

Analysis of Competition Law on Alleged Monopolistic Practices in The Sale of Fuel Oil (BBM) by PT Pertamina (Persero) in Indonesia

Amanda¹, Aurelia Denise², Catherine Vellynia Samudra³

¹*Master of Law, Universitas Pelita Harapan, Indonesia*

*Jalan M.H. Thamrin Boulevard No.1100, Klp. Dua, Kec. Klp. Dua, Tangerang Regency, Banten
15811 Email: amandaaa.limmm@gmail.com*

²*Master of Law, Universitas Pelita Harapan, Indonesia*

*Jalan M.H. Thamrin Boulevard No.1100, Klp. Dua, Kec. Klp. Dua, Tangerang Regency, Banten
15811 Email: catherinevellynia@gmail.com*

³*Master of Law, Universitas Pelita Harapan, Indonesia*

*Jalan M.H. Thamrin Boulevard No.1100, Klp. Dua, Kec. Klp. Dua, Tangerang Regency, Banten
15811 Email :aureliadenise1912@gmail.com*

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Abstract: This study aims to analyze the alleged monopolistic practices carried out by PT Pertamina (Persero) in the distribution and sale of Fuel Oil (BBM) in Indonesia. The analysis is carried out through the perspective of business competition law as regulated in Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. PT Pertamina (Persero), through its subsidiary, PT Pertamina Patra Niaga, is known to control more than 95% of the national BBM market share, this dominance raises concerns about the creation of unfair business competition, especially for private companies that are also engaged in the BBM distribution sector such as PT Vivo Energy Indonesia. The research method used is normative juridical with a statutory and conceptual approach, and is analyzed qualitatively to gain an in-depth understanding of the issues studied. The results of the study indicate that significant market dominance by PT Pertamina (Persero), accompanied by government intervention in setting BBM prices, and the existence of barriers to market entry for competitors are strong indications of hidden monopolistic practices that violate the principles of fair competition. The role of the Business Competition Supervisory Commission (KPPU) as an institution authorized to supervise and enforce business competition law, still faces structural challenges in carrying out effective and optimal supervision. Therefore, this study emphasizes the importance of strict enforcement of business competition law, as well as the need for policy reform, to realize the principles of economic democracy and consumer protection.

Keywords: Competition Law; Monopolistic Practices; Domination of the Fuel Market; PT Pertamina (Persero); Business Competition Supervisory Commission (KPPU)

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INTRODUCTION

Economic growth is an important indicator in the development of a country, including Indonesia, which continues to strive to grow every year amidst high global dynamics and uncertainty. In the third quarter of 2024, the economy in Indonesia was able to grow by 4.95% driven by various rapidly growing business sectors and a decrease in unemployment rates¹. Compared to the same period in the previous year, Indonesia recorded stable growth (year on year)². This can be a trigger and driver for progress and economic growth in Indonesia.

The role of business actors in various fields is crucial in driving this growth. However, business activities also pose challenges, especially in the form of competition related to pricing and market control. In fact, there are still many business actors who commit fraud in their business practices. Therefore, a healthy business competition system is needed to protect business actors, to create market efficiency, encourage innovation, and provide competitive prices for consumers, so that it can create fair business ethics and balanced competition.

The state through Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, seeks to protect the market structure from anti-competitive practices. This law aims to ensure that every business actor has a fair opportunity to develop, as well as guarantee protection for consumers³. However, in practice, the implementation of competition law in Indonesia still faces various challenges, especially related to

allegations of monopolistic practices in the fuel oil (BBM) sector. Law Number 5 of 1999 has clearly prohibited monopolistic practices and unfair business competition, but the reality on the ground shows that PT Pertamina (Persero) through its subsidiary, PT Pertamina Patra Niaga, which controls more than 95% of the national BBM market share⁴.

The legal gap occurs because even though regulations have provided an opportunity for private companies to compete, in reality they still face various obstacles, such as non-transparent pricing policies and government intervention that is considered to be more beneficial to PT Pertamina (Persero). One case that occurred was the price difference between fuel sold by PT Pertamina (Persero) and private competitors such as PT Vivo Energy Indonesia. When Vivo offered a lower price compared to subsidized fuel Peralite, the government asked the company to adjust the price. This raises suspicions of protection against the dominance of PT Pertamina (Persero)⁵. This dominance has raised suspicions of hidden monopoly practices, especially when competitors such as PT Vivo Energy Indonesia are under pressure due to price intervention and imbalances in government policies.

