

LAW OF THE REPUBLIC OF INDONESIA
NUMBER 5 OF 1999
ON
PROHIBITION OF MONOPOLISTIC PRACTICES AND UNFAIR BUSINESS
COMPETITION

BY THE BLESSINGS OF ALMIGHTY GOD

PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering : a. that development in the field of economy must be directed towards the achievement of the people's welfare based on Pancasila and the 1945 Constitution;
b. that democracy in the field of economy calls for equal opportunity for every citizen to participate in the process of production and marketing of goods and or services, in a fair, effective and efficient business environment, so as to be able to promote economic growth and the functioning of a reasonable market economy;
c. that anyone engaging in business in Indonesia must be in the condition of fair and normal competition, thus not causing a concentration of economic power around certain business actors, while observing the commitments made by the State of the Republic of Indonesia with regard to international conventions;
d. that in order to achieve the matters as referred to in point a, point b and point c, based on the initiative proposed by the Dewan Perwakilan Rakyat (the House of Representatives), a Law on Prohibition of Monopolistic Practices and Unfair Business Competition needs to be formulated;

Observing : Article 5 section (1), Article 21 section (1), Article 27 section (2) and Article 33 of the 1945 Constitution;

With the approval of
THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA

Enact : HAS DECIDED TO:
LAW ON PROHIBITION OF MONOPOLISTIC PRACTICES AND
UNFAIR BUSINESS COMPETITION

CHAPTER I
GENERAL PROVISIONS
Article 1

In this Law:

1. Monopoly means control of the production and or marketing of goods and or the use of certain services by one business actor or by one group of business actors.
2. Monopolistic practice means the concentration of economic power by one or more business actors, resulting in the control of the production and or marketing of certain goods and or services thus causing unfair business competition and being potentially harmful to the public interest.
3. Centralization of economic power is the actual control of a market by one or more business actors, enabling them to determine the price of goods and or services.
4. Dominant position means a condition in which a business actor has no substantial competitors in the relevant market in relation to the market share controlled, or a business actor has the highest position among its competitors in the relevant market in terms of financial capacity, capacity to access supply or sales, and the capability to adjust supply or demand of certain goods or services.
5. Business actor means any individual or business entity, either incorporated or not incorporated as legal entity, established and domiciled or conducting activities within the jurisdiction of the state of the Republic of Indonesia, either individually or jointly based on agreement, conducting various business activities in the field of economy.
6. Unfair business competition means competition among business actors in conducting activities for the production and or marketing of goods and or services in an unfair or unlawful manner or impeding competition.
7. Agreement means the act of one or more business actors to bind themselves with one or more other business actors under any name, either in writing or in non-written form.
8. Conspiracy or business conspiracy means a form of cooperation undertaken by one business actor with another with the intention of controlling the relevant market in the interest of the conspiring business actors.
9. Market means an economic institution in which sellers and buyers are able to conduct, either directly or indirectly, transactions for the trading of goods and or services.
10. Relevant market means the market related to a certain marketing range or area by business actors in respect of goods and or services of the same or similar type or substitutes for such goods and or services.
11. Market structure means market conditions providing indicators of aspects having significant impact on business actors' behavior and market performance, among other things the number of sellers and buyers, barriers to enter and exit the market, product variety, distribution system, and market share control.

12. Market behavior means conduct undertaken by business actors in their capacity as suppliers or buyers of goods and or services with the aim of achieving the company's objectives, among other things for gaining profits, increasing assets, sales targets and competition methods applied.
13. Market share means the percentage of the sale or purchase value of certain goods or services controlled by a certain business actor in the relevant market within a certain calendar year.
14. Market price means the price paid in transactions of goods and or services in accordance with the agreement reached among the parties concerned in the relevant market.
15. Consumers means any user and or utilizer of goods and or services, either for their own interest or for the interest of other parties.
16. Goods means any physical objects, either tangible or intangible, movable or immovable, which can be traded, used, utilized or exploited by consumers or business actors.
17. Services shall be any services in the form of work or performance traded in society with the purpose of being utilized by consumers or business actors.
18. Commission for the Supervision of Business Competition means a commission formed to oversee business actors in conducting their business activities in order to ensure that they do not conduct monopolistic practices and or unfair business competition.
19. District Court means the court, as referred to in applicable legislation, at the legal domicile of the business of the business actors concerned.

CHAPTER II PRINCIPLES AND PURPOSES

Article 2

Business actors in Indonesia must conduct their business activities based on the principles of economic democracy, with due observance of the equilibrium between the interests of business actors and the public interest.

Article 3

The purposes of establishing this law are:

- a. to safeguard the public interest and enhance the efficiency of the national economy as one of the endeavors aimed at improving the people's welfare;
- b. to create a conducive business climate by regulating fair business competition in order to ensure certainty in equal business opportunities for large-, middle- as well as small-scale business actors;
- c. to prevent monopolistic practices and or unfair business competition caused by business actors; and
- d. creating effectiveness and efficiency in business activities.

