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Market Domination Through Social Media and E-commerce Merger in Business Competition Law's Perspective

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Abstract: The merger of social media and e-commerce has a significant impact on market competition. This study, "Market Domination Through Social Media and E-commerce in Business Competition Law's Perspective", analyzes the legal aspects related to the merger of two platforms, focuses on the legal implications for business competition. This research uses a normative legal approach to identify and analyze relevant legal regulations related to business competition and to evaluate whether the merger violates applicable legal principles. The results of this study are expected to provide a better understanding of the role of law in regulating the dynamics of the rapidly developing digital market, especially in the face of the phenomenon of mergers between social media and e-commerce. The legal implications of the merger between social media and e-commerce will be discussed, and the comparison of Indonesian and Singaporean Competition Law that creates recommendations for more effective legal policies to ensure protection against fair business competition and consumer interests. This study has highlighted the urgent need for Indonesia to modernize its competition law framework to effectively address the challenges and opportunities and to tackle the complexities and nuances of the digital landscape.

Keyword: Business Competition Law, Social Media, E-Commerce, Social Commerce.

INTRODUCTION

In the era of digital financial technology 4.0 and the current industrial revolution, developments in the trade sector are increasingly growing, one of which is the emergence of e-commerce as a means of buying and selling for the public (Hidayah, 2019). Through these platforms, buying and selling transactions can be carried out efficiently and practically, without time and space constraints, and with a wider reach. E-commerce provides concrete evidence of the evolution of the trading system that provides easy access for both consumers and sellers. With the advancement of information and communication technology, E-Commerce has enabled the creation of online trading platforms that facilitate various types of transactions, from the sale of physical products to digital services. The main advantage of e-commerce is the ease of shopping and selling. Consumers can easily browse a wide variety

of products and services, compare prices, and make purchases with just a few clicks (Anjani et al., 2018).

The digital revolution has opened up a world of opportunities for Micro, Small, and Medium Enterprises (UMKM) to expand their reach, enhance their operations, and boost their revenue. Technology has become an indispensable tool for UMKM to thrive in today's competitive landscape. E-commerce platforms have emerged as a game-changer for UMKM, providing them with access to a vast customer base and enabling them to sell their products and services across geographical boundaries. Social media has also played a crucial role in empowering UMKM, allowing them to connect with potential customers, build brand awareness, and engage in effective social media marketing campaigns. These two aspects are combined, making a new concept of digital marketing, social commerce. Social commerce is where businesses can seamlessly integrate social media interactions with online transactions. This trend has been particularly evident with the popularity of TikTok Shop, a feature within the TikTok app that allows users to shop directly from the platform. However, the integration of e-commerce within social media platforms has raised concerns regarding regulatory compliance and fair competition.

In Indonesia, the closure of TikTok Shop in October 2023 sparked controversy as the platform was deemed to be operating without the necessary licenses and permits to conduct e-commerce activities. In response to the regulatory challenges, TikTok Shop has adopted a new strategy by partnering with Tokopedia, a leading e-commerce platform in Indonesia. This partnership allows TikTok to continue its presence in Indonesia's e-commerce landscape while adhering to the country's regulations. Under this arrangement, TikTok functions solely as a social media platform, directing users to Tokopedia for the actual purchase of goods and services. This strategic alliance has given rise to a powerful e-commerce entity that is rapidly gaining popularity among Indonesian consumers.

Emerging from the popular social media app TikTok, TikTokShop has revolutionized the online shopping experience by seamlessly integrating social interactions with e-commerce transactions. Its user-friendly interface and interactive features have captivated a wide audience who are drawn to its engaging and trendy approach to online shopping. Tokopedia, on the other hand, has established itself as a cornerstone of Indonesia's e-commerce ecosystem, boasting a vast user base and an extensive product catalog. Its robust infrastructure, including secure payment gateways, reliable delivery services, and responsive customer support, has earned the trust and loyalty of Indonesian consumers, making it a preferred destination for online shopping. The merger of TikTok Shop and Tokopedia has brought together the strengths of both platforms, creating a synergistic force that is propelling their growth in Indonesia's e-commerce market. TikTok Shop's social media prowess and innovative features are attracting new customers, while Tokopedia's established infrastructure and wide reach are providing a seamless and secure shopping experience.

The burgeoning use of e-commerce technology has transformed the shopping experience for Indonesians, offering a multitude of benefits, including enhanced accessibility and a wider array of product choices. The rapid growth of TikTokShop and Tokopedia highlights the immense potential of Indonesia's e-commerce market, which is poised for continued expansion. With the advancement of digital infrastructure and increasing internet penetration, e-commerce in Indonesia holds bright prospects for further growth and development in the years to come, providing significant economic benefits to society and businesses nationwide (Hidayah et al., 2022). This can also be a boomerang for Indonesian market because combining two platforms such as e-commerce and social media could cause danger in many aspects.

