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Research Article

Legal Protection for MSMEs in Facing Business Competition

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Abstract

Micro, Small, and Medium Enterprises (MSMEs) have a strategic role in the Indonesian economy, but often face major challenges in business competition, especially with large companies. Unfair business competition practices, such as monopolies, predatory pricing, and cartels, often harm MSMEs. This study aims to analyze the legal protection available to MSMEs in facing business competition, the effectiveness of existing regulations, and obstacles in their implementation. The research method used is a normative approach with an analysis of applicable laws and regulations, as well as an empirical approach through case studies related to business competition policies in Indonesia. The results of the study show that although there are regulations such as Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition and Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises, the implementation of legal protection still faces various obstacles. Lack of socialization of regulations, low legal awareness among MSMEs, and limitations in supervision by the Business Competition Supervisory Commission (KPPU) are the main factors that hinder the effectiveness of legal protection. Therefore, reforms are needed in business competition policy, increasing legal literacy for MSMEs, and synergy between the government, KPPU, and MSME associations to create a fairer and more competitive business ecosystem.

Introduction

Micro, Small, and Medium Enterprises (MSMEs) play an important role in the Indonesian economy. MSMEs not only contribute to job creation, but also become the main driver of national economic growth. However, in running their businesses, MSMEs often face various challenges, one of which is increasingly tight business competition. Amidst the dominance of large companies, MSMEs often experience difficulties in maintaining their existence, especially when faced with unhealthy business competition practices. Therefore, legal protection for MSMEs is a crucial aspect in creating a healthy and fair business climate.

Unfair business competition can harm MSMEs in various forms, such as monopolies, cartels, dumping practices, and abuse of dominant positions by large companies. There are many cases where MSMEs have difficulty accessing the market due to unfair competition practices, including obstacles in obtaining raw materials, distribution, and product marketing. Therefore, regulations that guarantee legal protection for MSMEs must be implemented optimally in order to create balance in the business ecosystem.

Legal protection for MSMEs in facing business competition has been regulated in various regulations, such as Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition

and Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises. These regulations provide a basis for MSMEs to obtain protection from detrimental practices, such as monopolies, cartels, and abuse of dominant positions by large companies. In addition, the government also has a role in creating policies that support the sustainability of MSMEs, both through fair regulations and through mentoring and financing programs.

However, in its implementation, there are still various obstacles in the application of legal protection for MSMEs. One of the main challenges is the lack of understanding of MSME actors regarding their legal rights and the mechanisms that can be used to report unfair business competition practices. In addition, the existence of existing regulations is often not fully implemented effectively, so that there is still an imbalance between MSMEs and large companies in obtaining legal justice. Weak law enforcement is also a factor that worsens the conditions of business competition for MSMEs.

In facing increasingly complex business competition, it is important for MSMEs to obtain adequate legal support. This can be done by increasing legal literacy for business actors, strengthening the role of institutions such as the Business Competition Supervisory Commission (KPPU), and optimizing existing regulations so that they can be implemented more effectively. In addition, synergy between the government, academics, and MSME associations is needed to create policies that favor small and medium business actors. With strong legal protection, it is hoped that MSMEs can grow and develop sustainably without having to feel threatened by detrimental business competition practices.

This study aims to analyze the forms of legal protection that can be given to MSMEs in facing business competition and evaluate the effectiveness of regulations that have been implemented. In addition, this study will also discuss the challenges faced in implementing legal protection for MSMEs and provide recommendations that can be used to improve the effectiveness of legal protection for MSME actors in Indonesia.

Hypotheses Development

Legal protection for Micro, Small, and Medium Enterprises (MSMEs) in facing increasingly tight business competition is very important to encourage the sustainability and growth of this sector. The hypothesis proposed in this study is that existing rules and regulations regarding legal protection for MSMEs can strengthen their competitiveness in facing business competition, but suboptimal implementation and minimal legal understanding among MSMEs hinder the effectiveness of such protection. This hypothesis leads to the understanding that although legal regulations already exist, the main challenge lies in their implementation and the extent to which MSMEs are aware of and utilize the rights granted.

