
Legal Protection Of Business Activities In Monopoly Practices And Unfair Competition Through Eletronic Transactions

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ABSTRACT

This study aims to determine how the legal protection of business actors in monopolistic practices and unfair competition through electronic transactions. The type of research used in this research is normative research which includes legal principles, legal systematics, legal history, and comparative law. The approach used in this research is the Legislative Approach. The data analysis technique used in this research is the deductive method. The results of this study indicate that unhealthy business protection has an impact on business actors where the absence of regulations governing the setting of low prices is currently lacking. In addition, marketplace business actors have mushroomed by selling the same goods as those in the marketplace. So that sales through the marketplace have dominated offline retail business actors. The form of legal protection for activities carried out by the marketplace has been regulated by legislation on information and electronic transactions and unfair business competition practices but does not regulate in detail the existence of legal protection itself. Therefore, the role of government officials, both as policymakers and as supervisors and regulatory apparatus for a legal product, must make laws and regulations that can later become social engineering for all Indonesian people.

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I. INTRODUCTION

A. Background

Law is needed to regulate social life in all its aspects, be it social, political, cultural life, and its role in economic development. It is in this economic activity that the law is indispensable, because of the limited economic resources on the one hand and the unlimited demand or need for economic resources on the other, too prevent conflicts between fellow citizens in fighting over these economic resources. It is clear that law has an important role in economic development to achieve social welfare.¹ This can happen if the village government realizes that the inherited conditions are internalized into the development program (*endogenous development*).² Development is a strategic step to realize these national goals. ³None other than the goal is only for social welfare for all Indonesian people. ⁴

In principle, everyone has the right to sell or buy goods or services "what", "with whom", "how much", and "how" to produce, this is what is called a market economy. In line with that, market behavior and structure are sometimes unpredictable, so it is not uncommon for business actors to commit fraud, restrictions that cause some or some parties to suffer losses. According to Mustafa Kamal Rokan, at a macro level, there is currently a tendency for many countries to adhere to a free market, where business actors can "*freely*" meet consumer needs by providing diverse and efficient products. Market freedom in this system often causes actors to act (*behaviors*) that form a monopolistic or oligopolistic *market structure* . The establishment of a *monopolistic* or *oligopolistic market structure* is a manifestation of unfair business competition conditions.⁵

The business world has a very important role, not only for individuals but also for the state. Even a country cannot run and progress without a business world that is

¹Fadhilah, M. (2019). Enforcement of Unfair Business Competition Law by the Business Competition Supervisory Commission (KPPU) in the Extraterritorial Framework. *Journal of Juridical Insights*, 3(1), 56

²Zamroni, S. (2016). *Villages Build Without Leaving Outer Groups*. Institute for Research and Empowerment (IRE), 2, 6

³Ahmad Rustan Syamsuddin. (July, 2020) Proof of Abuse of Authority in the Case of Corruption in the Procurement of Goods and Services. *JALREV* 2 (2). 163

⁴Ariefulloh. (2019). *The Dilemma of Implementing Traffic Violation Sanctions Against Children* . *JALREV* 1 (2), 199

⁵ *Ibid*

developing rapidly and efficiently. With the development of the business world today, business actors in the industrial world are involved in fierce business competition. The inability to compete technically makes it difficult for other companies to compete with existing companies.⁶

Since ancient times, Indonesian people have been known as people who are happy and easy to work together. Sometimes the act of competing or competing unfairly has no place in our cooperative society. But in reality, in the era of globalization and the development of science and technology, more and more business actors are competing to improve their respective living standards, more and more unfair business competition arises. One of the things that happened was the emergence of unfair business competition, for example, entrepreneurs who were close to or had connections with the power elite had excessive conveniences that had an impact on social inequality. The emergence of a small group of strong entrepreneurs who are not supported by a true entrepreneurial spirit is one of the factors that causes the economy to become very fragile and unable to compete healthily.⁷