The merger between social media and e-commerce platforms raises concerns about potential anti-competitive practices and their detrimental impact on the digital economy and

consumer welfare. The merger could create a dominant player in the digital market, leading to a situation where a single entity holds immense market power. This concentration of power could enable the merged company to exert excessive control over the market, potentially harming competition and limiting consumer choice, possibly doing entry barrier (Komisi Pengawas Persaingan Usaha, 2018). Then the merged entity may also engage in predatory pricing strategies, undercutting the prices of competitors to drive them out of the market (Komisi Pengawas Persaingan Usaha, 2020). This practice could stifle innovation, reduce product diversity, and ultimately harm consumers. The merger could create a situation where users become locked into the merged company's platform, making it difficult to switch to alternative services. This lack of choice could limit consumer freedom and hinder the development of competing platforms. And if the merged company acts as both a platform provider and a platform user, it could create conflicts of interest. The company may favor its own products or services over those of competitors, further limiting consumer choice and stifling innovation. This could increase the likelihood of tacit collusion among market participants. While no explicit agreements are made, companies may coordinate their behavior to maintain high prices or limit competition, harming consumers in the process.

Potential violations can also arise from government regulations. The current competition law, Law No. 5 of 1999, does not explicitly adopt the principle of extraterritoriality. This means that it becomes challenging to enforce competition law against anti-competitive practices involving cross-border transactions (Amalya, 2020). As e-commerce transcends geographical boundaries, this limitation poses a significant hurdle in regulating the digital market effectively. Considering the existence of these antitrust concerns, it is fundamentally necessary to establish specific rules to guide Indonesian antitrust law regarding e-commerce. Law No. 5 of 1999 is deemed insufficient to meet the legal needs that more closely regulate physical rather than electronic or online antitrust relationships (Hayati, 2021). This research will examine whether this merger practice falls under a monopoly, whether the legal framework for this matter is in line with current developments, and the steps that can be taken to achieve a good business climate.

METHOD

Research methods are essentially a series of procedural steps or systematic ways used to seek truth in a scientific work, in this case, journal writing, so that a quality journal can be produced, namely a journal that meets research requirements (Soemitro, 1990). The type of research in this journal is literary or library research, which means a study by reviewing books or scriptures related to this journal that come from library materials. All sources come from printed materials that are related to the research problem and other literature such as electronic literature (Hadi, 1980). The data analysis approach used is a qualitative approach to primary and secondary data. Qualitative analysis is a method used to analyze data by describing it in word form and is used to interpret and interpret oral or written data from specific individuals and observed behaviors (Moleong, 1991). This description includes the content and structure of positive law, which is the activity carried out by the author to determine the legal rules used to resolve the legal problems that are the object of study. Then analyzed qualitatively to provide a comprehensive picture of the legal aspects related to the problem being studied.

This discussion uses normative juridical research, which refers to research that involves legal regulations, court decisions, and legal practices in society (Ali, 2009) to analyze the legal implications of the merger of social media and e-commerce in the context of competition law. This research focuses on the merger between TikTok Shop and Tokopedia, which strengthens the dominant position of these entities in the digital market. The normative legal research method is used to identify and analyze relevant legal regulations related to

business competition, and to evaluate whether the merger violates applicable legal principles. This journal article is based on both primary and secondary research materials:

1. Primary legal materials, are those that are binding (Soekanto, 1995), such as Undang-Undang Dasar 1945; Undang-Undang No. 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition; Regulation of the Minister of Trade No. 31 of 2023 on Business Licensing, Advertising, Development, and Supervision; Undang-Undang No. 11 of 2008 on Electronic Information and Transactions as amended by Law No. 19 of 2016 on Amendments to Law No. 11 of 2008 on Electronic Information and Transactions; Government Regulation No. 80 of 2019 on Electronic Commerce; KPPU Regulation No. 1 of 2019 on Procedures for Investigating Cases of Monopolistic Practices and Unfair Business Competition; Government Regulation No. 82 of 2012 on the Organization of Electronic Systems and Transactions; and The Competition Act of Singapore.
2. Secondary legal materials, are books and legal scholarly writings that provide explanations regarding primary legal materials related to the object of this research.