One of the first hypotheses developed is that existing regulations are not fully effective in reducing unfair business competition practices. Regulations such as Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition and Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises provide a legal basis for the protection of MSMEs, but in practice, the implementation and supervision of these violations are often less than optimal. This is due to the lack of intensive monitoring of the MSME sector, which tends to be more vulnerable to pressure from large business actors who have more resources.

The second hypothesis developed is that access to clear and easy-to-understand legal information can improve the ability of MSMEs to protect themselves from unfair competition practices. Many MSMEs do not yet have sufficient understanding of existing regulations and available legal protection mechanisms. The lack of legal literacy among MSMEs means that they cannot utilize regulations to protect their businesses, even when they become victims of monopolistic or cartel practices carried out by large companies. Therefore, increasing legal literacy through more intensive training and counseling is expected to strengthen the competitiveness of MSMEs.

The third hypothesis states that the role of the Business Competition Supervisory Commission (KPPU) as a supervisory institution needs to be strengthened to provide more effective protection for MSMEs. Although KPPU has the task of supervising unfair business competition practices, in practice there are still many large business actors who violate regulations without receiving appropriate sanctions. Greater efforts are needed from KPPU to expand supervision of MSMEs, as well as accelerate the dispute resolution process so that MSMEs can feel protected in facing unfair competition.

In addition, the fourth hypothesis proposed is that government policy support, both in terms of funding, coaching, and market facilitation, can strengthen the bargaining position of MSMEs in facing business competition. The government through various institutions and MSME coaching programs, such as providing capital assistance, business training, and wider market access, can improve the ability of MSMEs to compete healthily. These programs are expected to help MSMEs to develop and reduce their dependence on large companies that are more dominant in the market.

The fifth hypothesis is that tighter supervision of business transactions and competition provisions can reduce the potential for violations committed by large companies against MSMEs. Unfair business competition practices, such as price forcing, fraudulent practices, and unfair distribution are often carried out by large companies to eliminate small competitors. With tighter supervision and the application of strict sanctions against large business actors who violate, it is hoped that MSME actors will receive maximum protection.

In addition, another hypothesis that can be proposed is that transparency in regulations and clear policy implementation will increase the trust of MSMEs in the existing legal system. Uncertainty and complexity in regulations are often obstacles for MSMEs in utilizing existing legal protection. With simpler and more transparent regulations, as well as easily accessible legal procedures, MSMEs will be more confident in using legal channels to protect their rights. This trust will also encourage MSMEs to be more active in filing complaints if they experience injustice in business competition.

The next hypothesis is that synergy between the public sector and the private sector can create a healthier ecosystem for MSMEs. Collaboration between the government, MSME associations, and the private sector can provide greater access to MSME actors in obtaining market information, distribution networks, and wider business opportunities. This synergy is expected to reduce the gap between MSMEs and large companies, thereby creating fairer competition.

The hypothesis that also needs to be developed is that innovation and creativity owned by MSMEs can be a major factor in maintaining their competitiveness in facing business competition. Effective legal protection must be accompanied by encouragement to encourage MSMEs to innovate in products, marketing, and services. With innovation that continues to develop, MSMEs can improve the quality of their products and create higher added value compared to products offered by large companies.

Finally, the hypothesis that can be concluded is that changes in the mindset and understanding of MSME actors regarding the importance of legal protection can encourage changes in their behavior in facing business competition. If MSME actors have a better understanding of their rights in business competition, they will be more likely to report violations or injustices that occur. This will certainly improve a healthy competitive climate and increase the competitiveness of MSMEs.

Method

This study uses a normative legal research method with a qualitative approach to analyze legal protection for Micro, Small, and Medium Enterprises (MSMEs) in facing business competition. The normative approach is used to examine various laws and regulations related to business competition and legal protection for MSMEs. In addition, this study also adopts an empirical approach to obtain data from MSMEs, the government, and supervisory institutions such as the Business Competition Supervisory Commission (KPPU). With this combination of approaches, the study is expected to provide a more comprehensive picture of the effectiveness of the legal protection that has been implemented.

