



Market Dominance and Law Enforcement under Indonesian Competition Law: An Analysis of Law No. 5 of 1999

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Abstract. Indonesian competition law plays a vital role in preventing monopolistic practices and ensuring fair competition. Yet, the rise of the digital economy, shifting market structures, and persistent enforcement challenges have complicated regulation of market dominance. This study analyzes the main provisions of Law Number 5 of 1999, examines the concept of market dominance, and evaluates enforcement mechanisms. Using a normative legal research method with statute, conceptual, and doctrinal approaches, data were collected from legislation, KPPU regulations, and academic literature. Findings show that Indonesian competition law applies a rule of reason, targeting abuse of dominant positions rather than dominance itself. Market dominance is assessed through indicators such as market share, control of essential facilities, barriers to entry, exclusionary conduct, and independence from competitive pressures. KPPU plays a central role despite institutional and evidentiary limitations. This research contributes to competition law scholarship and offers concise policy recommendations to strengthen enforcement in the digital era.

Keywords: Competition Law, KPPU, Law Enforcement, Market Dominance, Monopolistic Practices.

Abstrak. Hukum persaingan Indonesia memainkan peran vital dalam mencegah praktik monopoli dan memastikan persaingan yang adil. Namun, munculnya ekonomi digital, pergeseran struktur pasar, dan tantangan penegakan hukum yang terus-menerus telah mempersulit pengaturan dominasi pasar. Studi ini menganalisis ketentuan utama Undang-Undang Nomor 5 Tahun 1999, mengkaji konsep dominasi pasar, dan mengevaluasi mekanisme penegakan hukum. Dengan menggunakan metode penelitian hukum normatif dengan pendekatan undang-undang, konseptual, dan doktrinal, data dikumpulkan dari undang-undang, peraturan KPPU, dan literatur akademis. Temuan menunjukkan bahwa hukum persaingan Indonesia menerapkan aturan akal sehat, yang menargetkan penyalahgunaan posisi dominan daripada dominasi itu sendiri. Dominasi pasar dinilai melalui indikator seperti pangsa pasar, kontrol fasilitas penting, hambatan masuk, perilaku eksklusif, dan independensi dari tekanan persaingan. KPPU memainkan peran sentral meskipun terdapat keterbatasan kelembagaan dan pembuktian. Penelitian ini berkontribusi pada kajian hukum persaingan dan menawarkan rekomendasi kebijakan yang ringkas untuk memperkuat penegakan hukum di era digital.

Kata kunci: Hukum Persaingan Usaha, KPPU, Penegakan Hukum, Dominasi Pasar, Praktik Monopoli.

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1. Introduction

Competition law in Indonesia is primarily regulated through Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. This law serves as the principal legal instrument for ensuring fair competition and preventing monopolistic practices. It prohibits anti-competitive conduct such as monopolies, price fixing, market division, and abuse of dominant positions while safeguarding consumer welfare and promoting economic efficiency.¹ Law Number 5 of 1999 establishes legal standards governing market conduct and provides the institutional framework for enforcement through the Business Competition Supervisory Commission (KPPU). Nevertheless, despite its comprehensive design, implementation continues to face structural and institutional challenges.²

The KPPU plays a central role in supervising competition, including cartel activities, price fixing, and abuse of dominant positions.³ According to the KPPU Outlook Persaingan Usaha 2025, the Commission conducted hearings for 15 cases in 2024, imposed administrative fines totaling IDR 56.5 billion, and received 78 public reports. The number of cases increased by approximately 40% compared to the previous year.⁴ These figures indicate that monopolistic practices remain a significant concern. However, enforcement effectiveness is often constrained by limited investigative authority, procedural complexity, and weak coordination with other institutions, including the police and judiciary.⁵ Consequently, case handling is frequently slow and outcomes inconsistent.⁶

¹ Ahmad Lutfi Rijalul Fikri, “Qawaid al-Fiqhiyyah Analysis on the Prohibition of Monopoly Practices and Unfair Business Competition: A Critical Review,” *Justicia Islamica* 18, no. 1 (2021): 141. See also, Haiqal Riski Ramadhan et al., “Prohibition of monopolistic practices in business trials in Indonesia: Reforming on business competition supervisory commission,” *Journal of Law and Legal Reform* 4, no. 2 (2023): 177.