In view of given conditions, we are required to observe and reorganize business activities in Indonesia that are no longer in accordance with ideals and goals of the Indonesian economy, namely those stated in Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. . So that the business world can grow and develop healthily and correctly so as to create a healthy competition climate and avoid monopolistic practices and unfair business competition.⁸

In the period before the formation of Law Number 5 of 1999 or commonly known as the New Order era, the economy in Indonesia was dominated by a concentrated structure, which in its development the dominant business actor was able to control everything from the production process to marketing procedures, thus creating opportunities for other business actors to carry out the production process or market their products become dead or do not own land anymore. As a result of unfair competition, the economic performance has become increasingly worrisome, marked by limited employment opportunities, increasingly unaffordable prices,

⁶Prathama Rahardja and Mandala Manurung. *Introduction to Economics* , (Jakarta: Research Institute of the Faculty of Economics UI, 2015), 159.

⁷Napitupulu, GT (2011). *"Unfair Business Competition in the Procurement of 20 Cc 204 Locomotive Units (Case Study of Kppu Decision No. 05/Kppu-L/2010)"* (Doctoral Dissertation, Universitas Airlangga), 1

⁸ *Ibid*

scarcity of supplies, and relatively slow economic growth. Based on these conditions, eventually led to an economic crisis.⁹

In the direction of changing the state of Indonesia for the better, a law is needed that can regulate or control competition between business actors until the emergence of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, which is also can provide guarantees in terms of legal certainty to encourage the acceleration of economic development in an effort to people's welfare, In 2021 the government forms Government Regulation Number 44 of 2021 concerning the Implementation of Prohibition of Monopolistic Practices and Unfair Business Competition.¹⁰

Efforts to implement this Law and its implementing regulations can run effectively in accordance byes and objectives, it is necessary to establish the Business Competition Supervisory Commission (KPPU), which is an independent institution that is independent of the influence of the Government and other parties who are tasked with and have the authority to implement Supervision of business competition which also has the same authority as that of the judiciary and imposes sanctions. The sanctions that are usually given by the Business Competition Supervisory Commission (KPPU) are only administrative sanctions, while criminal sanctions are the authority of the district court. ¹¹Provisions for sanctions for violations for business actors who violate this Law can be grouped into two categories, including administrative sanctions and basic and additional criminal sanctions.¹²

Electronic transactions are basically legal s or relationships that are carried out electronically by combining a network of computer-based electronic systems with a communication system, which is further facilitated by the existence of a global computer network or the internet. In the civil sphere, especially the engagement aspect, the meaning of the transaction will refer to all types and mechanisms in conducting legal relations electronically itself, which will include buying and selling, licensing, insurance, auctions and other, engagements that are bornbyh the

⁹ *Ibid.*, 2

¹⁰ *Ibid.*, 4

¹¹ *Ibid.*, 5

¹²Elsi Kartika and Advendi Simangunsong, *Law in Economics*, (Jakarta: Gramedia Widiasarana, 2008), 181

development of trading mechanisms in Indonesia. community and national economic growth to realize the welfare of society.¹³

Based on these circumstances, PP No.44 of 2021 concerning the Implementation of the Prohibition of Monopolistic Practices and Unfair Business Competition has a legal basis and background, namely Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. Business Actors and the public interest with the aim of, among others, to create effectiveness and efficiency in business activities

B. Formulation of the problem

Based on the above background, the formulation of the problem is a form of legal protection in monopolistic practices and unfair competition through Electronic Transactions.

C. Research methods

The type of research used in this research is normative research which includes legal principles, legal systematics, legal history, and comparative law. The approach used in this research is the Legislative Approach . The data analysis technique used in this research is the deductive method.¹⁴

II. DISCUSSION

LEGAL PROTECTION OF BUSINESS ACTIVITIES IN MONOPOLY PRACTICES AND UNFAIR COMPETITION THROUGH ELETRONIC TRANSACTIONS

protection for business actors has been regulated in the Law on the Prohibition of Monopolistic Practices and Unfair Business Competition No. 5 of 1999. Article 3 of the law stipulates 4 objectives for the establishment of the Business Competition Law, which if concluded to be one goal, namely to maintain and encourage competitive market competition with the aim of achieving economic efficiency and improving people's welfare.¹⁵

