

## Predatory Pricing in Live Online Marketplaces: A Competition Law Perspective

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Article	Abstract
<p><b>Keywords:</b> Business Competition; E-Commerce; Live Shopping; Predatory Pricing.</p> <p><b>Article History</b> Received: Sep 13, 2025; Reviewed: Jan 08, 2026; Accepted: Feb 19, 2026; Published: Apr 01, 2026.</p>	<p>This research examines the impact of predatory pricing practices on unfair competition in Indonesia, particularly in the context of the rapidly growing ecommerce sector. With the emergence of the “live shopping” feature, sellers can offer products directly to consumers, creating a more dynamic interaction and urgency to make purchases. However, this aggressive pricing strategy has the potential to disrupt market equilibrium, as the prices set often do not reflect actual production costs, thereby threatening the principle of healthy competition that should arise from the natural supply and demand mechanism. This type of research is legal research that addresses existing legal issues by identifying legal problems, legal reasoning, and analyzing existing legal issues, as well as providing solutions to the legal problems faced. The problem-solving approach used in this research is the statute approach and case study. This research also highlights the risks faced by consumers, who may have to pay higher prices after competitors exit the market, and the risk of unhealthy competition and the creation of monopolies or oligopolies that hinder innovation as a result of predatory pricing. Therefore, it is important to evaluate existing regulations and ensure that predatory pricing practices do not harm businesses and consumers in Indonesia.</p>



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## Introduction

The rapid advancement of digital technology over the past few decades has significantly transformed various aspects of life, particularly in the business sector.<sup>1</sup> E-commerce, or electronic commerce, involves business activities that connect consumers, manufacturers, service providers, and intermediary traders through computer networks, primarily the internet.<sup>2</sup> Today, e-commerce stands as one of the most important innovations in the business arena, offering transaction models that allow buyers and sellers to interact without the need for face-to-face meetings. This has introduced various innovative features to attract consumers and facilitate transactions more efficiently. One of the latest and most popular features is "live shopping," a live streaming platform that enables sellers to interact directly with consumers through video streaming, showcasing products in real-time, and providing promotions or discounts.

"Live shopping" is a recent feature introduced to capitalize on the growing trend of live streaming. This feature allows sellers to host live broadcasts where they can promote their products in real-time to an audience. Through this platform, sellers can visually display their products and provide direct explanations about the features, benefits, and uses of the products. This interaction gives consumers the opportunity to ask questions directly to sellers, enhancing the shopping experience and increasing trust in the offered products.<sup>3</sup> Additionally, "live shopping" allows sellers to provide exclusive offers or special discounts during live streaming sessions, often creating a sense of urgency among consumers to make purchases before the offers expire.<sup>4</sup> This feature leverages elements of gamification and

<sup>1</sup> Muhamad Danuri, "Perkembangan Dan Transformasi Teknologi Digital," *Jurnal Ilmiah Infokam* 15, no. 2 (2019): 1–12, <https://doi.org/10.53845/infokam.v15i2.178>.

<sup>2</sup> Abdul Halim Barkatullah, *Hukum Transaksi Elektronik: Sebagai Panduan Dalam Menghadapi Era Digital Bisnis E-Commerce Di Indonesia*, ed. Zulaeha and Mulyani, 2nd ed. (Bandung: Nusa Media, 2020).

<sup>3</sup> Adya Mulya Prajana, Aisyi Syafikarani, and Nisa Eka Nastiti, "Pemanfaatan Video Streaming Sebagai Media Pemasaran Pada Fitur Shopee Live," *TANRA: Jurnal Ilmiah Ilmu Komunikasi*, <https://doi.org/10.26858/tanra.v8i2.22651>.

<sup>4</sup> Alifa Roja Amallia and Syaefulloh Syaefulloh, "Pengaruh Fitur Live Shopping Dan Product Browsing Terhadap Online Impulsif Buying Melalui Shopping

interactivity that can capture consumer attention and encourage increased shopping. Sellers can also use this feature to promote new products, conduct quizzes or competitions, and collaborate with influencers to expand their audience reach.<sup>5</sup>

However, despite the various marketing and sales advantages that "live shopping" offers, its use also raises several challenges and issues, particularly concerning business competition. One major issue is the potential for predatory pricing practices, where sellers may set prices extremely low during live streaming sessions to attract buyers and outcompete rivals. Such practices can harm small businesses that cannot compete with these low prices, threatening their sustainability and disrupting market balance.<sup>6</sup>

In addition to the impact on competition, there are concerns regarding consumer protection and compliance with existing regulations. In the context of e-commerce and live streaming, law enforcement often faces challenges due to the rapidly changing market dynamics and emerging features. A fundamental issue is predatory pricing, a pricing strategy where businesses set the selling price of goods or services below production costs to eliminate competitors from the market. Predatory pricing is often viewed as an anti-competitive practice that harms smaller businesses, as larger firms with more resources can set prices so low that smaller competitors cannot match them, aiming to drive them out of the market and subsequently raise prices once market dominance is achieved.<sup>7</sup>

Predatory pricing involves a strategy where businesses set their product or service prices significantly below their production costs with the strategic aim of harming competitors. The primary goal of this

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Enjoyment Pada Produk Fashion (Studi Empiris Pada Mahasiswa Pelanggan E-Commerce Shopee Di Kota Pekanbaru),” *Al Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan* 17, no. 6 (November 2, 2023): 3809. <https://doi.org/10.35931/aq.v17i6.2815>.

