



SYARAH: JOURNAL OF ISLAMIC LAW AND ECONOMICS

P-ISSN: 2302-9978 / E-ISSN: 2715-262

Volume 13, Number 1, June 2024

DOI: <https://doi.org/10.47766/syarah.v13i1.3154>

Predatory Pricing in Buying and Selling Imported Products in E-Commerce According to the Perspective of Business Competition Law and Muamalah Fiqh

Anis Kurlillah¹, Moh. Syifaul Hisan², Badrut Tamam³

Kiai Haji Achmad Siddiq State Islamic University Jember

E-mail: aniskurlillah.57@gmail.com¹, Email: moh.syifaulhisan@uikhas.ac.id²

E-mail: badrut.tamam@uinkhas.ac.id³

Abstract: The presence of *E-Commerce* makes it easier to export and import goods without geographical boundaries, but it also gives rise to allegations of *Predatory Pricing* practices which are detrimental to other business actors and consumers. *Predatory Pricing* is a strategy of temporarily setting product prices below production costs or market prices in order to reduce competitors and gain market share. This suspicion arose because imported products were sold much cheaper than local products, as was the case at *Fistyle* and *Biu.costore* stores. However, this action needs to be proven by the Business Competition Supervisory Commission (KPPU). Problem Formulation 1) What are the indications of the implementation of *Predatory Pricing* by *Fistyle* and *Biu.costore* stores. 2) How is the legal review of *Predatory Pricing* practices by *Fistyle* stores and *Biu.costore* according to the Business Competition Law based on Law no. 5 of 1999. 3) What is the legal review of *Predatory Pricing* practices by *Fistyle* stores and *Biu.costore* according to Fiqh *Muamalah*. This article is empirical juridical research and the approach is statutory and conceptual. The data sources used are primary and secondary, data collection through interviews and observations and analysis using source and technical triangulation techniques. The research results show that the practice of *Predatory Pricing* is prohibited according to Article 20 of Law Number 5 of 1999 concerning Prohibition of Monopoly Practices and Unfair Business Competition. This action is considered a violation if it meets the elements in Article 20. However, the *Fistyle* and *Biu.costore* stores were not proven to have violated this Article because they did not carry out *Predatory Pricing*. In *Muamalah* Fiqh, pricing in the market is expected not to exceed the prevailing market price, to maintain fairness and balance. The practices carried out by *Fistyle* stores include *Siyasah al-Ighraq*, because they cause losses to other business actors and consumers, such as selling defective goods and destroying market prices. Meanwhile, *Biu.costore* cannot yet be

categorized as *Siyasah al-Ighraq* because it has just been established and there have been no complaints. Although both stores offer very low prices, not all actions considered *Predatory Pricing* are prohibited; Low prices can come from efficient and innovative business operations.

Keywords: *Predatory Pricing, Business Competition Law, Fiqh Muamalah.*

INTRODUCTION

Indonesian life is currently in the era of the Creative Economy, where every effort is being made to increase the value of production, distribution and even expand network relations. Technological advances, especially the internet, have begun to influence business patterns. In this era, the evolution of business models occurs by paying attention to ease, efficiency and integration of transactions through electronic systems. According to Onno W. Purbo and Aang Arif, *E-Commerce* is a series of electronic devices in the form of computer programs, namely applications that involve sellers and buyers through trading goods, services, services and information where transactions are carried out electronically.¹

In this modern era, *E-Commerce* is considered a very important need for carrying out trade transactions, where everyone can make transactions without having to leave the house and can even be done without a long time so that anyone can access the Marketplace platforms.² However, there are several things that can cause problems in conducting *E-Commerce* trades when conducting business this way. where this problem can be included in the category of unhealthy business competition, namely *Predatory Pricing* activities. *Predatory Pricing* is a business strategy in which a company sets the price of a good or service below production costs or below market prices for a certain period of time.³ The main goal is to reduce competitors and gain a larger market share.

According to the Business Competition Law Article 20 No. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition states:

"Business actors are prohibited from supplying goods and/or services by buying and selling or setting very low prices with the intention of eliminating or killing the businesses of their

¹ Endang Purwaningsih, *Business Law*, (Ghalia Indonesia, 2010), p 58.

² Hani Atun Mumlahana, Sekreningsih Nita, and Adzinta Winerawan Tito, "Utilizing the E-Commerce Web to Improve Marketing Strategy", *Khazanah Informatika: Journal of Computer Science and Informatics*, 2017, p 6-15, <https://doi.org/10.23917/khif.v3i1.3309>.

³ Ari Tri Wibowo, Tri Lisiani Prihartinah, and Ade Maman Suherman, "The Future of Legal Regulation Related to Predatory Pricing Practice in E-Commerce Implementation in Indonesia", *Webology*, 2022, <https://doi.org/10.14704/web/v19i1/web19173>.

competitors in the relevant market, which could result in monopolistic practices and/or unfair business competition".⁴

The purpose of the article written above is to prohibit the practice of *Predatory Pricing* or setting very low prices. This aims to drive competitors out of the market or kill their competitors' businesses. The existence of this prohibition is based on minimizing the occurrence of monopolistic practices or unfair business competition which can harm consumers and competitors by marketing and selling goods or services at very cheap prices below production costs or fair market prices, so that business actors can reduce or eliminate the competitiveness of its competitors. As a result, they can create market dominance (monopoly) or damage healthy competition, which will ultimately harm consumers and hinder economic growth.⁵

One of the events currently occurring in Indonesia is the proliferation of products being imported into Indonesia and sold at low prices on the Indonesian Marketplace platform. This clearly threatens the continuity of MSME business actors. Many domestic products from MSMEs are unable to compete with imported goods which are marketed at lower prices, especially imported products from China. If this situation continues, it is feared that Indonesian MSMEs have the potential to stop their business operations because they lose out on competition.

According to the Minister of Trade Enggartiasto Lukita, around 90 percent of the products sold on the *E-Commerce* platform are imported products, while the remaining only around 10 percent are domestic products.⁶ Likewise, according to the Minister of Cooperatives and Small and Medium Enterprises (Menkop UKM) Teten Masduki, according to him, as many as 90 percent of imported products that dominate the *E-Commerce* sector in Indonesia are sold by MSMEs who act as resellers without having their own products.⁷ In fact, President Jokowi also stated that many goods were imported and offered at very low prices on the *E-Commerce* online trading platform, such as clothes that were sold for IDR

⁴Article 20 Law no. 5 of 1999 concerning "Prohibition of Monopolistic Practices and Unfair Business Competition".

⁵ Kevin Suryajaya Samuel Daulima, Johan Kurniawan, "The Future of Legal Regulations Regarding Predatory Pricing Practices in the Implementation of E-Commerce in Indonesia", *Civilia: Journal of Legal Studies and Citizenship Education*, 2023.

⁶ RISED, "Imported Products Dominate E-Commerce, What is the Fate of MSMEs? ", *risen.or.id*, 2021, <https://rised.or.id/produk-impor-mendominasi-e-commerce-how-nasib-umkm/>.

⁷ Lida Puspaningtyas, "90 Percent of Imported Products in E-Commerce Are Sold by Resellers", *Repubika*, 2023, <https://ekonomi.republika.co.id/berita/s4kwbm502/90-persen-produk-impor-di-ecommerce-dijual-resellers>.