This condition raises concerns that the structure of the fuel market in Indonesia does not reflect healthy competition. The pricing policy and special treatment of PT Pertamina (Persero), although within the realm of national interests, has the potential to hinder the principles of economic democracy guaranteed by Article 33 Paragraph (3)

¹ CS. Purwawidhu, "Ekonomi Indonesia Diproyeksi Akan Kembali Tembus 5 Persen," Media Keuangan, 2025, <https://mediakeuangan.kemenkeu.go.id/article/show/ekonomi-indonesia-diproyeksi-akan-kembali-tembus-5-persen>.

² "Ekonomi Indonesia Triwulan III-2024 Tumbuh 1,50 Persen (Q-to-Q).Badan Pusat Statistik," Badan Pusat Statistik, 2024, <https://www.bps.go.id/id/pressrelease/2024/11/05/2382/ekonomi-indonesia-triwulan-iii-2024-tumbuh-1-50-persen--q-to-q-.html>.

³ Republik Indonesia. (1999). Undang-Undang Republik Indonesia Nomor 5 Tahun 1999 tentang Larangan Praktek Monopoli dan Persaingan Usaha

Tidak Sehat. Lembaran Negara Republik Indonesia Tahun 1999 Nomor 33.

⁴ Erry Frayudi, "Di Tengah Isu Tata Kelola, Pertamina Dominasi 96 Persen Pasar BBM," Koran Hybrid BelitongEkspress.com, 2025, <https://belitongekspres.bacakoran.co/read/12804/di-tengah-isu-tata-kelola-pertamina-dominasi-96persen-pasar-bbm>.

⁵ Safir Makki, "Anak Buah Sri Mulyani Buka Suara Soal Harga Murah BBM Vivo," CNN Indonesia, 2022, <https://www.cnnindonesia.com/ekonomi/20220912124931-532-846578/anak-buah-sri-mulyani-buka-suara-soal-harga-murah-bbm-vivo>.

of the 1945 Constitution⁶.

The ineffectiveness of supervision from the Business Competition Supervisory Commission (KPPU) further strengthens the gap between the implementation of the law and the reality on the ground. If the gap continues, the principle of economic democracy which is the basis of competition law in Indonesia will not run well. The dominance of one company in fuel can disrupt market efficiency, limit consumer choices, and make fuel prices uncompetitive.

Based on the problems that have been described, this study aims to analyze the alleged monopolistic practices carried out by PT Pertamina (Persero) from the perspective of business competition law, and to evaluate the role of KPPU in realizing a healthy business competition climate in the national energy sector. This study is relevant not only to answer public concerns regarding fuel prices and distribution, but also to strengthen understanding of the importance of a competitive market structure as a foundation for creating economic justice.

METHOD

This research uses a normative legal method, namely research that examines written law from various aspects, both theoretically and philosophically, such as laws and regulations (law in books), court decisions, and legal rules or norms that serve as guidelines for behaving in society⁷. Secondary data in this study were obtained through a literature study of primary, secondary, and tertiary legal materials. Primary legal materials include Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, the 1945 Constitution of the Republic of Indonesia, and regulations related to the energy sector and fuel distribution. Secondary legal materials include literature, scientific journal articles, and

opinions of competition law experts. Tertiary legal materials, such as legal dictionaries and encyclopedias, are used to support understanding of relevant legal concepts.

The approaches used in this research include a statute approach to examine the substance of applicable law, and a conceptual approach to understand the meaning of monopoly, market dominance, and the principle of healthy business competition in legal theory⁸. The data analysis technique used is qualitative analysis, which aims to provide a comprehensive analysis of the alleged monopoly practices of PT Pertamina (Persero) in the sale of fuel⁹. Conclusions are drawn through a deductive mindset, namely drawing specific conclusions from general principles. This method is applied by analyzing general concepts of Business Competition Law, then applied specifically to examine allegations of monopolistic practices based on Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition¹⁰.