<sup>5</sup> Witanti Prihatiningsih, W. Ode Seprina, dan A. Setiadarma, "How Does the Use of Shopee Live Affect Consumer Information Needs?" *IKRA-ITH HUMANIORA: Jurnal Sosial dan Humaniora* 7, no. 2 (2022): 91–102, <https://doi.org/10.37817/ikraith-humaniora.v7i2.2296>.

<sup>6</sup> Vicky Darmawan Prahmana and Ditha Wiradiputra, "Predatory Pricing dalam E-Commerce Menurut Perspektif Hukum Persaingan Usaha," *JISIP (Jurnal Ilmu Sosial dan Pendidikan)* 6, no. 3 (2022): 9844–9853, <https://doi.org/10.58258/jisip.v6i3.3277>.

<sup>7</sup> Syafril et al., "Why Social Commerce Tiktok Shop Was Closed By The Indonesian Government," *Hut Publication Business and Management* 3, no. 1 (2023): 1–10, <https://doi.org/10.37817/HPBM.v3i1.37>.

practice is to eliminate competition from the market. In the short term, such low pricing attracts consumers and boosts sales volume, while competitors unable to match these prices may suffer financial losses and ultimately exit the market. Once competitors are out, the business employing predatory pricing can raise its prices back to profitable levels, often resulting in consumers paying higher prices after competitors have been eliminated and the market becomes less competitive. This practice raises concerns as it can stifle innovation and potentially create monopolies or oligopolies, where one or a few businesses seek to dominate the market, limiting competition and consumer choice.

In the context of e-commerce, predatory pricing can manifest in various forms, particularly through features like "live shopping." During live sessions, sellers can offer massive discounts or exclusive deals that competitors cannot match. While this strategy may boost short-term sales, its impact on market competition and the sustainability of small businesses must also be considered. If left unregulated or inadequately monitored, there is a significant risk that the market will be dominated by larger firms capable of absorbing short-term losses and subsequently raising prices once they have a strong market position.<sup>8</sup>

Enforcement against predatory pricing requires careful monitoring and effective regulation. In many countries, competition laws are designed to prevent such practices and protect the market from injustices caused by price dominance. However, in the dynamic digital environment of e-commerce, implementing and enforcing these laws can be challenging. This necessitates a deep understanding of how predatory pricing operates in the digital context and how existing regulations can be adapted to address emerging issues.<sup>9</sup>

Researching predatory pricing in the context of live shopping is crucial as this feature facilitates new ways for businesses to market their products. Live shopping platforms provide opportunities to offer highly competitive prices or even significantly discount products

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<sup>8</sup> Akhmad Farhan Nazhari and Naufal Irkham, "Analisis Dugaan Praktik Predatory Pricing Dan Penyalahgunaan Posisi Dominan Dalam Industri E-Commerce," *Jurnal Persaingan Usaha* 3, no. 1 (2023): 19–31, <https://doi.org/10.55869/kppu.v3i1.85>.

<sup>9</sup> Muh. Afdal Yanuar, "Probabilitas Praktik Predatory Pricing pada Kegiatan Usaha dengan Menggunakan Hasil Kejahatan sebagai Modal Usaha," *Jurnal Persaingan Usaha* 2, no. 1 (2022): 74–87, <https://doi.org/10.55869/kppu.v2i1.42>.

during live sessions, which could constitute predatory pricing if done with the intent to eliminate competitors. Therefore, this research is urgent to evaluate whether pricing strategies applied in e-commerce live shopping meet the criteria for predatory pricing and how this affects fair competition in the digital market.

Assessing whether pricing practices in live shopping e-commerce fall under predatory pricing requires an in-depth analysis of pricing patterns during live sessions, including comparisons with production costs and their impact on competitors. This research will also evaluate how market competition changes as a result of these pricing strategies and whether existing competition laws are adequate to address new issues arising from innovative e-commerce features like live shopping.

Legal issues related to predatory pricing in the context of e-commerce can be viewed from several perspectives. First, there is a gap between positive law governing competition and the reality of business practices occurring in e-commerce. In Indonesia, e-commerce regulations are outlined in Law No. 11 of 2008 on Information and Electronic Transactions, amended by Law No. 1 of 2024, and Law No. 8 of 1999 on Consumer Protection, but neither addresses competition issues. Competition is regulated separately under Law No. 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Competition, which explicitly prohibits predatory pricing.<sup>10</sup>

However, applying this law in the digital context of live shopping e-commerce requires in-depth study, as this platform introduces new dynamics in the economy that are not fully covered by existing regulations. This phenomenon indicates a potential legal vacuum in regulating specific aspects of competition on e-commerce platforms. Although competition laws exist, their implementation regarding predatory pricing in e-commerce has not been fully clarified in current regulations. Digital platforms present new challenges in monitoring and law enforcement, often misaligned with existing regulations, creating legal loopholes that larger businesses can exploit.