5,000. These clothes are the result of the practice of selling at a loss or "*Predatory Pricing*", so they need to be faced with more caution.⁸

Regarding the rise of imported products sold on E-Commerce, researchers also found several shops selling imported goods on *E-Commerce* which were sold at quite cheap prices.⁹ These shops are the *Fistyle* shop and *Biu.costore* which are imported clothing shops that sell at quite cheap prices on the *E-Commerce* platform. This is proven in the shop account, the *Fistyle* shop sells clothes for IDR 15,000. Even *Fistyle* stores often hold big warehouse clearance promotions, where they sell their products for only IDR 2,000 Rupiah. The *Biu.costore* shop sells various fashion accessories starting from IDR 30,000. This shop also sells imported diesel bags which are only sold for IDR 225,000, even though diesel bags, as one of the premium fashion brands from Italy, are priced at a high price, namely millions of Rupiah.¹⁰

In the world of e-commerce, *Predatory Pricing* practices are a concern. This refers to a company's strategy of pricing their products very low, often below production costs, in order to beat competitors and gain market dominance. The selling at a loss strategy is usually used by business actors to compete in business by setting prices below the prices set by their competitors.¹¹ This strategy is used by businesses to maintain their dominance by lowering prices while maintaining the same quality of goods, allowing them to remain dominant and protect their position in the market. Entrepreneurs, both in markets and online markets such as Shopee, Lazada, Tokopedia, and Bukalapak, often use *Predatory Pricing* tactics on imported products. This worries new entrepreneurs in the world of online trading.¹² However, *Predatory Pricing* activities are carried out by business people who sell goods online on platforms such as *Shopee*, *Tiktok shop* and *Instagram* in this research.

Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition (Anti-Monopoly Law) regulates all actions that cause unfair business competition. Islam also regulates price provisions. Islam also regulates worldly life through *Fiqh Muamalah*. *Fiqh Muamalah* is a branch of Islamic law related to aspects of

⁸ CNN Indonesia, "Jokowi Says There Are Imported Clothes Sold for IDR 5,000, Alludes to Predatory Pricing", CNN, 2023, <https://www.cnnindonesia.com/economic/20231004145921-532-1007082/jokowi-buat-ada-baju-import-for-sale-rp5000-offend-predatory-pricing>.

⁹ Vicky Darmawan Prahmana and Ditha Wiradiputra, "Predatory Pricing in E-Commerce According to a Business Competition Law Perspective", *JISIP (Journal of Social Sciences and Education)*, 2022, <https://doi.org/10.58258/jisip.v6i3.3277>.

¹⁰ Author's observations at the *Fistyle* Store and *Biu.costore* January 20 2024

¹¹ Prahmana and Wiradiputra, "Predatory Pricing in E-Commerce According to a Business Competition Law Perspective."

¹² Dheny Biantara, "Analysis of the Role of Regulators and Cost Aspects in Preventing Predatory Pricing Practices in Indonesian E-Commerce", *Indonesian Journal of Accounting and Governance*, 2022, <https://doi.org/10.36766/ijag.v6i1.270>.

economic transactions and activities. In the context of *Predatory Pricing* in E-Commerce, considering the perspective of Islamic law can provide insight into aspects of ethics and morality, as well as principles that can guide business behavior in creating healthy and fair competition.

The purpose of this research article is to try to explore the study of legal issues that will be achieved, namely *Predatory Pricing* in E-Commerce. both in practice and in positive legal provisions, namely the anti-monopoly law and *Muamalah* Fiqh. These two legal provisions regulate in detail how to determine competitive prices in the implementation of healthy trade. In order to get an idea of how *Predatory Pricing* is regulated so that it does not harm other entrepreneurs or other people, both in the context of positive law and religion.

RESEARCH METHODS

Empirical juridical research or field research is this type of research.¹³In this research, the author directly spoke with respondents or research subjects to obtain valid or credible data to answer the legal issues discussed. Field research in empirical legal research, sociological legal research, is legal research that examines law which is considered as actual behavior, as an unwritten social phenomenon, which is experienced by everyone in social life.¹⁴In this research, three approaches are used: legal sociology, legislation, and conceptual. These three approaches are used because they are relevant to the legal issues discussed, so they can be used to answer legal problems. This research data comes from primary and secondary sources which were collected directly from the field through methods such as interviews, observation and documentation, while data analysis was carried out using data triangulation techniques, both technical and source data triangulation.¹⁵ so that later we can get authoritative data on the legal issues being studied and we can get good explanations so that legal issues can be answered.

DISCUSSION/RESULTS AND DISCUSSION

1. Indications of the Implementation of *Predatory Pricing* by *Fistyle* Stores and *Biu.costore* in Buying and Selling Imported Products at Low Prices in E-Commerce.

The rapid growth of *E-Commerce* has changed the business landscape significantly. This includes increasing internet penetration, the growth of online platforms, and changes in consumer behavior from

¹³ Muhaimin, *Legal Research Methods*, Legal Research Methods, Mataram-Mataram University Press, 2020.

¹⁴ Muhaimin.

¹⁵ Muhammad Rijal Fadli, "Understanding the Design of Qualitative Research Methods", *Humanika*, Scientific Studies General Course 21, no. 1 (2021): 33-54, <https://doi.org/10.21831/hum.v21i1>.

shopping in stores to online shopping.¹⁶ The rapid growth of *E-Commerce* has presented new challenges in the scope of business competition. Anyone can sell their merchandise easily through *E-Commerce*.

Recently, there has been an increase in the number of business actors offering imported goods at cheaper prices, especially in the clothing category. The existence of imported products at prices that are significantly lower than local products can cause potential losses for MSMEs.

Researchers found initial indications of *Predatory Pricing* practices in several shops selling imported goods on *e-commerce*, such as *Fistyle* and *Biu.costore*. These shops sell clothing and accessories at fairly low prices on *Shopee*, *Instagram*, and *Tiktok*.

Based on the results of observations, interviews and documentation conducted by researchers with *Fistyle* stores and *Biu.costore*, *Fistyle* stores choose to trade in *E-Commerce* because of its popularity among the public, which allows them to reach more buyers using this platform. This shop sells fashion clothing products at quite cheap prices. Then when referring to exposure by sellers, it can be seen that their implementation of sales by selling them at fairly low prices can be said to be an early indication of *Predatory Pricing* practices. Where the products offered to sellers and consumers are priced at unreasonable prices on the market.

Fistyle Shop is a shop that sells used imported clothes. Usually this shop sells its products in units or there are also cheap packages priced at 150 thousand containing 10 items, Cardigan packages priced at One Hundred Thousand containing 5 items, premium Crop packages priced at 200 Thousand containing 5 items, Beginner Crop packages priced at One Hundred Thousand contains 5 items, and for the Korean premium 200 Thousand contains 5 items. This can be said to be cheap because with 150 thousand someone can get 10 items of clothing.¹⁷ In other words, one shirt costs IDR 15,000. Even *Fistyle* stores often hold big warehouse clearance promotions, where they sell their products for only IDR 2,000 Rupiah. Even though the goods sold are sorted goods, this can still attract all customers and can result in losses for other competitors. However, in Regulation of the Minister of Trade Number 40 of 2022, which amends Regulation of the Minister of Trade Number 18 of 2021 concerning Export and Import Prohibited Goods, used clothing is prohibited from being imported. Thus, buying and selling used imported clothes is actually prohibited because it is considered dangerous to users, so this cannot be said to be a *Predatory Pricing* practice.