¹³Eti Fitriani, "Normative Juridical Review of Electronic Transactions based on Law No. 11 of 2008 concerning Information and Electronic Transactions", Thesis, 8

¹⁴Achmad, Y., & Mukti Fajar, ND *Dualism of Normative & Empirical Legal Research* . (Yogyakarta: Student Library, 2015), 42

¹⁵Nurul Siti Fatima. *Legal Protection Against Unfair Business Competition* . Study Program of Law Faculty of Law, University of Muhammadiyah Surakarta 2020, 6

Based on this objective, the law focuses more on improving the efficiency and effectiveness of the business world and types of markets to determine business competition rather than the interests of various parties such as (consumers, business actors, or the State). Whereas the problems that occur between Medium or Retail Businesses and Businesses that have not been categorized such as Marketplace are conflicts of interest between the two parties. If viewed in the business category, Law Number 20 of 2008 has a close attachment to the business competition law as a basis for enforcing the rule of law and providing legal protection to every business actor to create fair business competition and provide more legal protection for business actors. small and large businesses. The law also protects all without adverse distinction. ¹⁶Protection and fulfillment, not only concern the needs of the present but must also ensure its continuity for the future because it is directly related to human existence.¹⁷ This pressure is a little more likely to cause a significant reaction to the existence of the community, so the government is careful in solving a problem that has to do with the community.¹⁸

A healthy business climate can create developments for small and large businesses , online and offline, which cannot be separated from the role of the government as a decision-maker and policymaker. This is by the provisions of Article 1 point 9 of Law No. 20 of 2008 concerning MSMEs which states that the Business Climate is a condition sought by the Government and Regional Governments to empower Micro, Small, and Medium Enterprises in a synergistic manner through the establishment of various laws and regulations and policies in various aspects of economic life so that Micro, Small and Medium Enterprises obtain the widest possible side, certainty, opportunity, protection and business support. However, the above provisions are regulated only for businesses that stand in one place or own a building. Responsive and progressive legal policies are a must so that legal protection in the form of legal guarantees can be implemented properly in order to

¹⁶Ahmad Adi Fitriyadi, Fikry Latukau. (July, 2020). *Differentiation of Refugees and Asylum Seekers in International Refugee Law and Its Relationship to the Principle of Non-Refoulement* . JALREV's Journal. 2, 121

¹⁷Fakhri Lutfianto Hapsoro. (July, 2020). *Interpretation of the Constitution in the Examination of Constitutionalities to Realize The Living Constitution* . JALREV 2 (2), 150

¹⁸Fitriyadi, Ahmad Adi. (2020). *Differentiation of Refugees and Asylum Seekers in International Refugee Law and Its Relationship to the Principle of Non-Refoulement* . JALREV 2 (2), 127

cretoand comfortable digital ecosystem for the community.¹⁹ The results of policies issued by the Government are solely derived from the wishes of the people.²⁰

If it's in the retail realm, it only applies to offline businesses. And the provisions of the business climate for online trade have not been specifically regulated. The regulations that apply to online transactions are generally regulated in Law no. 19 of 2016 on the amendment to Law no. 11 of 2008 Information and Electronic Transactions, but the regulations in it do not specifically regulate trade that is enforced online, in which there is an element of business competition between online and offline business actors. This also affects offline business actors which have an impact on the presence of the marketplace.²¹

The development of the online shopping industry or *e-commerce* that continues to increase is increasingly playing a major role in the current national economy. When there was a large-scale social restriction (PSBB) during the Covid-19 pandemic, the economy was helped through buying and selling activities for the community through online shopping. The e-commerce industry has enormous potential to continue to grow considering that the national market share is still very wide open. The increasingly vibrant e-commerce industry certainly raises competition between business actors such as sellers and owners of e-commerce services or platforms. This condition is a positive thing when business competition occurs in a healthy manner. However, on the contrary, it will have a negative impact when the competition is carried out fraudulently so it is detrimental to other business actors and even destroys the national economy. Currently, the e-commerce business is one of the most efficient steps that can be applied to the type of UMKN business.²²