ANALYSIS AND DISCUSSION

Analysis of Alleged Monopolistic Practices Carried Out by PT Pertamina (Persero) in the Sale of Fuel Oil (BBM) According to Business Competition Law

Pertamina is a State-Owned Enterprise (BUMN) in the oil and gas sector (National Oil Company), which was established on December 10, 1957 under the name PN PERMINA. After undergoing several changes in name and structure, including a merger with PN PERTAMIN in 1968, the company officially became PT Pertamina (Persero) on October 9, 2003, based on Government Regulation Number 31 of 2003 and Notarial Deed Number 20 dated September 17, 2003.

As an integrated energy company, PT Pertamina (Persero) manages the entire energy

⁶ Republik Indonesia. (1945). Pasal 33 Ayat 3 Undang-Undang Republik Indonesia Tahun 1945 tentang Pengelolaan Sumberdaya Alam. Jakarta.

⁷ Soekanto Soerjono and S Mahmudji, *Peranan Dan Penggunaan Kepustakaan Di Dalam Penelitian Hukum* (Jakarta: Pusat Dokumentasi Universitas Indonesia, 1979).

⁸ Peter Mahmud Marzuki, *Penelitian Hukum Edisi Revisi* (Jakarta: Kencana Prenadamedia Group, 2017).

⁹ Ari Riswanto et al., *Buku Ajar Buku Ajar Pengantar Ekonomi* (Jambi: PT. Sonpedia Publishing Indonesia, 2023).

¹⁰ *Ibid.*

business chain, from upstream to downstream business activities. The upstream sector includes exploration and production of oil, gas, and geothermal energy, both domestically and abroad. Meanwhile, the downstream sector includes processing, marketing, trading, and distribution of products such as Fuel Oil (BBM), non-BBM, LPG, LNG, petrochemicals, and lubricants¹¹.

The Ministry of State-Owned Enterprises (BUMN) of the Republic of Indonesia on June 12, 2020, appointed PT Pertamina (Persero) as a holding company in the energy sector that has a very strategic role that oversees 6 six Subholdings engaged in the energy sector (types of business activities), namely Upstream Subholding which is operationally run by PT Pertamina Hulu Energi, Gas Subholding which is run by PT Pertamina Gas Negara, Refinery & Petrochemical Subholding which is run by PT Kilang Pertamina Internasional, Power & NRE Subholding which is run by PT Pertamina Power Indonesia, Commercial & Trading Subholding which is run by PT Pertamina Patra Niaga, and Integrated Marine Logistics Subholding which is run by PT Pertamina International Shipping¹².

Until March 2025, PT Pertamina (Persero) through its subholding, PT Pertamina Patra Niaga, controls around 95-96% of the national fuel market share. This dominance includes fuel distribution from Sabang to Merauke¹³. This makes PT Pertamina (Persero) play a strategic role in meeting national energy needs and carrying out oil and gas exploitation activities to support Indonesia's energy security¹⁴. Pertamina also always upholds its commitment to providing energy and developing new and renewable energy

in order to support the creation of national energy independence.

The main regulation governing business competition in Indonesia is Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. This law aims to maintain a healthy business competition climate and prevent market domination by one business actor that can harm consumers and other business actors¹⁵. In the context of the energy sector, Law Number 22 of 2001 concerning Oil and Natural Gas is also relevant, especially Article 28 paragraph (2) which states that the price of fuel and natural gas is left to a healthy and fair business competition mechanism. However, in practice, not all fuel prices are determined by market mechanisms, because the government sets prices for certain types of fuel through subsidy policies and assignments¹⁶.

PT Pertamina Patra Niaga, as a subsidiary of PT Pertamina (Persero), plays a dominant role in fuel distribution in Indonesia. According to the company's official statement, the fuel market share controlled by PT Pertamina Patra Niaga reaches around 95–96% of the total national gas station market. This dominance includes fuel distribution from Sabang to Merauke, making it a major player in meeting national energy needs¹⁷.

This study analyzes the alleged monopolistic practices in the distribution and marketing of fuel in Indonesia by PT Pertamina (Persero). Although national regulations have provided opportunities for private companies to participate in the fuel market, in practice there are quite significant legal gaps. Private companies such as PT Vivo Energy

¹¹ "Sekilas Pertamina," Pertamina, 2025, <https://www.pertamina.com/id/siapa-kami>.