² Baiq Ervinna Sapitri, “Kewenangan Komisi Pengawas Persaingan Usaha (KPPU) dalam penanganan perkara persaingan usaha (studi perbandingan di Indonesia dengan negara-negara common law system),” *Jurnal IUS Kajian Hukum dan Keadilan* 3, no. 1 (2015): 274.

³ Alum Simbolon, “Prevention of monopolistic practices and unfair Business Competition through business Competition Supervision,” *J. Legal Ethical & Regul. Issues* 22, no. 4 (2019): 1.

⁴ Komisi Pengawas Persaingan Usaha (KPPU), *Outlook Persaingan Usaha 2025*, (Jakarta: Komisi Pengawas Persaingan Usaha, 2025).

⁵ Paramita Prananingtyas et al., “The Indonesian Business Competition Law: How the Police Plays a Role,” *Jurnal Hukum Novelty* 11, no. 1 (2020): 109. See also, Kami Chavis Simmons, “The politics of policing: Ensuring stakeholder collaboration in the federal reform of local law enforcement agencies,” *The Journal of Criminal Law and Criminology* 41, no. 2 (2008): 496.

⁶ Sih Yuliana Wahyuningtyas, “Challenges in Combating Cartels, 14 Years After the Enactment of Indonesian Competition Law,” *Yearbook of Antitrust and Regulatory Studies (YARS)* 7, no. 10 (2014): 291.

Another distinctive aspect of Indonesian competition law is the exception granted to State-Owned Enterprises (SOEs) under Article 51. SOEs may obtain monopoly rights in sectors considered essential to the public interest. Although intended to support public services, this exception may create tension between public welfare objectives and the principles of fair competition.⁷ While SOEs are expected to guarantee access to essential services, excessive monopoly rights may undermine competitive neutrality and innovation.

The rapid growth of the digital economy has further complicated competition regulation. Data-driven companies and digital platforms increasingly dominate markets, yet Indonesian competition law remains insufficient to address issues such as data monopolies, network effects, and algorithm-based market power.⁸ Traditional indicators, particularly market share, are becoming less adequate for assessing market power in digital markets. Cross-border enforcement also remains limited. Although Indonesia applies the effects doctrine, comprehensive regulations governing extraterritorial enforcement are still lacking.⁹ This limitation is increasingly significant in a globalized economy where multinational corporations and digital platforms operate across jurisdictions.

From an enforcement perspective, sanctions such as fines, business cancellations, and administrative penalties have been established to deter monopolistic practices. However, their effectiveness remains questionable. Studies indicate that limited KPPU authority and inconsistencies between KPPU decisions and court judgments contribute to legal uncertainty.¹⁰ As a result, a gap persists between the normative design of competition law and its practical implementation.

Overall, although Indonesia possesses a relatively comprehensive competition law framework, significant challenges remain regarding legal norms, the conceptualization of market dominance, and enforcement effectiveness. These challenges are intensified by digitalization and globalization, which generate new forms of market power not fully accommodated by existing regulations. Digital platforms, for example, benefit from network effects and extensive data control that can reinforce market dominance and create exclusionary practices.

⁷ Anna Maria Tri Anggraini et al., “Antitrust in Practice: Case-Based Comparative Analysis of Predatory Pricing Enforcement in Indonesia and the United States,” *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)* 12, no. 3 (2025a): 1.

⁸ Diana Fitriana, “Reconstruction of Competition Law: Preventing Monopolization Through Data Exploitation in E-Commerce,” *Indonesia Law Review* 14, no. 4 (2025): 2.