¹⁶ Ni Made Yulia Dewati Ayu Ni Made Yulia Dewati Ayu and Jakaria, "The Influence of E-Commerce on Indonesia's Economic Growth", *Trisakti Economic Journal*, 2023, <https://doi.org/10.25105/jet.v3i2.17499>.

¹⁷ Author's observations at the *Fistyle* Store and *Biu.costore* April 23 2024

Furthermore, at the *Biu.costore* shop, which is a premium and branded clothing distributor shop, this shop also sells its products at quite low prices. The cheapest product sold in this shop is IDR 30,000 and the most expensive is around Two Hundred. Researchers also found that this bag also sells imported diesel bags which are only sold for IDR 225,000, even though diesel bags, as one of the premium fashion brands from Italy, are priced at a high price, namely millions of Rupiah.

Apart from that, in video promotions shared by this shop account, the owner of this shop also often gives discounts to consumers who shop directly at the shop. Don't be half-hearted, apart from giving discounts, owners also often give gifts or free gifts, usually in the form of glasses or other accessories. The *Biu.costore* shop is busy with visitors every day. They are very overwhelmed by the number of consumers who want to order their products. Many consumer customers want to shop and buy products at the *biu.store* store, of course leaving other competitors empty. This is caused by the busyness of the *biu.store* shop because it sells imported clothing and accessories at very cheap prices.

When in trade imported products are sold at prices that are much lower than local products, this is an indication that shows the practice of selling at a loss or *Predatory Pricing* on *E-Commerce* platforms. Considering the extremely low prices described earlier, we might immediately think that businesses selling imported products are engaging in the practice of selling at a loss. This is because the price of imported products is much lower than the price of other local products. Apart from analyzing the production costs required to make a product, we must also consider additional variables that can affect the selling price of the product. The existence of *Predatory Pricing* practices makes it difficult to know how expensive imported products sold via *E-Commerce* are. In order to find out whether the implementation of cheap sales is included in the practice of *Predatory Pricing* or simply selling at a loss due to warehouse clearance, we should test it with the normative legal provisions regulated in article 20 of the anti-monopoly Law or the Law prohibiting unfair business competition practices.¹⁸

¹⁸ Dwi Rachmawati, "Cheap Imported Goods Suspected of Predatory Pricing, KPPU: Not Sure", [business.com](https://m.bisnis.com/business.com), accessed April 25, 2024, <https://m.bisnis.com/amp/read/20230816/12/1685420/barang-import-cheap-alleged-predatory-pricing-kppu-not-certain>.

2. Legal Regulations Against *Predatory Pricing* Practices for Buying and Selling Imported Products in *E-Commerce* According to Business Competition Law Based on Law No. 5 of 1999.

a. *Predatory Pricing* Practices for Imported Products in *E-Commerce* According to Business Competition Law

The law regarding business competition was formed to ensure healthy and fair competition in the market, business competition law regulates how businesses act and how businesses relate to each other. The aim is to prevent practices such as monopoly, oligopoly and other actions that harm consumers and damage healthy competition between business actors.

The Anti-Monopoly or Unfair Business Competition Law regulates business competition in Indonesia. This law covers various types of abuse of dominant positions by business actors as well as prohibited agreements and activities. However, the discussion conducted by researchers focused more on the practice of *Predatory Pricing*, which is a form of prohibited business activity.

The prohibition on *Predatory Pricing* practices is contained in article 20 of the Anti-Monopoly or Unfair Business Competition Law, that:

"Business actors are prohibited from supplying goods and/or services by means of buying and selling or setting very low prices with the intention of eliminating or killing the businesses of their competitors in the relevant market, which could result in monopolistic practices and/or unfair business competition."¹⁹

Article 20 of the Anti-Monopoly Law can describe/explain several elements regarding the prohibition of *Predatory Pricing* practices, namely:

1) Elements of Business Actors

Business actors as defined in Article 1 point 5, include individuals or companies, both legal and non-legal entities, which operate or carry out activities in the economic realm in the jurisdiction of the Republic of Indonesia, either independently or in partnership through agreements.

2) Supplier Element

The definition of supply as explained in Article 15 is "providing goods or services for the purposes of buying and selling, renting, renting and leasing".

¹⁹Article 20 Law no. 5 of 1999 concerning "Prohibition of Monopolistic Practices and Unfair Business Competition".

3) Item Elements

In Article 1 point 16, goods refer to all types of objects, whether physical or not, movable or not, which can be traded, used by consumers or business actors.

4) Service Elements

The definition of services in accordance with Article 1 point 17, refers to services provided to customers or businesses through work or results provided to the community in the form of services.

5) Elements of Sale at Loss

The selling price set by the business actor is below the standard cost, as explained in this Guide, is referred to as selling at a loss.

6) Very low price elements

Low prices are prices set by business actors without sound buying and selling principles in order to get as many customers as possible at unreasonable prices.

7) Elements With Intent

In this context, "with intent" means that the activity is carried out with a desire or purpose" referring to the motive behind an action or activity.

8) Eliminating or Turning Off Elements

Eliminating or shutting down is a term that refers to the act of removing or deactivating a business competitor from a particular market or ceasing its operations.

9) Competitor Business Elements

Competitive businesses are businesses carried out by other business actors in the same market.

10) Market Elements

The market, in accordance with Article 1 number 9, is an economic institution where buyers and sellers can carry out trade transactions in goods and/or services.

11) Relevant Market Elements

"Relevant market" is a term used to describe a market in which a company sells comparable or similar goods and services in a particular area.

12) Elements of Monopoly Practice

Monopoly practice, as explained in Article 1 number 2, is a situation where one or more companies have control over the production and marketing of certain goods and services, which disrupts business competition and public interests.

13) Elements of Unfair Business Competition

Unfair business competition, in accordance with Article 1 number 6, refers to business competition carried out in a way that is dishonest, violates the law, or hinders business competition.²⁰

If an act in business competition meets the requirements listed in Article 20 simultaneously, then the act is categorized as a *Predatory Pricing* practice. In general, the characteristics of *Predatory Pricing* are when the action aims to set a selling price at a loss as a barrier to entry with the intention of destroying or excluding business competitors in the same market. Businesses will then set higher prices—or monopoly prices—in the future after their competitors are excluded. This is done to compensate for the losses they experienced previously. Article 7 of Law Number 5 of 1999, in addition to Article 20, prohibits setting prices below market prices. The Business Competition Supervisory Commission (KPPU) will apply these two articles in different ways depending on the evidence available in each case. Article 20 does not require written agreement to implement the prohibition, but Article 7 requires an agreement between the business actor and its competitors to set prices below market prices.

b. Proving *Predatory Pricing* Practices Based on Law. 5 of 1999

In practice, not all selling at a loss cannot be directly designated as a *Predatory Pricing* practice. It requires proof and conformity with the principles regulated in the Anti-Monopoly Law. *Predatory Pricing* is a practice that is prohibited by business competition law. The prohibition against the implementation of *Predatory Pricing* practices is based on the principle of rule of reason, this principle explains that a prohibition on unfair business competition practices is if business competition hinders the implementation of the economy which has an impact on a prohibited practice, by looking at the agreement made by businessmen. meaning that the court will assess various competitive factors and determine whether the practice will hinder trade or not.²¹The court will consider whether the action interferes with, influences or inhibits the competitive process in trade.