Moreover, there is a gap between positive law and the social realities on the ground. Small and medium enterprises often suffer the most from loss-leading practices employed by larger firms with stronger capital. This gap is evident in cases where small businesses struggle to

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<sup>10</sup> Rahmi Yuniarti, "Aplikasi Undang-Undang Nomor 5 Tahun 1999 Tentang Larangan Praktek Monopoli Dan Persaingan Usaha Tidak Sehat Dalam Kegiatan Usaha BUMN," *Jurnal Equitable: Jurnal Hukum, Humaniora, Masyarakat, dan Budaya* 5, no. 2 (2020): 99–106, <https://doi.org/10.37859/jecq.v5i2.2531>.

compete with the prices offered by larger firms on e-commerce platforms. Predatory pricing by larger businesses not only threatens the sustainability of small enterprises but also disrupts market dynamics and reduces product variety and consumer choices.

A relevant social fact related to this research is the increasing complaints from small businesses regarding the negative impacts of loss-leading strategies employed by larger firms through live shopping. Many small businesses report that they cannot compete with the prices offered by larger firms, which often use aggressive pricing strategies to dominate the market. This indicates a lack of fairness in competition that threatens their business sustainability.<sup>11</sup> The value of fairness in competition is enshrined in Article 3 of Law No. 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Competition.

Given this reality, this research aims to evaluate the extent to which existing competition laws can protect small businesses from predatory pricing practices on e-commerce platforms like live shopping. Additionally, this study will examine the effectiveness of law enforcement against harmful practices and the efforts that can be made to enhance compliance and oversight in maintaining fair competition. Thus, the findings of this research are expected to provide better insights for stakeholders to create a fairer and more competitive business environment. The study is titled “Indications of Predatory Pricing in Live Shopping from the Perspective of Competition Law”.

## Method

This research employs legal research to uncover the coherence of legal rules with principles and norms in addressing legal issues. It utilizes two approaches: the Statute Approach, analyzing relevant regulations concerning predatory pricing in live shopping, and Case Study, examining unresolved cases related to the issue. The study sources include primary legal materials, such as laws on competition and consumer protection, and secondary materials like legal opinions from books and journals. Legal materials are collected through

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<sup>11</sup> Lunita Jawani, “Prinsip Rule of Reason terhadap Praktik Dugaan Kartel Menurut Pasal 11 Undang-Undang Nomor 5 Tahun 1999 tentang Larangan Praktik Monopoli dan Persaingan Usaha Tidak Sehat,” *Jurnal Humaya: Jurnal Hukum, Humaniora, Masyarakat, dan Budaya* 1, no. 2 (2021): 99–106, <https://doi.org/10.33830/humaya.v1i2.2215.2021>.

document studies, followed by qualitative analysis to classify and discuss the findings based on theoretical foundations.

## Result and Discussion

### A. Characteristics of Predatory Pricing in Live Online Marketplaces

The rapid advancement of digital technology and the convenience of online shopping have led to the growth of various e-commerce platforms in Indonesia. Business activities in this digital realm are divided into several forms of interaction, one of which is the Consumer to Consumer (C2C) model, allowing consumers to sell products directly to other consumers without intermediaries. This model facilitates transactions between individuals via the internet, significantly influenced by the increasing number of users and expanding internet access in Indonesia. Over time, e-commerce has evolved into various types of platforms, including classified ad sites, online marketplaces, shopping malls, and crowdfunding websites.<sup>12</sup> The rapid technological development has brought various conveniences and benefits, including increased transactions through e-commerce platforms, contributing to the growth of businesses in this sector. This increase in the number of businesses has intensified market competition, compelling businesses to innovate continuously and introduce new product variations to meet market demands.

In e-commerce transactions, various forms of interaction occur, such as Business to Business (B2B), Business to Consumer (B2C), Business to Business to Consumer (B2B2C), Consumer to Business (C2B), Consumer to Consumer (C2C), and Government to Consumer (G2C).<sup>13</sup> The Business to Business (B2B) interaction model is a common form of business relationship that occurs between one company and another as customers, rather than with individual customers. This type of interaction generally involves transactions that provide goods and/or services that support a company's operations, such as production machinery, office supplies, and various other business inventory needs. Business to Consumer (B2C) is a form of

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<sup>12</sup> Novia Choirunnisa and Nahdhotul Fadilah, Legal Protection for Investors in Crowdfunding Services Through Information Technology Offers (Equity Crowdfunding), *Hang Tuah Law Journal* 4, no. 2 (2021): 61–75, <https://doi.org/10.30649/htlj.v4i2.17>

<sup>13</sup> Ika Menarianti and Asuki Toto, *E-Commerce* (Purbalingga: CV. Eureka Media Aksara, 2024), 6–10.

