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Dumping Practices on Market Balance: A Review of Business Competition in *E-Commerce*

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Abstract: The practice of dumping is an increasing phenomenon in international trade. Dumping is a practice where exporters sell commodities on the international market at prices below fair value or lower than the price in the country of origin or the general price on the international market. This practice is considered unfair because it can damage the market and harm competitors in the importing country. The government can adopt policies and regulations that protect local producers from dumping practices. Industry players can work together to monitor and report suspicious dumping practices. International institutions such as the World Trade Organization (WTO) can play an important role in addressing dumping practices by providing an international legal framework that regulates this practice. This research uses a normative juridical approach with analysis of various relevant laws, regulations and policies. It is hoped that the results of this research will provide a clearer understanding of the practice of dumping and the legal consequences it causes in the perspective of Law No. 5 of 1999 concerning Business Competition in Indonesia.

Keyword: Dumping, Business Competition, E-commerce.

INTRODUCTION

In the current era, there are significant changes in the world market, mainly marked by increasing economic globalization, especially in the industrial and trade sectors, as well as the intensification of business competition. On the other hand, the emergence of protectionist measures, especially from developed countries, such as dumping and antidumping practices, is an increasing phenomenon in international trade. Dumping, as a form of trade practice, involves exporters selling commodities on the international market at prices below fair value or lower than the price in the country of origin or the general price on the international market. This practice is considered unfair because it has the potential to damage the market and harm competing producers in the importing country. The multidimensional phenomenon of globalization covers all aspects of human life, especially seen in the economic aspect, which is triggered by advances in information, communication and transportation technology (Sadi, 2016).

The use of English as an international language and the dominance of the dollar as an international currency are also the main triggers for the acceleration of world economic globalization. Competition in the world of business and economics is considered a necessity, and the perspective can be seen from two sides, namely the producer and consumer sides. From the producer side, business competition includes competitive strategies, whether carried out in a healthy or detrimental manner. From a consumer's perspective, business competition is related to the level of prices offered and the availability of choices, which ultimately influences the level of people's welfare. The development of an increasingly complex world economy has resulted in the birth of dumping practices, creating intense competition in international trade, both in trade in goods and services.

From an industrial economic perspective, dumping practices can have a significant impact on market balance in the industry e-commerce. First, dumping practices can create unfairness in competition, because businesses who dump can control the market with unrealistic prices, while local competitors who are unable to offer the same prices will have difficulty competing. This can result in a decline in local competitors, a reduction in employment opportunities, and a reduction in product diversity in the market. Second, dumping practices can disrupt price balance in the market e-commerce. By offering products at very low prices, dumping businesses can attract customers from local competitors who are unable to offer the same prices. This could result in an overall decrease in prices in the market, which in turn could reduce profit margins for local producers and hinder industry growth e-commerce.

Apart from that, dumping practices can also affect sustainability and innovation in the industry e-commerce. When local manufacturers face unfair competition from dumping practices, they may have difficulty developing new products or improving the quality of their products. As a result, growth and innovation in the industry e-commerce can be hampered, which can reduce the country's competitiveness in the global market. Dumping practices also have an impact on consumers in the recipient country. Initially, consumers may benefit from low prices due to dumping practices. However, in the long term, this practice can reduce product diversity on the market and reduce consumer choice. In addition, if dumping practices result in a decline in local competitors, consumers may experience a decline in service quality and customer service (Gunawadi & Purwanto, 2016).

To overcome dumping practices in the industry e-commerce, there needs to be cooperation between the government, industry players and international institutions. The government can adopt policies and regulations that protect local producers from dumping practices, such as imposing anti-dumping tariffs or imposing strict rules regarding international trade. Industry players can also work together to monitor and report suspicious dumping practices, and develop joint strategies to combat these practices. Additionally, international institutions such as the World Trade Organization (WTO) can play an important role in addressing dumping practices. The WTO can provide an international legal framework that regulates dumping practices and resolves disputes arising from this practice. Apart from that, the WTO can also facilitate dialogue and negotiations between its member countries to reach mutually beneficial agreements in international trade (Mastura, 2018).

The platform e-commerce like Shopee, some time ago there was a phenomenon related to the export of cheap goods which could be linked to dumping practices. This practice occurs when sellers from China offer products at very low prices on international markets, including on Shopee. Sellers from China often offer products at prices that are unrealistic or not in line with fair market prices. They are able to offer very low prices due to such cheap labor and low production costs. This can create price imbalances in the market, disrupt the competitive balance, and harm local producers in recipient countries. Initially, consumers benefited from low prices because China exported goods that were too cheap. However, in the long term, this practice can reduce product diversity on the market and reduce consumer choice. Additionally, if dumping practices result in a decline in local competitors, consumers may experience a reduction in service quality and customer service. As a result, many local producers may experience difficulties in maintaining their market share and may even be forced to close their businesses. This can reduce product diversity on the market and hinder the growth of local industry (Apriana & Murni, 2020).