Predatory Pricing and selling at a loss are two different terms in business competition. Basically, the practice of *Predatory Pricing* is aimed at 5 (five) main objectives, namely:

- 1) Eliminate competitors in the same market,
- 2) Limiting competitors by applying loss selling prices as a barrier to entry,

²⁰ Business Competition Supervisory Commission, "Guidelines for Implementing Article 20 Concerning Sales at a Loss (Predatory Pricing)", Wwww.Kppu.Go.Id, 2009.

²¹ William Barnett, Michael Lintasa, and Walter Block, "Predatory Pricing ," Corporate Ownership and Control, 2007, <https://doi.org/10.22495/cocv4i4c3p4>.

- 3) Get big profits in the future,
- 4) Reduce previous losses, or
- 5) Setting promotional prices to introduce new products as a marketing strategy.²²

In connection with the objectives of business actors mentioned above, actions prohibited by Article 20 of Law no. 5 of 1999 is supplying goods or services by selling at a loss with the aim of eliminating or destroying competitors' businesses in the relevant market. Monopoly practices or unfair business competition may result from these actions.²³

Predatory Pricing usually has at least the first three objectives mentioned above. The fourth objective is usually carried out by business actors in "warehouse clearance" to reduce greater losses if inventory of goods is not sold or to use up goods that have expired or are nearing their expiration date. The fifth goal is usually to introduce new products or services to attract consumer attention with attractive promotions.

In the initial indications based on the 5 (five) objectives above based on the results of interviews that the *Fistyle* store does not fulfill the objectives of points 1 and 2. The *Fistyle* store in the interview stated that the reason for setting very cheap prices is to attract customers to shop at the store, in the words Otherwise, the price is set as a marketing technique.²⁴ Apart from that, the *Fistyle* shop itself often holds warehouse clearance events by selling its products for IDR 2,000. This is done to reduce losses, namely selling clothes that are not sold in the warehouse at cheap prices so that the stock runs out. With marketing techniques like that, many customers are interested and shop at the store so that in the future the *Fistyle* store will be guaranteed profits.

Meanwhile, for the *Biu.costore* shop, in the researcher's observations, this shop is still newly established, so even though the prices set are very cheap, this is most likely a marketing strategy so this shop cannot be said to be *Predatory Pricing*.²⁵

For its implementation, Law no. 5 of 1999 requires the existence of a supervisory institution that is independent and free from interference from any party, including the government. Therefore, the KPPU (Business Competition Supervisory Agency) was formed.

²² Business Competition Supervisory Commission, Guidelines for the Implementation of Article 20 Concerning Selling at a Loss (Predatory Pricing).

²³ Business Competition Supervisory Commission.

²⁴ Komang Kory Jayani, I Nyoman Putu Budiarta, and Ni Made Puspasutari Ujiti, "Flash Sale as an Indication of Predatory Pricing in E-Commerce Applications from Business Competition Law Perspective", *Journal of Legal Preferences*, 2022, <https://doi.org/10.22225/jph.3.1.4622.42-47>.

²⁵ Richard Adam, "Predatory Pricing for E-Commerce Businesses from a Business Competition Law Perspective", *Journal of Law and Sustainable Development*, 2023, <https://doi.org/10.55908/sdgs.v11i8.1438>.

The objectives and duties of the KPPU as an anti-monopoly supervisory institution are regulated in Presidential Decree No. 75 of 1999. This institution aims to supervise the implementation of Law no. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition. The duties are as follows:

- a) Assess agreements that have the potential to cause monopolistic practices and/or unfair business competition as regulated in articles 4 to 16 of the anti-monopoly Law.
- b) Assess business activities that have the potential to cause monopolistic practices and/or unfair business competition as regulated in articles 17 to 24 of the anti-monopoly Law.
- c) Assess whether there is abuse of a dominant position which has the potential to lead to monopolistic practices and/or unfair business competition as regulated in articles 25 to 28 of the anti-monopoly Law.
- d) Providing advice and input on government policies related to monopolistic practices and unfair business competition.
- e) Prepare guidelines and/or publications related to Law no. 5 of 1999 concerning anti-monopoly.
- f) Report periodically the results of the KPPU's work to the President and the House of Representatives.²⁶

The KPPU uses two approaches to assess whether business actors violate the Anti-Monopoly Law or the Prohibition of Unfair Business Competition, these approaches include:

- 1) The approach is per se illegal

According to positivism theory, the per se illegal approach determines whether an action violates business competition law. An action is considered to violate the law if it conflicts with applicable regulations.²⁷

- 2) Rule of reason approach

Rule of reason approach method used by business competition authorities to evaluate the effect of a particular agreement or business activity to determine whether the agreement or activity supports or hinders business competition.²⁸

Sources of cases in unfair business competition are divided into 2 (two) types, according to KPPU Regulation Number 1 of 2019 concerning

²⁶PERPRES No. 80 of 2008 concerning "Amendments to Presidential Decree Number 75 of 1999 concerning the Business Competition Supervisory Commission".

²⁷ Wihelmus Jemarut, "Rule of Reason and Per Se Illegal Approaches in Business Competition Cases", *Widya Juridika*, 2020, <https://doi.org/10.31328/wy.v3i2.1688>.

²⁸ Siti Mahmuda, "The Principle of Per Se Illegal and Alternative Rule of Reason in Determining Prices for the Freight Container Services Industry (Mining Money)", *Jurist-Diction*, 2021, <https://doi.org/10.20473/jd.v4i2.25787>.

Procedures for Handling Cases of Monopoly Practices and Unfair Business Competition. namely, the *first* is in the form of a report where the case originates from the person who reported the case that occurred. The report must be submitted to the KPPU chairman through the KPPU head office, KPPU trustee offices in the regions, or through an online reporting application using good and correct language, and signed by the reporter. If the report meets requirements such as administrative completeness, clarity of the alleged violation, and the presence of at least one piece of evidence, the report can proceed to the investigation stage. The report must include the identity of the reporter and the reported person as well as a clear description of the alleged violation.²⁹

Second, the commission's initiative is an action taken by the KPPU itself to carry out initial investigations into business actors who they think violate the business competition law.³⁰in accordance with Article 10 paragraph 3 of the Business Competition Supervisory Commission Regulation Number 1 of 2019 concerning Procedures for Handling Cases of Monopoly Practices and Unfair Business Competition.³¹These violations can be discovered through data and information obtained from the results of studies, findings in the examination process, results of hearings held by the commission, incomplete reports, news in the media, and/or other data or information that can be accounted for. Reports on the results of this initiative research can be continued to the research stage if they meet requirements such as conformity with the KPPU's absolute competence, valid descriptions of data and/or information regarding alleged violations of the law, clarity of alleged violations of the law, and the existence of at least one piece of evidence.³²

In the case of business actors who are suspected of carrying out *Predatory Pricing* practices carried out by the KPPU, the investigation will begin immediately after the KPPU reports about the practice. The investigation will take place from the time the business actor is reported to be carrying out *Predatory Pricing* practices until the time the reporter expresses his suspicions about the practice. Initially, the KPPU informed the public that they would conduct an investigation into the matter in response to the practice of selling imported products at a loss on *E-Commerce* platforms.

²⁹ Nirwana Rahma Safura, "Administrative Sanctions for Business Actors Who Take Opportunities to Change Behavior in Business Competition Procedure Law", *Jurist-Diction*, 2022, <https://doi.org/10.20473/jd.v5i4.37343>.

³⁰ Nirwana Rahma Safura.

³¹Article 10 paragraph 3 of the Business Competition Supervisory Commission Regulation Number 1 of 2019 concerning "Procedures for Handling Cases of Monopoly Practices and Unfair Business Competition".