business interaction that generally takes place between a company and individual consumers. This interaction model is quite popular because it doesn't require a complex marketing approach like the B2B model. This is due to consumers' tendency to make quick purchasing decisions. In the B2C model, companies typically provide a variety of products and services that cover daily needs and other personal needs for consumers. The Business to Business to Consumer (B2B2C) interaction model generally occurs when a company (B1) distributes its products to another company (B2), which then acts as a distributor or intermediary that offers the product directly to the end consumer. Consumer to Business (C2B) is a business interaction model where consumers or individuals offer their goods and/or services to companies in need. For example, someone skilled in logo design could offer their services and sell them to companies in need. The Consumer to Consumer (C2C) interaction model is one of the most common types of interaction that occurs in digital commerce transactions, where consumers or individuals offer and sell their products or services directly to other consumers. Government to Consumer (G2C) is a business interaction model that describes the interaction between the government and the public. In this interaction model, the public acts as the recipient of government services, allowing them easier access to various public services and information. Meanwhile, the government acts as the provider of services and information, which are intended to meet the public's needs in their daily activities.

The Indonesian Competition Supervisory Commission (hereinafter referred to as KPPU) categorizes e-commerce into ten sectors, including banking, classified ads, logistics, online retail, and marketplaces.<sup>14</sup> Online marketplaces connect sellers and buyers in a single system for transactions, encompassing various products and services. The emergence of online marketplaces allows businesses to reach consumers on a larger scale without needing physical stores.<sup>15</sup>

Live shopping has become an innovative feature offered by online marketplace platforms, combining shopping experiences with interactive live streaming sessions. During live shopping, a host or influencer showcases products directly to the audience, providing

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<sup>14</sup> Komisi Pengawas Persaingan Usaha (KPPU), "Meraup Pasar E-Commerce," *Majalah Kompetisi*, edisi 62 (2018): 24, <https://kppu.go.id/media-publikasi/majalah-kompetisi?tahun=Edisi&page=6>.

<sup>15</sup> Candra Ahmadi and Dadang Hermawan, *E-Business & E-Commerce* (Yogyakarta: Penerbit Andi, 2013), 11.

detailed explanations and encouraging real-time purchases. This concept has gained popularity, especially among younger consumers seeking a more dynamic and enjoyable shopping experience.<sup>16</sup> Live shopping enhances interaction between consumers and sellers, creating urgency for quick purchases. However, aggressive pricing strategies during live shopping can lead to predatory pricing, where prices are drastically reduced to eliminate competitors from the market, undermining fair competition.

The digital era demands that society adapt to various changes and innovations, particularly in trade and services, where transactions have shifted from face-to-face interactions to online systems. The significant growth in e-commerce transaction volume has contributed to an increasing number of businesses in the digital market, intensifying competition. Competition is essential for maintaining market dynamics and balance, driving businesses to innovate continuously and produce varied products at competitive prices. However, the rapid growth of the digital industry has opened opportunities for unfair competition, particularly between digital businesses and conventional businesses.

The use of e-commerce in online marketplaces positively impacts both businesses and consumers, providing expanded market access and operational efficiency for businesses while offering consumers convenience and flexibility. However, challenges arise, including the potential for monopolistic practices and unfair competition due to excessive market penetration. The dominance of large platforms can create barriers for new entrants and lead to market control, reducing competition and innovation.

Predatory pricing, defined as setting prices below production costs to eliminate competitors, poses significant challenges for KPPU in enforcing competition law. The law prohibits such practices to maintain a fair competitive environment. However, proving the intent behind predatory pricing and monitoring dynamic digital platforms remains difficult. KPPU must enhance oversight and enforcement to protect small businesses and ensure fair competition.

The characteristics of predatory pricing in online marketplaces reflect imbalances in market power, access to capital, and technology utilization. This necessitates stronger regulations and sharper oversight of extreme pricing strategies on digital platforms to ensure fair

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<sup>16</sup> Prajana, Syafikarani, and Nastiti, "Pemanfaatan Video Streaming," 12.

competition and prevent small businesses from being marginalized. The differences between predatory pricing and burning money strategies often lead to confusion, as both involve low pricing. However, burning money is a marketing strategy aimed at user growth and changing consumer habits, while predatory pricing systematically aims to eliminate competitors. In the context of live shopping, KPPU can apply a multidimensional approach to assess predatory pricing allegations, considering algorithm involvement, hidden cost structures, and systemic impacts on competitors. The complexity of live commerce activities poses challenges for law enforcement, necessitating adaptive regulations and accurate digital data monitoring to anticipate predatory pricing practices.

The differences between predatory pricing in online and offline stores lie in cost structures, market reach, and regulatory frameworks. Digital businesses often exploit lower costs and regulatory gaps, allowing them to set prices significantly below conventional market prices, potentially harming offline businesses, particularly MSMEs. Therefore, a careful interpretation of intent and market dominance is essential in addressing predatory pricing in the digital realm. KPPU's role in enforcing competition law is crucial, as it monitors business behavior and assesses potential unfair competition practices. The commission is empowered to investigate and impose administrative sanctions on businesses engaging in predatory pricing, ensuring a competitive and fair market environment. The effectiveness of KPPU's enforcement relies on collaboration with e-commerce platforms and the development of clear regulations to protect small businesses and foster fair competition.