RESULTS AND DISCUSSION

Legal Regulation of Market Dominance through the Merger of Social Media and E-commerce from a Competition Law Perspective

1. Enactment of Regulation of the Minister of Trade Number 31 of 2023

The adoption of healthy and fair business practices is crucial in this digital era. In recent years, the evolution of e-commerce business models has significantly impacted the survival of traditional small and medium-sized enterprises (UMKM). To address these concerns and foster a balanced trading ecosystem between digital and conventional platforms, the Indonesian government has enacted Regulation of the Minister of Trade (Permendag) Number 31 of 2023. This regulation, which revises Regulation of the Minister of Trade Number 50 of 2020, outlines comprehensive measures to regulate e-commerce activities.

The Indonesian government has imposed a ban on direct transactions on social media e-commerce platforms, such as TikTok Shop. This decision was reached during a high-level meeting chaired by President Joko Widodo (Kompas.com, 2023). A central provision of Permendag No. 31 Tahun 2023 is the prohibition of social media platforms facilitating direct transactions for goods and services. This restriction extends to social commerce, ensuring that online purchases can only be made through dedicated e-commerce platforms. The decision to enact Permendag No. 31 Tahun 2023 is driven by several key objectives:

a. Protecting UMKM

According to President Joko Widodo, the regulation aims to safeguard local small and medium-sized enterprises and traditional traders from the potential negative impacts of e-commerce giants. This protection is crucial to ensure the survival and growth of these vital segments of the Indonesian economy.

b. Ensuring Fair Competition

According to Minister of Communication and Information Technology, Budi Arie, the regulation seeks to establish fair trade practices in the e-commerce sector, moving away from the current free trade model. This shift aims to protect Indonesian UMKM from unfair competition and predatory pricing practices. Business actors on TikTokShop and Tokopedia frequently employ various promotional strategies, such as discount vouchers, flash sales, and free shipping, to attract customers and boost sales. These practices could lead to the emergence of predatory pricing, a strategy of setting extremely low prices with the aim of eliminating competitors from the market or preventing new entrants (Rahayu, 2022). This practice of selling below cost or

predatory pricing is prohibited under Article 20 of Law No. 5 of 1999 of the Republic of Indonesia concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. The article states that, "Business actors are prohibited from supplying goods and/or services by means of selling below cost or setting prices that are extremely low with the intention of eliminating or killing off the business of their competitors in the relevant market, which can lead to monopolistic practices and/or unfair business competition." This merger could harm small businesses or UMKM that are unable to compete with such extremely low prices. UMKM often have limited access to markets and capital (Dirkarezsha et al., 2023).

Predatory pricing practices can disrupt fair business competition by creating market imbalances. Additionally, unfair competition between e-commerce players and offline merchants can also harm consumers as a whole. If UMKM and other offline merchants are forced to close their businesses due to their inability to compete with the prices offered by e-commerce players, consumers will lose the variety of products and services they typically enjoy from offline merchants. This can also lead to a reduction in employment opportunities and economic growth at the local level. By separating social media and e-commerce activities, the government seeks to create a more equitable competitive landscape, preventing any single platform from dominating the online trading chain.

c. Protecting Data Sovereignty

The vast amount of data generated and utilized in the digital economy raises concerns about data privacy, data ownership, and potential anti-competitive uses of algorithms. The law should introduce clear guidelines and safeguards for data handling, algorithmic transparency, and the prevention of data-driven monopolies. According to Minister of Trade Zulkifli Hasan, the ban on direct transactions on social media platforms is intended to prevent the manipulation of algorithms by these platforms because merging social media and e-commerce platforms would create a vast repository of personal and commercial data, including user profiles, purchase history, browsing behavior, and social interactions. This consolidation of data raises concerns about the potential for misuse, unauthorized access, and breaches that could compromise user privacy and expose sensitive information. The integration of social media and e-commerce data raises questions about user control over their personal information. Users may have limited understanding of how their data will be combined and used, potentially leading to concerns about targeted advertising, surveillance, and the erosion of individual privacy. This prohibition safeguards user data from being exploited for commercial gain and promotes a level playing field for all businesses. Another reason is from Minister of Communication and Information Technology Budi Arie, that the ban on social media transactions serves as a testament to the government's commitment to safeguarding data sovereignty.

d. Balancing Online Business and Traditional Business Regulations

Minister of Cooperatives and Small and Medium Enterprises, Teten Masduki, has emphasized that the move is not solely driven by concerns about the competitiveness of local products against online competitors. The primary motivation behind the ban stems from the influx of low-priced foreign products into both online and offline markets. These products, often sold through global platforms, have disrupted the level playing field between traditional brick-and-mortar businesses and online retailers. The ban, therefore, serves as a regulatory measure to establish a more equitable trading environment between offline and online channels. While offline markets are subject to stringent regulations, online platforms have enjoyed greater flexibility, leading to a competitive imbalance. This shows the government's commitment to protecting the interests of both traditional businesses and consumers.

