

## Business Competition in the Digital Era according to Business Competition Law

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### ARTICLE INFO

***Primary key:***

*Law, Business  
Competition, Digital Era,  
Digital Economy,  
Business Competition  
Supervisory Commission  
(KPPU)*

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### ABSTRACT

The digital era has significantly changed business paradigms, introducing technological innovations that impact the way companies compete. This research aims to analyze the dynamics of business competition in the context of the digital era, with a focus on the perspective of business competition law. This research uses a normative legal approach. From this research, it is concluded that the economic transformation by the Internet in the digital era provides consumer efficiencies and expands online markets, but also brings competition law challenges related to data control, abuse of dominant positions, and difficulties in recognizing practices that harm competition. The KPPU's role is important, but expanding its role and improving regulations is needed to maintain balance and encourage healthy competition in Indonesia. Synergy between KPPU, companies and the Government is considered crucial to create a business environment that supports sustainable economic growth.

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**Jurnal Restorasi : Hukum dan Politik**

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### INTRODUCTION

The entry and development of the digital era has significantly changed the economic activities of people throughout the world. Increasingly close global connectivity and the development of information technology have opened the door for the flow of goods and services to not only stop at the local level, but has spread to foreign countries. This phenomenon not only marks a new era in international trade, but also has a profound impact on business competition at the global level (Sabirin & Herfian, 2021).

Along with these changes, business competition has become more complex and dynamic. Business actors not only compete with local competitors, but also have to face competition from various countries. This phenomenon can result in increased competition and innovation in an effort to win an increasingly wider market share. However, on the other hand, major challenges arise related to law enforcement in the context of cross-border transactions involving entities from various jurisdictions (Hotana, 2018).

The main challenge in enforcing business competition law in the digital era is the differences in regulations between countries. These differences cover various aspects, such as consumer protection, intellectual property rights, and fair business competition practices (Taufik et al, 2023). Therefore, it is important to develop a legal framework that can overcome these differences and provide a clear basis for business actors to operate fairly and ethically in the global market. Apart from that, cooperation between countries and international coordination is also needed to increase

the effectiveness of business competition law enforcement amidst the complexity of the flow of goods and services involving business actors from various parts of the world (Hartati et al, 2023).

Economic digitalization creates a new paradigm in economic implementation, where various aspects of economic activity are carried out completely digitally or online. This transformation covers the entire spectrum, from transaction patterns to overall business management. In this context, the potential for unhealthy business competition behavior arises (Hasbullah, 2020). The transition to the digital realm can trigger unethical competitive practices, such as manipulative pricing, exploitation of customer data, or misleading marketing strategies. The high complexity and dynamics of the digital environment increases the complexity in identifying and taking action against business competition violations. Suspicions of unhealthy practices often give rise to the need for a regulatory framework that is responsive and can accommodate technological changes and continuously developing business practices (Rompegading, 2021).

In regulating business competition law, it is necessary to consider contemporary aspects such as the potential scale of digital platforms and the importance of the value of intangible capital. The digital era has had a significant positive impact, creating space for market players to operate online across regions. However, along with these benefits, monitoring business competition practices becomes increasingly difficult with the presence of digital business actors, increasing the risk of unhealthy practices emerging that are difficult to detect (Matompo & Nafri, 2020). In facing this dynamic, the Business Competition Supervisory Commission (KPPU) needs to respond with proactive policies and increase monitoring and understanding of digital business practices. Close collaboration with business actors, financial institutions and the government can be an effective strategy for preventing and responding to unfair business competition practices in the digital era (Widijantoro et al, 2020).

The Business Competition Supervisory Commission (KPPU) has a very important role in supervising and monitoring the potential for the emergence of unhealthy business competition in the digital economy era (Matheus & Gunadi, 2024). In this context, the KPPU's authority includes monitoring digital business practices that could endanger fair competition. In several countries, business competition authorities have gone further by conducting studies and investigations regarding potential business competition violations by digital companies (Astarina, 2023).

Such studies and investigations demonstrate an active response from business competition authorities to the challenges emerging in the digital economy era. The KPPU can utilize experiences and findings from other countries to strengthen its regulatory framework and increase its capacity in identifying and responding to business competition violations in the digital realm. These steps could include strengthening international cooperation to understand best practices and exchange information related to digital business competition investigations (Hayati, 2021).