## **B. The enforcement efforts of the Indonesian Competition Supervisory Commission (KPPU) against predatory pricing**

Following The enforcement efforts of the Indonesian Competition Supervisory Commission (KPPU) against predatory pricing practices are crucial in maintaining a fair and competitive market environment. A fundamental step in analyzing allegations of anti-competitive behavior, including predatory pricing, is determining the relevant market. Without accurately defining the relevant market, KPPU faces challenges in assessing whether a business possesses significant market power that could influence market competition.

The relevant market serves as a foundation for measuring market share, evaluating potential entry barriers, and determining the level of product or service substitution among consumers and producers. According to Article 1, number 10 of Law No. 5 of 1999 and KPPU Regulation No. 3 of 2009, the relevant product market is determined by examining the substitutability of goods/services from both consumer and producer perspectives.

The unique characteristics of live shopping influence the dimensions of the product market. Instant substitution effects allow consumers to switch to other sellers or platforms within seconds during a live session, complicating narrow market definitions unless the products sold are highly unique.<sup>17</sup> Product segmentation in predatory pricing often targets specific segments, such as mid-range skincare or entry-level gadgets. If the market definition is too broad (e.g., “all skincare”), the market share appears small, making it difficult to prove predatory pricing. Conversely, if the definition is too narrow (e.g., “30ml niacinamide serum brand X”), the results may be biased and not reflect actual substitution. The SSNIP test (Small but Significant and Non-transitory Increase in Price) applied to live shopping indicates that if a price increase of 5-10% leads consumers to switch to alternative products from other stores during the same live session, substitution is high. This means the relevant market includes all products with similar functions and prices in that category, not just a single brand. The implication for proving predatory pricing is that if a seller engages in below-cost sales in a category with high substitution, the risk of short-term loss for the seller is greater; this strategy is only rational if the seller believes they can dominate the market post-competition and raise prices.

As the economy evolves, the market has transformed from a physical space for buyers and sellers to a digital realm. Transactions can now occur without direct presence, relying on technology such as the internet and electronic payments. Through mobile devices and internet connections, buying and selling goods and services can happen anytime without face-to-face interaction. E-commerce refers to trading activities conducted digitally. The emergence of live online e-commerce has established legal and contractual relationships among

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<sup>17</sup> Ni Putu Suci Meinarni and Emmy Febriani Thalib, “Tinjauan Yuridis Mengenai Marketplace Terkait Peraturan Perundang-Undangan di Indonesia,” *Jurnal IUS Kajian Hukum dan Keadilan* 7, no. 2 (2019): 194–205, <https://doi.org/10.29303/ius.v7i2.622>.

the involved parties, similar to conventional transaction interactions. The difference lies in the mechanism of forming legal relationships through digital networks, computers, and other electronic media. This trading model not only facilitates public access to buying and selling goods and services but also enhances overall transaction efficiency. Through digital platforms and applications designed to support live streaming commerce features, users can interactively convey product information, promote goods in real-time, and conduct online transactions directly. In addition to providing convenience and speed for consumers and businesses, these platforms also profit from service fees, system maintenance, and royalties from user activities.

In Indonesia, trading activities, including electronic commerce, are regulated under Law No. 7 of 2014 on Trade. This regulation stipulates that every electronic transaction must be accountable by all parties involved. Additionally, this law provides legal protection for consumers to ensure transparency and fairness in every digital transaction. The development of regulations in the digital trade sector has undergone significant dynamics, marked by the issuance of Minister of Trade Regulation No. 31 of 2023, which replaces previous provisions and is accompanied by several supporting regulations. This policy reflects the government's efforts to respond to the increasingly complex legal needs in the landscape of electronic trade, particularly in ensuring the rights of consumers who are becoming more vulnerable in the dynamic digital ecosystem.<sup>18</sup>

However, despite the normative framework showing progressive direction, implementation challenges remain a crucial issue. The first issue lies in the level of compliance among businesses, particularly regarding product legality standards, consumer data protection, and information transparency in digital transactions. Some businesses still disregard legal provisions, either consciously or due to a lack of understanding of applicable regulations. The second issue concerns the effectiveness of oversight and law enforcement by government agencies. In practice, monitoring e-commerce activities, especially across platforms and countries, does not always run optimally due to limitations in technological infrastructure, human resources, and inter-agency coordination mechanisms. This situation results in

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<sup>18</sup> Wendy Febriansyah, Dualism Regulating Requirements for Filing in the Directors of Regional Owned Enterprises, *Hang Tuah Law Journal* 7, no. 2 (2023): 111–125, <https://doi.org/10.30649/htlj.v7i2.172>.

various violations in digital transactions often going undetected or not addressed proportionally.

Moreover, consumer protection in the digital era cannot rely solely on a repressive legal approach but also requires strengthening preventive and educational aspects. Digital literacy for consumers, particularly in understanding their rights, risks, and how digital transactions work, becomes crucial amid the emergence of new models like live online features now commonly used in marketplace platforms. Transparency regarding the algorithms used by digital platforms to recommend products and display promotional content, including during live online sessions, remains a gray area in existing policies. These algorithms directly impact consumer behavior and the potential for information manipulation or exposure to illegal products.