Based on the objectives of Law no. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition (here in after referred to as Law 5/1999), namely creating conducive business through regulating healthy business competition and then guaranteeing the creation of equal business opportunities for large business actors, medium business actors , and small business actors. Therefore, Law 5/1999 regulates several behaviors and activities that are prohibited and which can result in unfair competition. Selling at a loss is also often carried out in the trading practice of exporters by selling goods or services on the international market at very cheap or below average prices. The practice of selling at a loss can also be carried out by exporting producers who deliberately set the price lower than the price of the goods. whether in one's own country or in another country, this aims to kill competitors in carrying out business activities, selling at a loss can be interpreted as a dumping practice, apart from that this dumping practice is often found in countries that have a very dense majority population, for example China, America, and countries in the European Union (Mada & Indrawati, 2013).

In connection with the prohibition on unfair business competition, in this case one of the activities that is not permitted is for example the supply of goods and services by selling at a loss (predatory pricing). The importance of conducting this research is to know more clearly about the practice of selling at a loss (predatory pricing) business actors from a business competition perspective. In the scope of international competition, there are dumping practices which can give rise to unhealthy business practices, even though in the short term this dumping practice itself will benefit consumers themselves but has the potential to harm competitors who will compete in trade.

Law Number 5/999, precisely in Article 1 paragraph 5, states that a business actor is every individual or business entity, whether in the form of a legal entity or legal entity established and domiciled or carrying out activities within the territory of the Republic of Indonesia, either alone or jointly. together through agreements, carrying out various business activities in the economic sector. Based on the provisions of the article as appropriate, what is meant as a business actor subject is only business actors who carry out their business activities in the Republic of Indonesia, therefore as a result many foreign businessactors are free to carry out dumping in Indonesia. Thus, the provisions of Law Number 5/1999 do not apply to business actors abroad and carrying out their activities abroad and result in a blurring of norms or laws.

Based on the background above, the author is interested in discussing dumping practices, their impact on market prices and how legal consequences arise from practices carried out by foreign business actors in the perspective of Law No. 5 of 1999 concerning Business Competition in Indonesia.

METHOD

This research method uses normative jurisprudence involving analysis of various laws, regulations and policies that are relevant to this issue. A normative approach is used to understand the existing legal framework and evaluate the extent to which consumer protection has been regulated in the context of the principle of freedom of contract in its implementation in standard contracts or standard agreements. Apart from that, this research also involves an in-depth literature study to identify various views and thoughts that have previously existed regarding this issue. The main data used in this research is secondary data because this type of research is normative in nature. The way to collect data is through documentation, while the tools for secondary data are documentation studies or library research. Secondary data is collected through existing and written data or documents. Library research data is obtained from primary legal material, namely legal material that is binding, such as statutory regulations, which consist of:

1. Law Number 5 of 1999 concerning Monopoly Practices and Unfair Business Competition.
2. Law Number 17 of 2006 concerning Customs

Next is secondary legal material, which provides an explanation of all primary legal material. As in books, scientific papers, articles and other scientific literature materials. After processing the data through literature, qualitative data analysis was carried out, which means the results of this research were explained and described in sentences that were easily understood by the general public. To investigate what the researcher is studying, it is necessary to be able to describe specific facts related to the subject being discussed. Qualitative analysis means that after collecting documents from the required data, the data can be analyzed. Researchers used legal construction, legal analysis, and legal reasoning in this research, deductively from general to specific, and analyzed using qualitative methods. Researchers collect document data using library research. Data obtained from: legal theory, laws, practices, and expert opinions. The results of the analysis will be described in written form explaining dumping practices and business competition.

RESULTS AND DISCUSSION

A. Dumping Practices in Affecting Prices and Competition in the Market E-Commerce

Soedrajad Dwiwandono stated his legal view that in Indonesia, there are many weaknesses in the economic sector related to business competition, especially in terms of supply and demand. The law of supply has a relationship relating to the quantity of goods to be offered and the prevailing price. The price of a product tends to move in line with the quantity supplied. When prices rise, producers will compete to sell their goods, so that the supply of a product increases. Conversely, if prices fall, producers tend to store products, resulting in reduced supply.

This practice is carried out because the producer's main goal is to obtain maximum profits. In fact, producers with large capital are willing to experience initial losses to then gain as much profit as possible. They may sell products below market prices or even incur temporary losses to eliminate competitors. Once competitors are eliminated, the market can be dominated, and product prices are gradually increased, along with increased supply. This reflects the manufacturer's strategy to achieve market dominance at the expense of initial profits. This practice is often done to create an environment in which one or a few producers can control the market and raise product prices gradually as they increase their offerings.