The Business Competition Supervisory Commission (KPPU) has an important role in monitoring the potential for unfair business competition in the digital economy. In simple terms, the digital economy includes all trading activities that use internet-connected devices, and its development is closely related to Artificial Intelligence (AI) technology. In the context of consumer protection, the Consumer Protection Law (UUPK) Number 8 of 1999 has a significant role regarding transactions in the digital economy (Oktavian, 2023)

This law regulates the legal aspects of consumer protection, especially those related to prohibited actions by economic actors and their responsibilities. Article 8-18 UUPK lists prohibited acts, while Article 19-28 UUPK regulates aspects of accountability (Pariadi, 2018). However, in the context of the digital economy, especially in transactions via online platforms, problems arise regarding standard clauses that can harm consumers. These clauses can be used by economic

actors to shift their responsibilities and create difficulties in resolving disputes between providers and consumers (Tuela, 2014).

In addition, Article 18 UUPK prohibits delegating responsibility to economic actors and creating standard provisions that are detrimental to consumers. Standard clauses that conflict with consumer protection laws must be revoked in accordance with applicable regulations. Therefore, the KPPU can play a role in ensuring effective law enforcement against digital business practices that involve standard clauses that are not in accordance with protection provisions (Satory, 2015).

This research aims to analyze the impact of economic digitalization on business competition and understand how business competition legal regulations can respond to these dynamics. By trying to explore business competition practices that may be unhealthy in the digital era. The aim of this research involves a deep understanding of changes in business competitive behavior in the digital economy and the development of recommendations to strengthen the existing regulatory framework. It is hoped that the benefits of this research will provide a more comprehensive view to regulators, business actors and society in facing challenges and opportunities amidst the development of the digital economy, with a focus on protecting healthy business competition and sustainable innovation.

## METHOD

The legal research in this article uses normative research methods, which are often referred to as library research. This approach involves collecting data from various literature sources to support research analysis, as proposed by Soekanto (2003). In this context, this research uses a descriptive analysis approach, which includes discussion, explanation and in-depth analysis of laws and regulations related to the research topic. A qualitative approach is the basis, with the data produced being descriptive, both in the form of written and spoken words from the informants observed, without using variables or hypotheses, as explained by Yulianah (2022). This research specifically adopts a statutory approach in writing literature, with a focus on normative analysis of legal material relevant to the scope of the research. This approach provides a solid basis for detailing and describing the legal regulatory framework related to the research topic.

## RESULTS AND DISCUSSION

The economic transformation impact of the Internet is striking, especially in terms of increasing consumer efficiency. By shortening the time to search for goods or services through online platforms, the Internet makes a positive contribution in the form of saving time and costs. In addition, the role of the Internet as a dynamic market connector cannot be ignored, expanding supply and creating a wider market share through the multi-sided market characteristics of digital economic platforms.

While providing major economic benefits, this development does not come without challenges. The distinctive characteristics of the internet economy, such as wide market reach and network dynamics, create significant difficulties in the context of competition law. Corporate competition regulators are faced with the important task of adapting their regulations to keep pace with developments in the changing internet economy. These difficulties are of crucial importance for authorities to ensure that the regulatory framework can maintain healthy competition, encourage innovation, and ensure the sustainability of a dynamic internet economy.

The economic transformation triggered by the Internet is having a striking impact, especially through increased consumer efficiency. The internet, by shortening the search time for goods or services through online platforms, not only generates efficiency but also makes a real contribution in saving time and costs. The Internet's ability to expand supply and create a wider market share

through the multi-sided market characteristics of digital economic platforms is a significant driver of economic growth.

Even though it provides great economic benefits, this transformation is not without complex challenges. The distinctive characteristics of the internet economy, such as wide market reach and network dynamics, create significant difficulties in the context of competition law. Corporate competition regulators are faced with the critical task of adapting their regulations to respond to the evolving dynamics of the internet economy. These difficulties are of crucial importance for authorities to ensure that the regulatory framework can maintain healthy competition, stimulate innovation and ensure the sustainability of a dynamic internet economy. Along with this, wise regulations are needed to balance the benefits and challenges presented by this digital era in order to maintain fairness and sustainability of the global economy.