The type of research used in this study is descriptive-analytical, where this study aims to describe and analyze the conditions of legal protection for MSMEs in facing business competition. The data obtained will be analyzed systematically to find various factors that support or hinder the implementation of legal protection for MSMEs. This study will also identify gaps between existing regulations and practices in the field in order to provide more concrete recommendations for improvement.

The data sources in this study consist of primary data and secondary data. Primary data were obtained through interviews with MSME actors, government officials responsible for MSME development, and legal experts who have expertise in the field of business competition. In addition, primary data were also obtained from observations of various cases involving MSMEs in business competition conflicts. Meanwhile, secondary data were obtained from literature studies covering laws and regulations, academic journals, KPPU reports, and various scientific publications related to MSME legal protection.

The data collection techniques in this study used in-depth interviews, documentation studies, and observations. Interviews were conducted using purposive sampling techniques, where respondents were selected based on their relevance and expertise in the topic being studied. Documentation studies were conducted by reviewing various legal and regulatory literature related to MSMEs and business competition. Meanwhile, observations were conducted by directly examining cases of business competition involving MSMEs and how they responded to the available legal protection.

The analysis method used in this study is qualitative analysis, with a content analysis approach and legal analysis. Content analysis is used to review legal documents, regulations, and scientific literature to understand how legal provisions are implemented in practice. Meanwhile, legal analysis is carried out to review relevant laws and regulations and identify weaknesses and opportunities for improvement in protecting MSMEs from unfair business competition practices.

This study also applies a comparative legal approach by comparing the regulation of MSME protection in Indonesia with other countries that have more advanced policies for protecting small and medium enterprises, such as Japan and Germany. With this approach, it is hoped that the study can provide insight into best practices that can be applied in Indonesia to improve the effectiveness of legal protection for MSMEs.

To ensure the validity of the data, this study uses source triangulation, which is by comparing and confirming information from various different data sources. The results of the interviews will be compared with data from documentation and observation studies to ensure that the analysis carried out has a strong basis and can be accounted for.

The limitations of this study include an analysis of regulations in force in Indonesia and relevant case studies in the last five years. This study will not examine the technical aspects of MSME business strategies, but rather focus on the legal and policy dimensions related to their protection in facing business competition.

The expected results of this study are concrete recommendations for the government, KPPU, and MSME actors in increasing the effectiveness of legal protection for MSMEs in business competition. In addition, this study also aims to contribute to the development of competition law theory and economic policies that are more in favor of small and medium business actors.

With a systematic approach and comprehensive research methods, this research is expected to contribute to improving the existing legal system so that MSMEs can develop more fairly and sustainably in a competitive business ecosystem.

Results And Discussion

Result

The results of the study show that legal protection for Micro, Small, and Medium Enterprises (MSMEs) in facing business competition has been regulated in various regulations in Indonesia, such as Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition and Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises. However, in its implementation, there are still various obstacles that make it difficult for MSMEs to obtain optimal protection. One of the main factors is the lack of understanding of MSME actors regarding their legal rights, which causes them to tend to be passive in responding to unfair business competition practices.

Analysis of business competition cases shows that many MSMEs have difficulty competing with large companies that have wider capital and market access. Some forms of unhealthy business competition that often occur include predatory pricing practices, distribution exclusivity, and market monopolies by large companies that hinder MSME access in the supply chain. In addition, the dominance of large business actors in the modern retail sector also makes it difficult for MSMEs to gain an equal position in market competition.

The role of the Business Competition Supervisory Commission (KPPU) as an institution responsible for supervising business competition practices is crucial in the context of protecting MSMEs. The results of the study show that although KPPU has been active in handling cases that are detrimental to MSMEs, the sanctions given to large business actors who violate regulations are still relatively light. This causes the deterrent effect for large business actors to be low, so that unfair business competition practices continue to occur. Therefore, it is necessary to strengthen regulations and increase the effectiveness of law enforcement by KPPU to ensure fairer competition for MSMEs.