⁹ Sukarmi et al., “The Qualified Effects Doctrine in the Extraterritorial of Competition Law Application: An Indonesia Perspective,” *Srivijaya Law Review* 28, no. 3 (2021): 198. See also, Joko Setiyono, and Eddy Pratomo, “Breaking Boundaries: How Indonesia’s Limited Territorial Jurisdiction Sparked a Global Movement to Solve Extradition Woes,” *Via Inveniendi Et Iudicandi* 18, no. 2 (2023): 85.

¹⁰ Buchori Achmad, “Influence of educational games on childrens intelligence,” *International Journal of Advanced Science and Technology* 29, no. 4 (2020): 1649.

Previous studies have generally examined Indonesian competition law from fragmented perspectives. Several studies focus on the institutional role and enforcement authority of the KPPU, particularly investigative powers, evidentiary challenges, and judicial review of KPPU decisions.¹¹ Other studies analyze the monopoly exception granted to SOEs under Article 51 and its implications for competition and public service obligations.¹² More recent scholarship explores digital competition issues, including data monopolies, platform dominance, network effects, and the limitations of traditional market-share indicators in assessing market power.¹³ However, limited attention has been given to examining the interrelationship between the substantive provisions of Law Number 5 of 1999, the legal conceptualization of market dominance, and the practical operation of enforcement mechanisms within a single analytical framework. Furthermore, the implications of digitalization and globalization for both market dominance and enforcement effectiveness remain insufficiently integrated in existing scholarship. This gap highlights the need for further research. The urgency of this study lies in providing a holistic understanding of how Indonesian competition law functions not only as a normative framework but also as a practical mechanism for regulating market power in an increasingly digitalized and globalized economy. Without such an integrated analysis, legal reforms and policy responses may remain fragmented and inadequate to address emerging competition challenges.

Based on these considerations, this study addresses three research questions: (1) What are the main provisions of Indonesian competition law regarding monopolistic practices under Law Number 5 of 1999? (2) How does Indonesian competition law define and conceptualize market dominance? (3) How are law enforcement mechanisms implemented in handling monopolistic practices? Accordingly, the study aims to analyze the main provisions of Law Number 5 of 1999 concerning monopolistic practices, examine the legal conceptualization of market dominance, and evaluate the implementation of law enforcement mechanisms, particularly the role of the KPPU, judicial oversight, and inter-agency cooperation.

This research contributes to the literature by providing an integrated analysis of Indonesian competition law and offering policy recommendations to strengthen enforcement effectiveness amid globalization and digital market transformation. It

¹¹ Nurasiah Harahap, "Authority of The Business Competition Supervisory Commission (KPPU) Medan Regional Office in Completing Prohibited Activities," *ARBITER: Jurnal Ilmiah Magister Hukum* 6, no. 1 (2024): 198.

¹² Akhsan Hadi, and Paulus Aluk Fadjar Dwi Santo, "Natural Monopoly or Monopoly by Law for State Owned Enterprises," In *E3S Web of Conferences*, EDP Sciences 426, (2023): 02085.

¹³ Reni Budi Setianingrum, and Muhammad Annas, "E-commerce platform market share measurement mechanisms in Indonesian competition law: The urgency in digital era," *Jurnal Hukum Novelty (1412-6834)* 17, no. 1 (2026): 88.

also contributes theoretically by linking legal substance, market dominance theory, and enforcement practice within a unified analytical framework, while providing practical insights for policymakers and competition authorities.

2. Research Methods

This study employs a normative legal research method, using statute, conceptual, and doctrinal approaches as the primary analytical frameworks.¹⁴ This method was selected because the research focuses on examining the legal regulation of market dominance and law enforcement mechanisms under Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, as well as its implementing regulations and institutional guidelines issued by the Business Competition Supervisory Commission (KPPU).¹⁵ Through these approaches, the study analyzes legal norms, concepts, and doctrines relevant to competition law in Indonesia.