CHAPTER III PROHIBITED AGREEMENTS

Part One
Oligopoly

Article 4

- (1) Business actors are prohibited from entering into agreements with other business actors for jointly controlling the production and or marketing of goods and or services which may potentially cause the occurrence of monopolistic practices and or unfair business competition.
- (2) Business actors are reasonably suspected or deemed to be jointly involved in the control of the production and or marketing of goods and or services, as referred to in section (1), if 2 (two) or 3 (three) business actors or a group of business actors control more than 75% (seventy-five per cent) of the market share of a certain type of goods or services.

Part Two
Price Fixing

Article 5

- (1) Business actors are prohibited from entering into agreements with their business competitors to fix the price of certain goods and or services which must be paid by consumers or customers in the same relevant market.
- (2) The provisions referred to in section (1) are not applicable to:
 - a. an agreement entered into in the context of a joint venture; or
 - b. an agreement entered into based on prevailing laws.

Article 6

Business actors are prohibited from entering into agreements causing a buyer having to pay a price which is different from that payable by other buyers for the same goods and or services.

Article 7

Business actors are prohibited from entering into agreements with their business competitors to fix prices below market prices, which may potentially cause unfair business competition.

Article 8

Business actors are prohibited from entering into agreements with other business actors setting forth the condition that parties receiving the goods and or services will not sell or resupply the goods and or services received by them, at a price lower than the contracted price, potentially causing unfair business competition.

Part Three
Dividing Territories

Article 9

Business actors are prohibited from entering into agreements with their business competitors which have the purpose of

dividing marketing territories or allocating the market for goods and or services, potentially causing monopolistic practices and or unfair business competition.

Part Four Boycott

Article 10

- (1) Business actors are prohibited from entering into agreements with their business competitors which may impede other business actors in engaging in the same business, either for domestic or overseas market purposes.
- (2) Business actors are prohibited from entering into agreements with their business competitors to refuse to sell any goods and or services of other business actors, whereby such act:
 - a. causes a loss or may be suspected of potentially causing a loss to other business actors; or
 - b. poses constraint on other business actors in selling or buying any goods.

Part Five Cartel

Article 11

Business actors are prohibited from entering into agreements with their business competitors, with the intention of influencing prices by arranging the production and or marketing of certain goods and or services, which may cause monopolistic practices and or unfair business competition.

Part Six Trust

Article 12

Business actors are prohibited from entering into agreements with other business actors to engage in cooperation by establishing a joint company or a larger company, by keeping and maintaining the continuity of each respective company or its members, with the aim of controlling the production and or marketing of goods and or services, which may cause monopolistic practices and or unfair business competition.

Part Seven Oligopsony

Article 13

- (1) Business actors are prohibited from entering into agreements with other business actors with the aim of jointly controlling the purchase or acquisition of supplies in order to control prices of goods and or services in the relevant market, which may cause monopolistic practices and or unfair business competition.
- (2) Business actors are reasonably suspected or deemed to be jointly controlling the purchase or acquisition of supplies as referred to in section (1) if 2 (two) or 3 (three) business

actors or a group of business actors control more than 75% (seventy-five per cent) of the market share of a certain type of goods or services.

Part Eight Vertical Integration

Article 14

Business actors are prohibited from entering into agreements with other business actors with the aim of controlling the production of several goods constituting products which are included in the production chain of certain related goods and or services whereby each production series is the end product of processing or further processing, either in a direct or indirect series, which may potentially cause unfair business competition and or may be harmful to society.

Part Nine Exclusive Dealing

Article 15

- (1) Business actors are prohibited from entering into agreements with other business actors setting forth the condition that the party receiving the goods and or services only resupplies or refrains from resupplying the aforementioned goods and or services to certain parties and or at a certain place.
- (2) Business actors are prohibited from entering into agreements with other parties setting forth the condition that the party receiving certain goods and or services must be prepared to purchase other goods and or services from the supplying business actor.
- (3) Business actors are prohibited from entering into agreements concerning prices or certain price discounts for goods and or services, setting forth the condition that the business actor receiving goods and or services from the supplying business actor:
 - a. must be prepared to purchase other goods and or services from the supplying business actor; or
 - b. do not purchase the same or similar goods and or services from other business actors that are the competitors of the supplying business actor.

Part Ten Agreements with Foreign Parties

Article 16

Business actors are prohibited from entering into agreements with other parties overseas setting forth conditions which may cause monopolistic practices and or unfair business competition.

CHAPTER IV PROHIBITED ACTIVITIES

Part One
Monopoly

Article 17

- (1) Business actors are prohibited from controlling the production and or marketing of goods and or services which may cause monopolistic practices and or unfair business competition.
- (2) Business actors are reasonably suspected or deemed to control the production and or marketing of goods and or services as referred to in section (1) in the following events:
 - a. there is no substitute available yet for the goods and or services concerned; or
 - b. causing other business actors to be unable to enter into business competition for the same goods and or services; or
 - c. one business actor or a group of business actors controls more than 50% (fifty per cent) of the market share of a certain type of goods or services.