¹² *Ibid*.

¹³ "Pertamina Kuasai 96% Pasar BBM Indonesia, Apa Dampaknya?," Octopus, 2025, <https://octopus.co.id/pertamina-kuasai-96-pasar-bbm-indonesia-apa-dampaknya/>.

¹⁴ NTV News, "Pertamina Kuasai 96 Persen Pangsa Pasar BBM Di Indonesia," Ntvnews, 2025, <https://www.ntvnews.id/ekonomi/0138067/pertamina-kuasai-96-persen-pangsa-pasar-bbm-di-indonesia>.

¹⁵ Dhaneta Amariski, "Analisis Hukum Kebijakan Penetapan Harga Bahan Bakar Minyak (BBM) Di

Indonesia Dalam Perspektif Hukum Persaingan Usaha" (Universitas Indonesia, 2010).

¹⁶ Zarah Zertia and Anna Maria Tri Anggaraini, "Praktek Monopoli Dalam Penentuan Harga Gas Industri Di Wilayah Medan, Sumatera Utara Oleh Pt. Perusahaan Gas Negara Tbk. Berdasarkan Hukum Persaingan Usaha," *Reformasi Hukum Trisakti* 2, no. 1 (2020): 1–15, <https://doi.org/https://doi.org/10.25105/refor.v2i1.10434>.

¹⁷ Frayudi, "Di Tengah Isu Tata Kelola, Pertamina Dominasi 96 Persen Pasar BBM."

Indonesia face various obstacles, including non-transparent pricing policies and government intervention that is considered to be more beneficial to PT Pertamina (Persero)¹⁸.

The difference in fuel selling prices between PT Pertamina (Persero) and PT Vivo Energy Indonesia reflects one form of imbalance in competitive practices in the national fuel market. In September 2022, the government through the Ministry of Energy and Mineral Resources (ESDM) asked Vivo gas stations to increase the selling price of Revvo 89 type fuel, which at that time was sold for IDR 8,900 per liter, lower than the price of subsidized fuel type Peralite which was sold for IDR 10,000 per liter¹⁹. Responding to the government's request, PT Vivo Energy Indonesia then raised the price of Revvo 89 fuel to Rp10,900 per liter. This adjustment was explained as a response to international price fluctuations and to comply with the maximum price formula according to local regulations. The government's decision to ask Vivo to raise prices was considered by a number of energy observers as an action that has the potential to disrupt healthy market competition mechanisms. This step actually shows injustice, because private companies that are trying to offer more competitive prices are pressured to follow the dominant price²⁰.

In the context of competition law, this price adjustment raises concerns that government intervention in setting private fuel prices could strengthen the dominance of PT Pertamina (Persero) and hinder healthy business competition in the energy sector. In fact, one of the main objectives of energy sector liberalization is to encourage the creation of healthy competition for the benefit of consumers. This incident shows that although regulations have allowed private companies to enter the market, in practice there is still intervention that maintains the dominance of BUMN. This condition strengthens the suspicion

of protection of the dominant position of PT Pertamina (Persero) in the national fuel market.

Practices like this indicate that even though competition law formally regulates the prohibition of monopolies, there are still legal loopholes that allow for hidden monopolies to occur²¹. This is certainly not in accordance with the principle stipulated in Article 33 paragraph (3) of the 1945 Constitution that natural resources must be utilized for the greatest prosperity of the people. However, reality shows that the BBM distribution policy tends to be more profitable for BUMN such as PT Pertamina (Persero), rather than prioritizing the interests of the wider community.

The implementation of competition law regulations in Indonesia, especially in the fuel sales sector, shows a gap between the provisions stipulated in the law and practices in the field. Although Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition and other related regulations aim to create a healthy business competition climate, in reality the dominance of PT Pertamina (Persero) in fuel distribution and government intervention in fuel pricing still occur, which has the potential to strengthen hidden monopolies. This practice, in addition to inhibiting opportunities for private companies to compete, also risks harming consumers with limited choices and uncompetitive prices. Therefore, more effective supervision and strict law enforcement are needed to close legal loopholes that allow monopolistic practices and unfair business competition to occur, and to ensure that the principles of healthy competition can be realized in the fuel market. Existing regulations should not only be normative, but must be able to be implemented effectively to achieve their ultimate goal, namely people's prosperity and market efficiency that benefits all parties.