³² Nirwana Rahma Safura, "Administrative Sanctions for Business Actors Who Take Opportunities to Change Behavior in Business Competition Procedure Law."

The Chairman of KPPU, Kodrat Wibowo, explained that in the process of handling the case, KPPU had communicated with the Ministry of Trade and the Ministry of Cooperatives and UMKM. In the discussion, it was stated that if the KPPU was asked to handle this case, they would ask the Ministry of Cooperatives and UMKM to provide information about MSMEs that felt disadvantaged by the practice of selling at a loss. Apart from that, KPPU will also request data or information from the Ministry of Trade regarding price changes that have occurred.³³ Thus, people who feel disadvantaged by this practice can report it either to the Ministry of Cooperatives and UMKM or directly to the KPPU.

According to the results of observations made by researchers through horizontal comparisons of clothing and fashion products in e-Commerce, researchers found that there were several shops that showed that they had carried out *Predatory Pricing* practices; Imported clothing and clothing products sold in these shops are sold at quite low prices by sellers.

Before starting an investigation, the KPPU carried out testing steps to ensure that the business actor was following *Predatory Pricing* practices. The test is carried out in three stages, namely:³⁴

1) First stage (assessing the existence of Unreasonably Low Prices)

In relation to the practice of selling at a loss or setting very low prices, a reasonable approach is needed to assess the reasonableness of price setting by business actors. The approach includes the need to:

- a. Analysis of the ability of business actors to cover losses over a fairly long period of time. Business actors who carry out selling at a loss or *Predatory Pricing* usually consider the ability of their business to cover losses from this practice.³⁵ In this case, researchers refer to the period of time the shop was established as an indication of the business actor's ability to cover losses over a long period. In the explanation summarized from the presentation of data and analysis, the *Fistyle* shop joined Shopee in 2021 and started having its own shop in Blitar in 2022. Meanwhile, the *Biu.costore* shop is classified as a new shop because it was founded one year ago starting in 2023. Both shops Both have two types of shops, namely offline and online shops. Even though the *Fistyle* shop has two types of shops and is supported by a

³³ Emir Yanwardhana, "There is a signal that E-Commerce is 'killing' MSMEs, KPPU comments like this", CNBC Indonesia, accessed April 26, 2024, <https://www.cnbcindonesia.com/news/20210324144514-4-232555/ada-sinyal-e-commerce-kills-umkm-kppu-comments-like-this>.

³⁴ Business Competition Supervisory Commission, "Guidelines for Implementing Article 20 Concerning Selling at a Loss (Predatory Pricing)".

³⁵ Vincentius Eric Sutanto, "Analysis of the Rules of Reason Approach in the Case of Predatory Pricing Practices (Case Study of Decision Number 03/KPPU-L/2020)", Face of Law, 2023, <https://doi.org/10.33087/wjh.v7i1.1001>.

shop that has been established for quite a long time so that it has the ability to cover losses over a long period of time, this shop is actually a Thrift clothing shop which is actually normal if it is sold at a cheap price. Even though the prices at *Fistyle* stores are cheaper than others, this is not a problem.

The recently established *Biu.costore* store is deemed unable to cover losses over a long period of time, so both *Fistyle* and *Biu.costore* stores cannot be said to be practicing *Predatory Pricing*.

- b. Analysis of business actors relating to comparing revenues with costs incurred for production. Initially, we will assess the market strength of business actors, known as market power, if they have a minimum of 35% market share. If business actors have market power, the relationship between product prices and production costs will be examined. If the product price exceeds average total cost (ATC), the price is considered reasonable. However, unless there is a special reason, the price of a product may be considered unreasonably priced if it is below average variable cost (AVC).³⁶ However, many factors must be considered if the price is between average total cost (ATC) and average variable cost (AVC). These factors include the strength of market demand, excess capacity, and the goal of winning competition in the market.

The *Fistyle* shop in an interview said that quite a few other business actors also complained about the prices set by their shop. This can be concluded that the *Fistyle* shop has market power in the Bendogerit market, Blitar. However, in proving whether the product price was below production costs, this shop said that they made quite a profit. With this it can be concluded that the product price at the *Fistyle* store is above the average total cost (ATC).

Meanwhile, for the *Biu.costore* store, considering that the store has only been running for 1 year, it does not yet have market power.

2) Second stage (Recoupment Test)

A Recoupment Test was carried out which served as the first step in the investigation. If it is proven that the business actor suspected of carrying out *Predatory Pricing* practices does not expel or prevent its competitors from entering the market, or if efforts to overcome losses are ultimately unsuccessful, this test allows the competition authority to exonerate the business actor from accusations of being a predator without the need to carry out a test. comparison of prices and costs.³⁷

Based on the results of the analysis and presentation of data, the *Fistyle* shop deliberately sets low prices to attract more customers,

³⁶ Biantara, "Analysis of the Role of Regulators and Cost Aspects in Preventing Predatory Pricing Practices in Indonesian E-Commerce."

³⁷ Biantara.

however in practice so far the *Fistyle* shop has always sold at the same price, there has been no change in price reduction or price increase. It can be said that pricing in the *Fistyle* store is stagnant so that this store does not need to carry out a price-cost test. Meanwhile, the *Biu.costore* store, which has only been operating for a long time, cannot be said to be *Predatory Pricing* without needing to carry out a price-cost test as well.

3) Third phase

Price-Cost Test, proposed by the Areeda-Turner method. According to Areeda and Turner, if the price of a product or service is set below its short-run marginal cost, it is considered *Predatory Pricing*.³⁸ However, because determining marginal costs is not easy, they propose using Average Variable Cost (AVC) as an approach.

Furthermore, in stating that a business actor has violated the business competition law, a proof process is required based on existing evidence. The types of evidence that can be used are regulated in article 42 of the Anti-Monopoly and Unfair Business Competition Law. Witness testimony, expert opinions, letters, documents, instructions and statements from business actors are valid evidence. Each of these documents will be sent to the KPPU, and the KPPU panel will assess it.

Based on the Anti-Monopoly and Unfair Business Competition Law, for business actors who are proven to carry out "*Predatory Pricing*" activities which are carried out in definite violation of Article 20 of the Anti-Monopoly Law, then that person will be subject to sanctions in accordance with the Business Competition Law, these sanctions are in the form of administrative action., criminal sanctions and additional criminal sanctions.

Regarding sanctions for administrative action, you will deal directly with the KPPU (Usha Competition Supervisory Commission). because basically according to Article 47 Paragraph (1) of the Anti-Monopoly Law that:

"The Commission has the authority to impose sanctions in the form of administrative action against business actors who violate the provisions of this law."³⁹

Thus, it can be interpreted that the KPPU has the authority to impose sanctions or administrative action on any business actor who is proven to have violated the provisions of Article 20 of the Anti-

³⁸ Muhammad Faishol et al, "Predatory Pricing Practices in the Maqashid Sharia Perspective", *Al-Manhaj: Journal of Islamic Law and Social Institutions*, 2022, <https://doi.org/10.37680/almanhaj.v4i1.1580>.

³⁹Article 47 paragraph 1, Law no. 5 of 1999 concerning "Prohibition of Monopolistic Practices and Unfair Business Competition".