The growth of the digital economy is increasingly showing an optimistic trend, which is marked by the proliferation of *start-ups and online* companies . Th growth of the digital economy in Indonesia is so great, starting from the online market and *e-commerce* , onlne transportation, online travel, start-up companies (beginners), and financial technology (fintech). In terms of transactions, the percentage of e-

¹⁹Fenty U. Puluhulawa, Jufryanto Puluhulawa, M. Gufran Katili. (2020). *Legal Weak Protection of Personal Data in the 4.0 Industrial Revolution Era* . JALREV 2 (2), 182

²⁰Putri Handayani Nurdin.(July, 2019). *Political Law Regulation of Political Education by Political Parties* . JALREV 1 (2), 146

²¹ *Ibid.*, 7

²²Mohamad Rivaldi Moha. (July, 2020). *The Urgency of Registration of Electronic System Operators for E-Commerce Businesses*. JALREV 2 (2), 115

commerce turnover alone reaches 36% and it is estimated that by 2025 the turnover will reach US\$ 81 billion. Based on Telematics Sharing Vision data, in 2016 the total investment value that entered the fintech or fintech sector was around IDR 486.3 billion. In 2021, the value of fintech transactions in Indonesia is projected to reach US\$ 37.146 billion or Rp. 495.5 trillion.²³

Based on data from Google and AT Kearney, during the period from 2012 to August 2017, the value of foreign investment in start-up companies continued to increase significantly, from US\$ 44 million to US\$ 3 billion or equivalent to Rp. 40 trillion. This means that domestic digital start-up companies are very sexy in the eyes of foreign investors. Investors from China are the most active in injecting capital from Indonesian start-ups, including Alibaba Group. This giant e-commerce company owned by Jack Ma injected Tokopedia worth US\$ 1.1 billion or equivalent to Rp. 14 trillion. Following Tencent, which invested in Gojek with a value of US\$ 1.2 billion or equivalent to Rp 16 trillion. Another Chinese company that is actively investing in Indonesia is JD.com in Traveloka, together with Expedia, East Ventures, Hillhouse Capital Group, and Sequoia Capital, which invested US\$ 500 million.²⁴

However, by looking at aggressive investment actions for digital start-ups, it is feared that there will be a monopoly by forming the market into an oligopoly or a market condition that is only controlled by a few business actors. This condition can turn off similar business actors or make other start-ups not want to compete because they see a small opportunity. In the long term, this condition can also harm the economy and can create an unhealthy digital business competition climate.

The Business Supervisory Commission was established to supervise business actors in carrying out their business activities so that they do not practice monopolistic practices. In this case, apart from being the supervisor of business competition, KPPU also has the right to impose sanctions. These sanctions can be in the form of administrative actions, while criminal sanctions are the authority of the court, so their authority is only limited to administrative authority. It is the law that formalizes human rights into a set of rules to safeguard and protect them from becoming clashes in the life of society and the state.²⁵In addition, to ensure that the

²³ Data from the Sharing Vision Telematics Research Institute

²⁴Ahmed Rumlatur, 2018, "Digitizing Business and Oligopoly Market", https://www.kompasiana.com/ahmedrumalatur/5bc175d943322f6e8d0c6a73/digitalisasi-bisnis-dan-pasar-oligopoli?page=2&page_images=1

²⁵Tijow, Luciana. *Protection of Human Rights to the Right to Life of Children in the womb outside of a legal marriage*. Journal of Legality 3 (2), 80

community remains consistent in their business, the right to life should be protected by the state, especially the rule of law. ²⁶Human rights are part of the administration of justice within the framework of an independent judiciary.²⁷