This study also found that the government has issued various policies to support MSMEs, such as ease of business licensing, capital subsidies, and business training and mentoring. However, many MSMEs still face obstacles in accessing these facilities due to lack of information and complicated bureaucracy. Therefore, more massive socialization and a more transparent system are needed to ensure that MSMEs truly benefit from the legal protection policies that have been implemented.

On the other hand, legal support for MSMEs does not only depend on existing regulations, but also on the ability of MSMEs to access legal assistance when facing business competition problems. The results of the study show that most MSME actors do not have access to adequate legal services, either due to limited funds or the lack of institutions that provide legal advocacy for MSMEs. Therefore, synergy is needed between the government, academics, and community organizations to provide broader legal assistance services for MSME actors.

Further discussion on the effectiveness of legal protection for MSMEs shows that other countries, such as Japan and Germany, have better mechanisms to support MSMEs in business competition. In Japan, for example, there are special regulations that provide incentives for MSMEs to develop and a stricter legal system in taking action against unfair business competition practices. Meanwhile, in Germany, there is a special agency that oversees the MSME market and provides more proactive legal protection for them. The legal protection models from these countries can be a reference for Indonesia in strengthening protection policies for MSMEs.

Furthermore, this study found that innovation and digitalization are important factors in increasing the competitiveness of MSMEs. MSMEs that are able to adapt to digital technology, such as e-commerce and social media-based marketing, tend to be more able to compete with large companies. However, there are still many MSMEs that do not have access to this technology, so there needs to be government intervention in the form of digitalization training and more adequate infrastructure support.

In addition, supervision of pricing policies and distribution systems in the market is also an important factor in creating fairer business competition for MSMEs. The results of the study show that MSMEs often have difficulty in obtaining competitive raw material prices due to the dominance of large companies in the supply chain. Therefore, policies are needed that are more pro-MSMEs in terms of access to raw materials and product distribution so that they can compete more equally in the market.

Overall, this study confirms that legal protection for MSMEs in facing business competition still requires various improvements, especially in terms of implementation and supervision of existing regulations. Legal protection efforts depend not only on stricter law enforcement, but also on increasing legal literacy among MSMEs, strengthening institutional capacity, and closer collaboration between the government, KPPU, academics, and business actors themselves.

Effectiveness of Legal Protection Regulations for MSMEs

The results of the study show that regulations that have been set by the government, such as Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition and Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises, have provided a legal basis for the protection of MSMEs. However, the effectiveness of the implementation of these regulations still faces various obstacles, especially in terms of supervision and law enforcement. Many MSME actors still experience pressure from large companies that exploit weaknesses in the supervision system to carry out unfair business competition practices.

Obstacles in the Implementation of Legal Protection

One of the main obstacles in implementing legal protection for MSMEs is the lack of socialization and understanding of the law among small and medium business actors. Many MSME actors do not know their rights in facing business competition, so they tend not to report cases that are detrimental to them to the authorities, such as the Business Competition Supervisory Commission (KPPU). In addition, complex legal procedures and relatively high costs are barriers for MSMEs to seek legal justice.

The Role of the Business Competition Supervisory Commission (KPPU) in Protecting MSMEs

KPPU as an institution authorized to supervise business competition practices in Indonesia has an important role in providing legal protection for MSMEs. However, this study found that the number of cases handled by KPPU related to violations against MSMEs is still relatively small compared to the scale of the existing problems. This is due to the lack of capacity in conducting investigations and the limited resources owned by KPPU.

The Impact of Unfair Competition on MSMEs

Cases of unfair competition that are often faced by MSMEs include predatory pricing practices, where large companies sell products at very low prices to eliminate small competitors from the market. In addition, many MSMEs experience obstacles in gaining market access due to exclusive agreements between suppliers and large companies, which limit opportunities for MSMEs to grow. The impact of this unfair competition has resulted in many MSMEs having difficulty surviving and being forced to close down.