Monopoly Law and the prohibition on unfair business competition in the form of:

- a) Orders to business actors to stop activities that are proven to give rise to monopolistic practices and/or cause unfair business competition and/or harm to society (Article 47 paragraph (2) point c); and or
- b) Determination of compensation payments (Article 47 paragraph (2) point f); and or
- c) The imposition of a fine as low as IDR 1,000,000,000.00 (one billion rupiah) and as high as IDR 25,000,000,000.00 (twenty billion rupiah) (Article 47 (2) point g)."⁴⁰

Regarding criminal sanctions and additional criminal sanctions, they will be imposed through the courts. This is because both are criminal acts. "The court has the authority to impose criminal sanctions on business actors who violate article 20 of the Anti-Monopoly Law which is contained in article 48 paragraph (2) of the Anti-Monopoly Law which states:

"Violations of the provisions of Articles 5 to Article 8, Article 15, Articles 20 to Article 24, and Article 26 are punishable by a fine of a minimum of IDR 5,000,000,000.00 (five billion rupiah) and a maximum of IDR 25,000,000. 000.00 (twenty five billion rupiah) or imprisonment in lieu of a fine for a maximum of 5 (five) months."⁴¹

As for additional criminal sanctions, these are intended for business actors who are definitely proven to have carried out the practice of selling at a loss (*Predatory Pricing*) which refers to article 10 of the Criminal Code ("Criminal Code"). Additional penalties that can be imposed in this article are:

- a) Revocation of business license;
- b) Prohibition of business actors who have been proven to have violated the Anti-Monopoly Law from holding the position of director or commissioner for a minimum of 2 (two) years and a maximum of 5 (five) years; or
- c) Termination of certain activities or actions that cause losses to other parties.

Based on the explanation that has been explained, according to the evidence of *Predatory Pricing* according to the Anti-Monopoly Law and the Prohibition of Unfair Business Competition Practices, *Fistyle* stores

⁴⁰Article 47 paragraph 2, Law no. 5 of 1999 concerning "Prohibition of Monopolistic Practices and Unfair Business Competition".

⁴¹Article 48 paragraph 2, Law no. 5 of 1999 concerning "Prohibition of Monopolistic Practices and Unfair Business Competition".

and *Biu.costore stores* have not been proven to have carried out *Predatory Pricing* practices. Even though many parties felt aggrieved, including one customer who complained that the goods he received were defective, the shop did not prove it in testing. It's just that the *Fistyle* store may violate the protection of consumer rights, because many people feel disadvantaged. For example, there was one customer who complained that the goods were defective.

Thus, regarding the price of cheap goods which is suspected of being *Predatory Pricing*, it is possible that the low price is not the result of a *Predatory Pricing* strategy which aims to get rid of competitors through setting very low prices, but rather is caused by certain efficiencies possessed by business actors. This approach suggests that low prices are not necessarily an indication of malicious intent or an anti-competitive strategy, but may be the result of more efficient and innovative business operations. However, it is important to continue to monitor highly competitive business practices to ensure that there is no abuse of market position that harms fair competition and consumers in the long term.

It should be remembered that the *Fistyle* shop sells used imported clothing which is actually prohibited in the Minister of Trade Regulation (Permendag) Number 40 of 2022 concerning Amendments to Minister of Trade Regulation Number 18 of 2021 concerning Export Prohibited Goods and Import Prohibited Goods. According to this regulation, used goods such as used clothes are included in the category of goods prohibited for import under the tariff postal code or HS 6309.00.00, which includes used clothes and other used goods, as listed in section IV regarding Types of used bags, sacks used, and used clothes.

The amount of import fees associated with this tariff code will vary depending on various factors, including the value of the goods imported, shipping costs, taxes and duties imposed, and the rules and tariffs applicable in the country of import. Thus, *Fistyle* stores are definitely banned for selling second-hand clothes imported from abroad.

3. Legal Regulations on *Predatory Pricing* Practices for Buying and Selling Imported Products in *E-Commerce* According to Fiqh *Muamalah*

The process of implementing law in Islam involves human thinking which can influence the interpretation of rules, both individually and in society.⁴²The Islamic religion encourages individuals to be active in the economy while still adhering to Islamic

⁴² Faishol et al., "Predatory Pricing Practices in the Maqashid Syariah Perspective."

principles.⁴³ One of the permitted economic practices is buying and selling. Buying and selling transactions are *Muamalah* activities commonly carried out by humans to meet life's needs. Buying and selling transactions in Islam are permitted as per the legal basis of *Muamalah*, namely in the hadith of the Prophet Muhammad SAW:

عَنْ رَفَاعَةَ بْنِ رَافِعٍ رَضِيَ اللَّهُ عَنْهُ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ سُئِلَ أَيُّ الْكَسْبِ أَطْيَبُ؟ قَالَ : عَمَلُ الرَّجُلِ بِيَدِهِ وَكُلُّ بَيْعٍ مَبْرُورٍ ، .رواه البزار وصححه الحاكم

Meaning: "From Rafa'ah ibn Rafi' ra, Rasulullah was asked by one of his companions about what job (profession) is the best. Rasulullah answered: The work of human hands and every buying and selling is blessed." (HR. al-Bazzar was declared authentic by al-Hakim al-Naysaburi).⁴⁴

In this hadith, the Prophet Muhammad SAW revealed that buying and selling transactions that receive blessings is one of the best professions. To achieve the buying and selling goals referred to in the hadith, it is important to comply with the terms and conditions of Islam when carrying out buying and selling transactions. This action aims to prevent possible irregularities in business practices.

Based on this, the researcher conducted a review of the terms and conditions of the promotional practices of *Fistyle* and *Biu.costore stores* which sell imported clothing as follows:

1) *Shighat*

This is done by ordering via the *E-Commerce* Platform and paying with the amount of money stated in the total payment. Payments are made according to the payment methods available on the *Shopee* or *Tiktok Shop* application such as COD, bank transfer and so on. Meanwhile, for Instagram, payment is made by transferring money to the seller's account. Contracts are carried out using writing and pictures. This is reinforced by the Compilation of Sharia Economic Law article 25 Paragraph 2:

"The contract agreement can be carried out clearly either orally, in writing and/or in action."⁴⁵

2) *Ma'qud 'alaih*

This is imported clothing and fashion which is the object of buying and selling transactions. The sellers also have this product.

⁴³ Faishol et al.

⁴⁴ Abdullah bin Abdurrahman Al-Bassam, "Taudihul Ahkam Min Bulughul Maram: Syarh Bulughul Maram", (Jakarta: Pustaka Azzam, t. 1992), p 411.

⁴⁵Article 25 Paragraph 2 Regulations Supreme Court, "Compilation of Sharia Economic Law", Pub. L.No. 02 of 2008 (2008).

3) *Al-Muta'qidain*

Buyers and sellers are considered to be in agreement if they meet the age requirements of 17 years or over. If they are under this age and are still under guardianship, they must obtain permission from their parents or guardians.