Part Two
Monopsony

Article 18

- (1) Business actors are prohibited from controlling the acquisition of supplies or from acting as sole buyer of goods and or services in the relevant market which may potentially cause monopolistic practices and or unfair business competition.
- (2) Business actors are reasonably suspected or deemed to control the acquisition of supplies or to be acting as sole buyer as referred to in section (1) if one business actor or a group of business actors controls more than 50% (fifty per cent) of the market share of a certain type of goods or services.

Part Three
Market Control

Article 19

Business actors are prohibited from engaging in one or several activities, either individually or jointly with other business actors, which may cause monopolistic practices and or unfair business competition, in the form of:

- a. rejecting and or impeding certain other business actors in conducting the same business activities in the relevant market; or
- b. impeding consumers or customers of their competitors in engaging in a business relationship with such business competitors; or
- c. restraining the distribution and or sales of goods and or services in the relevant market; or
- d. engaging in discriminatory practices against certain business actors.

Article 20

Business actors are prohibited from supplying goods and or services at a price below cost or by setting extremely low prices with the aim of eliminating or ruining the business of their competitors in the relevant market which may cause monopolistic practices and or unfair business competition.

Article 21

Business actors are prohibited from engaging in unfair practices in determining production cost and other costs as part of the price component of goods and or services which may potentially cause unfair business competition.

Part Four Conspiracy

Article 22

Business actors are prohibited from conspiring with other parties with the aim of determining the awardees of tenders which may cause unfair business competition.

Article 23

Business actors are prohibited from conspiring with other parties with the aim of obtaining information regarding the business activities of their competitors classified as company secrets which may cause unfair business competition.

Article 24

Business actors are prohibited from conspiring with other parties in order to impede the production and or marketing of goods and or services of their competitors with the aim of causing the goods and or services offered or supplied in the relevant market to diminish, either in the quantity, quality or timeliness required.

CHAPTER V DOMINANT POSITION

Part One General

Article 25

- (1) Business actors are prohibited from using dominant position either directly or indirectly to:
 - a. determine the conditions of trading with the aim of preventing and or impeding consumers from obtaining competitive goods and or services, both in terms of price as well as quality; or
 - b. restrain the market and technology development; or
 - c. hamper other potential business actors from entering the relevant market.
- (2) Business actors have a dominant position as referred to in section (1) in the following events:
 - a. one business actor or a group of business actors controls more than 50% (fifty per cent) of the market share of a certain type of goods or services; or

- b. two or three business actors or a group of business actors control more than 75% (seventy-five per cent) of the market share of a certain type of goods or services.

Part Two Interlocking Directorate

Article 26

A person holding the position as a member of the board of directors or as a commissioner of a company, is prohibited from concurrently holding the position as a member of the board of directors or a commissioner in another company, in the event that such companies:

- a. are in the same relevant market; or
- b. have a strong connection in the field and or type of business activities concerned; or
- c. are jointly capable of controlling the market share of certain goods and or services, which may result in monopolistic practices and or unfair business competition.

Part Three Share Ownership

Article 27

Business actors are prohibited from owning majority shares in several companies of the same type conducting business activities in the same field in the same relevant market, or from establishing several companies with the same business activities in the same relevant market, if such ownership causes:

- a. one business actor or a group of business actors to control more than 50% (fifty per cent) of the market share of a certain type of goods or services;
- b. two or three business actors or a group of business actors to control more than 75% (seventy-five per cent) of the market share of a certain type of goods or services.

Part Four Mergers, Consolidations and Acquisitions

Article 28

- (1) Business actors are prohibited from conducting mergers or consolidations of business entities which may cause monopolistic practices and or unfair business competition.
- (2) Business actors are prohibited from conducting the acquisition of shares in other companies if such action may cause monopolistic practices and or unfair business competition.
- (3) Further provisions regarding the prohibition of mergers or consolidations of business entities as referred to in section (1), and provisions concerning the acquisition of shares in companies as referred to in section (2), are regulated in a Government Regulation.

Article 29

- (1) The Commission must be notified of mergers or consolidations of business entities, or acquisitions of shares as referred to in Article 28 resulting in the asset value and or selling price thereof exceeding a certain amount, by no later than 30 (thirty) days from the date of such merger, consolidation or acquisition.
- (2) Provisions regarding the determination of the asset value and or the selling price as well as the procedure for giving notice as referred to in section (1) are regulated in a Government Regulation.

CHAPTER VI
COMMISSION FOR SUPERVISION OF BUSINESS
COMPETITION

Part One
Status

Article 30

- (1) A Commission for the Supervision of Business Competition, hereinafter referred as the Commission, is formed to oversee the implementation of this Law.
- (2) The Commission is an independent institution free from the influence and authority of the Government and other parties.
- (3) The Commission is responsible to the President.