Furthermore, the lack of efficient and rapid dispute resolution mechanisms, especially in live online e-commerce transactions, adds complexity to consumer protection. The real-time and impulsive nature of live online interactions often triggers irrational purchasing decisions, sometimes without adequate product information or post-transaction guarantees. In many cases, consumers struggle to file complaints or obtain compensation due to limited reporting mechanisms, lack of transaction documentation, or the absence of businesses legally present within Indonesia's jurisdiction. Therefore, there is a need for progressive and responsive policy reform that emphasizes not only formal compliance but also facilitates the creation of a fair digital trade ecosystem. Future regulations must consider ethical dimensions and fairness in the use of live online technology, including clarity of platform responsibilities, verification of businesses, monitoring of live content, and protection of consumers from manipulative or harmful practices.

The trend of live online commerce shows significant influence and development, bringing changes to the competitive landscape in both sales and the e-commerce industry. Law enforcement against live online practices in Indonesian marketplaces is crucial for maintaining a fair, fair, and transparent digital trade ecosystem. Live online, as a feature that has become one of the primary methods of online selling, presents unique challenges in oversight and regulation, given that transactions occur in real-time and involve direct interactions between sellers and consumers. Therefore, law enforcement is necessary to ensure that all buying and selling activities on marketplace platforms comply with legal regulations, particularly concerning consumer

protection, product oversight, authenticity, and sales information transparency.

Minister of Trade Regulation No. 31 of 2023 serves as a fundamental legal instrument replacing Minister of Trade Regulation No. 50 of 2020, with a special emphasis on business licensing, advertising, coaching, and supervision of businesses in electronic trading systems. This regulation explicitly restricts platforms that combine social media and marketplace functions (social commerce) from conducting direct trade transactions, encouraging compliance with official business licenses and enhancing transparency and accountability. Law enforcement is carried out through strict administrative oversight, including revocation of business licenses, administrative sanctions, and blocking services for platforms and businesses that violate regulations. This approach aims to create competitive equality among different digital businesses and prevent predatory pricing practices that harm SMEs and consumers while safeguarding user data from potential abuse.

The law enforcement strategy applied is not only repressive but also preventive, emphasizing guidance and education for businesses and platform providers to raise awareness of legal obligations and business ethics. Thus, law enforcement against live online marketplaces in Indonesia aims to be an adaptive and responsive mechanism, keeping pace with technological changes and consumer behavior dynamics, ensuring fairness and sustainability in the digital trade ecosystem.

On the other hand, the dynamics of competition in the digital space, particularly through live streaming sales features in marketplace platforms, hold significant potential for unfair competition practices. This imbalance can occur between small businesses and digital platforms, as well as between digital businesses and conventional businesses. In this context, large-scale marketplaces providing live selling features often possess dominant market power, allowing them to control access to consumers, regulate product visibility distribution algorithms, and create high consumer and seller lock-in dependencies. This condition can reinforce monopolistic or oligopolistic market structures within the marketplace ecosystem, contradicting the principles of fair and equal competition as regulated by national competition law.

Unfair competition represents a form of competitive interaction among businesses in the production and/or marketing of goods

and/or services conducted in ways that violate legal provisions or directly or indirectly create barriers to a fair and fair competitive climate. The KPPU is an independent institution established under Law No. 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Competition. This institution is empowered to oversee and enforce the provisions of this law. The KPPU was officially established through Presidential Decree No. 75 of 1999, which serves as the legal basis for its establishment. Article 35 of Law No. 5 of 1999 outlines the main tasks assigned to the Commission, which include monitoring business behavior, assessing the potential for unfair competition practices, and providing recommendations or legal actions regarding violations of fair competition principles in national economic activities.

In the context of digital transformation, particularly in live streaming commerce practices that have become dominant features across various marketplace platforms, the scope of KPPU's authority as outlined in Article 36 becomes increasingly strategic. The live online feature has introduced a new pattern in competition, accelerating transaction processes and expanding market reach while also creating new challenges in maintaining fairness among businesses. For instance, the dominance of marketplace platforms offering live selling can lead to imbalanced competition, especially when product visibility algorithms or live session arrangements favor certain businesses—such as exclusive platform partners or businesses with substantial capital. Such practices can potentially exclude SMEs from digital promotional spaces, leading to restricted market access and abuse of dominant positions.

Thus, KPPU, through the authority granted by Article 36, is empowered to investigate potential discriminatory practices or unfair exclusivity conducted by marketplace platforms in organizing live commerce features. Additionally, KPPU can evaluate whether partnership mechanisms between platforms and businesses, in the context of product live broadcasting, have violated principles of equality and transparency in competition. Referring to these provisions, KPPU not only acts as a supervisory body but also possesses investigative and adjudicative authority. The Commission is empowered to conduct investigations and examinations of businesses suspected of engaging in monopolistic practices, cartels, or other forms of unfair competition. Furthermore, KPPU is authorized to assess and determine whether other businesses or the public have suffered losses

due to practices that contradict the principles of fair competition. If violations are proven, KPPU has the authority to impose administrative sanctions as stipulated in the law. This reinforces KPPU's role as a crucial instrument in enforcing antitrust laws in Indonesia, aiming to create a competitive and fair business climate while preventing market dominance by certain businesses that harm public interests.

