones which, if fulfilled, can prove the existence of predatory pricing practices. Secondly, the government must supervise and make strict regulations on pricing on e-commerce platforms, including the prohibition of predatory pricing to protect local businesses. Third, it is important to encourage close cooperation between KPPU, the Government, and business actors to formulate concerted measures to prevent predatory pricing. By implementing these measures, it is expected that

KPPU and the Government can maintain the sustainability of business actors and creacreate a healthy business competition environment in the e-commerce industry.

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