Part Two
Membership

Article 31

- (1) The Commission consists of a Chairperson acting concurrently as member, a Vice Chairperson acting concurrently as member, and not less than 7 (seven) members.
- (2) Members of the Commission are appointed and dismissed by the President upon the approval of the House of Representatives.
- (3) Members of the Commission are appointed for a term of office of 5 (five) years and they are eligible for reappointment for 1 (one) subsequent term of office.
- (4) If due to the expiration of the term of office a vacancy occurs in the Commission's membership, the term of office of members may be extended until a new member is appointed.

Article 32

The requirements for membership in the Commission are as follows:

- a. citizen of the Republic of Indonesia, at least 30 (thirty) years of age and not older than 60 (sixty) years at the time of appointment;
- b. loyal to Pancasila and the 1945 Constitution;
- c. believes in and devoted to the Almighty God;
- d. honest, fair and having good conduct;

- e. residing within the territory of the State of the Republic of Indonesia;
- f. experienced in the field of business or possessing knowledge and expertise in the field of law and or economics;
- g. has never been convicted of a crime;
- h. has never been declared bankrupt by a court of justice; and
- i. is not affiliated with a particular business entity.

Article 33

Membership in the Commission terminates due to:

- a. demise;
- b. resignation upon the person's own request;
- c. residing outside the territory of the state of the Republic of Indonesia;
- d. continuous physical or mental illness;
- e. expiration of term of membership in the Commission; or
- f. dismissal.

Article 34

- (1) The formation of the Commission and its organizational structure, duties and functions is stipulated by a Presidential Decree.
- (2) For the uninterrupted implementation of its duties, the Commission is assisted by a secretariat.
- (3) The Commission may form a working group.
- (4) Provisions regarding the organizational structure, duties and functions of the secretariat and working group are further regulated in a decision of the Commission.

Part Three Duties

Article 35

The duties of the Commission include:

- a. assessing agreements that may result in monopolistic practices and or unfair business competition as referred to in Article 4 to Article 16;
- b. assessing business activities and or actions of business actors which may cause monopolistic practices and or unfair business competition as regulated in Article 17 to Article 24;
- c. assessing the existence or absence of the abuse of dominant position which may cause monopolistic practices and or unfair business competition as referred to in Article 25 to Article 28;
- d. undertaking actions in accordance with the Commission's authority regulated in Article 36;
- e. providing advice and opinion concerning Government policies related to monopolistic practices and or unfair business competition;
- f. preparing guidelines and or publications related to this Law;
- g. submitting periodic reports on the results of the Commission's work to the President and the House of Representatives.

Part Four Authority

Article 36

The Commission's authority includes:

- a. receiving reports from the public and or business actors regarding allegations of the existence of monopolistic practices and or unfair business competition;
- b. conducting research concerning allegations of the existence of business activities and or actions of business actors which may cause monopolistic practices and or unfair business competition;
- c. conducting investigation and or examination of allegations of cases of monopolistic practices and or unfair business competition reported by the public or by business actors or discovered by the Commission as a result of its research;
- d. making conclusions regarding the results of its investigation and or examination as to whether or not there are any monopolistic practices and or unfair business competition;
- e. summoning business actors alleged of having violated the provisions of this law;
- f. summoning and presenting witnesses, expert witnesses, and any persons deemed to have knowledge about the violation of the provisions of this law;
- g. seeking the assistance of investigators to present business actors, witnesses, expert witnesses, or any persons as referred to in point e and point f who are not prepared to appear in response to the Commission's summons;
- h. requesting the statement of Government institutions related to the investigation and or examination of business actors who have violated the provisions of this law;
- i. obtaining, examining and or assessing letters, documents or other instruments of evidence for the purpose of investigation and or examination;
- j. determining and stipulating the existence or non-existence of losses suffered by other business actors or society;
- k. notifying the business actors alleged of having engaged in monopolistic practices and or unfair business competition about the Commission's decisions;
- l. imposing administrative sanctions on business actors violating the provisions of this Law.

Part Five Funding

Article 37

Expenses related to the performance of the Commission's duties are charged to the State Revenues and Expenditures Budget and or other sources permitted by applicable legislation.

CHAPTER VII CASE HANDLING PROCEDURE

Article 38

- (1) Any person having knowledge of the occurrence of or reasonably suspecting that a violation of this Law has occurred, may report it in writing to the Commission with a clear statement concerning the occurrence of violation by attaching the identity of the reporting party.
- (2) A party suffering loss as a result of the violation of this Law may file a written report to the Commission with a complete and clear statement regarding the occurrence of violation and the losses inflicted, attaching the identity of the reporting party.
- (3) The identity of the reporting party as referred to in section (1) is required to be kept confidential by the Commission.
- (4) The reporting procedure as referred to in section (1) and section (2) is further regulated by the Commission.