Fundamentally, Law No. 5 of 1999 systematically and comprehensively regulates various actions that can be taken and those that are prohibited to create a fair and fair competitive environment. The regulations regarding obligations and prohibitions for businesses are intended to ensure that every business has an equal opportunity to operate in the relevant market. To ensure the optimal implementation of Law No. 5 of 1999, an institution was established as outlined in Article 30 of the law. This institution is known as the KPPU, which, according to Article 30, paragraph (2), has the status of an independent institution not subject to government or external interference. This indicates that KPPU operates autonomously and is not permitted to establish affiliations with government agencies or private businesses. However, as explained in paragraph (3) of the same article, KPPU remains part of the state institutions of the Republic of Indonesia and is directly accountable to the President. The establishment of this commission is carried out through a Presidential Decree that regulates its organizational structure, roles, and functions. Meanwhile, the provisions regarding the composition of KPPU's membership are detailed in Articles 31 to 34 of Law No. 5 of 1999. In the Indonesian constitutional system, KPPU is classified as a complementary state institution to existing institutions.

KPPU is an independent body tasked with overseeing the implementation of the law's provisions but does not have the authority to enforce criminal law as institutions like the police, prosecutors, or courts do, which can compel the presence of suspects in court. Nevertheless, based on Article 36 of Law No. 5 of 1999, KPPU is granted several strategic powers, including assessing agreements that may lead to monopolistic practices or unfair competition, monitoring business activities that could result in harmful market dominance or hinder fair competition, conducting examinations of activities or behaviors suspected of violating applicable regulations, enforcing administrative law against identified violations, providing policy recommendations to the government to create a fair and fair

competitive environment, preparing guidelines, and disseminating relevant information regarding competition policy and issues, and reporting periodically to the President and the House of Representatives (DPR) on its activities.

In conducting assessments of potential violations of competition principles, KPPU employs two main approaches: the rule of reason and per se illegal. The rule of reason approach involves a detailed evaluation based on specific cases, where KPPU first reviews the actions of businesses to determine whether they violate fair competition principles. Conversely, the per se illegal approach directly refers to provisions in applicable regulations, eliminating the need for economic impact analysis. Typically, actions categorized as per se illegal include collective price-fixing agreements and unilateral price adjustments. The per se illegal approach is a principle in competition law stating that certain types of business actions are considered illegal outright, without needing to prove economic harm or other negative effects. KPPU applies this approach to address various forms of violations that explicitly undermine the competitive climate, such as price-fixing practices or market-sharing agreements among businesses. By utilizing this principle, KPPU emphasizes its commitment to taking firm action against behaviors that clearly contradict fair competition principles. The emphasis on the per se illegal approach indicates that behaviors such as collusion in price-setting or market-sharing agreements among businesses are deemed harmful directly and are therefore prohibited without further proof.<sup>19</sup>

The rule of reason approach is a method that focuses on comprehensive evaluation of business practices suspected of violating competition principles. In this approach, KPPU first assesses the economic impact and its influence on competitive dynamics before determining whether a legal violation has occurred. For instance, in cases of extremely low pricing (predatory pricing), KPPU will analyze the economic aspects to assess whether the actions were intended to unfairly eliminate competitors or genuinely aimed at benefiting consumers. The application of this approach by KPPU reflects a careful and balanced analysis process, particularly in addressing complex cases. Through this approach, KPPU can consider the

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<sup>19</sup> Alum Simbolon, "Pendekatan yang Dilakukan Komisi Pengawas Persaingan Usaha Menentukan Pelanggaran dalam Hukum Persaingan Usaha," *Jurnal Hukum IUS QUILA IUSTUM* 20, no. 2 (2013): 186–206, <https://doi.org/10.20885/iustum.vol20.iss2.art2>.

broader economic conditions, creating a balance between protecting fair competition and encouraging sustainable business growth.

One case previously handled by KPPU related to allegations of predatory pricing was Case Number 03/KPPU-L/2020, involving PT Conch South Kalimantan Cement in the sale of cement in South Kalimantan, suspected of violating Article 20 of Law No. 5 of 1999. In addressing this case, KPPU applied the rule of reason approach, emphasizing a comprehensive assessment of the initial report of alleged violations. The examination process involved analyzing responses from the reported party, witness statements, expert opinions, and various relevant documents and written evidence. After evaluating the evidence presented by both the investigator and the reported party, the Commission's Panel conducted studies and analyses to determine whether the elements of violation of Law No. 5 of 1999 were indeed met.

In the phenomenon of live shopping on online marketplace platforms, KPPU can apply the rule of reason approach to evaluate allegations of predatory pricing. This is because live shopping sessions are often utilized by businesses offering substantial discounts, leading to indications of below-cost pricing. Through this approach, KPPU can conduct a more in-depth and comprehensive assessment of the economic implications of the indicated loss-leading behavior. The rule of reason approach also provides a basis for KPPU to evaluate the extent to which predatory pricing practices in the context of live shopping impact competitive dynamics and consumer welfare, especially in the increasingly evolving digital market.