Agencies today are faced with new consumer behavior dynamics, especially in multifaceted markets where services are offered for free to maximize the collection of personalized data in one market, and that data is then monetized in other markets, such as the advertising market. This phenomenon often occurs in small technology companies that have significant access and control over large amounts of consumer data. In this situation, these companies not only have additional market power but also create challenges regarding consumer protection.

The control that small technology companies have over consumer data is a factor that creates an imbalance of market power. They can exploit this data to dominate the advertising market or other sectors, creating competition that is not only intense but also raises issues in consumer protection. As this industry grows, strong and effective regulations need to be implemented to address the impact of this large data control, so that consumer interests remain protected while maintaining healthy market competitiveness. Encouraging transparency and building an inclusive regulatory framework can be a key step in responding to these new dynamics and maintaining a balance of interests between industry players and consumers.

In today's rapidly developing digital era, various forms of violations in business competition can easily occur, with the possibility of abuse of a dominant position being one of the main issues. In dominant conditions, economic actors are assumed to have considerable market power, and in the realm of digital platforms, access and control over consumer data are key elements that increase market power. Digital platforms, by developing vertical businesses, further strengthen their position by accessing more data, increasing competitiveness, and even taking on the role of online store owners and application users. However, it is important to be aware that this kind of dominant position can be abused, including discrimination against retail competitors, exclusive agreements with consumers, and selling at a loss policies, which can result in competitors becoming uncompetitive and even leaving the market.

Various forms of abuse of a dominant position on a digital platform can include disapproval of business, predatory pricing, exclusive offers, and loyalty practices and bundle discounts. Additionally, the emergence of digital platforms has changed the competitive landscape by making prices more transparent among market competitors. Through leveraging data and algorithms, companies can easily predict market trends, map consumer behavior, and adjust their pricing strategies. However, the potential for data misuse and large market power demand stricter regulations to maintain fair competition and protect consumer interests.

The challenge arises in distinguishing between the independent responses of economic operators to maximize profits or practices resulting from dealing with competitors. Algorithmic pricing can facilitate collusion between economic actors because it is easy to control (because prices are transparent) and imposes sanctions on economic actors who deviate from the agreement. Apart from that, controlling mergers, acquisitions and consolidation (mergers). Mergers that meet certain

criteria must be reported to competition authorities. Prohibited actions are contained in Articles 8 to 18 and aspects of responsibility regulated in Articles 19 to 28 of Law Number 8 of 1999 (UU No. 8/1999) concerning Consumer Protection. Regarding the responsibility aspect, in general, the criteria do not include the value of data controlled by the merger department resulting in various merger transactions not being reported because they do not meet the criteria, even though the data of the merger parties is of high value. On the other hand, there is the term “killer takeover”, [6] where many large digital companies take over new or small companies because they see these companies as potential competitors in the future. When analyzing mergers of established digital companies, it is very important to predict the development of the target company to be acquired.

Various forms of abuse of dominant positions on digital platforms include business denials, predatory pricing, exclusive offers, and loyalty practices and bundle discounts. Exclusive offering practices can give unfair advantages to some market participants, while predatory pricing and bundle discounts can harm smaller competitors. The possibility of cartels or agreements between economic actors can also pose a serious threat to healthy competition. The emergence of digital platforms has changed market dynamics by making prices more transparent between competitors, allowing companies to use data and algorithms to predict market trends, map consumer behavior, and adjust their pricing strategies. Although price transparency can provide benefits to consumers, at the same time, it can also provide opportunities for economic actors to coordinate their actions, which can result in the formation of cartels or deals that can harm competition and consumers as a whole.

The challenge that arises lies in the difficulty in distinguishing between the independent responses of economic operators with the aim of maximizing profits and practices that may arise from interactions with competitors. Algorithmic pricing, for example, can facilitate collusion between economic actors because it is easy to control, especially as prices become more transparent. In addition, control over mergers, acquisitions and consolidation is an important issue in maintaining healthy competition. According to Law Number 8 of 1999 concerning Consumer Protection, mergers that meet certain criteria must be reported to the competition authority. However, the non-inclusion of value data in these criteria may result in some merger transactions that actually have high value not being reported, creating gaps in monitoring and supervision of potential consolidation that harms competition.