The ban aims to foster a fair and sustainable market where domestic products can compete effectively, ensuring the continued viability of local businesses and safeguarding consumer rights.

e. Enhancing Product Quality through Certification and Import Restrictions

The rise of social commerce and its potential to influence demand and supply across multiple platforms raised concerns about anti-competitive practices. Such market manipulation tactics, already categorized as illegal in commodity and financial markets, demanded similar attention in the retail sector. The government's response has been proactive, implementing standardized licensing requirements for foreign sellers and establishing a minimum price threshold of USD 100 for cross-border marketplace transactions. By setting a minimum price threshold, the government intends to protect local UMKM from underpriced imports, allowing them to compete effectively in the domestic market. This also meant to ensure product quality and safety, by the standardized licensing requirements for foreign sellers aim to guarantee the safety and quality of imported products, safeguarding consumer interests.

Regulation of the Minister of Trade Number 31 of 2023, was clearly designed to prevent the negative consequences of social commerce, as outlined above. However, this regulation can still be circumvented by creating the illusion that Tokopedia is the company in control of these online transactions. While this approach may not be legally prohibited, it undermines the very essence of Regulation of the Minister of Trade Number 31 of 2023. To address this legal loophole, there is a need for updated regulations that are truly binding, ensuring that any attempts by a party to exert market dominance are promptly addressed and prevented.

2. Shortcomings of Law No. 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition

In Indonesia, market monopoly and business competition are governed by Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. This law aims to prevent and eradicate monopolistic practices, foster fair competition, and protect consumers. However, the convergence of social media and e-commerce presents new challenges and complexities that require careful legal scrutiny and interpretation.

Analyzing the merger between TikTok Shop and Tokopedia necessitates a broader perspective that encompasses international competition law. TikTok's global reach and impact on business competition across different jurisdictions raise questions of legal jurisdiction and cross-border enforcement. Additionally, the involvement of foreign companies in Indonesia's e-commerce landscape highlights the need for robust data privacy regulations to safeguard consumer information and ensure responsible data handling practices.

The current regulatory framework, while comprehensive, may not fully address the unique characteristics and challenges of e-commerce activities. The Business Competition Supervisory Commission (KPPU) acknowledges the need for specific regulations tailored to e-commerce, particularly in addressing data privacy concerns and ensuring fair market competition. A comprehensive regulatory framework is essential to effectively address the evolving nature of e-commerce and cross-border mergers.

The principle of economic democracy is enshrined in Article 2 of Law No. 5 of 1999, which states: "Business actors in Indonesia shall conduct their business activities based on the principles of economic democracy while upholding a balance between the interests of business actors and the public interest." This principle emphasizes that economic policies and resource distribution should benefit all citizens, not just a select few. Economic democracy encompasses several fundamental principles:

- a. Shared Prosperity: Ensuring economic well-being for all citizens, reducing social disparities, and extending benefits to all segments of society.
- b. Participation: Active involvement of citizens in economic decision-making, including the right to choose economic leaders and participate in policy discussions.
- c. Transparency and Accountability: Openness in economic policies and accountability from leaders. Public access to information on budgets, policies, and resource allocation.
- d. Consumer Protection: Safeguarding consumer rights, ensuring the safety, quality, and fairness of products and services.
- e. Market Regulation: Government intervention to prevent monopolies, promote healthy competition, and reduce inequalities
- f. The application of economic democracy principles is crucial in various aspects of economic policy and governance. This includes:
 - g. Formulating Equitable Economic Policies: Designing economic policies that promote inclusive growth, address income inequality, and provide equal opportunities for all citizens.
 - h. Ensuring Transparency in Public Procurement: Maintaining transparency in public procurement processes to prevent corruption and ensure fair competition among businesses.
 - i. Protecting Worker Rights: Enforcing labor laws that protect worker rights, promote fair wages, and ensure safe working conditions.
 - j. Empowering Small Businesses: Providing support and incentives for small businesses to thrive, contributing to a diverse and competitive economy.
 - k. Promoting Sustainable Resource Management: Implementing sustainable practices in resource management to ensure environmental protection and intergenerational equity.

The recent merger of social media and e-commerce is done to set aside Regulation of the Minister of Trade Number 31 of 2023, a regulation aimed at fostering a fair and competitive digital marketplace, raises concerns about the erosion of the fundamental principle of economic democracy in Indonesia. Regulation of the Minister of Trade Number 31 of 2023, sought to address the challenges and opportunities presented by the rapidly evolving digital economy. It aimed to protect consumer interests, promote fair competition, and ensure a level playing field for all businesses operating in the digital realm. The decision to sideline this regulation signals a potential shift away from these principles, raising concerns about the prioritization of narrow interests over the broader goals of economic democracy. This move could have detrimental consequences for the digital economy and the overall well-being of Indonesian society.