The data in this study consist of primary, secondary, and tertiary legal sources. Primary legal sources include Law Number 5 of 1999, its implementing regulations, and official KPPU rules and guidelines. These were selected for their binding authority and direct relevance to the regulation of monopolistic practices. Secondary legal sources comprise scholarly journal articles, books, legal commentaries, and prior research addressing competition law, market dominance, and law enforcement. Selection of these sources was based on academic credibility, peer-reviewed status, and their contribution to theoretical and practical debates. Tertiary legal sources encompass legal dictionaries, encyclopedias, and other reference materials that assist in interpreting legal concepts. These were evaluated for reliability and used to clarify definitions and doctrinal interpretations.

Data collection was conducted through a documentary and literature review method. Legal materials were systematically gathered from official legislation databases, KPPU publications, academic journals, books, and other relevant legal documents. The collected materials were inventoried, classified, and organized according to the main themes of the research, namely monopolistic practices, market dominance, and competition law enforcement mechanisms.

¹⁴ Theresia Anita Christiani, "Normative and empirical research methods: Their usefulness and relevance in the study of law as an object," *Procedia-Social and Behavioral Sciences* 219, no. 3 (2016): 205. See also, Putri Wulandari, "Normative Legal Research Methodology from the Experts' Perspective: A Comparative Analysis of Concepts and Approaches," *Archipel: Journal of Indonesian Interdisciplinary Studies* 1, no. 6 (2026): 21.

¹⁵ Rahayu Hartini et al., "Implementation of business competition compliance program to prevent unfair business competition practices against business enterprises," *Audito Comparative Law Journal (ACLJ)* 5, no. 1 (2024): 47.

The data were analyzed qualitatively through several stages, including legal norm inventory, classification of legal concepts, and systematic and teleological interpretation. Furthermore, a synchronization process was carried out between statutory provisions, KPPU institutional practices, and developments in academic literature to construct a comprehensive understanding of the subject matter. This approach enables a descriptive-analytical explanation of how Indonesian competition law defines market dominance and how its enforcement mechanisms operate within the national legal system.

3. Results and Discussion

3.1. Main Provisions of Indonesian Competition Law Regarding Monopolistic Practices

Indonesian competition law is fundamentally regulated by Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. This law is the primary instrument governing business behavior to prevent monopolistic practices and ensure healthy competition in the national market.¹⁶ Normatively, this law emphasizes that monopolies, illegal market dominance, and practices that hinder competition are prohibited because they can harm consumer interests and national economic efficiency.

Substantially, Law Number 5 of 1999 prohibits various forms of anti-competitive practices, including price fixing, market division, and abuse of dominant position.¹⁷ These provisions demonstrate that Indonesian law focuses not only on the structural existence of monopolies but also on behaviors (behavioral approaches) that create market distortions. Furthermore, this regulation also emphasizes that cartel practices are prohibited. However, in its implementation, proving cartels often faces obstacles due to their secretive nature and the difficulty of direct proof.¹⁸ Therefore, although the prohibition is normatively clear, law enforcement remains a major challenge to the effectiveness of this regulation.¹⁹

Based on Law Number 5 of 1999, several main categories of monopolistic practices are explicitly prohibited. First is price fixing, which is an agreement

¹⁶ Evita Isretno Israhadi, "Social distrust impact analysis: Political overview competition law," *International Journal of Criminology and Sociology* 9, no. 2 (2021): 2417.

¹⁷ Ramadhan et al., "Prohibition of monopolistic practices," 177.

¹⁸ Fernando Castillo de la Torre, "Evidence, proof and judicial review in cartel cases," *World Competition* 32, no. 4 (2009): 272. See also, Andreas Stephan, "Four key challenges to the successful criminalization of cartel laws," *Journal of Antitrust Enforcement* 2, no. 2 (2014): 348.