Article 39

- (1) Based on the report as referred to in Article 38 section (1) and section (2), the Commission is obligated to conduct a preliminary examination, and within 30 (thirty) days after receiving the report concerned, the Commission is obligated to determine whether or not follow-up examination is required.
- (2) In follow-up examination, the Commission is obligated to examine the business actor against whom the report is filed.
- (3) The Commission is obligated to keep confidential the information obtained from business actors classified as company confidentiality.
- (4) If deemed necessary, the Commission may hear the statement of witnesses, expert witnesses and or other parties.
- (5) In conducting activities as referred to in section (2) and section (4), members of the Commission are provided with warrants.

Article 40

- (1) The Commission may conduct examination of business actors if there is an allegation of the occurrence of violations of this Law even though no report is filed.
- (2) The Examination as referred to in section (1) is conducted in compliance with the procedure as regulated in Article 39.

Article 41

- (1) Business actors and or other parties examined are obligated to submit instruments of evidence required in the investigation and or examination.
- (2) Business actors are prohibited from refusing to be examined, from refusing to provide information required for investigation and or examination, or from impeding the investigation and or examination process.
- (3) Violations of the provisions of section (2) are submitted by the Commission to an investigator for conducting investigation in accordance with prevailing provisions.

Article 42

Instruments of evidence in investigations by the Commission are in the form of:

- a. witness statement,
- b. expert statement,
- c. letters and or documents,
- d. indication,
- e. statement by business actors.

Article 43

- (1) The Commission is obligated to complete follow-up examination within 60 (sixty) days from the start of follow-up examination as referred to in Article 39 section (1).
- (2) If required, the time frame for follow-up examination as referred to in section (1) may be extended by not more than 30 (thirty) days.
- (3) The Commission is obligated to determine whether or not a violation of this Law occurred not later than 30 (thirty) days from the completion of follow-up examination as referred to in section (1) or section (2).
- (4) The Commission's decision as referred to in section (3) must be read out in a hearing open to the public and the business actor concerned must be notified forthwith thereof.

Article 44

- (1) Within 30 (thirty) days from the time at which the business actor concerned receives notice about the Commission's decision as referred to in Article 43 section (4), the business actor concerned is obligated to implement such decision and to submit a report on the implementation of the same to the Commission.
- (2) The business actor concerned may appeal to the District Court by not later than 14 (fourteen) days after receiving notification of the aforementioned decision.
- (3) A business actor not appealing within the time frame as referred to in section (2) is deemed to have accepted the Commission's decision.
- (4) In the event that the provisions of section (1) and section (2) are not implemented by the business actor concerned, the Commission submits such decision to an investigator for conducting an investigation in accordance with the provisions of prevailing legislation.
- (5) The Commission's decisions as referred to in Article 43 section (4) serves as sufficient initial evidence for an investigator to conduct investigation.

Article 45

- (1) The District Court concerned must examine appeals filed by business actors as referred to in Article 44 section (2) within 14 (fourteen) days as from the receipt of the appeal concerned.
- (2) The District Court must render a decision within 30 (thirty) days as from the commencement of the examination of the aforementioned appeal.

- (3) A party filing an appeal in respect of the District Court's decision as referred to in section (2), may appeal to the Supreme Court of the Republic of Indonesia within 14 (fourteen) days.
- (4) The Supreme Court must render a decision within 30 (thirty) days from the time at which the appeal is received.

Article 46

- (1) In the event that there is no appeal, the Commission's decision as referred to in Article 43 section (3) has permanent legal force.
- (2) A stipulation on the execution of the Commission's decision as referred to in section (1) is requested from the District Court.

CHAPTER VIII
SANCTIONS

Part One
Administrative Measures

Article 47

- (1) The Commission is authorized to impose sanctions in the form of administrative measures against business actors violating the provisions of this Law.
- (2) Administrative measures as referred to in section (1) may be in the form of:
 - a. stipulation on the annulment of agreements as referred to in Article 4 to Article 13, Article 15 and Article 16; and or
 - b. order to business actors to cease vertical integration as referred to in Article 14; and or
 - c. order to business actors to cease activities proven to have caused monopolistic practices and or unfair business competition and or being harmful to society; and or
 - d. ordering business actors to cease the abuse of dominant position; and or
 - e. stipulation on the annulment of mergers or consolidations of business entities and acquisition of shares as referred to in Article 28; and or
 - f. stipulation on the payment of compensation for losses; and or
 - g. imposition of a fine of not less than Rp1,000,000,000.00 (one billion rupiah) and not more than Rp25,000,000,000.00 (twenty-five billion rupiah).

Part Two
Capital Punishment

Article 48

- (1) Violations of the provisions of Article 4, Article 9 to Article 14, Article 16 to Article 19, Article 25, Article 27, and Article 28 are subject to the criminal sanction for a minimum of Rp25,000,000,000.00 (twenty-five billion

rupiah) and for a maximum of Rp100,000,000,000.00 (one hundred billion rupiah), or the criminal sanction of imprisonment as a replacement of fine for a maximum of 6 (six) months.