Economic democracy is a fundamental principle that advocates for the equitable distribution of economic power and opportunities among all stakeholders in society. It emphasizes the participation of workers, consumers, and communities in economic decision-making processes. In the context of the digital economy, economic democracy translates into ensuring that all businesses, regardless of size or market power, have a fair chance to compete and succeed. It also means protecting consumer rights, promoting data privacy, and ensuring that the benefits of the digital economy are shared equitably across society. The decision to set aside Regulation of the Minister of Trade Number 31 of 2023 represents a step backward in the pursuit of economic democracy in Indonesia. It could lead to:

- a. Unfair Competition and Market Dominance: Large digital platforms may gain an unfair advantage, stifling competition and limiting consumer choices. The current regulatory framework may not adequately address the complexities of the digital economy, particularly in relation to potential anti-competitive practices. The absence of comprehensive regulations specifically tailored to the digital sector could hinder effective enforcement and protection of fair competition.

- b. Erosion of Consumer Rights: Consumer rights, such as data protection and transparency, may be compromised, leading to potential harm and exploitation.
- c. Exacerbation of Digital Divide: The benefits of the digital economy may not reach all segments of society, further widening the digital divide. The merger could disproportionately disadvantage small and medium-sized enterprises and traditional businesses that rely on non-digital channels for their operations. These businesses may struggle to compete with the combined market power and technological capabilities of the merged entity, potentially leading to job losses and market dominance.
- d. Difficulties in Proving Discrimination: The current legal framework, specifically Article 19(d) of Law No. 5 of 1995 in conjunction with Regulation of the Commission for the Supervision of Business Competition (Perkom KPPU) Number 3 of 2011, may not provide a sufficiently comprehensive framework for addressing discriminatory practices in the digital sector. This could make it challenging to prove and prosecute anti-competitive behavior in the digital realm.

Strategies for Social Media and E-commerce Mergers to Avoid Market Dominance

In the dynamic landscape of social commerce, where social media platforms and e-commerce giants engage in mergers and acquisitions, a careful assessment of their impact on market competition is essential (Maryanti, 2023). While social commerce does not inherently exclude other players from entering and competing in the open market, it cannot be expected to force everyone to adopt digital commerce practices. Many individuals and businesses may not be able or willing to transition to the digital realm, and these mergers can further exacerbate their challenges. Therefore, the focus should lie on refining existing regulations rather than attempting to enforce a universal shift to digital commerce. The Indonesian government's proactive stance in regulating e-commerce activities is commendable. To further enhance the effectiveness of these measures, it is crucial to undertake regular assessments and implement comprehensive strategies that encompass various aspects of the digital marketplace, this includes:

1. Ensuring Fair Pricing and Market Dynamics Through KPPU

Periodic evaluation of pricing logic and market dynamics, both domestically and internationally, is essential to prevent illegal practices and dumping. This assessment should consider factors such as production costs, transportation expenses, and market demand to ensure fair pricing and protect consumer interests. The Business Competition Supervisory Commission (KPPU) is a state auxiliary organ tasked with enforcing competition law in Indonesia, as stipulated in Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition (Kagramanto, 2007).

KPPU initiates investigations by informing the public about the intended inquiry. The Chairman of KPPU, Kodrat Wibowo, explains that in the handling of cases, KPPU engages in discussions with the Ministry of Trade and the Ministry of Cooperatives and SMEs (Kemenkop UMKM) to gather information and identify affected parties. During the discussion, it was stated that if KPPU is requested to handle the case KPPU collects data from Kemenkop UMKM regarding impacted SMEs and from the Ministry of Trade regarding price changes (CNBC Indonesia, 2021) Affected parties can file complaints with Kemenkop UMKM or directly with KPPU.

Enforcing competition law in the era of cross-border trade and e-commerce presents unique challenges for the Business Competition Supervisory Commission (KPPU) in Indonesia. While Law No. 5 of 1999 provides a comprehensive framework for regulating competition, the complexities of the digital marketplace and the evolving nature of e-commerce demand a more nuanced approach. KPPU acknowledges that e-commerce, with its distinct characteristics and challenges, requires a more robust legal framework that

addresses issues such as data privacy and consumer protection. The current regulatory landscape may not fully accommodate these aspects, necessitating a review and potential revision of existing laws (Ekonomi Bisnis.com, 2021).