Article 20 of Law 5/1999 states that business actors are not permitted to supply goods and/or services by selling below price or setting very low prices with the aim of eliminating or destroying the businesses of their competitors in the relevant market, which could result in monopolistic practices and unhealthy business competition. These lower prices can be detrimental to other business actors because they have difficulty competing in pricing and competition in the market, but consumers benefit because the price of goods is cheaper.

There are two reasons why dumping practices are prohibited according to Article 7 of Law no. 5 of 1999. First, dumping has the potential to destroy small and medium scale businesses trying to enter the market. Second, business actors who carry out dumping deliberately lower prices below market with the intention of destroying competitors and dominating the market by completely controlling prices. The definition of business actors in Law 5/1999 includes individuals or business entities, whether in the form of legal entities or non-legal entities. Although Article 20 of Law 5/1999 prohibits the practice of selling at a loss, not all such activities are automatically considered unlawful. When there are indications of predation, it is necessary to check whether there are acceptable reasons that support this and this could lead to unhealthy business competition (La Djanudin, 2013).

Dumping practices influence prices and competition in the market e-commerce is a strategy carried out by companies or business actors or countries to sell products at lower prices in foreign markets compared to prices in local markets. The aim of this practice is to eliminate competition and dominate market share abroad. However, dumping practices can also have a negative impact on markets and economic actors.

Dumping can occur in various forms, such as selling products at prices below production costs, selling products at prices below market prices, or selling products at prices below the prices offered in the market. This practice is usually carried out by companies that have a large production scale and can produce products at low costs. One of the impacts of dumping practices is a decrease in product prices in foreign markets. This can disrupt price stability in the market and make it difficult for other competitors to compete. Apart from that, dumping practices can also reduce profits and hinder industrial economic growth.

Apart from that, dumping practices can also damage trade relations between countries. The country that is the target of dumping can feel aggrieved and take retaliation, such as imposing tariffs or trade barriers on products from the country that is dumping. This could trigger trade conflicts between countries and disrupt global economic stability. However, please note that not all product price reductions in foreign markets can be categorized as dumping practices. There are international regulations that regulate dumping practices, such as antidumping regulations issued by the World Trade Organization (WTO). This regulation aims to protect the interests of producers and prevent dumping practices that are detrimental to fair competition.

In a market context e-commerce, dumping practices can also occur. Company e-commerce can sell products at lower prices on their platforms to attract consumers. This can disrupt competition among sellers and reduce the profits earned by sellers. Apart from that, dumping practices in the market e-commerce can also produce a domino effect, where other sellers are also forced to lower the prices of their products to remain competitive. To deal with dumping practices, governments and regulatory authorities need to take steps to protect the interests of producers and ensure fair competition in the market. These steps can take the form of imposing tariffs or trade barriers on products suspected of dumping, as well as strict supervision of business practices e-commerce to prevent dumping practices in the online market.

Steps need to be taken to protect the interests of local producers and ensure fair competition in the market. The impact of dumping is not only felt by competitors, but also by workers in the company. Sudden price drops can result in cost cuts, including job cuts, which have a major impact on worker welfare and reduce overall consumer purchasing power.

Dumping practices can create uncertainty in the market e-commerce, making it difficult for countries and local competitors to plan long-term investments or innovate. Entrepreneurs may be reluctant to invest their resources in product research and development if they feel that competition is based on price and not on added value or quality. Dumping can have a negative impact on the reputation of the company and the country. Consumers may doubt the quality of the product if they realize that the price offered is far below the market price. This can harm the brand image and reduce consumer confidence in the market e-commerce as a whole (Hanantijo, 2013).

The government and market supervisors also need to pay attention to dumping practices in order to maintain competitive fairness. Antitrust laws and strict regulations can help prevent dumping practices that harm competitors and consumers. In the long term, dumping can create economic instability, especially in sectors e-commerce. Unhealthy competition can hinder business growth and innovation, thereby harming consumers who should benefit from product diversity and high quality (Hanantijo, 2013).

Efforts to overcome deep dumping practices e-commerce requires good cooperation between government, supervisors and business people. The government can implement policies that limit dumping practices, while business actors can commit to competing in a healthy and sustainable manner. It is important to understand that dumping is not a sustainable term for achieving market superiority. Instead of competing based on price, it should compete on innovation, product quality, and customer service to win the hearts of consumers and create long-term sustainability. In facing the challenges of dumping practices, e-commerce can also look for collaborative matters, such as forming strategic partnerships with competitors or developing regulations between countries. In this way, markets can become more stable and sustainable, creating an environment that supports long-term growth and innovation (Yustiawan, 2018).

B. Legal Consequences Arise from Practices Carried Out by Foreign Business Actors in the Perspective of Law No. 5 of 1999 concerning Business Competition in Indonesia.

