

## Supervision and Law Enforcement of Business Competition in the Digital Industry (Case Study of Predatory Pricing Practices in the TikTok Shop)

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**Abstract.** *The one of problems that should be resolved is predatory pricing that occurs in the digital industry which is always in the spotlight in Indonesian society. KPPU is an independent institution established based on Law No. 5 of 1999 concerning the prohibition of monopoly and unfair business competition which has the authority to supervise and enforce legal business competition practices. The KPPU was asked to be more proactive in investigating predatory pricing in e-commerce, one of which is TikTok Shop. The entry of imported goods in the TikTok Shop which are sold at prices much lower than the cost of local products and flash sale platforms is troubling MSME business actors because it can kill the MSME market which will be the focus of the discussion in this research. The national economic system, which includes elements of business competition, has not been built under the standards of prosperous and fair business competition. Regulations governing business competition in the digital industry must also be carefully considered. KPPU still faces big problems with predatory pricing. Because the market is different from conventional industries, current rules may need to be adjusted to stop anti-competitive practices. E-commerce regulations are still lacking to ensure law enforcement against false pricing practices. The TikTok Shop case is a valuable lesson for authorities and other stakeholders in facing new challenges emerging in the digital industry. Competitors affected by this practice may experience significant financial losses, while customers may benefit in the short term, but in the long term they are at risk.*

**Keywords:** *Business; Competition; Flash-sale; Predatory; TikTok Shop.*

### 1. INTRODUCTION

The digital industry is one of the economic sectors that has experienced rapid growth. Trading transactions become easier, because they are carried out digitally based on applications. Apart from the convenience obtained, e-commerce business actors compete to offer various promotions and discounts for sale on their platforms. The practice of price wars and unreasonable promotions carried out by e-commerce business actors will result in predatory pricing which will eliminate consumers' bargaining position with business actors.<sup>1</sup> Predatory pricing, or the practice of aggressively lowering prices below market prices, can be detrimental to business

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<sup>1</sup>Panjaitan, Yohanna Ameilya, (2021), "Indikasi Predatory Pricing Pada Praktik Perang Harga Antara Pelaku Usaha Financial Technology (FINTECH) Ditinjau Berdasarkan Hukum Persaingan Usaha Di Indonesia", *Dharmasiasya*, Vol.1, No.3, p.1615-1630.

competition. In Indonesia, this practice is regulated in Article 20 of Law No. 5 of 1999 concerning the prohibition of monopoly and unfair business competition which stipulates that "Business actors are prohibited from supplying goods or services by selling at a loss or setting very low prices with the intention of to eliminate or kill the business of its competitors in the relevant market, so that it can result in monopolistic practices and/or unfair business competition."<sup>2</sup>

The government has taken firm steps to prevent predatory pricing practices by issuing Minister of Trade Regulation No. 31 of 2023 concerning Business Licensing, Advertising, Development and Supervision of Business Actors in Trading Through Electronic Systems (PPMSE) and tightening supervision of the entry of illegally imported goods. which is sold at a very cheap price. However, there are still business actors who do not comply with regulations and violate the provisions of Minister of Trade Regulation Number 31 of 2023 concerning PPMSE. Based on research results from the Ministry of Cooperatives and MSMEs, it was found that predatory pricing practices or unhealthy competition exist in TikTok Shop.<sup>3</sup> TikTok shop is a social e-commerce platform which is an innovative e-commerce feature that can reach sellers, buyers and creators. The social commerce platform TikTok shop has recently become a dangerous place for MSMEs and physical market traders, because of the widespread sale of products at low prices.<sup>4</sup> TikTok shop offers flash sales or discounts within a certain period of time, where the price offered is far below the market price. The practice of selling at a loss or predatory pricing can cause intense competition among business actors, but can also prevent MSMEs from entering the same market. Such a situation will result in monopolistic practices and unfair business competition.<sup>5</sup> Head of the KPPU's Public Relations and Cooperation Bureau, Deswin Nur, said that his party would study the existing problems first. To find out why predatory pricing occurs, it is necessary to explore various elements. According to Deswin, there are two lines that need to be drawn regarding TikTok's alleged predatory pricing, not all very low prices can be categorized as predatory pricing.<sup>6</sup>