In the terms and conditions of buying and selling imported products at low prices on *E-Commerce*, everything has been fulfilled starting from *Al-Muta'qidain*, *Shighat* and *Ma'qud 'alaih*. However, in Islam there are practices that are prohibited in business competition. Where this practice can distort the market which can lead to monopolistic practices and unhealthy business competition. These prohibitions include the prohibition on hoarding assets (*Ikhtikar*), the prohibition on determining assets (*tas'ir*), the prohibition on selling below market price (*Siyasah al-Ighraq*) and the prohibition on conditional buying and selling. "*Siyasah al-Ighraq* is a trading strategy that is prohibited in Islam, because this is a form of charging below standard prices for a product. *Siyasah al-Ighraq* can harm its competitors, because this activity will make its competitors lose money and even go bankrupt."⁴⁶

Apart from that, Allah SWT prohibits fraudulent acts that cause problems in buying and selling transactions. This is in line with the opinion of Ibn Taimiyah, who strongly opposed the practice of price discrimination between sellers and buyers. Ibn Taimiyah said "a seller is not allowed to set a price above the usual price to people who are not aware of market prices and vice versa. The seller must sell his merchandise at the general price level or a price close to it".⁴⁷

In setting prices, Ibn Taymiyah always used the Koran as his main source of law. One of the verses he used was Surah An-Nisa verse 29.

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالِكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ
مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

Meaning: "O you who believe, do not consume each other's wealth in a wrongful way, except by means of commerce that is carried out between you. And do not kill yourselves. Indeed, Allah is Most Merciful to you." (QS. an-Nisa 29).

This verse contains several conclusions. *First*, the basic principle in halal buying and selling is a mutually satisfactory agreement between

⁴⁶ JMTAS Kasrokhim, M Chamim, and ..., "Islamic Law Against Predatory Pricing in Online Book Buying and Selling Business Competition: (Case Study at the SBG Book Online Bookstore)", *Irtifaq: Journal of Sciences...*, 2022.

⁴⁷ AA Islahi, "Ibn Taymiyah's Economic Concept (First Printing)", (Surabaya: PT. Bina Ilmu Offset, 1997), p 120.

the seller and the buyer. Cheating or unfair actions are prohibited. *Second*, everything in the world, including businesses and the assets they own, is temporary. Therefore, it is wise for those who are wise to prepare themselves for a better and eternal afterlife. *Third*, most types of business can involve improper taking of property. Therefore, establishing the value of goods and determining a fair price is often difficult. Therefore, it is important to act fairly and give each other permission.⁴⁸

Another history that mentions selling at a loss is the story of Umar ibn Khattab during a price inspection as follows;

عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، أَنَّ عُمَرَ بْنَ الْخَطَّابِ مَرَّ بِحَاطِبِ بْنِ أَبِي بَلْتَعَةَ وَهُوَ يَبِيعُ زَبِيئًا لَهُ بِالسُّوقِ، فَقَالَ لَهُ عُمَرُ بْنُ الْخَطَّابِ: «إِمَّا أَنْ تَزِيدَ فِي السَّعْرِ، وَإِمَّا أَنْ تُرْفَعَ مِنْ سُوْقِنَا»

Meaning: "From Sa'id bin al-Musayyab, Umar bin Khattab once met Hatib bin Abu Balta'ah who wanted to sell raisins in the market. Then Umar bin Khattab asked Hatib; "There are two choices for you, raise the price or raise foot of our market".⁴⁹

At first glance, Umar Ibn Khattab's policy above does not actually mean to interfere in regulating and intervening in determining commodity prices (tas'ir) for traders in the market. However, these efforts are carried out solely for the common good of all traders in the market, not wanting to limit individual movements in trading. As a leader, Umar's position is only to achieve joint economic stability in the market. In other words, selling at a loss for a commodity can damage prices in the market and can give rise to unhealthy business competition.⁵⁰

The observation results show that, with horizontal comparisons carried out by researchers, they found imported products that were sold at low prices on *E-Commerce* platforms. From several shops studied, researchers found initial indications that some sellers were carrying out unfair competition by selling imported clothing at low prices. Vendors selling the product include *Fistyle* and *Biu.costore*.

In practice, *Fistyle* stores usually sell their products individually or there are also cheap packages priced at 150 thousand containing 10 items, Cardigan packages priced at one hundred thousand containing 5

⁴⁸ Muhammad Mustafa al-Maraghi, "Tafsir Al-Maraghi Translation" (Al-Azhar Library, Kuala Lumpur, 1986), p 27.

⁴⁹ Malik ibn Anas, " Muwatta' ibn Malik ", (Beirut: Dar Ihya' al-Turath al-'Arabiyy, 1985), p 651.

⁵⁰ Syaifuddin al-Qaffal, "Hilyah al-Ulama' fi Ma'rifat Madzahib al-Fuqaha", (Jordan: Maktabah al-Risalah al-Haditsah, 1988), IV, 317.

items, premium Crop packages priced at 200 thousand containing 5 items, Crop packages For beginners, the price is One Hundred Thousand, containing 5 items, and for the Korean premium, 200 Thousand, containing 5 items. This can be said to be cheap because with 150 thousand someone can get 10 items of clothing. In other words, one shirt costs IDR 15,000. Even *Fistyle* stores often hold big warehouse clearance promotions, where they sell their products for only IDR 2,000 Rupiah. Even though the goods sold are sorted goods, this can still attract all customers and can result in losses for other competitors. Apart from that, many parties felt disadvantaged, including one customer who complained that the goods he received were defective, but this was not proven by the shop in testing. It's just that *Fistyle* stores may violate the protection of consumer rights, because many customers feel disadvantaged. For example, one customer complained that the goods did not match his specifications.

Furthermore, at the *Biu.costore* shop, the cheapest product sold in this shop is IDR 30,000 and the most expensive is around Two Hundred. Researchers also found that this bag also sells imported diesel bags which are only sold for IDR 225,000, even though diesel bags, as one of the premium fashion brands from Italy, are priced at a high price, namely millions of Rupiah. Apart from that, in video promotions shared by this shop account, the owner of this shop also often gives discounts to consumers who shop directly at the shop. Don't be half-hearted, apart from giving discounts, owners also often give gifts or free gifts, usually in the form of glasses or other accessories. Therefore, there are many violations of consumers who want to shop and buy up products at the *biu.store* store, of course leaving other competitors empty.

Based on the description and analysis above, it can be concluded that: business competition at the *Fistyle* shop can be considered a *Siyasah al-igjar* activity because it causes many disadvantages for other business competitors. Meanwhile, *Biu.costore* cannot be said to be an activity of *Siyasah al-igjar* because it has not been proven to involve *Predatory Pricing* practices.

CONCLUSION

Fistyle and *Biu.costore* stores, which sell imported clothing at low prices, are deemed not to have violated Article 20 of the Anti-Monopoly and Unfair Business Competition Law. Based on the KPPU's assessment, even though they sell at very low prices, their practices do not meet the *Predatory Pricing* criteria which include Unreasonably Low Price, Recoupment Test, and Price Cost Test. The products sold by *Fistyle* are imported second-hand clothes, which are actually prohibited from being

imported, while *Biu.costore* takes advantage of low prices for promotions and attracting customers. In Fiqh *Muamalah's* review, *Fistyle* Shop's practices are considered *Siyasah al-Ighraq*, a policy that is detrimental to competitors and customers, and violates the principles of fairness and honesty in transactions. Defective goods and very low prices indicate injustice that harms other business actors and consumers, which is prohibited in Islam. As for *Biu.costore*, although it provides big discounts and free gifts, it is seen as a legitimate marketing strategy to attract customers as long as it does not violate the principles of fairness and transparency. Overall, even though both stores offer very low prices, *Fistyle* is not included in the *Predatory Pricing* category because the goods sold are imported used clothing which is prohibited, while *Biu.costore* is considered to use low prices as a promotional strategy that does not violate the law. A low price strategy does not necessarily indicate malicious intent or an anti-competitive strategy, but can be the result of more efficient and innovative business operations.