- (2) Violations of the provisions of Article 5 to Article 8, Article 15, Article 20 to Article 24, and Article 26 of this Law are subject to the criminal sanction of a fine for a minimum of Rp5,000,000,000.00 (five billion rupiah) or for a maximum of Rp25,000,000,000.00 (twenty-five billion rupiah), or a criminal sanction of imprisonment as replacement of fine for a maximum of 5 (five) months.
- (3) Violations of the provisions of Article 41 of this Law are subject to a fine for a maximum of Rp1,000,000,000.00 (one billion rupiah) and for a maximum of Rp5,000,000,000.00 (five billion rupiah) or the criminal sanction of imprisonment as replacement of fine for a maximum of 3 (three) months.

Part Three Additional Punishment

Article 49

In compliance with the provisions of Article 10 of the Criminal Code, in addition to the criminal sanctions as regulated in Article 48, additional punishment may be imposed in the form of:

- a. revocation of business licenses; or
- b. prohibition of business actors proven to have violated this law from filling the position of director or commissioner for at least 2 (two) years and for no longer than 5 (five) years; or
- c. order to cease certain activities or actions causing losses to other parties.

CHAPTER IX MISCELLANEOUS PROVISIONS

Article 50

Exempted from the provisions of this law are:

- a. actions and or agreements aimed at implementing applicable legislation; or
- b. agreements related to intellectual property rights, such as licenses, patents, trademarks, copyright, industrial product design, integrated electronic circuits, and trade secrets as well as agreements related to franchise; or
- c. agreements for the stipulation of technical standards of goods and or services which do not restrain, and or do not impede competition; or
- d. agency agreements which do not stipulate the resupply of goods and or services at a price level lower than the contracted price; or
- e. cooperation agreements in the field of research for raising or improving the living standard of society at large; or
- f. international agreements ratified by the Government of the Republic of Indonesia; or

- g. export-oriented agreements and or actions not disrupting domestic needs and or supplies; or
- h. business actors of the small-scale group; or
- i. activities of cooperatives with the specific aim of serving their members.

Article 51

Monopoly and or concentration of activities related to the production and or marketing of goods and or services affecting the livelihood of society at large as well as branches of production of strategic importance to the state are regulated in a law and are implemented by State-Owned Enterprises and or agency formed or appointed by the Government.

CHAPTER X TRANSITIONAL PROVISIONS

Article 52

- (1) As from the time at which this Law comes into force, all legislation regulating or related to monopolistic practices and or business competition is declared remain effective to the extent not contrary to and or not superseded by new ones by virtue of this Law.
- (2) Business actors having entered into agreements and or conducting activities and or undertaking actions not complying with the provisions of this law are given 6 (six) months from this Law's coming into effect to make adjustments.

CHAPTER XI CLOSING PROVISIONS

Article 53

This Law comes into force within 1 (one) year as of the date of its promulgation.

In order that every person may know hereof, it is ordered to promulgate this Law by its placement in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta
on 5 March 1999
THE PRESIDENT OF THE REPUBLIC OF
INDONESIA

signed

BACHARUDDIN JUSUF HABIBIE

Promulgated in Jakarta
on 5 March 1999
STATE MINISTER SECRETARY OF STATE OF THE REPUBLIC OF INDONESIA

signed

AKBAR TANDJUNG

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 1999 NUMBER 33

Jakarta, 20 October 2025
Has been translated as an Official Translation
on behalf of Minister of Law
of the Republic of Indonesia
DIRECTOR GENERAL OF LEGISLATION,



**ELUCIDATION ON
THE LAW OF THE REPUBLIC OF INDONESIA
NUMBER 5 OF 1999
ON
PROHIBITION OF MONOPOLISTIC PRACTICES AND UNFAIR
BUSINESS COMPETITION**

GENERAL

Economic development in the First Long-Term Development has resulted in substantial progress, manifested in among other things the improvement of the people's welfare. The aforementioned progress achieved in development has been supported by development policies in various fields, including policies in the field of economy as set forth in the Broad Outlines of State Policy and the Five-Year Development Plan, as well as in various other economic policies.

Despite the substantial progress achieved in the First Long Term Development, as reflected in high economic growth, there are still many challenges or unresolved issues, especially in economic development, alongside the trend of globalization in the economy and the dynamics and development of private businesses since the early 1990s.

In reality, the business opportunities created during the last three decades have not been able to ensure that all levels of society participate in development in various economic sectors. The development of the private sector during the mentioned above period has on the one hand been marked by various forms of not fully appropriate Government policies leading to market distortions. On the other hand, the development of the private sector has in fact been mainly the result of unfair business competition conditions.

The above-described phenomena have developed and have been supported by the relationship between decision-makers and business actors, either directly or indirectly, leading to the further deterioration of the situation. The implementation of national economy has not fully adhered to the mandate of Article 33 of the 1945 Constitution, and has shown a highly monopolistic tendency.

Businessperson close to the elite of power have obtained excessive facilities resulting in the creation of a social gap. The emergence of conglomerates and a group of strong business person not supported by the spirit of real entrepreneurship has been one of the factors which have caused the economic resilience to become extremely vulnerable and uncompetitive.