Law enforcement in business competition that is presented by the government to oversee business competition is in fact less influential with the existence of a marketplace where business actors have freely made sales at low prices. ²⁸Regulation of trade via the internet still raises many conceptual or theoretical questions that indicate the need to develop a more detailed conceptual and theoretical explanation for the need for more complex laws and regulations to protect consumers properly.²⁹

KPPU's goal is to create business competition and healthy partnerships in order to encourage a just and sustainable national economy so that people's welfare will increase. In achieving this objective, KPPU performs 4 (four) main functions , namely (i) enforcement of business competition law, (ii) harmonization of policies through providing policy recommendations to the government, (iii) supervision and evaluation of merger and acquisition transactions, and (iv)) supervision and law enforcement on partnerships between large business actors and micro, small and medium enterprises (MSMEs). ³⁰Efforts that can be made for this are to bring legal decisions closer to the sense of justice experienced by the community so that the implementation of the law creates more order in the community itself.³¹ The

²⁶Badu, Lisnawaty. (2012). *Euthanasia And Human Rights* . Legality Journal. 5(1), 1

²⁷Nabih Amer. "Analysis of the Dissolution of Social Organizations in the Perspective of the Rule of Law." Legality Journal. Vol 13, No 01 (2020), 12

²⁸Nurul Siti Fatima. *Op. cit*, 10

²⁹Ridwan Arifin, et al. *Protecting the Consumer Rights in the Digital Economic Era: Future Challenges in Indonesia* . JALREV 3 Special Issue 2021, 135

³⁰2019 Annual Report of the Commission for the Supervision of Business Competition of the Republic of Indonesia, 8

³¹Abraham, Ahmad. (2010). "Principles of Justice in Land Dispute Resolution for Development Interests." Journal of Legality 3 (2), 21

government through the law has provided a starting point for justice, which is carried out for justice based on God Almighty.³²

To quote as said by Fence M. Wantu in his Journal that the essence of justice is an assessment from one person to another, which is generally seen from the party receiving the treatment only.³³ However, according to the researchers themselves, business actors continue to work within the scope of their respective work environments.³⁴ Norms that develop in society and are flexible and encourage creativity in providing public services.³⁵

Since 2000-2017 KPPU has handled a total of 358 cases. A total of 249 cases are tender cases. In 2017 the KPPU made a decision that became the focus of the business world. KPPU decided PT Yamaha Indonesia Motor Manufacturing and PT Honda Prospect Motor because they had carried out a cartel against the price of scooters. KPPU also punished the producer of bottled water for Aqua, PT Tirta Investama and its distributor, PT Balina Agung Perkasa. Both of them were proven to have conducted unfair business competition in making agreements that were detrimental to other entrepreneurs.

In 2019, there were 33 cases that were decided, of which 31 cases were decided in violation of Law Number 5 of 1999 and 2 cases were decided not to violate the case registers in 2017, 2018, and 2019, and the total fines verdicts reached Rp. 165,624,174,188 (one hundred sixty five billion six hundred twenty four million one hundred seventy four thousand one hundred and eighty eight rupiah). It was recorded that in 2019, 55% of cases investigated came from the KPPU's own initiative, and 45% came from public reports .³⁶

³²Fenty Puluhulawa, Lusiana M, Tujow, Sutrisno. (2020). " *Application of the Principles of Justice, Legal Certainty and Benefit in Judge's Decisions* ." *Gorontalo Law Review Journal*. 3, (2) October, 184

³³Fence M. Wantu. *Judge Constraints In Creating Legal Certainty, Justice, And Benefits In Civil Court* . *Journal of the Legal Pulpit*. 25(2), June 2013, 206

³⁴Iriyanto Tiranda. (July, 2019). *The Ideal Concept of Handling Cases of Criminal Acts of Corruption in Illegal Fees Based on the Principles of Justice* . *JALREV* 1 (2), 132

³⁵Norm LP Wemben. (2010). " *Service Performance at the Office of the National Land Agency of Gorontalo Regency* ." *Journal of Legality* 3 (2), 131

³⁶2019 Annual Report of the Commission for the Supervision of Business Competition of the Republic of Indonesia, 37

Even though in the midst of difficulties due to the Covid-19 pandemic, in 2020 KPPU will consistently carry out its duties properly. KPPU imposed a fine of Rp. 22 billion to PT. Conch South Kalimantan Cement (CONCH). CONCH became the Reported Party in Case No. 03/KPPU-L/2020. This cement subsidiary from China was proven to have monopolized and was found guilty of violating Article 20 of Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition (Anti-monopoly Law).