¹⁹ Paripurna Sugarda, and Muhammad Rifky Wicaksono, "Power to the people: Enhancing competition law enforcement in Indonesia through private enforcement," *Asia Pacific Law Review* 26, no. 2 (2018): 135.

between business actors to set a specific price that eliminates natural competition mechanisms in the market. This practice directly harms consumers by eliminating competitive pricing options. Second is market allocation, which is a practice in which business actors divide the market based on geographic region, customer base, or specific product type to avoid direct competition. This practice is considered to hinder market efficiency and reduce innovation.²⁰

Third is abuse of dominant position, which is when a company with significant market power uses its power to hinder competition, such as by setting predatory prices, price discrimination, or creating barriers to entry for new business actors.²¹ In this context, Indonesian law emphasizes that market dominance is not prohibited, but its abuse is the object of regulation. Fourth is the practice of tying and bundling, a business strategy that forces consumers to purchase certain products as a condition for obtaining other products, which can hinder competition in the relevant market.²²

Although Law Number 5 of 1999 strictly prohibits monopolistic practices, there are several explicitly stipulated exceptions. One of the most significant is the exception for small businesses. Small businesses are exempt from several provisions prohibiting business competition, including in certain matters such as price fixing or market allocation.²³ However, this exception has sparked debate because it can create an imbalance in the competitive structure and potentially harm consumers.

Furthermore, State-Owned Enterprises (SOEs) are also granted certain exceptions under Article 51 of Law Number 5 of 1999, particularly in sectors related to the public interest, such as energy, transportation, and infrastructure.²⁴ Although intended to support public services, this provision can pose anti-competitive risks if not balanced with strict oversight mechanisms. Several studies have stated that the existence of these exceptions creates normative tension

²⁰ Benjamin Wood et al., "The influence of corporate market power on health: exploring the structure-conduct-performance model from a public health perspective," *Globalization and Health* 17, no. 1 (2021): 44. See also, Carmelo Cennamo, "Competing in digital markets: A platform-based perspective," *Academy of Management Perspectives* 35, no. 2 (2021): 280.

²¹ Ramadhan et al., "Prohibition of monopolistic practices in business trials," 177.

²² Anna Maria Tri Angraini et al., "The Doctrine of Essential Facilities in Competition Law: Balancing Monopoly Power and Fair Competition," *Jurnal Hukum Bisnis Bonum Commune* 8, no. 2 (2025b): 397.

²³ Richard J. Pierce Jr., "Small is not beautiful: the case against special regulatory treatment of small firms," *Administrative Law Review* 21, no. 4 (1998): 552. See also, Marshall Steinbaum, and Maurice E. Stucke, "The effective competition standard," *The University of Chicago Law Review* 87, no. 2 (2020): 604.

²⁴ Budi Joyo Santoso, and Adnan Hamid, "Constitutional Legitimacy, Limitations, and Strengthening of State-Owned Enterprise Monopoly Supervision in Economic Development and Protection of Healthy Business Competition in Indonesia," *Journal of Law, Politic and Humanities* 6, no. 1 (2025): 591.

between the goals of market efficiency and the goals of social justice in the national economy.²⁵

Within Indonesia's competition law structure, the Business Competition Supervisory Commission (KPPU) is the primary institution responsible for enforcing Law Number 5 of 1999. The KPPU has the authority to conduct investigations, examinations, and even issue administrative decisions regarding competition violations.²⁶

The KPPU also oversees the behavior of business actors in the market and provides recommendations to the courts in litigation. In practice, the KPPU frequently handles cases of cartels, bid rigging, and abuse of dominant positions, which have broad impacts on market structure.²⁷ However, the KPPU's effectiveness still faces several challenges, particularly related to limited investigative authority, difficulties in gathering evidence, and weak coordination with other law enforcement agencies.²⁸ This situation has limited the effectiveness of law enforcement against monopolistic practices.