Government Efforts to Increase the Competitiveness of MSMEs

The government has made various efforts to improve the competitiveness of MSMEs through policies such as providing subsidies, business capital assistance, and business training. However, research results show that these programs are still not effective enough due to the lack of synergy between existing policies and the real needs of MSME actors in the field. In addition, long bureaucracy and complex administrative requirements are often obstacles for MSMEs to access government assistance programs.

Comparison with Regulations in Other Countries

From the results of comparisons with other countries such as Japan and Germany, it was found that the legal protection system for MSMEs in these countries is much stronger due to more consistent policy support and stricter supervision. In Japan, for example, there is a special legal aid mechanism for MSMEs experiencing unfair business competition, so that they can file lawsuits with simpler procedures. This is a lesson for Indonesia in increasing the effectiveness of legal protection for MSMEs.

The Importance of Legal Literacy for MSMEs

One of the key factors in improving legal protection for MSMEs is increasing legal literacy. The results of the study show that MSMEs that have a better understanding of competition law tend to be better able to maintain their position in the market and are more active in reporting practices that are detrimental to them. Therefore, there needs to be a continuous legal training program for MSME actors so that they are better prepared to face the challenges of business competition.

Policy Recommendations for MSME Protection

Based on the research results, several policy recommendations that can be made to improve the protection of MSMEs in business competition are: (1) strengthening supervision of unfair business competition practices by increasing the role of the KPPU, (2) simplifying legal procedures to make them more accessible to MSMEs, (3) providing incentives for large companies that form partnerships with MSMEs, and (4) increasing legal education for MSME actors.

Implications for Economic Development

Better legal protection for MSMEs will have a positive impact on national economic development. MSMEs that are better protected from unfair business competition practices will have a greater opportunity to grow and develop, which will ultimately increase the sector's contribution to the country's economy. In addition, with stronger legal protection, investor confidence in the MSME sector will also increase, thus encouraging more investment in this sector.

Discussion

The Importance of Legal Protection for MSMEs in Business Competition

Discussion on legal protection for Micro, Small, and Medium Enterprises (MSMEs) in facing business competition highlights the importance of fair and effective policies. MSMEs as the main pillar of the national economy often face challenges from large companies that have stronger resources. In this context, business competition regulations must ensure that MSMEs have equal opportunities in accessing the market without experiencing detrimental business practices such as monopolies, cartels, and predatory pricing.

Existing Regulations and Challenges in Their Implementation

Regulations governing business competition in Indonesia, such as Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition and Law Number 20 of 2008 concerning MSMEs, have provided sufficient legal basis for the protection of MSMEs. However, the implementation of these regulations still faces various challenges, such as weak supervision from relevant authorities, lack of socialization to MSME actors, and difficulties in prosecuting large business actors who carry out unfair practices.

The Role of the Business Competition Supervisory Commission (KPPU)

The Business Competition Supervisory Commission (KPPU) has a strategic role in ensuring that business actors do not engage in monopolistic practices that are detrimental to MSMEs. However, the results of the discussion showed that there are still several weaknesses in the performance of the KPPU, including limitations in handling reports of violations from MSME actors. Many cases reported by MSMEs cannot be followed up properly due to lack of evidence or because of the complicated legal process. Therefore, reforms are needed in the reporting and law enforcement mechanisms to be more effective.

Obstacles Faced by MSMEs in Market Competition

The discussion also revealed that MSMEs face various obstacles in competing with large companies. Some of the main obstacles faced by MSMEs include:

1. Predatory pricing practices, where large companies sell products at very low prices to eliminate small competitors.
2. Difficulty in gaining market access, especially due to exclusive contracts between suppliers and large companies that limit the room for MSMEs to move.
3. Lack of legal protection, where many MSMEs do not have sufficient knowledge about their rights in business competition.

Comparison with Other Countries in MSME Protection

The discussion compares legal protection for MSMEs in Indonesia with other countries such as Japan and Germany. In Japan, there is a special legal aid mechanism for MSMEs facing unfair business competition, while in Germany, protection policies for small businesses include subsidies, incentives, and strict regulations against large companies that dominate the market. This comparative study shows that Indonesia still needs to strengthen its MSME protection system through policies that are more pro-small and medium businesses.