In view of the above situation and conditions, there is a need for us to study and reorganize business activities in Indonesia, enabling businesses to grow and develop in a fair and appropriate way, leading to the creation of a fair business competition climate, and to avoid the concentration of economic power around certain individuals or groups, among other things, in the form of monopolistic practices and unfair business competition harmful to society, which are contradictory to the ideals of social justice.

Therefore, it is necessary to formulate the Law Concerning the Prohibition of Monopolistic Practices and Unfair Business Competition intended to uphold the rule of law and to provide equal protection to every business actor in an effort to create fair business competition.

This law provides for assurances of legal certainty for stimulating further rapid economic development in an effort to improve general welfare, as well as in implementation of the spirit and soul of the 1945 Constitution.

For an effective implementation of this law and implementing regulations thereof in accordance with its principles and objectives, there is a need to form a Commission for the Supervision of Business Competition, namely an independent institution free from the influence of the government and other parties, having the authority to conduct supervision of business competition and to impose sanctions. Such sanctions shall be in the form of administrative measures, whereas criminal sanctions are under the authority of the court of justice.

In general, the substance of the Law Concerning the Prohibition of Monopolistic Practices and Unfair Business Competition consists of 6 (six) parts being regulated namely as follows:

1. prohibited agreements;
2. prohibited actions;
3. dominant position;
4. Commission for the Supervision of Business Competition;
5. law enforcement;
6. miscellaneous provisions.

This law has been formulated based on the principles of Pancasila and the 1945 Constitution, and it has been based on principles of economic democracy with due observance of the equilibrium between the interests of business actors and the public interest with the aim to: safeguard public interest and protect consumers; develop a conducive business climate through the creation of fair business competition, and ensure certainty in equal business opportunity for every person; prevent monopolistic practices and or unfair business competition caused by business actors; and create effectiveness and efficiency in business activities in the context of improving the efficiency of the national economy as one of the endeavors in the context of enhancing the people's welfare.

ARTICLE BY ARTICLE

Article 1

Point 1

Sufficiently clear.

Point 2

Sufficiently clear.

Point 3

Sufficiently clear.

Point 4

Sufficiently clear.

Point 5

Sufficiently clear.

Point 6

Sufficiently clear.

Point 7

Sufficiently clear.

Point 8

Sufficiently clear.

Point 9

Sufficiently clear.

Point 10

Sufficiently clear.

- Point 11
Sufficiently clear.
- Point 12
Sufficiently clear.
- Point 13
Sufficiently clear.
- Point 14
Sufficiently clear.
- Point 15
Sufficiently clear.
- Point 16
Sufficiently clear.
- Point 17
Sufficiently clear.
- Point 18
Sufficiently clear.
- Point 19
Sufficiently clear.

Article 2
Sufficiently clear.

Article 3
Sufficiently clear.

Article 4
Section (1)
Sufficiently clear.
Section (2)
Sufficiently clear.

Article 5
Section (1)
Sufficiently clear.
Section (2)
Sufficiently clear.

Article 6
Sufficiently clear.

Article 7
Sufficiently clear.

Article 8
Sufficiently clear.

Article 9
Agreements may be vertical or horizontal in nature. Such agreements are prohibited because business actors eliminate or reduce competition by dividing the market or market allocation. Marketing territories may mean the territory of the state of the Republic of Indonesia, or parts of the territory of the state of the Republic of Indonesia, for example regency, province, or other regional territories. Dividing marketing territories or market allocation means dividing territories with the aim of obtaining or supplying goods, services, or goods and services, determining the parties from which goods, services, or goods and services may be obtained or supplied.

Article 10

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Article 11

Sufficiently clear.

Article 12

Sufficiently clear.

Article 13

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Article 14

Controlling the production of a number of products being part of a production chain which are normally referred to as vertical integration is the control of a production process series of certain goods from upstream to downstream or a process continuing for certain services by certain business actors. Even though vertical integration practices may result in low priced goods and services, these can cause unfair business competition which is harmful to the building blocks of the society's economy. Such practices are prohibited insofar as they cause unfair business competition and or are harmful to society.

Article 15

Section (1)

Supplying includes the procurement of supplies, either in the form of goods or services, in the context of sale and purchase, lease, lease purchase and leasing activities.

Section (2)

Sufficiently clear.

Section (3)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Article 16

Sufficiently clear.

Article 17

Section (1)

Sufficiently clear.

Section (2)

Point a

Sufficiently clear.

Point b

Other business actors mean business actors possessing significant competitive capacity in the relevant market.

Point c

Sufficiently clear.

Article 18

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Article 19

Point a

It is not allowed to reject or impede certain business actors in an unreasonable manner or for non-economic reasons, for example due to difference in ethnic group, race, social status, and others.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Article 20

Sufficiently clear.

Article 21

Unfair practices in determining production cost and other costs are violation of prevailing legislation with the aim of obtaining production factor costs which are lower than the actual cost.

Article 22

Tenders are bids submitted to contract certain work, for the procurement of goods, or the provision of services.