¹⁸ *Ibid*.

¹⁹ "Kementerian ESDM Perintahkan Vivo Segera Naikkan Harga BBM," Indowarta, 2025, <https://indowarta.com/kementerian-esdm-perintahkan-vivo-segera-naikkan-harga-bbm>.

²⁰ "Harga BBM Revvo 89 Naik Jadi Rp 10.900 per Liter, Vivo Beri Penjelasan," Liputan6.com, 2022.

²¹ Happy Fajrian, "Minta Vivo Naikkan Harga BBM, Pemerintah Dianggap Berlebihan," katadata.co.id, 2022, <https://katadata.co.id/berita/nasional/6315b3af6b58e/minta-vivo-naikkan-harga-bbm-pemerintah-dianggap-berlebihan>.

The Role of the Business Competition Supervisory Commission (KPPU) in Handling Allegations of Monopolistic Practices of Fuel by PT Pertamina (Persero)

In Article 30 paragraph (1) of Law No. 5 of 1999, the KPPU was formed to supervise the implementation of the provisions of the law. The KPPU functions as a law enforcement agency in the field of business competition, with further provisions regulated in Articles 30 to 37. The main duties of the KPPU as stated in Article 35 include assessing agreements that have the potential to cause monopolistic practices and/or unfair business competition, assessing business activities or actions of business actors that can result in such practices, and assessing whether or not there is abuse of dominant position. In addition, the KPPU is also tasked with taking action in accordance with its authority, providing advice to the government regarding policies related to business competition, preparing guidelines for implementing laws, and reporting work results to the President and the House of Representatives (DPR)²².

In carrying out these duties, the KPPU has the authority as stated in Article 36 including receiving reports from the public or business actors regarding alleged monopolistic practices, conducting research and investigations, and conducting examinations of alleged violations. The KPPU has the authority to conclude the results of investigations, summon business actors, request information from government agencies or related parties, present witnesses/experts, examine documents and evidence, and decide whether or not there are losses caused. The KPPU also has the right to impose sanctions on business actors who are proven to have violated the provisions of the law²³.

Based on these duties and authorities, KPPU has full authority to conduct research,

investigations, and provide decisions on alleged violations of the Law on the Prohibition of Monopolistic Practices and Unfair Business Competition. With this authority, KPPU plays an important role in enforcing the law in the field of business competition, especially in handling alleged monopolistic practices and unfair business competition in society. With a strong legal basis, KPPU is responsible for identifying, monitoring, and overcoming all forms of monopolistic practices and unfair business competition that can harm consumers and other business actors²⁴.

However, in the context of the energy sector, especially the fuel market, the KPPU's duties and authorities face complex challenges. PT Pertamina (Persero) as a BUMN, holds a dominant position in fuel distribution in Indonesia, with a market share of more than 95%. This dominance raises challenges for the KPPU in supervising and enforcing the law against alleged monopolistic practices. This is due to government intervention in setting fuel prices and subsidy policies that are more beneficial to PT Pertamina (Persero) compared to other private business actors²⁵. Non-transparent pricing policies, as well as dependence on international price fluctuations, also complicate KPPU's supervision efforts. Private companies, such as Vivo, that try to offer more competitive prices, are often hampered by government policies. As a result, these policies can create distortions in the market and worsen the competitive climate.

Despite the major challenges in supervising the fuel market dominated by PT Pertamina (Persero), KPPU has an important role in maintaining a healthy balance of business competition. Efforts made by KPPU through strict supervision, in-depth investigations, and appropriate law enforcement will determine the effectiveness of the fuel market in Indonesia and ensure that consumer interests remain protected.

²² Kuntunugroho Adnan, "Fungsi Hukum Pembangunan Ekonomi Dalam Persaingan Usaha Yang Sehat," *Lex Reinassance* 9, no. 2 (2024): 478–505, <https://doi.org/https://doi.org/10.20885/JLR.vol9.iss2.art10>.