KPPU handles 36 (thirty six) cases. Seventeen of them are cases of business competition violations, while 11 (eleven) are cases of delayed notification of mergers and acquisitions and 8 (eight) cases of violations of partnership implementation. From the number of cases, 15 (fifteen) case decisions have been made. Until 2020, 72% of KPPU's decisions (ie 168 decisions) have had permanent legal force. This number is above the set target, which is 62%. All decisions that have permanent legal force, contribute to state revenues of up to Rp 864 billion. Especially for 2020, the total realization of state revenues from business competition fines has reached Rp35.9 billion.³⁷ State involvement is also one of the characters of the conflict phenomenon.³⁸

In 2021, KPPU's performance was marked by cases of business competition in *the E-Commerce sector*, KPPU imposed a fine on PT Application Karya Anak Bangsa (Gojek) of Rp. 3.3 billion for being late in notifying the acquisition of PT Global Locket Sejahtera (Locket.com). The sanction was conveyed in the Commission Assembly Session with the agenda for the Reading of the Decision to be held in March 2021. In addition, KPPU also continues to monitor the merger between Gojek and Tokopedia. The KPPU simultaneously supervises various corporate actions that have implications for business competition, both mergers and acquisitions and strategic alliances. The supervision of the business combination uses the KPPU's studies in the digital sector, as well as various data and documents held by the KPPU from various merger and acquisition notifications conducted by PT. Application of the Children of the Nation (Gojek). The supervision carried out focuses on various markets in the GoTo ecosystem, as well as the potential for monopolistic practices or unfair business competition that can arise after the transaction.

³⁷KPPU Performance Records in 2020

³⁸Arowana, Yudha Chandra. (2019). "Mediation Path in Land Dispute Settlement as an Encouragement for Fulfillment of Human Rights." JALREV 1 (2), 216

Regarding the supervision of electronic transactions, the KPPU has handled quite a number of cases. In 2019, KPPU conducted an investigation regarding the potential monopoly on the use [of digital money \(e-money\) OVO](#) as a means of payment in shopping centers and hospitals belonging to [the Lippo Group](#). In 2020, KPPU imposed a fine of Rp. 30 billion to PT Solusi Transportasi Indonesia (Grab) and PT. Teknologi Pengangkutan Indonesia (TPI) of Rp. 19 billion. The sentence relates to a violation of Article 14 and Article 19 of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. KPPU sees that there are indications of unfair business competition for Grab's collaboration with TPI. Grab was initially suspected of discriminating against driver-partners who were not part of the TPI.

Seeing the description of the facts and the performance of the KPPU above, PP No. 44 of 2021 has also been implemented in business competition in the *E-Commerce sector* or electronic transactions. The investigations carried out by KPPU in investigating business competition cases based on initiatives and reports from the public, imposing sanctions up to the amount of fines, have become concrete steps in the formulation of the substance of PP. 44 Year 2021.

Government Regulation Number 44 of 2021 is the implementing regulation of Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. If you look at the considerations, PP No. 44 of 2021 was made in response to changes to several Articles of Law no. 5 of 1999 in Law no. 11 of 2020 concerning Job Creation. So it can be understood simply that this PP is a further adjustment to the implementation of regulations concerning the prohibition of monopolies and unfair business competition. So in this modern era where humans are required to develop themselves.³⁹

There are three things that become the content of the PP, namely regarding ⁴⁰:

- (1) the authority of the Business Competition Supervisory Commission;
- (2) criteria for sanctions, types of sanctions, and the amount of fines; and
- (3) examination of objections and cassation on the decision of the Business Competition Supervisory Commission.