Existing enforcement of business competition law in Indonesia is still far from the concept of state law (*rechtstaat*). However, enforcement of business competition law in Indonesia involves various institutions, such as the Business Competition Supervisory Commission (KPPU), District Court (PN), Supreme Court (MA), Police and Prosecutor's Office.<sup>7</sup> The facts show that supervision and enforcement of business competition law in the digital industry is still far from ideal. The KPPU as an institution that has the authority to supervise and enforce business competition practice laws is also asked to be more proactive in investigating reports of alleged imported goods being sold at the

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<sup>2</sup>Nazhari, Akhmad Farhan & Naufal Irkham, (2023). "Analisis Dugaan Praktik Predatory Pricing & Penyalahgunaan Posisi Dominan Dalam Industri E-Commerce", *Jurnal Persaingan Usaha*, Vol.3, No.1, p.19-31.

<sup>3</sup>Elsa Catriana, Elsa & Aprillia Ika, "Nakalnya" Seller TiktokShop, Kemenkop UKM Temukan Masih Ada "Predatory Pricing" & Penjualan Pakaian Impor Bekas", <https://money.kompas.com/read/2024/02/29/091000526/-nakalnya-seller-tiktok-shop-kemenkop-ukm-temukan-masih-ada-predatory-pricing> accessed on 23 April 2024.

<sup>4</sup>Zahra, Zakia ,et.al, (2023), "Analisis "Predatory Pricing" Tiktok Shop di Tengah Pemanfaatan Media Sosial Bagi UMKM Di Indonesia, *Seminar Nasional Universitas Negeri Surabaya*, p.1022-1030.

<sup>5</sup>Narusweta, Arasyel Noor Vinki & Diana Setiawati, (2024), "Alleged Predatory Pricing Through Flash Sale Practices On The Tiktok Shop Application", *Delegalata Jurnal Ilmu Hukum*, Vol.9, No.1, p.31-41.

<sup>6</sup>Gading, Samuel, "Fakta-fakta Tiktok Diduga Lakukan Predatory Pricing", <https://finance.detik.com/berita-ekonomi-bisnis/d-6915517/fakta-fakta-tiktok-diduga-lakukan-predatory-pricing>, accessed on 26 April 2024.

<sup>7</sup>Mantili, Rai, et.al, (2016), "Problematika Penegakan Hukum Persaingan Usaha di Indonesia Dalam Rangka Menciptakan Kepastian Hukum", *Padjajaran Jurnal Ilmu Hukum*, Vol.3, No.1, p.116-132.

TikTok Shop at prices much lower than the production costs of local products.<sup>8</sup>According to Soerjono Soekanto, law enforcement depends on factors that can influence it, such as the legal or regulatory factors themselves; factors of officers who enforce the law; factors of means or facilities that are expected to support the implementation of the law; factors of community members who are affected by the scope of legal regulations and cultural factors or legal culture.<sup>9</sup>The development of the national economic system, including aspects of business competition, has not been imbued with fair and prosperous business competition.<sup>10</sup>

Therefore, the author wants to study further about the supervision and enforcement of business competition law in Indonesia, in terms of taking a case study of TikTok Shop which is indicated to be carrying out predatory pricing. The aim of this research is to identify the extent to which existing regulations are able to supervise and provide assistance.

## **2. RESEARCH METHODS**

This research is a type of literature study research by looking for theoretical references that are relevant to the cases or problems found. Theoretical references obtained through literature study research are used as the basic foundation and main tool for research practice in the field. In legal research, according to Ronny Hanitjo Soemitro, "the subject of statutory regulations and court decisions can be categorized as doctrinal legal research, namely research into positive legal inventories, principles, legal discoveries in concreto, legal systems and legal synchronization."<sup>11</sup>The data analysis method in this research is to use descriptive qualitative data analysis, the qualitative method is a method that analyzes qualitative data, namely data consisting of a series of words,<sup>12</sup> trying to find all the rules, norms or legal norms that exist in the relevant literature in formulating certain legal rules that can be applied to business competition law based on Law No. 5 of 1999 concerning the prohibition of monopoly and unfair business competition.