The basis of dumping practices is actually predatory pricing, producers sell goods or services at low prices within a certain period with the intention of eliminating their competitors. The implementation of dumping practices in Indonesia is influenced by ratification Agreement on Establishment of World Trade Organization (WTO) through Law no. 7/1994. Until now, Indonesia does not have a law that specifically regulates dumping, and this practice is only mentioned in several articles of Law no. 17 of 2006 concerning Customs (Bhakti, 2018).

Theoretically, the practice of dumping is not prohibited outright; on the contrary, it is usually done by business actors to enter the market at competitive prices. This practice can only be sanctioned if it is deemed to threaten losses for those producing similar goods. Dumping can be identified by comparing normal prices (normal value) at export prices, the normal price tag is usually based on sales in the exporting country's market. If the export price is lower than the normal price, it can be considered dumping.

Several factors that need to be considered before accusing a business actor can be stated as follows:

1. It needs to be investigated and proven that they are selling their products at low prices or experiencing losses, especially selling below average costs. If it sells at a low price but is still able to make a profit, it can be concluded that the company is competing fairly. Possibly, the Company can sell at low prices because its operational efficiency is much better compared to its competitors.
2. If it is proven that they are selling at a low price or at a loss, it needs to be proven that they have the ability and reasons to justify the practice of selling at a loss. This could be due to a policy of selling below cost to avoid potential further losses or to obtain the funds necessary to exit the market or venture.
3. It should be indicated that companies will only implement predatory pricing if they have confidence that they can cover losses in the early stages and then set high prices in the later stages.

In an economic context, predatory pricing is carried out by setting prices below average costs. Determining average cost is often difficult, so many economists argue that predatory pricing is setting prices below the average price. Article 20 of Law 5/1999 prohibits business actors from supplying goods and/or services by selling them below price or setting very low prices with the intention of eliminating or destroying their competitors' businesses in the market, which could result in monopolistic practices and business competition. unhealthy (Kagramanto, 2015).

In the case of selling at a loss, the dominant or incumbent business actor hopes to increase prices significantly after his competitors go bankrupt because they cannot compete in the market. The prices set to cover these losses are usually higher monopoly prices, to the detriment of consumers in general. This practice clearly aims to maximize profits and overcome losses arising from selling at a loss or setting low prices. Very low pricing strategies, such as limit pricing strategy, reflects the desire of a monopolist or dominant business actor to protect its position by significantly cutting prices or massively increasing production.

In concept rule of reason, it can be explained that the practice of selling at a loss is considered prohibited behavior, but it must be proven that this has resulted in a decline in performance or the sector, for example by proving a decrease in the welfare of society or consumers, as well as the existence of competence aimed at efficiency or reducing competition (lessening competition). Principle rule of reason can only be applied by authorities with an approach to evaluate agreements or practices of selling at a loss, and drawing conclusions whether the selling at a loss behavior is hindering or supporting competition between business actors (Gunadi, 2015).

Although there has been progress in this regard, several obstacles and criticism have emerged from various parties, including academics, practitioners, and even the Commissioner of the Business Competition Commission itself, who have highlighted weaknesses in the Law 5/1999 or Business Competition Law and its implementing regulations. These weaknesses include questions regarding who is considered a subject of the Indonesian Business Competition Law and whether this law applies to business actors operating abroad but having a significant impact on the economy in Indonesia itself (Febrina, 2017).

Current trends show that dumping practices are often used as a defense tool for developed countries in competing with developing countries. In fact, dumping is accused of being a means of protecting products produced by developed countries, as was done by Shopee some time ago, which has now stopped.

CONCLUSION

Based on the descriptions that the author has outlined above, the author concludes as follows:

Dumping practices in the context of the e-commerce market are also emphasized, where companies e-commerce can sell products at lower prices to attract consumers. The impact involves disrupting competition among sellers, decreasing profits, and a domino effect on product prices. The importance of government action and regulatory authorities to protect local producers, prevent dumping practices, and ensure fair competition in the market e-commerce recognized. In the long term, dumping practices can create economic instability and hinder business growth and innovation. The practice of dumping is not prohibited directly, but can be subject to sanctions if it threatens harm to the domestic industry. Dumping can be identified by comparing normal prices with export prices. Some factors to consider before accusing a company of dumping are selling at low prices, reasons that justify the practice of selling at a loss, and the company's confidence to cover losses and set high prices in the future.

The practice of selling at a loss is carried out by setting prices below average variable costs. Article 20 of Law 5/1999 prohibits business actors from supplying goods and/or services at low prices to eliminate their competitors. This practice aims to maximize profits and overcome losses. Even though there has been progress in handling dumping, there are still weaknesses in Law no. 5 of 1999 concerning Business Competition, including questions about legal subjects and whether the law applies to foreign business actors who have an impact on the Indonesian economy.

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