On the other hand, the term “killer takeover” becomes relevant in the context of digital companies, where large companies take over new or small companies in an attempt to avoid potential future competition. In analyzing mergers of established digital companies, predicting the development of the target company becomes a very important aspect. This reflects the complexity of competitive dynamics in the digital era, where the strategies of large companies can influence market structure and pose challenges to existing regulations. Therefore, there is a need for a responsive and careful regulatory approach to overcome these problems, including considering more holistic criteria in evaluating the impact of mergers on competition and innovation.

The important role of the Business Competition Supervisory Commission (KPPU) in enforcing the law in the digital economy era is becoming increasingly significant considering the complexity of the challenges faced in the context of business competition. KPPU, as an independent body, plays a central role as a guardian of justice in responding to business competition violations in the digital environment. With its authority regulated in Article 36 Paragraph (6) and Article 36 Paragraph (7) of Law Number 5 of 1999, the KPPU has a quasi-judicial role which allows it to have executive powers in relation to competition cases in companies.

However, amidst the emerging challenges of unfair business competition in the digital economy, expanding the role of KPPU has become very crucial. Regulations that are still not sufficient to accommodate the dynamics of the digital economy require optimization of the KPPU's role. Collaboration between KPPU and the Government is a strategic step to implement Law Number 5 of 1999 in order to overcome special problems that arise in the digital economy era.

In response to the view that competition regulations do not need to be revised, it is worth noting that comprehensive and open competition law provisions are not always sufficient to address the unique challenges of the digital economy. Therefore, optimizing the KPPU's role also includes adjusting and improving regulations in order to provide better protection for healthy business competition in the digital environment. The views of a professor at the University of Leeds, England, regarding the flexibility of business competition law cannot be ignored, however, the role of the KPPU remains important in maintaining balance and providing effective protection in facing the changing dynamics of the digital economy.

From the author's perspective, the current situation can be considered an emergency that requires immediate action. The author believes that the Business Competition Supervisory Commission (KPPU) needs to synergize closely in carrying out its role in enforcing fair business competition laws, in collaboration with companies and the Government. The implementation of synergy between KPPU, companies and the Government is expected to create a conducive business environment and encourage a healthy competitive climate in Indonesia.

Through this collaboration, it is hoped that healthy business competition can be achieved in various economic sectors. The expected positive impact is the emergence of motivation or stimulus for economic actors to increase efficiency, productivity, innovation and the quality of the products produced. A healthy competitive climate will stimulate economic actors to continue to innovate, provide added value, and provide better choices to consumers. This not only provides an advantage for competitive companies, but also supports sustainable economic growth. Therefore, concrete steps in synergy between KPPU, companies and the Government are very important to achieve the common goal of creating healthy and dynamic business competition.

## CONCLUSION

In order to face the economic transformation triggered by the Internet, especially in the digital era, we can conclude that its impact is very significant in increasing consumer efficiency, reducing search time for goods or services, and expanding markets through online platforms. However, this development also raises complex challenges, especially in the context of competition law, where regulators must adapt to the dynamics of continuously evolving digital markets. Extensive control over consumer data by small technology companies creates market power imbalances and raises consumer protection concerns. Therefore, strong and effective regulations are needed to maintain a balance between the interests of consumers and industry players. Abuse of dominant positions on digital platforms, such as predatory pricing and loyalty practices, can harm smaller competitors and hinder healthy competition. Stricter regulations are needed to prevent data misuse and ensure fair competition. The challenge of distinguishing between the independent responses of economic operators and practices that may arise from interactions with competitors requires a careful regulatory approach, especially regarding algorithmic pricing. Supervision of mergers and acquisitions also needs to be tightened to prevent dominant positions that can be abused. The role of the Business Competition Supervisory Commission (KPPU) is very important in enforcing the law in the digital economy era. However, expanding its role and optimizing regulations is crucial to overcome increasingly complex challenges. The synergy between KPPU, companies and the Government is expected to create a conducive business

environment and encourage healthy competition. Through this collaboration, it is hoped that motivation will emerge for economic actors to increase efficiency, productivity, innovation and product quality, which in turn supports sustainable economic growth. Thus, concrete and responsive steps in facing the dynamics of the digital economy are essential to achieve the common goal of creating healthy, innovative and sustainable business competition in Indonesia.

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