To tackle these challenges, KPPU has taken proactive steps, including engaging with the Ministry of Trade to review and potentially revise existing regulations to address e-commerce-specific issues and partnering with the Ministry of Communication and Information Technology. In 2019, KPPU signed a Memorandum of Understanding (MoU) with the Ministry of Communication and Information Technology to collaborate on preventing and addressing anti-competitive practices in the digital realm. The MoU outlines areas of cooperation, including:

- a. Data and Information Exchange: Sharing data and information to enhance understanding of market trends and potential anti-competitive activities.
- b. Policy Harmonization: Aligning competition law policies with regulations in the communication and information technology sector to promote a consistent approach.
- c. Advocacy and Awareness: Collaborating on advocacy and awareness campaigns to educate stakeholders about fair competition principles.
- d. Partnership Monitoring: Jointly monitoring partnerships in the communication and information technology sector to identify and address potential anti-competitive practices.
- e. Joint Research and Guidance: Conducting joint research and developing guidelines to promote fair competition practices in the digital economy.
- f. Expert Sharing: Facilitating the exchange of experts and resources to support each other's work.
- g. Additional Collaborative Activities: Engaging in other mutually agreed-upon activities to promote fair competition and a healthy business environment.

KPPU's proactive approach to addressing the challenges of cross-border investigations and e-commerce demonstrates its commitment to safeguarding fair competition in Indonesia's dynamic economy. By collaborating with relevant ministries and adopting a comprehensive strategy, KPPU can effectively enforce competition law, protect consumer rights, and foster a thriving digital marketplace that benefits all stakeholders (Kominfo.go.id, 2019). This MoU can be used for maintaining a healthy business competitive. The Business Competition Supervisory Commission (KPPU) in Indonesia has outlined a comprehensive strategy to address anti-competitive practices in the digital era. This strategy is aligned with the KPPU's Strategic Plan 2020-2024, as outlined in Regulation No. 2 of 2020. Key Elements of KPPU's Strategy:

- a. Strengthening International Cooperation: KPPU recognizes the importance of international collaboration in enforcing competition law across borders. They will actively engage with international counterparts to exchange information, share best practices, and coordinate investigations related to cross-border anti-competitive practices.
- b. Adapting to the Digital Economy: KPPU remains vigilant in monitoring the rapidly evolving digital economy and its impact on competition. They will adapt their investigative and enforcement techniques to effectively address emerging challenges and trends in the digital realm.
- c. Enhancing Investigative Capabilities: KPPU is committed to strengthening the skills and resources of its investigators. They will invest in training, technology, and infrastructure to ensure their team is equipped to handle complex digital cases effectively.
- d. Proactive Case Identification: KPPU will proactively identify potential anti-competitive practices by closely monitoring market developments and economic growth trends. This proactive approach will enable them to intervene early and prevent harm to

competition. Carefully monitoring the potential emergence of cases in line with economic growth to ensure the effective enforcement of Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition.

KPPU plays a crucial role in assessing the impact of mergers and acquisitions on competition. They evaluate whether such mergers will lead to market dominance, unfair practices, or harm to consumers. If a merger is deemed to be anti-competitive, KPPU has the authority to take appropriate enforcement measures. In addition to competition law, KPPU also considers the broader impact of mergers and acquisitions on the public interest. They evaluate the potential effects on consumers, other businesses, and the overall economy. If a merger is found to hinder market access, lead to unjustified price increases, or otherwise harm consumers, KPPU may prohibit or restrict the merger. KPPU's arsenal of enforcement measures includes:

- a. Issuing Warnings: For minor infractions, KPPU may issue warnings to the offending parties, urging them to rectify their actions and comply with competition laws.
- b. Imposing Sanctions: In more severe cases, KPPU can impose financial penalties on violators. These sanctions serve as a deterrent and aim to discourage future anti-competitive behavior.
- c. Merger Cancellation: In extreme circumstances, where a merger is deemed to pose a significant threat to competition, KPPU has the authority to nullify the merger.

Individuals or businesses harmed by monopolistic practices or unfair competition can also seek legal recourse through the courts. They can file lawsuits to claim damages or obtain other forms of legal protection, such as injunctions to halt harmful practices. The government plays a crucial role in establishing a regulatory framework that promotes fair competition and prevents the formation of monopolies. They can implement anti-monopoly policies and strengthen the capacity of regulatory bodies like KPPU to ensure a level playing field for all businesses.

2. Learning from Global Practices and Enforcing Existing Regulations

The government should draw insights from countries that have successfully implemented interest rate incentives for producers and demonstrate a commitment to impartial law enforcement. This includes scrutinizing algorithm mechanisms, data management practices, and transparency measures to foster a level playing field. Singapore's remarkable achievements in shaping its digital economy offer valuable lessons for Indonesia as it embarks on its own digital transformation journey. Singapore's success can serve as a benchmark and inspiration for Indonesia to effectively regulate and harness the power of the digital realm. Singapore stands as a global leader in fostering a vibrant digital economy. The country's 2023 Digital Economy Report highlights that the digital sector contributed a significant S\$106 billion, or 17.3%, to Singapore's GDP in 2022, marking a substantial growth from S\$58 billion or 13% of GDP in 2017 (Infocomm Media Development Authority, 2023).