Article 23

Sufficiently clear.

Article 24

Sufficiently clear.

Article 25

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Section (2)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Article 26

Point a

Sufficiently clear.

Point b

Companies are closely related if such companies support each other or are in direct contact in the process of production, marketing, or production and marketing.

Point c

Sufficiently clear.

Article 27

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Article 28

Section (1)

Business entities are companies or forms of business, either incorporated as legal entities (e.g., limited liability companies) or not incorporated as legal entities, engaging in a type of business which is permanent and continuous in nature, with the purpose of generating profits.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 29

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Article 30

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 31

Section (1)

The Chairperson and the Vice Chairperson of the Commission are elected from among and by Members of the Commission.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Extension of the term of membership in the Commission for the purpose of avoiding a vacancy may not exceed 1 (one) year.

Article 32

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d
Sufficiently clear.

Point e
Sufficiently clear.

Point f
Sufficiently clear.

Point g
Not having been convicted of a crime means a person's not having been imposed with a criminal sanction due to a serious criminal act or due to the violation of morality.

Point h
Sufficiently clear.

Point i
Not affiliated with a particular business entity means that as from the time at which the person concerned becomes a member of the Commission, such person does not act as:
1. a member of the board of commissioners or supervisors, or of the board of directors of a company;
2. a member of the management or inspection body of a cooperative;
3. a party providing services to a company, such as consultant, public accountant and appraiser;
4. a majority shareholder in a company.

Article 33

Point a
Sufficiently clear.

Point b
Sufficiently clear.

Point c
Sufficiently clear.

Point d
It is stated by medical certificate from authorized physician.

Point e
Sufficiently clear.

Point f
Dismissed due to the reason of, among other things, no longer meeting the requirements for Commission membership as referred to in Article 32.

Article 34

Section (1)
Sufficiently clear.

Section (2)
Secretariat means the organizational unit supporting or assisting the Commission in the implementation of its duties.

Section (3)
Working unit means a professional team appointed by the Commission to assist in the implementation of certain tasks at a certain time.

Section (4)
Sufficiently clear.

Article 35

Point a
Sufficiently clear.

Point b

- Sufficiently clear.
- Point c
Sufficiently clear.
- Point d
Sufficiently clear.
- Point e
Sufficiently clear.
- Point f
Sufficiently clear.
- Point g
Sufficiently clear.

Article 36

- Point a
Sufficiently clear.
- Point b
Sufficiently clear.
- Point c
Sufficiently clear.
- Point d
Sufficiently clear.
- Point e
Sufficiently clear.
- Point f
Sufficiently clear.
- Point g
Investigator means an investigator as referred to in Law Number 8 of 1981.
- Point h
Sufficiently clear.
- Point i
Sufficiently clear.
- Point j
Sufficiently clear.
- Point k
Sufficiently clear.
- Point l
Sufficiently clear.

Article 37

In principle, the State is responsible for the operational implementation of the Commission's duties by providing support in the form of funding through the State Revenues and Expenditures Budget. However, bearing in mind the broad and diverse scope and field of the Commission's duties, the Commission may obtain funds from other sources not contradictory to the prevailing legislation, which are not binding in nature and will not influence the Commission's independence.

Article 38

- Section (1)
Sufficiently clear.
- Section (2)
Sufficiently clear.
- Section (3)
Sufficiently clear.
- Section (4)

Sufficiently clear.

Article 39

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 40

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Article 41

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

The Commission submits to the investigators for investigation not only criminal acts or actions as referred to in section (2) of this article, but also the principal cases under investigation and examination by the Commission.

Article 42

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Article 43

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

The Commission's decision making as referred to in section (3) of this Article is conducted in a Council meeting consisting of at least 3 (three) Commission members.

Section (3)

Being notified means conveying an excerpt from the Commission's decision to the business actor concerned.

Article 44

Section (1)

30 (thirty) days are counted as from the receipt of the excerpt from the Commission's decision by the business actor concerned or its legal proxy.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 45

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 46

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Article 47

Section (1)

Sufficiently clear.

Section (2)

Point a

Sufficiently clear.

Point b

Ceasing vertical integration is implemented, among other things, by annulment of the agreement, transfer of a part of the company to another business actor, or change of the form of production series.

Point c

Activities ordered to be ceased are certain activities or conduct and not entire business activities by business actors.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

Compensation for losses is granted to the business actor concerned and to other parties having suffered a loss.

Point g

Sufficiently clear.

Article 48

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 49

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Article 50

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Point f

Sufficiently clear.

Point g

Sufficiently clear.

Point h

Business actors of the small-scale group are as referred to in Law Number 9 of 1995 on Small-Scale Business.

Point i

Serving their members means providing services exclusively to their members and not to the public for the procurement of basic needs, production facilities requirements including credit and raw materials, as well as services for the marketing and distributing products of members which do not result in monopolistic practices and or unfair business competition.

Article 51

Sufficiently clear.

Article 52

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Article 53

Sufficiently clear.