²³ *Ibid.*

²⁴ "Tugas Dan Wewenang," Komisi Pengawas Persaingan Usaha (KPPU), 2009, <https://kppu.go.id/tugas-dan-wewenang/>.

²⁵ Zertia and Anggaraini, "Praktek Monopoli Dalam Penentuan Harga Gas Industri Di Wilayah Medan, Sumatera Utara Oleh Pt. Perusahaan Gas Negara Tbk. Berdasarkan Hukum Persaingan Usaha."

The handling of alleged monopolistic practices in the fuel market by KPPU is carried out through a systematic and structured mechanism in accordance with Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. Given the dominance of PT Pertamina (Persero) which controls more than 95% of the fuel market share in Indonesia, KPPU needs to act carefully and comprehensively in handling alleged monopolistic practices in this sector.

In carrying out its duties, the KPPU has the authority that is clearly regulated in Law No. 5 of 1999. Although the KPPU has broad authority in enforcing competition law, the implementation of this authority must remain within the limits regulated by Law No. 5 of 1999. The KPPU is not permitted to act beyond its authority, because the imposition of sanctions that exceed the provisions regulated in the law not only contradicts the principle of justice, but can also give rise to new legal problems that are detrimental to various parties²⁶. KPPU has the authority to receive complaints from the public and actively handle cases related to business competition. In addition, KPPU has a mandate from the Law to supervise and enforce the law in this field, including making decisions against business actors or business activities that are detrimental to other business actors, the public, and the public interest²⁷.

The procedures for resolving this case are regulated in Articles 38 to 46 of the Law and are regulated in more detail in the Regulation of the Business Competition Supervisory Commission (PKPPU) Number 1 of 2019 concerning Procedures for Handling Cases of Monopolistic Practices and Unfair Business Competition²⁸. In general, the case handling procedure according to PKPPU No. 1/2019 consists of 5 (five) stages:

a. Source of the Case

Cases can come from public reports or KPPU initiatives. If it comes from the public, KPPU

will conduct clarification to determine the continuation of the report. If it does not meet the requirements, the report will be recorded in the report termination list. If it comes from an initiative, KPPU can immediately conduct an examination and research on the related business actors.

b. Investigation

If from clarification or research indications of monopolistic practices or unfair business competition are found, KPPU will conduct an investigation for a maximum of 60 days and can be extended based on the decision of the coordination meeting. The purpose of the investigation is to obtain sufficient evidence and clarify the alleged violations.

c. Filing/Commission Meeting

At this stage, the KPPU work unit assesses the eligibility of the investigation report. If it meets the requirements, the report is compiled into an Alleged Violation Report (LDP) by the Prosecution Investigator.

d. Inspection

The examination is carried out through a commission panel hearing, starting with a preliminary examination that lasts a maximum of 30 days. The defendant is given the opportunity to change his behavior. If not, further examination is carried out by examining evidence such as witnesses, experts, documents, and statements from business actors. If necessary, a local examination is carried out.

e. Legal Action

Against the decision of the commission panel, the reported party can file an objection to the District Court. Furthermore, an interim decision is made, and if necessary, additional examination.

If based on the results of the examination it is proven that there are monopolistic practices and/or unfair business competition, the KPPU has the

²⁶ Anik Iftitah et al., *Pengantar Ilmu Hukum* (Banten: Sada Kurnia Pustaka, 2023).

²⁷ Rian Benedictus Rumagit, "Analisis Putusan KPPU Yang Melampaui Kewenangan Berdasarkan UU Larangan Monopoli Dan Persaingan Usaha," *Jurnal Supremasi* 14, no. 2 (2024): 130–41,

<https://doi.org/https://doi.org/10.35457/supremasi.v14i2.3805>.