The three things that are regulated in it, are almost all related to secondary norms (metaqaidah), especially authority norms and sanctions norms. This content material is actually quite different from the delegation mandated in Law no. 11 of

³⁹Daffodil, Dolot Alhasni. (2020) *Determination of Legal Protection for Neighboring Right Holders*. JALREV 2 (1), 67

⁴⁰See Article 2 of Government Regulation No. 44 Year 2021

2020. Article 47 paragraph (3) of the amendments to Law no. 5 of 1999 after the Job Creation Law stated that further provisions regarding the criteria, types, amount of fines, and procedures for imposing sanctions as referred to in paragraphs (1) and (2) shall be regulated by a Government Regulation. Based on these provisions, PP No. 44 of 2021 should limit itself to the things above, but the Government may be of the opinion that this issue of fines has implications for the authority of the Business Competition Supervisory Commission (hereinafter abbreviated as KPPU) and the procedures for proceedings in the commercial court and the Supreme Court.

Talking about protection, we don't run away from the discussion of what sanctions are for those who practice monopolistic practices and unfair competition. Criteria for sanctions in PP No. 44 of 2021 includes three criteria points, namely: (1) according to the level or impact of violations committed by business actors; (2) taking into account the continuity of business activities of business actors; (3) on the basis of clear considerations and reasons. This is stated in Article 5 paragraph (1). Furthermore, Article 5 paragraph (2) states that the imposition of sanctions as referred to in paragraph (1) is carried out with criteria that meet the elements of violating the provisions of the law. The first criterion can be included as a weighting factor for sanctions, the higher the level or the wider the impact of violations committed by business actors, the more severe the sanctions imposed. This is as stated in Article 14 letter a PP No. 44 of 2021, that the determination of the amount of the fine is based on the "negative impact caused by the violation. Provide protection for human rights or dignity, especially for justice seekers.⁴¹

There is only one type of authorized sanction, namely administrative action. Therefore, the more appropriate is the type of administrative action. Types of administrative action sanctions regulated in PP No. 44 of 2021 is formulated starting from Article 6 to Article 11. Article 6 does not contain a new essence, except only repeating the sound of Article 47 paragraph (2) of Law No. 5 of 1999 as amended by Article 118 of Law No. 11 of 2020. Articles 7 to 11 make details of each type of administrative action.

Legal protection for business actors that have this impact should be controlled by the State, with this the State must play an active role in protecting and supervising business competition activities. Given that Indonesia has now entered the Digital era where buying and selling activities can be done online so that business actors

⁴¹Dian Ekawaty Ismail. (2009). " *Efforts to Protect the Rights of Suspects/Defendants Through Pretrial Mechanisms in Gorontalo City* ." Journal of the Legal Pulpit. 21 (1) February, 85

who can freely sell products at the lowest prices must be immediately regulated so that other business actors can be protected.

III. CLOSING

A. Conclusion

Unhealthy business protection basically has an impact on business actors where the absence of regulations governing the setting of low prices is currently lacking. In addition, marketplace business actors have mushroomed by selling the same goods as those in the marketplace. So that sales through the marketplace have dominated offline retail business actors. The form of legal protection for activities carried out by the marketplace has been regulated by legislation, namely the ITE Law, Law Number 20 of 2008 concerning MSMEs and Law Number 5 of 1999 concerning Anti-monopoly and Unfair Business Competition. PP Number 44 of 2021 dated February 2, 2021, concerning the Implementation of the Prohibition of Monopolistic Practices and Unfair Business Competition. However, the two laws have not specifically detailed how the process of protecting business actors is affected by the presence of the marketplace.

B. Suggestion

The role of government officials, both as policy makers and as supervisors and regulatory apparatus of a legal product, must make laws and regulations that can later become social *engineering* for all Indonesian people. One of them is in the manufacture of statutory products, it is necessary to pay attention to the socio-cultural conditions that develop in society from time to time.

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