Law Number 5 of 1999 regulates various types of sanctions for violations of monopolistic practices, including administrative fines, agreement cancellation, company dissolution, and criminal sanctions for certain individuals. These sanctions are designed to create a deterrent effect so that business actors do not engage in anti-competitive practices. However, several studies indicate that the effectiveness of these sanctions remains suboptimal. This is due to variations in implementation, limited institutional capacity, and differences in decisions between the KPPU (Commission for the Competition and Competition Commission) and the courts.²⁹ Therefore, although sanctions are normatively quite strong, in practice there are still gaps in law enforcement.

The implementation of the monopoly prohibition provisions in Law Number 5 of 1999 still faces various structural challenges. First, the Commission for the Competition and Public Procurement (KPPU)'s limited investigative authority

²⁵ Desi Apriani, and Syafrinaldi Syafrinaldi, "Konflik Norma Antara Perlindungan Usaha Kecil Menurut Hukum Persaingan Usaha Indonesia Dengan Perlindungan Konsumen," *Jurnal Pembangunan Hukum Indonesia* 4, no. 1 (2022): 22. See also, Hadi, and Santo, "Natural Monopoly or Monopoly," 02085.

²⁶ Sapitri, "Kewenangan Komisi Pengawas Persaingan Usaha (KPPU)," 274.

²⁷ Siti Anisah, and Dodik Setiawan Nur Heriyanto, "Aligning Indonesia's Energy-Market Competition Law with the Sustainable Development Goals: Pathways to a Just Energy Transition," *Prophetic Law Review* 4, no. 2 (2025): 299. See also, Simbolon, "Prevention of monopolistic practices," 1.

²⁸ Harahap, "Authority of The Business Competition Supervisory Commission (KPPU)," 198.

²⁹ Achmad, "Influence of educational games," 1649.

makes it difficult to uncover covert cartel practices.³⁰ Second, the inconsistency of court decisions with KPPU decisions creates legal uncertainty. Third, the development of the digital economy and globalization poses new challenges in detecting modern monopolistic practices such as big data monopolies and digital platform dominance.³¹ Furthermore, the lack of explicit regulations regarding strong extraterritoriality also limits the effectiveness of the law in dealing with cross-border business actors.³²

Based on the above analysis, it can be concluded that the main provisions of Law Number 5 of 1999 provide a fairly comprehensive legal framework for regulating monopolistic practices in Indonesia.³³ These regulations include explicit prohibitions on cartel practices, price fixing, market division, and abuse of dominance, and establish the central role of the KPPU as the primary supervisory agency. However, the effectiveness of implementation remains constrained by various factors, including institutional limitations, regulatory exemptions for state-owned enterprises and small businesses, and new challenges in the digital economy and globalization. Therefore, while this law is normatively sound, empirically, there remains a gap between regulatory design and enforcement practices on the ground.

3.2. Definition and Conceptualization of Market Dominance in Indonesian Competition Law

Indonesian competition law does not provide a single explicit definition of market dominance. Nevertheless, the concept can be derived from Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, particularly the provisions regulating dominant positions and their abuse. The law seeks to prevent excessive market control by a business actor that may harm competition and consumer welfare.³⁴

In the literature, market dominance is generally understood as a condition in which a business actor possesses sufficient market power to act independently of competitive pressures within the relevant market.³⁵ Accordingly, dominance is not

³⁰ Lucianus Budi Kagramanto, and Teddy Prima Anggriawan, "Legal Strategy for Exposing Covert Cartel Agreements Through Indirect Evidence and Leniency Programs," *Yuridika* 40, no. 3 (2025): 334.

³¹ Fitriana, "Reconstruction of Competition Law," 2.

³² Ruth Mason, and Michael S. Knoll, "Bounded Extraterritoriality," *Michigan Law Review* 122, no. 8 (2024): 1652. See also, Sukarmi et al., "The Qualified Effects Doctrine," 198.