²⁸ Peraturan Komisi Pengawas Persaingan Usaha No. 1 Tahun 2019. (2019). Tata cara penanganan perkara praktik monopoli dan persaingan usaha tidak sehat. Komisi Pengawas Persaingan Usaha.

authority to impose sanctions on business actors. Based on Articles 47 to 49 of Law No. 5 of 1999, the KPPU can impose 3 (three) types of sanctions on business actors who are proven to have committed violations, either in the form of administrative actions, criminal sanctions, or additional sanctions:

f. Administrative Sanctions

KPPU has the authority to impose administrative sanctions as regulated in Article 47 of the Law, including:

1. Cancellation of agreements that violate the provisions of Articles 4 to 13, Article 15, and Article 16;
2. Order to stop vertical integration that violates Article 14;
3. Order to stop business activities that are proven to cause monopolistic practices and/or cause unfair business competition;
4. Payment of compensation to the injured party;
5. Imposition of an administrative fine of at least IDR1,000,000,000.00 (one billion rupiah) and a maximum of 50% of the profits obtained by the business actor or 10% of total sales during the violation period.

The imposition of administrative sanctions aims to provide a deterrent effect on business actors and improve the business competition climate in Indonesia²⁹.

g. Criminal Sanctions

In certain cases, if the actions of business actors are classified as criminal acts, the KPPU can recommend to investigators to carry out further criminal proceedings. This is in accordance with the provisions of Law Number 5 of 1999 Article 48, which stipulates that business actors who violate can

be subject to criminal penalties in the form of fines or imprisonment. However, to date, the implementation of criminal sanctions in practice is still very limited and prioritizes administrative settlements.

h. Recommendation for Revocation of Business License

If a business actor does not comply with the KPPU's decision, or if the violation is considered serious and has a wide impact on the market, the KPPU can recommend to the authorized agency to revoke the business license of the actor. This mechanism is regulated in Article 49 of Law Number 5 of 1999, as a form of stricter law enforcement against uncooperative business actors.

Based on research by Widhana & Yusuf (2024)³⁰, Antimonopoly law enforcement in Indonesia is hampered by the lack of synergy between the KPPU and other law enforcement agencies, such as the police and the prosecutor's office. In some cases, investigations into competition violations require cross-agency cooperation to gather evidence and prosecute violators³¹. However, weak coordination often hampers the case handling process, so that some violations cannot be followed up effectively³².

In the context of this research, the KPPU handling mechanism for the alleged monopoly of PT Pertamina (Persero) in the sale of fuel to private competitors such as Vivo follows the procedures stipulated in Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. The following are the steps of the KPPU handling mechanism³³:

1. Receiving Reports and Complaints
 - a. Reports from the Public or Business Actors: KPPU can receive reports or complaints

²⁹ Rumagit, "Analisis Putusan KPPU Yang Melampaui Kewenangan Berdasarkan UU Larangan Monopoli Dan Persaingan Usaha."

³⁰ Widhana, A., & Yusuf, H. (2024). Hukum anti monopoli dan persaingan usaha tidak sehat. Multiple Journal of Global and Multidisciplinary, 2(11). <https://journal.institetercom-edu.org/index.php/multiple>

³¹ B Purwanto and E. Suryadi, "Sinergi Antarlembaga Dalam Penegakan Hukum Antimonopoli," *Jurnal Hukum Administrasi* 14, no. 2 (2022): 99–115.

³² R Maulana, "Investigasi Pelanggaran Persaingan Usaha," *Jurnal Hukum Ekonomi & Bisnis* 14, no. 2 (2019): 105–20.

³³ "Skema Perkara," Komisi Pengawas Persaingan Usaha (KPPU), 2019, <https://kppu.go.id/skema-perkara/>.

from other business actors (such as Vivo, Shell, or other private players) who feel disadvantaged by actions that are suspected of leading to monopoly. For example, if PT Pertamina (Persero) sets prices or policies that prevent private competitors such as Vivo from competing fairly in the fuel market.

- b. Proactive Supervision by KPPU: KPPU can also conduct proactive supervision of the fuel market, without waiting for reports, by monitoring the dynamics of prices, distribution, and policies implemented by Pertamina.

2. Investigation and Research

- a. Market Research and Business Practices: KPPU conducted research to identify potential monopolistic practices. This includes an analysis of PT Pertamina (Persero)'s market share in the fuel distribution sector, as well as an analysis of company behavior that may hinder competition, such as distribution restrictions or unfair pricing.
- b. Dominant Position Evaluation: KPPU will examine whether PT Pertamina (Persero) has a dominant position that can be abused to suppress or inhibit competitors such as Vivo. This assessment includes whether Pertamina controls the fuel market significantly, so that it can set prices or policies that are detrimental to competitors and consumers.