## **3. RESULTS AND DISCUSSION**

### **3.1. Effectiveness of Supervision and Regulation of Business Competition in the Digital Industry in Indonesia**

The Business Competition Supervisory Commission (KPPU) is the institution responsible for supervising business competition in Indonesia. KPPU plays an important role in preventing monopolistic practices and unfair business competition practices in various industries, including the digital industry. Every business will be monitored by the KPPU and prosecuted if it carries out unfair competition, this also applies to digital businesses. Digital business is online trading or e-commerce that uses an electronic

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<sup>8</sup>Elsa Catriona and Aprillia Ika, Op.cit

<sup>9</sup>Soekanto, Soerjono, (1983). *Faktor-faktor yang Mempengaruhi Penegakkan Hukum*, Jakarta: Rajawali, p.4

<sup>10</sup>Alkautsar,Izzy, (2024), "Memaknai Persaingan Usaha Yang Berkeadilan & Menyejahterakan Dalam Perspektif Keadilan Sosial", *Yurispruden Jurnal Fakultas Hukum Universitas Islam Malang*,Vol.7,No.1, p.59-79.

<sup>11</sup>Hanitjo Soemitro, Ronny, (1990). *Metodologi Penelitian Hukum & Jurimetri*, Jakarta: Ghalia Indonesia, p. 106.

<sup>12</sup>Soekanto, Soerjono & Sria Mamudi, (2004). *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Jakarta, PT.Raja Grafindo Persada, p.5.

trading system. This includes the process of buying, selling, transferring, or exchanging goods, services, or information over the internet network.<sup>13</sup>

The duties of the KPPU are outlined in Article 35 of Law No. 5 of 1999, including:

1. carry out an assessment of agreements that could result in monopolistic practices and/or unfair business competition as regulated in Articles 4 to Article 16;
2. carry out an assessment of business activities and/or actions of business actors that could result in monopolistic practices and/or unfair business competition as regulated in Articles 17 to 24;
3. carry out an assessment of whether or not there is abuse of a dominant position which could result in monopolistic practices and/or unfair business competition as regulated in Articles 25 to 28;
4. take action in accordance with the commission's authority as regulated in Article 36;
5. provide advice and considerations on Government policies relating to monopolistic practices and/or unfair business competition;
6. prepare guidelines and/or publications related to this Law;
7. provide regular reports on the results of the Commission's work to the President and the House of Representatives.

Based on the law, the KPPU is responsible for all business activities, including digital platform businesses. The KPPU's Deputy for Prevention is responsible for monitoring businesses operating on online platforms to avoid perpetrators of discrimination. On the other hand, the KPPU's responsibility is to ensure that all economic actors remain safe in the path of healthy and fair business competition.<sup>14</sup> KPPU can monitor predatory pricing actions, such as when sellers or platforms sell goods at very low prices. On the other hand, KPPU can also provide suggestions and considerations to the government regarding the e-commerce industry in terms of policy making related to the e-commerce industry.<sup>15</sup> Although, in Article 20 UU no. 5 of 1999 states that it is prohibited for business actors to sell goods at very low prices or sell at a loss. The aim is to stop monopolistic practices and unhealthy competition among business actors. Then, to clarify the meaning of Article 20 of Law no. 5 of 1999, KPPU also issued KPPU Regulation No. 6 of 2011 which explains that selling at a loss with the intention of eliminating or killing competitors in the relevant market is a monopolistic practice or unfair business competition. This act of selling at a loss is carried out with the aim of obtaining a dominant position in the market and eliminate opportunities for competing business actors to enter the market.<sup>16</sup>

In carrying out its functions, the KPPU has the authority to receive public reports, conduct research, investigations and/or inspections, and determine whether there is a monopoly or unfair competition. The KPPU can even determine whether or not there are losses from business actors or the public and can request assistance from

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<sup>13</sup>Effendi, Basri, (2020), "Pengawasan & Penegakan Hukum Terhadap Bisnis Digital (*E-Commerce*) Oleh Komisi Pengawas Persaingan Usaha (KPPU) Dalam Praktek Persaingan Tidak Sehat", *Syiah Kuala Law Jurnal*, Vol.4,No.1, p.21-32.