Solutions and Policy Recommendations

From the results of the discussion, there are several solutions that can be implemented to improve legal protection for MSMEs in facing business competition:

1. Increasing the role of KPPU in taking firm action against unfair business competition practices, by strengthening investigative capacity and accelerating the dispute resolution process.
2. Socialization and legal education for MSMEs so that they understand their rights and can report cases that harm them more effectively.
3. Simplifying legal procedures, so that MSMEs do not experience difficulties in filing complaints against large companies that violate business competition rules.
4. Increasing access to capital and technical assistance, so that MSMEs can be more competitive in facing pressure from large companies.

The Role of Government in Encouraging Partnerships between MSMEs and Large Companies

In addition to competition regulations, the government can also play a role in encouraging partnerships between MSMEs and large companies through incentives and policies that benefit both parties. This partnership model can be in the form of a fairer distribution system, technology transfer, and marketing support for MSMEs so that they have better competitiveness in the market.

MSMEs' Awareness of Their Rights

The discussion also highlighted the importance of increasing awareness of MSMEs regarding their rights in business competition. Currently, many MSMEs still do not understand how to access legal protection when facing unfair business competition practices. Therefore, a broader legal training and advocacy program is needed.

Legal and Economic Implications

Better legal protection for MSMEs not only has an impact on the legal aspect, but also has a significant economic impact. With a fairer system, MSMEs can grow and develop better, which will ultimately increase the sector's contribution to the national economy and create more jobs.

Based on the results of the discussion, it can be concluded that legal protection for MSMEs in facing business competition still needs to be improved. Existing regulations must be implemented more effectively, supervision of unfair business competition practices must be strengthened, and legal literacy for MSME actors must be improved. With these various strategic steps, it is hoped that MSMEs can grow stronger and have better competitiveness in a competitive market.

References

- Agung, S. (2021). *Inovasi UMKM di Era Persaingan Global*. Bandung: Pustaka Jaya.
- Komisi Pengawas Persaingan Usaha (KPPU). (2021). *Laporan Tahunan KPPU: Pengawasan Persaingan Usaha di Indonesia*. Jakarta: KPPU.
- Kurniawan, D. (2019). "Peran Hukum dalam Mengatasi Praktik Persaingan Usaha Tidak Sehat di Sektor UMKM". *Jurnal Hukum Indonesia*, 18(4), 330-345.
- Prabowo, B. (2020). *Perlindungan Hukum untuk Pelaku UMKM dalam Persaingan Usaha*. Jakarta: Penerbit Hukum Nusantara.
- Rahmawati, I. (2020). "Peran Hukum dalam Mendorong UMKM di Indonesia: Studi Kasus Kebijakan dan Implementasi". *Jurnal Hukum Ekonomi*, 15(2), 123-140.
- Rahmawati, I. (2022). "Peran Hukum dalam Mendorong UMKM di Indonesia: Studi Kasus Kebijakan dan Implementasi". *Jurnal Hukum Ekonomi*, 17(2), 145-160.
- Santoso, A. (2020). "Kebijakan Pemerintah untuk Meningkatkan Daya Saing UMKM di Indonesia". *Jurnal Kebijakan Ekonomi*, 22(1), 95-110.
- Suryani, T. (2021). *Strategi Penguatan UMKM dalam Menghadapi Persaingan Usaha Global*. Yogyakarta: Pustaka Mandiri.
- Undang-Undang Nomor 20 Tahun 2008 tentang Usaha Mikro, Kecil, dan Menengah.
- Undang-Undang Nomor 5 Tahun 1999 tentang Larangan Praktek Monopoli dan Persaingan Usaha Tidak Sehat.
- Widodo, S. (2021). "Analisis Implementasi Undang-Undang Persaingan Usaha dalam Mendukung UMKM". *Jurnal Hukum Bisnis*, 13(3), 210-223.