³³ Rendy Dwi Syahputra et al., "Legal Analysis of Shopee's Monopoly Practices concerning Business Competition in Indonesia," *Jurnal Hukum Bisnis Bonum Commune* 17, no. 1 (2025): 99.

³⁴ Sapitri, "Kewenangan Komisi Pengawas Persaingan Usaha (KPPU)," 274.

³⁵ Jan De Loecker et al., *Quantifying market power and business dynamism in the macroeconomy*, (Cambridge: National Bureau of Economic Research, 2021), 28761. See also, Maman Setiawan et al., "The relationship between business competition and welfare in Indonesia," *Plos one* 20, no. 1 (2025): e0308876.

determined solely by market share ownership but also by the ability to influence prices, output, and broader market conditions without significant constraints from competitors.³⁶

In practice, the Business Competition Supervisory Commission (KPPU) identifies market dominance through a combination of economic and behavioral indicators. Although Law Number 5 of 1999 does not provide a rigid definition, the KPPU applies an analytical framework based on market structure, business conduct, and market impact, commonly known as the structure–conduct–performance approach.³⁷ Consequently, market dominance in Indonesia is understood as a functional concept assessed through legal interpretation and enforcement practice.

One of the primary indicators of dominance is market share. A substantial market share often indicates significant economic power, but it is not sufficient by itself to establish dominance. Market share must be evaluated together with the firm's ability to influence market conditions and exercise market power within a competitive environment.³⁸ Another important indicator is the ability to act independently from competitive pressures. A dominant firm may formulate business strategies and make market decisions without significantly considering competitors' responses, reflecting both structural and behavioral market power.³⁹

The concept of dominance is also associated with control over essential facilities and the ability to create barriers to entry. In sectors such as ports, transportation infrastructure, and strategic public services, control over facilities that are indispensable for market participation may restrict effective competition and prevent market entry by competitors.⁴⁰ Likewise, dominant firms may create barriers through pricing strategies, exclusive agreements, control of distribution channels, or other exclusionary practices. Such conduct is frequently linked to

³⁶ Ulfanora, and Almaududi, "West Sumatra's Retail Policies on The Perspective of Competition and Islamic Law," *Diponegoro Law Review* 9, no. 2 (2024): 246. See also, Martin C. Schmalz, "Recent studies on common ownership, firm behavior, and market outcomes," *The Antitrust Bulletin* 66, no. 1 (2021): 23.

³⁷ Ismail Rumadan, "Creating an appropriate legal procedure in handling unfair competition under Indonesian job creation regime," *International Journal of Public Law and Policy* 11, no. 2 (2025): 153. See also, Ashadi L. Diab et al., "Safeguarding Consumers: The Role of Industry and Trade Office in Countering Monopolistic Practices and Ensuring Business Protection," *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 6, no. 2 (2023): 168.

³⁸ David Andrés-Cerezo, and Natalia Fabra, "Storing power: Market structure matters," *The RAND Journal of Economics* 54, no. 1 (2023): 29. See also, Abhi Bhattacharya et al., "Examining why and when market share drives firm profit," *Journal of Marketing* 86, no. 4 (2022): 85.

³⁹ Setiawan et al., "The relationship between business competition," 308876.

⁴⁰ Anggraini et al., "Antitrust in Practice," 1.

abuses prohibited under Law Number 5 of 1999, including predatory pricing and market foreclosure.⁴¹

Market dominance may also be reflected through exclusionary conduct designed to remove competitors from the market or restrict effective competition. Indonesian competition law recognizes practices such as tying and bundling arrangements, discriminatory pricing, restrictions on market access, and other exclusionary measures as potential manifestations of the abuse of dominant positions.⁴² These practices distort market structures and reduce opportunities for rival firms, thereby undermining fair competition.