<sup>14</sup>Ibid.p.27

<sup>15</sup>Ibid.p.30

<sup>16</sup>Akhmad Farhan Nazhari and Naufal Irkham, Op.cit. p.25.

investigators to present parties who were summoned but were unable to attend. To fulfill its duties, the KPPU can hold trials, summon the parties, examine evidence and witnesses, and ask for expert information. In the supervision of business competition law by the KPPU, investigations are very important because the results will be used to determine whether violations of business competition law have occurred or not. Therefore, investigations carried out by the KPPU must be carried out carefully and accurately.<sup>17</sup>Based on KPPU regulation no. 1 of 2019 concerning Procedures for Handling Cases of Monopoly Practices and Unfair Business Competition stipulates that the KPPU will conduct investigations and tests if there is a report regarding suspected Predatory Pricing practices. The test is carried out in three stages, namely:<sup>18</sup>

1. Examining the presence of unreasonably low prices: The KPPU will examine whether the low prices set by business actors suspected of predatory pricing are "unreasonable" or unreasonable prices
2. Recoupment test: In the initial stages of the investigation, the KPPU can free business actors suspected of predatory pricing from charges. If it is proven that the business actor has not eliminated or prevented its competitors from entering the market or has not made efforts to cover losses, the KPPU will proceed to the third stage. If it is proven that the business actor has indeed taken action to increase prices to cover losses, the KPPU will proceed to the third stage.
3. Price-Cost test: according to Areeda and Turner, pricing of goods or services can be said to be Predatory Pricing if it is set lower than the short-term marginal cost

KPPU as business competition supervisor can impose administrative sanctions on business actors who violate the provisions, in accordance with Article 36 letter (I) Juncto Article 47 letter (a) Law no. 5 of 1999 which states, "The Commission has the authority to impose sanctions in the form of administrative action against business actors who violate the provisions of this Law."<sup>19</sup> KPPU has the ability to provide legal certainty to business actors who carry out selling practices at a loss that are detrimental to their competitors. This practice is considered to violate the law and can be subject to administrative sanctions in the form of fines in accordance with Article 47 Law No.5 of 1999 in the form of:<sup>20</sup>

1. Order business actors to stop business activities that are proven to constitute monopolistic practices and/or unfair business competition and/or are detrimental to society (Article 47 paragraph (2) point c) and/or
2. Determination of compensation payments (Article 47 paragraph (2) point f);  
And
3. Imposition of a fine of at least IDR 1,000,000,000.00 (one billion rupiah) (Article 47 paragraph (2) point g).

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<sup>17</sup>Rai Mantili, et.al, Op.Cit.p.123.

<sup>18</sup>AP, Komaria Nur Aulia & Al Qodar Purwo Suliostyo, (2023), "The Role of The Business Competition Supervisory Commission In Response To Allegations Of Predatory Pricing Practices In E-Commerce,Peran Komisi Pengawas Persaingan Usaha Terhadap Adanya Dugaan Praktik Jual Rugi Pada E-Commerce", *Jurnal Geuthee: Penelitian Multidisiplin (Multidisciplinary Research)*, Vol.5,No.2, p.175-182.

<sup>19</sup>Chandra, Alston & Sari Murti Widiyastuti Y, (2017), "Peran Komisi Pengawas Persaingan Usaha (KPPU) Dalam Mendorong Iklim Persaingan Usaha Yang Sehat Di Sektor Perunggasan", *Justitia Et Pax*, Vol.33,No.1, p.1-11.

<sup>20</sup>Akhmad Farhan Nazhari and Naufal Irkham, Op.Cit, p.28

Until now, the KPPU still faces big challenges in dealing with predatory pricing. The effectiveness of KPPU in supervising e-commerce and MSMEs needs to be evaluated continuously, based on Law No. 5 of 1999 it can be evaluated based on several factors, such as:<sup>21</sup>

1. **Effective law enforcement:** The KPPU must have the ability to enforce the law. They must have the ability to investigate, discover and take action against violations of business competition law, including violations that occur in e-commerce. How effective the KPPU's law enforcement is can be measured by how many cases are resolved and how many actions are taken against those who violate the law.
2. **Adequate resources:** KPPUs must have adequate resources, including trained staff and appropriate equipment, so that they can cope with their supervisory duties effectively.
3. **Collaboration with stakeholders:** KPPU is expected to work together to obtain relevant information and support law enforcement with the government, business actors and society
4. **Proactive supervision:** KPPU must also be proactive in finding violations which includes conducting research, observing changes in the e-commerce market, and responding to criticism or reports from the public
5. **Education and awareness:** KPPU must help business actors, especially MSMEs, understand the applicable business competition rules. Educational efforts can help reduce legal violations
6. **Responsive to technological changes:** KPPU must be able to adapt to changes in technology and business models in the ever-growing e-commerce era. They need to keep up with new developments and ensure business competition rules remain relevant.