LITERATURE

- Adam, Richard. "*Predatory Pricing* for *E-Commerce* Businesses from a Business Competition Law Perspective." *Journal of Law and Sustainable Development*, 2023. <https://doi.org/10.55908/sdgs.v11i8.1438>.
- Al-Bassam, Abdullah bin Abdurrahman. "*Taudihul Ahkam Min Bulughul Maram: Syarh Bulughul Maram*." Jakarta: Azzam Library, t. Th, nd al-Maraghi, Muhammad Mustafa. Translated Tafsir Al-Maraghi. Al-Azhar Library, Kuala Lumpur, 1986.
- Barnett, William, Michael Lintasa, and Walter Block. "*Predatory Pricing*." *Corporate Ownership and Control*, 2007. <https://doi.org/10.22495/cocv4i4c3p4>.
- Biantara, Dheny. "Analysis of the Role of Regulators and Cost Aspects in Preventing *Predatory Pricing* Practices in Indonesian *E-Commerce*." *Indonesian Journal Of Accounting And Governance*, 2022. <https://doi.org/10.36766/ijag.v6i1.270>.
- Dwi Rachmawati. "Cheap Imported Goods Suspected of *Predatory Pricing*, KPPU: Not Sure." *business.com*. Accessed April 25, 2024. <https://m.bisnis.com/amp/read/20230816/12/1685420/barang-impor-murah-diduga-predatory-pricing-kppu-belum-besar>.
- Emir Yanwardhana. "There is a signal that *E-Commerce* is 'killing' MSMEs, KPPU comments like this." *CNBC Indonesia*. Accessed April 26, 2024. <https://www.cnbcindonesia.com/news/20210324144514-4-232555/ada-sinyal-e-commerce-kill-umkm-kppu-endam-begini>.
- Fadli, Muhammad Rijal. "Understanding Qualitative Research Method Design." *Humanika, Scientific Studies General Course* 21, no. 1 (2021):

- 33–54. <https://doi.org/10.21831/hum.v21i1>.
- Faishol, Muhammad, Luluk Nur Sayidatin Nisak, M. Thoha Ainun Najib, Mas Ach Azmi Mukminin, and M. Ashilus Sadid. "Predatory Pricing Practices from the Maqashid Sharia Perspective." *Al-Manhaj: Journal of Islamic Law and Social Institutions*, 2022. <https://doi.org/10.37680/almanhaj.v4i1.1580>.
- Indonesia, CNN. "Jokowi says imported clothes are being sold for IDR 5,000, alludes to *Predatory Pricing*." CNN, 2023. <https://www.cnnindonesia.com/economic/20231004145921-532-1007082/jokowi-buat-ada-baju-impor-dijual-rp5000-singgung-predatory-pricing>.
- Islahi, A A. "Ibn Taimiyah's Economic Concept (First Printing)." Surabaya: PT. Offset Science Development, 1997.
- Jayani, Komang Kory, I Nyoman Putu Budiarta, and Ni Made Puspasutari Ujiti. "Flash Sales as an Indication of *Predatory Pricing* in *E-Commerce* Applications from a Business Competition Law Perspective." *Journal of Legal Preferences*, 2022. <https://doi.org/10.22225/jph.3.1.4622.42-47>.
- Jemarut, Wihelmus. "Rule of Reason and Per Se Illegal Approaches in Business Competition Cases." *Widya Juridika*, 2020. <https://doi.org/10.31328/wy.v3i2.1688>.
- Kasrokhim, JMTAS, M Chamim, and ... "Islamic Law Against *Predatory Pricing* in Online Book Buying and Selling Business Competition: (Case Study at the SBG Book Online Bookstore..." *Irtifaq: Journal of Sciences...*, 2022.
- Business Competition Supervisory Commission. *Guidelines for Implementing Article 20 Concerning Selling at a Loss (Predatory Pricing)*. Wwww.Kppu.Go.Id, 2009.
- Lida Puspaningtyas. "90 Percent of Imported Products in *E-Commerce* Are Sold by Resellers." *Repubika*, 2023. <https://ekonomi.republika.co.id/berita/s4kwbm502/90-persen-produk-imp-or-di-ecommerce-dijual-reseller>.
- Supreme Court. *Compilation of Sharia Economic Law*, Pub. L.No. 02 of 2008 (2008).
- Mahmuda, Siti. "The Principle of Per Se Illegal and the Alternative Rule of Reason in Determining Prices for the Freight Container Services Industry (Mining Money)." *Jurist-Diction*, 2021. <https://doi.org/10.20473/jd.v4i2.25787>.
- Muhaimin. *Legal Research Methods*. Legal Research Methods, Mataram-Mataram University Press, 2020.
- Mumlahana, Hani Atun, Sekreningsih Nita, and Adzinta Winerawan Tito. "Utilizing the *E-Commerce* Web to Improve Marketing Strategies." *Khazanah Informatika: Journal of Computer Science and Informatics*,

2017. <https://doi.org/10.23917/khif.v3i1.3309>.
- Ni Made Yulia Dewati Ayu, Ni Made Yulia Dewati Ayu, and Jakaria. "The Influence of *E-Commerce* on Indonesia's Economic Growth." *Trisakti Economic Journal*, 2023. <https://doi.org/10.25105/jet.v3i2.17499>.
- Nirvana Rahma Safura. "Administrative Sanctions for Business Actors Who Take Opportunities to Change Behavior in the Business Competition Procedure Law." *Jurist-Diction*, 2022. <https://doi.org/10.20473/jd.v5i4.37343>.
- Nur Afiah, Siradjuddin, and Idris Parakkasi. "History of Indonesian Islamic Economic Thought." *Al-Mutsala*, 2023. <https://doi.org/10.46870/jstain.v5i1.612>.
- Prahmana, Vicky Darmawan, and Ditha Wiradiputra. "*Predatory Pricing* in *E-Commerce* According to a Business Competition Law Perspective." *JISIP (Journal of Social Sciences and Education)*, 2022. <https://doi.org/10.58258/jisip.v6i3.3277>.
- Purwaningsih, Endang. *Business Law*. Ghalia Indonesia, 2010.
- Supreme Court Regulation Number 2 of 2008 concerning the Compilation of Sharia Economic Law.
- PERPRES No. 80 of 2008 concerning Amendments to Presidential Decree Number 75 of 1999 concerning the Business Competition Supervisory Commission
- RISE. "Imported Products Dominate E-Commerce, What is the Fate of MSMEs?" *risen.or.id*, 2021. <https://rised.or.id/produk-importation-e-commerce-how-nasib-umkm/>.
- Samuel Daulima, Johan Kurniawan, Kevin Suryajaya. "The Future of Legal Regulations Regarding *Predatory Pricing* Practices in *E-Commerce* Implementation in Indonesia." *Civilia: Journal of Legal Studies and Citizenship Education*, 2023.
- Sutanto, Vincentius Eric. "Analysis of the Rules of Reason Approach in the Case of *Predatory Pricing* Practices (Case Study of Decision Number 03/KPPU-L/2020)." *The Face of Law*, 2023. <https://doi.org/10.33087/wjh.v7i1.1001>.
- Law no. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition
- Wibowo, Ari Tri, Tri Lisiani Prihartinah, and Ade Maman Suherman. "The Future of Legal Regulation Related to *Predatory Pricing* Practice in *E-Commerce* Implementation in Indonesia." *Webology*, 2022. <https://doi.org/10.14704/web/v19i1/web19173>.