Singapore's dedication to digital advancement extends beyond its borders. The country actively participates in the Digital Economy Partnership Agreement (DEPA), a collaborative initiative aimed at promoting interoperability between diverse regulatory frameworks and addressing emerging challenges arising from digitalization (Ministry of Trade and Industry Singapore, 2021). Singapore's exemplary progress in the digital realm provides a compelling model for Indonesia to emulate. By drawing inspiration from Singapore's strategies, Indonesia can effectively regulate its digital economy, foster innovation, and reap the transformative benefits of digital technologies.

Singapore's progressive approach to mergers, digital trade agreements, and digital infrastructure offers valuable insights for Indonesia as it seeks to enhance its digital economy and regulatory framework. Merger control in Singapore is governed by Division 4-Part III of the Competition Act (Cap. 50B). The merger control regime came into effect

on July 1, 2007. Section 54 prohibits mergers that result in, or are likely to result in, a substantial lessening of competition in a market for goods or services in Singapore. The Competition Commission of Singapore (CCS) is responsible for enforcing the merger control provisions of the Competition Act. The CCS has the power to investigate mergers, prohibit anti-competitive mergers, and impose remedies. Merger Assessment Process in Singapore:

- a. Pre-Merger Notification: Parties to a merger that meets the notification thresholds must notify the CCS before completing the merger.
- b. CCS Review: The CCS will review the notified merger to determine whether it is likely to substantially lessen competition in Singapore.
- c. Clearance or Prohibition: If the CCS concludes that the merger is not likely to substantially lessen competition, it will issue a clearance decision. If the CCS concludes that the merger is likely to substantially lessen competition, it may prohibit the merger or impose conditions on the merger.

The CCS has a range of remedies available to address anti-competitive mergers, including:

- a. Prohibiting the Merger: The CCS can prohibit a merger that is likely to substantially lessen competition.
- b. Imposing Conditions: The CCS can impose conditions on a merger to address competition concerns.
- c. Divestiture: The CCS can order the divestiture of assets or businesses to restore competition.
- d. Fines: The CCS can impose fines for non-compliance with the merger control provisions.

Merger control plays a crucial role in safeguarding competition and protecting consumers in Singapore. By preventing anti-competitive mergers, the CCS ensures that businesses compete fairly, leading to lower prices, higher quality products and services, and greater innovation. Indonesia can adopt Singapore's pre-merger notification system, which requires businesses to consult with the competition commission before engaging in mergers or share acquisitions, at least 14 days prior to the transaction. This proactive approach allows for early identification of potential anti-competitive concerns and enables timely interventions to safeguard fair competition. Indonesia's current post-merger notification system, which mandates reporting only after the merger has occurred, may not adequately address potential issues.

Singapore's participation in Digital Economy Agreements (DEAs) with countries like Australia, Chile, and New Zealand provides a model for Indonesia to consider. These agreements establish a common framework and rules for digital trade, facilitating seamless connectivity and market access for businesses operating in the digital realm. DEAs can help reduce operational costs, enhance business efficiency, and expand access to overseas markets (Ministry of Trade and Industry Singapore, 2021).

The most important thing that Indonesia could consider is Singapore's act on digital economy. Indonesia can draw inspiration from Singapore's plan to introduce a Digital Infrastructure Act (DIA) to bolster the resilience and security of critical digital infrastructure and services (Conventus Law, 2024). This proactive approach to safeguarding digital infrastructure is crucial for fostering trust and enabling businesses to operate securely in the digital landscape. Indonesia's competition law may need to be re-examined to effectively address the unique challenges and opportunities presented by the digital economy. The concept of the "relevant market" as defined in current law may not fully capture the nuances of digital markets. Singapore's regulations have demonstrated a greater ability to accommodate e-commerce issues and protect businesses in online

commerce. Here is a comparison table of Singapore and Indonesia’s Digital Economy Regulation:

Table 1. Comparison of Singapore and Indonesia's Digital Economy Regulation

Legal Aspect	Singapore	Indonesia
Fundamental Law	Competition Act ("CA")	Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition
Regulator	Competition and Consumer Commission of Singapore (CCCS)	Komisi Pengawas Persaingan Usaha (KPPU)
Market Definition	Comprehensive towards digital market. The regulation adapted to address the unique challenges and opportunities presented by the digital economy	Not adequately capture the nuances of digital markets and the specific anti-competitive practices that can arise.
Abuse of Dominant Position	Prohibits anti-competitive practices by firms holding dominant market position in the digital realm, including such as self-preferencing and excessive data collection.	Lacks specific provisions tailored to address the unique challenges of the digital economy, such as data protection and algorithmic bias.
Mergers and Acquisitions	Pre-Merger notification system	Post-merger notification system
Organization of Digital Platforms	Guidelines for the organization of digital platforms available	There is currently no specific regulation governing the organization of digital platforms.
Supervision and Sanctions	Maximum fine: S\$1 million. Alternative Fine: 30% of global revenue	Maximum Fine: Rp25 billion (approximately S\$1.85 million)

Source: Research data

Key Takeaways for Indonesia :

- a. **Embrace a Comprehensive Regulatory Framework:** Develop a comprehensive and adaptable regulatory framework that addresses the unique challenges and opportunities of the digital economy.
- b. **Promote Innovation and Entrepreneurship:** Cultivate an environment that nurtures innovation and entrepreneurship in the digital sector, encouraging the development of cutting-edge technologies and solutions.
- c. **Invest in Digital Infrastructure:** Invest in building robust and accessible digital infrastructure, ensuring widespread connectivity and enabling the seamless integration of digital technologies into various sectors.
- d. **Enhance Digital Literacy and Skills:** Equip the population with the necessary digital literacy and skills to actively participate in the digital economy and thrive in the evolving digital landscape.
- e. **Foster International Collaboration:** Engage in international collaborations and knowledge exchange to share best practices, address cross-border challenges, and leverage global expertise in shaping Indonesia's digital future.

By adopting these strategies inspired by Singapore's success, Indonesia can pave the way for a thriving digital economy that drives economic growth, enhances social well-being, and positions Indonesia as a frontrunner in the digital era.

3. Coordinated Efforts for Consumer Protection and UMKM Growth

Commerce is an integral part of Indonesia's rapid digitalization. To effectively protect consumers and empower businesses, particularly UMKM, a coordinated approach

is necessary. The Ministry of Trade (Kemendag), Ministry of Communication and Information (Kemenkominfo), and Ministry of Investment should collaborate to:

- a. **Safeguard Consumer Rights:** Implement robust consumer protection measures to ensure fair treatment, transparent pricing, and effective grievance redressal mechanisms
- b. **Empower UMKM:** Provide UMKMs with comprehensive support, including training, financial assistance, and access to technology, to enhance their competitiveness and enable them to participate actively in the digital economy.
- c. **Accelerating Digital Transformation and Strengthening Domestic Market:** The government and the private sector must work together to accelerate the digital transformation of industries to strengthen the domestic market and enhance the competitiveness of domestic products. This effort should focus on:

Digital Infrastructure Upgrades: Invest in upgrading digital infrastructure, including broadband connectivity and cloud computing capabilities, to facilitate seamless e-commerce operations and support business growth; **E-commerce Skills Development:** Provide comprehensive training programs to equip UMKM and individuals with the necessary skills to navigate the e-commerce landscape effectively; and **Promoting Domestic Products:** Implement targeted marketing campaigns and support initiatives to promote domestic products and encourage consumers to support local businesses.

CONCLUSION

The integration of social media and e-commerce, often referred to as "social commerce," presents a plethora of opportunities for businesses and the national economy. However, this convergence also poses challenges that demand careful consideration and effective regulatory measures. The rise of social commerce has raised concerns about predatory pricing practices, where dominant platforms or large businesses engage in aggressive price wars to drive out smaller competitors. This can harm the growth of small and medium-sized enterprises and stifle innovation. Social commerce platforms collect and store vast amounts of user data. Data breaches and unauthorized data use can have severe consequences for consumers, businesses, and the overall trust in the digital economy. While the Indonesian government has taken steps to address these concerns through regulations like Permendag 31 tahun 2023, there remain gaps in the legal framework that allow for potential loopholes and circumvention of regulations.

The principle of economic democracy, enshrined in Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, emphasizes the need for a level playing field and fair competition. However, the current disparities between online and offline market regulations hinder the full realization of these principles in the digital realm. Taking an example from regulations in countries like Singapore, the Indonesian government should consider developing more concrete and comprehensive rules specifically governing the digital economy and competition within it. The Business Competition Supervisory Commission (KPPU) plays a crucial role in investigating and addressing anti-competitive practices. Empowering the KPPU with enhanced investigative tools and resources will enable them to effectively identify and address market distortions. The dynamic nature of the digital economy demands continuous monitoring of market trends, emerging challenges, and the effectiveness of existing regulations. Regular reviews and adaptations are necessary to ensure that the regulatory framework remains relevant and effective.

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