Regulations governing business competition in the digital industry must also be carefully considered. Current regulations may need to be adjusted to stop anti-competitive practices because the market is different from conventional industries. There are still many legal loopholes that weaken law enforcement of Law no. 5 of 1999. Articles of Law no. 5 of 1999 are still unclear and inconsistent with each other.<sup>22</sup>E-commerce regulations are still lacking to ensure law enforcement against predatory pricing practices. Therefore, it is necessary to create stronger regulations to optimize the supervisory function of KPPU institutions in Indonesia.<sup>23</sup>

### **3.2. Predatory Pricing Practices Carried Out by TikTok Shop**

TikTok Shop as a social commerce platform that combines social media functions with e-commerce is suspected of carrying out predatory pricing. The Minister of Cooperatives and SMEs, Fikri Satari, emphasized that TikTok was breaking the rules,

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<sup>21</sup>Andani, Deddy Kusuma & Didiek Wahyu Indarta, (2023), "Pengawasan Hukum Platform E-Commerce Tiktok & UMKM oleh KPPU Berdasarkan UU Nomor 5 Tahun 1999", *Al-Manhaj: Jurnal Hukum & Pranata Sosial Islam*, Vol.5,No.2, p.2393-2408.

<sup>22</sup>Sidauruk, Gloria Damaiyanti, (2021), "Kepastian Hukum Putusan Komisi Persaingan Usaha Dalam Penegakan Hukum Persaingan Usaha", *Lex Renaissance*, Vol.6,No.1, p.132-151.

<sup>23</sup>Savier, Alem, et.al, (2023), "Fenomena Predatory Pricing Dalam Persaingan Usaha di *E-Commerce* (Studi Kasus Antara penetapan Tarif Bawah Antara Aplikasi Indrive & Gojek)", *Jurnal Ilmiah Wahana Pendidikan*, Vol.9,No.14, p.64-77.

not just providing it transaction features on its social media platform, but TikTok is also said to still be manipulating the selling price of goods or predatory pricing. Fikri said that his party still finds goods at very cheap prices in the TikTok Shop which risks hitting the competitiveness of local products for MSME producers.<sup>24</sup>The TikTok shop transaction feature will close in 2023 due to its permit as KP3A. TikTok Shop initially applied for a social media license under the Ministry of Communication and Information. However, over time, the platform will turn into e-commerce. Meanwhile, based on the provisions in Minister of Trade Regulation No.31 of 2023 concerning PPMSE, TikTok Shop can only do things such as promotions, market surveys and customer protection.<sup>25</sup>The closure of the TikTok Shop certainly has a significant impact on many local business people and content creators. For those who rely on the platform as their main source of income and sales, this closure certainly causes anxiety and difficulties. This incident highlights the importance of trade permit regulations for business actors who do business online. This regulation is intended to prevent unfair business competition and ensure the smooth flow of trade, both offline and online.<sup>26</sup>

The Ministry of Cooperatives and SMEs still finds unhealthy price competition activities or predatory pricing. According to Fiki Satari, Special Staff to the Minister of Cooperatives and SMEs, this action shows that TikTok violates Minister of Trade Regulation Number 31 of 2023 concerning PPMSE. The data collected still shows that many products are being sold at very cheap prices, regardless of the reason that the promotional provisions are in conflict with Article 13 paragraph 1 of Minister of Trade Regulation no. 31 of 2023 which requires all platforms to maintain prices for goods and accommodation according to prices.<sup>27</sup>Apart from crazy promotions, unreasonable promotional actions can cause losses, destroy competitors and result in monopoly. In the end, it is consumers who suffer, although this impact is not yet felt as much because competitors are still participating in price and promotional wars, the current tariff war still affects them. There are three conditions that can be said to be that business actors are carrying out predatory pricing. The first condition, namely, the price is below market price or below the cost, secondly, it is intended to eliminate business competitors. Third, the perpetrator will raise prices after his competitors die to recover losses during the predatory period and gain unfair profits.<sup>28</sup> Several indications that TikTok Shop is carrying out predatory pricing, namely:

1. The product prices offered by TikTok Shop are often much lower than those of its competitors. This could indicate that TikTok Shop is setting prices below TikTok Shop is setting prices below production costs to attract customers
2. There are reports from sellers who collaborate with TikTok Shop that they feel pressured to lower the prices of their products to match the prices offered by TikTok

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<sup>24</sup>Rachmawati, Dwi, "Migrasi Tiktok Shop Rampung, Tokopedia Komitmen Perangi Predatory Pricing", <https://ekonomi.bisnis.com/read/20240403/12/1755144/migrasi-tiktok-shop-rampung-tokopedia-komitmen-perangi-predatory-pricing> accessed on 27 April 2024.

<sup>25</sup>Rizaldi, Bagus Ahmad, "Kemendag Luruskan Tiktok Shop Tidak Ditutup Tapi Ditata", <https://www.antaraneews.com/berita/3838821/kemendag-luruskan-tiktok-shop-tidak-ditutup-tapi-ditata> accessed on 27 April 2024.

<sup>26</sup>Muna, Kholifatul & Budi Santoso, (2024), "Regulasi Izin Perdagangan Tiktok Shop Sebagai Fitur Tambahan Aplikasi Tiktok di Indonesia, Regulation of Tiktok Shop Trading License As An Additional Feature Of Tiktok Shop App In Indonesia", *Jurnal USM Law Review*, Vol.7, No.1, p.412-428.

<sup>27</sup>Catarina, Elsa & Erlangga Djumena, "Kata Bos Tokopedia Soal Dugaan "Predatory Pricing" Di Tiktok Shop", <https://money.kompas.com/read/2024/04/03/201200726/kata-bos-tokopedia-soal-dugaan-predatory-pricing-di-tiktok-shop> accessed on 27 April 2024.

<sup>28</sup>Yohanna Ameilya Panjaitan, Op.Cit, p.1622.

Shop. This is also a sign of predatory pricing practices, where companies force competitors to lower the prices of their products.

The Minister of Cooperatives and SMEs, Teten Masduki, highlighted allegations of predatory pricing at the TikTok Shop. This suspicion arose because the prices of imported goods sold at the TikTok Shop were very low, compared to the production costs of local products. KPPU was asked to be more proactive in investigating. The first step that KPPU needs to take is to respond to allegations of predatory pricing in flash sales on the TikTok Shop application. Deswin Nur, Head of the Public Relations Bureau, in collaboration with the KPPU, will still investigate allegations of predatory pricing at the TikTok Shop because low prices at the TikTok Shop are not the only way to describe the problem of low prices at the TikTok Shop. However, Guntur Syahputra Saragih, KPPU commissioner, stated that he was still waiting for the relevant report before taking further action, because the KPPU had not yet found or received evidence regarding this matter from any party. KPPU will act as soon as evidence is found, including conducting an investigation into the report.<sup>29</sup>

The actions taken by TikTok Shop are alleged to have violated Article 20 Law No. 5 of 1999 because they sold at a loss or set very low prices for the products they sold. The current players, will not last long if one of them is eliminated and unable to survive in the market. As a result, only one business actor will control the market and can create an unhealthy market because they have the ability to monopolize society.<sup>30</sup>

### **3.3. The Impact of Predatory Pricing Practices on Competitors in the Market and Consumer Welfare in the Digital Industry**

*Predatory pricing practices* can harm competitors in the market, companies that use this strategy can force competitors to lower the selling price of their products by setting prices below production costs. Although predatory pricing can help customers in the short term by lowering product prices, this practice can ultimately harm customers. By implementing predatory pricing practices, competitors who cannot survive because of this practice will leave the market, reducing consumers' choice to choose products that suit their needs and preferences. Apart from that, in the long term, predatory pricing practices can also reduce the quality of the products offered because companies have to reduce production costs to remain competitive.