Predatory pricing strategies represent a form of unfair competition practiced by significantly lowering the prices of products or services. The goal of this approach is to dominate the market and strengthen the dominant position of the business. Typically, this method involves setting selling prices far below production costs, making it difficult for other businesses to survive and compete fairly in the market. As a result, competitors experience financial pressure and may ultimately be eliminated from the market. Such practices are classified as prohibited actions under Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Competition. If proven to violate these provisions, businesses may face sanctions according to the applicable regulations. The types and amounts of these sanctions are regulated in Government Regulation No. 44 of

2021, which stipulates that violations of fair competition principles may incur administrative sanctions.

The effectiveness of any regulation heavily relies on the concrete implementation of law enforcement, including the application of sanctions by the relevant authority. In law enforcement practice, there are three main forms of sanctions that can be imposed: civil sanctions, criminal sanctions, and administrative sanctions. The application of each type of sanction must be based on applicable legal provisions and in accordance with the norms established in the relevant regulations. Administrative sanctions are legal instruments that can be enforced through court mechanisms or by administrative officials outside the judicial system. Generally, this form of sanction is applied to violations related to licensing provisions, where the issuing authority also has the power to impose sanctions if violations are found. In the context of competition regulation, administrative sanctions are an effective tool for addressing businesses that violate the provisions of the Antimonopoly Law. Unlike criminal sanctions, which only apply to specific violations, administrative sanctions are comprehensive and can be applied to all norms contained in the relevant law.

Law No. 5 of 1999 establishes that the authority to impose sanctions on businesses proven to engage in unfair competition practices lies with the KPPU. The imposition of these sanctions is further elaborated in Government Regulations that regulate the enforcement of this law, which stipulates that the sanctions that can be imposed are administrative in nature. According to Article 4 of this regulation, the implementation of administrative sanctions is the responsibility of the commission panel. This panel is an essential part of KPPU tasked with examining cases of alleged violations and imposing administrative sanctions on businesses found to have violated competition law. Additionally, the commission panel also has the function of overseeing the implementation of the decisions made.

The regulations regarding the imposition of administrative sanctions in antimonopoly practices are outlined in Articles 6 (1) and (2) of Government Regulation No. 44 of 2021, which states that KPPU has the authority to impose sanctions in the form of administrative actions against businesses that violate legal provisions. The administrative actions referred to in paragraph (1) consist of: cancellation of agreements; termination of relationships with businesses to halt vertical integration; orders to businesses to cease activities that have been proven to cause monopolistic practices, create

unfair competition, and/or harm the public; orders to businesses to stop abusing dominant positions; cancellation of mergers or acquisitions; imposition of compensation payments; and fines, with a minimum amount of IDR 1,000,000,000 (one billion rupiah), in accordance with the provisions set forth in this Government Regulation.

The imposition of administrative sanctions on businesses proven to violate the law is not done arbitrarily or without consideration; it takes into account the severity of the violation and the impact caused by the violation. In the sanctioning process, careful and in-depth analysis is required, accompanied by a strong basis and supported by objective and verifiable data. The commission panel has the authority to impose administrative sanctions if sufficient and valid evidence of a violation by the business is found. The explanation in Article 5 of the Government Regulation states that the application of administrative sanctions is not intended to halt ongoing business activities but rather as a preventive measure to avoid similar violations in the future. By allowing business activities to continue, it is hoped that economic stability is maintained, the public.

## **Conclusion**

Predatory pricing practices in the context of live shopping present unique challenges for law enforcement in Indonesia. These challenges stem from the real-time features and impulsive decisions associated with live shopping, where well-capitalized businesses can implement extreme discount strategies or flash sales that may sell products below production costs. Such practices negatively impact the ecosystem of fair competition, particularly for Micro, Small, and Medium Enterprises (MSMEs), which struggle to compete and may ultimately be driven out of the market. While consumers may benefit in the short term, these risks creating monopolies or oligopolies that could harm consumers through future price increases and declines in product quality. Law enforcement against predatory pricing in e-commerce continues to face obstacles. The KPPU, as the supervisory body, must enhance oversight and enforcement to protect small businesses and maintain fair competition. Despite the provisions of Law No. 5 of 1999 prohibiting such practices, KPPU encounters difficulties in proving the intent of businesses to eliminate competitors, monitoring dynamic digital platforms, and addressing regulatory gaps that do not fully accommodate the complexities of e-

commerce transactions. Therefore, collaboration between agencies and the reformulation of more progressive and specific policies are essential to create a fair, fair, and sustainable competitive environment in the digital era. Stricter regulations regarding predatory pricing in e-commerce, particularly in live shopping, are necessary to protect small businesses and foster fair competition.

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There is no conflict of interest in the publication of this article.

### **Publishing Ethical and Originality Statement**

All authors declared that this work is original and has never been published in any form and in any media, nor is it under consideration for publication in any journal, and all sources cited in this work refer to the basic standards of scientific citation.