3. Document and Evidence Investigation

- a. Data and Evidence Collection: KPPU collects data related to prices, distribution, and business agreements between PT Pertamina (Persero) and other parties. KPPU can examine the agreement between PT Pertamina (Persero) and fuel distributors to see if there are any elements of restrictions that lead to anti-competitive practices.
- b. Examination of Documents and Evidence: KPPU can also examine other relevant documents or evidence, including contracts between Pertamina and other

parties that may indicate abuse of dominant position or monopolistic practices.

4. Call and Clarification

- a. Summoning of Parties Involved: KPPU has the authority to summon parties involved in the alleged monopoly, including representatives from PT Pertamina (Persero), Vivo, and other business actors to provide clarification.
- b. Further Investigation: If an alleged violation is found, KPPU can conduct further investigation by summoning witnesses, experts, or other parties who can provide information regarding the alleged monopoly.

5. Decisions and Sanctions

- a. Conclusion of the Investigation: Based on the results of the investigation, KPPU will determine whether PT Pertamina (Persero) has violated the provisions stipulated in Law No. 5 of 1999 concerning monopoly and unfair business competition.
- b. Recommendations or Sanctions: If it is proven that there are monopolistic practices, KPPU can issue recommendations to the government to take action, such as overhauling policies that support Pertamina's dominance or even administrative sanctions against Pertamina. In addition, KPPU can also suggest actions to open up space for other competitors to compete more fairly in the fuel market.
- c. Financial Sanctions: If there are violations that are serious enough, KPPU can impose fines or financial sanctions on Pertamina in accordance with the provisions applicable in Law No. 5 of 1999.

6. Reporting to the President and DPR

In accordance with Article 35 of Law No. 5 of 1999, the KPPU is obliged to report the results of its investigations and follow-up to the President and the House of Representatives (DPR) to ensure that business competition

policies and practices remain in accordance with the law and the principles of healthy competition.

KPPU has strong authority to ensure the market remains competitive and protect the interests of consumers and other business actors. If the alleged monopoly is proven, the actions taken by KPPU are aimed at improving competition in the Indonesian fuel market, providing a fair opportunity for private players such as Vivo, and reducing the risk of unhealthy domination. Therefore, KPPU's efforts in handling alleged monopolistic practices must prioritize the principles of prudence, independence, and professionalism, so that they not only fulfill formal legal aspects, but also provide substantive justice for all business actors and the Indonesian people.

CONCLUSION

In business activities, competition between business actors often occurs. Unhealthy business competition can arise if there are conditions that benefit certain parties, so that the business actors take advantage of it for their own interests and benefits, which ultimately becomes an obstacle in trade. Competition law is regulated in Law Number 5 of 1999, concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, aimed at ensuring fair competition in the market. This regulation is important to prevent business actors from eliminating competition in order to gain greater profits, which can harm consumers and create market imbalances.

Based on the results of the research and review of existing regulations, it can be concluded that PT Pertamina Patra Niaga has a dominant position in the Indonesian Fuel Oil (BBM) distribution market. Although it does not completely create a monopoly, this dominance has the potential to hinder healthy business competition. This dominance risks reducing consumer choice and causing higher fuel prices. In the case of PT Vivo Energy Indonesia which markets fuel at a cheaper price than PT Pertamina (Persero), this can be caused by several factors, such as differences in the quality of the fuel sold. This is because Revvo 89 sold by Vivo has a lower

Research Octane Number (RON) than Peralite, as well as the fact that Vivo is not involved in the sale of subsidized fuel, which gives them the flexibility to determine prices. In addition, Vivo uses an aggressive marketing strategy, especially after the increase in subsidized fuel prices by the government, to attract consumers looking for cheaper alternatives. The application of antitrust laws in the Indonesian fuel market needs to be further evaluated to ensure that existing regulations can create healthy business competition. Therefore, the Business Competition Supervisory Commission (KPPU) is expected to be more proactive in carrying out supervision and law enforcement to ensure that the market remains competitive, open and fair, and to avoid distortions due to government policies.

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