This can result in a decrease in profits or even business closure because competitors are unable to compete with the prices set by companies that practice predatory pricing. This price war can cause companies to close because companies that have strong funds are able to survive. However, every company, in any field, needs a good strategy to always compete and make a profit, which keeps it in the best place.<sup>31</sup> Predatory pricing practices often occur in TikTok Shop with flash sale practices carried out by celebrities. This Flash Sale usually offers big discounts for a limited time, with the aim of attracting consumer attention to increase sales. Flash sales usually offer big discounts for a limited time to attract customers and increase sales. Flash sales are usually carried out by setting a selling price below the actual market price, which is detrimental to competitors who cannot offer the same price. Competitors who have to compete with unreasonable selling prices will feel the effects of these detrimental flash sales. Most of the goods promoted by celebrities are imported goods

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<sup>29</sup>Arasyel Noor Vinki Narusweta and Diana Setiawati, Op.Cit, p.37.

<sup>30</sup>Yohanna Ameilya Panjaitan, Op.Cit, p.1623.

<sup>31</sup>Agitta, Rimarsha & Putu Ade Harriestha Martana, (2020), "Perang Tarif Penyedia Layanan Ojek Dalam Jaringan Perspektif Hukum persaingan Usaha Di Indonesia", Jurnal Kertha Semaya, Vol.9, No.1, p.92-101.



sold at very cheap prices, which can endanger the survival of small businesses to remain competitive.<sup>32</sup> Small businesses may have to reduce the selling price of their products, otherwise they may experience financial losses or even bankruptcy. Apart from that, customers can also become victims of this practice, because they may be tempted to buy products at discounted prices offered by celebrities whose quality is actually unrealistic and unclear. In addition, this practice can also affect product innovation from competitors, because competitors cannot compete with prices set by companies that practice predatory pricing.

Customer welfare is the most affected by predatory pricing practices. Although the prices set by companies that implement this practice appear to be very profitable for consumers because they are cheaper, this is only a temporary measure. To gain greater profits, businesses will increase prices drastically after monopolizing the market and eliminating their competitors. This will cause an increase in overall market prices, and consumers will become victims because they have to pay higher prices for the same goods or services. In addition, predatory pricing practices can hinder innovation and healthy competition in the market. Once competitors exit the market, businesses that employ these practices are no longer forced to develop new products or improve their quality. President Joko Widodo voiced his concerns about the dominance of imported products on Indonesian e-commerce platforms in his speech. He stated that ninety percent of the goods sold on the platform were very cheap imported goods. President Jokowi appealed to the Indonesian people not to be lulled by the ease of obtaining imported goods. This condition is considered to be contemporary economic colonialism that is not realized. According to him, without realizing it, we have been colonized economically. Maybe the initial price is still low, like IDR 5,000, but after you enter and get addicted, the price will be increased to IDR 500 million.<sup>33</sup>

#### **4. CONCLUSION**

Supervision and enforcement of business competition law in the digital industry in Indonesia is still developing. KPPU as an independent institution has the responsibility to create order in business competition and maintain a good business competition climate.<sup>34</sup> Even though the government has tried to control practices that harm consumers and competitors, there are still those who commit violations. TikTok Shop practices predatory pricing by selling products below market prices to attract customers and beat competitors. TikTok Shop uses flash sale promotions to increase its sales which can cause market distortion and hinder competitors who cannot compete with the prices offered by TikTok Shop. The case study of predatory pricing practices carried out by TikTok Shop is a valuable lesson for authorities and other stakeholders in facing new challenges emerging in the digital industry. Competitors affected by this practice may experience significant financial losses, while customers may benefit in the short term, but in the long term they risk a reduction in the quality of services and goods. To prevent harmful practices in the digital industry and ensure shared prosperity, governments, businesses and consumers must work together.

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<sup>32</sup>Arasyel Noor Vinki Narusweta and Diana Setiawati, Op.Cit, p.34.

<sup>33</sup>Rachmawati, Dinda, "Apa itu Predatory Pricing?Istilah yang Diungkapkan Presiden Jokowi?Saat Tau Ada Baju Impor Seharga Rp 5 Ribu di E-Commerce", <https://www.suara.com/lifestyle/2023/10/07/071000/apa-itu-predatory-pricing-istilah-yang-diungkap-presiden-jokowi-saat-tahu-ada-baju-impor-seharga-rp5-ribu-di-e-commerce> accessed on 28 April 2024.

<sup>34</sup>Jimly Asshiddiqie, (2008). *Perkembangan & Konsolidasi Lembaga Negara Pasca Reformasi*, Jakarta: Konpres, p. 24.

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