The development of the digital economy has significantly transformed the understanding of market dominance. Control over data and digital ecosystems has emerged as an increasingly important indicator of market power.⁴³ In digital markets, dominance is no longer determined solely by traditional indicators such as prices and output levels but also by control over large volumes of data, network effects, and access to digital platforms. Existing studies suggest that conventional tools such as the Small but Significant and Non-Transitory Increase in Price (SSNIP) test are becoming less effective in measuring market power in digital markets. Consequently, alternative approaches such as the Small but Significant Non-Transitory Decrease in Quality (SSNDQ) test have been proposed to better assess dominance in platform-based economies.⁴⁴ These developments demonstrate that the concept of market dominance continues to evolve alongside changes in economic structures.

From an institutional perspective, the KPPU plays a central role in operationalizing the concept of market dominance. The Commission assesses market structures, evaluates business conduct, and determines whether anti-competitive effects have occurred. In doing so, it considers factors such as economic independence, barriers to entry, and the impact of business conduct on

⁴¹ Adi Nur Rohman et al., “A Review of Predatory Pricing Regulations in Digital Business in Indonesia: Islamic Law Approach,” *Malaysian Journal of Syariah and Law* 13, no. 3 (2025): 737. See also, Anggraini et al., “The Doctrine of Essential Facilities,” 397.

⁴² Elreddian Kusuma Dewi et al., “Characteristics of Indirect Evidence Towards Price Fixing Agreements in The Perspective of Competition Law,” *Policy, Law, Notary and Regulatory Issues (POLRI)* 3, no. 1 (2024): 146. See also, Alexander Kennedy et al., “Antitrust law analysis on the abuse of dominant position in franchise agreements in Indonesia,” *Journal of Legal and Cultural Analytics* 4, no. 3 (2025): 595.

⁴³ Diana L. Moss et al., “Market power and digital business ecosystems: Assessing the impact of economic and business complexity on competition analysis and remedies,” *Available at SSRN 3864481* (2021): 53. See also, Annabelle Gawer, “Digital platforms and ecosystems: remarks on the dominant organizational forms of the digital age,” *Innovation* 24, no. 1 (2022): 119.

⁴⁴ Burton Ong, and Ding Jun Toh, “Digital dominance and social media platforms: are competition authorities up to the task?” *IIC-International Review of Intellectual Property and Competition Law* 54, no. 4 (2023): 543.

market competition.⁴⁵ However, enforcement remains constrained by limitations in economic evidence, difficulties in obtaining market data, and restricted investigative authority.

Importantly, Indonesian competition law does not prohibit dominance itself. Law Number 5 of 1999 focuses on the abuse of a dominant position rather than the mere existence of market power. A company may therefore legally hold a dominant position provided that it does not engage in conduct that harms competition. Violations arise when dominance is used to undertake anti-competitive practices such as predatory pricing, discriminatory pricing, production restrictions, market foreclosure, or other exclusionary conduct.⁴⁶ This reflects Indonesia's adoption of the rule of reason approach, under which the legality of business conduct is assessed primarily through its impact on competition and consumer welfare.

Overall, market dominance in Indonesian competition law can be understood as a condition in which a business actor possesses substantial economic power enabling it to act independently of competitive pressures, influence market structures, control essential facilities, create barriers to entry, or engage in exclusionary conduct. Such dominance becomes legally problematic only when accompanied by abusive behavior that harms competition and consumer welfare.⁴⁷ Therefore, the Indonesian approach is multidimensional and indicator-based rather than dependent on a single quantitative threshold. While Law Number 5 of 1999 provides the normative framework, significant challenges remain in measuring dominance within the digital economy and adapting competition law to emerging forms of market power based on data control, digital ecosystems, and platform governance.

3.3. Law Enforcement Mechanisms in Handling Monopolies According to Indonesian Business Competition Law

The law enforcement mechanism in the Indonesian competition law system is structured through administrative, judicial, and institutional approaches integrated within Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. This law explicitly prohibits monopolistic practices, price fixing, market division, and abuse of dominant position, serving as the normative foundation for ensuring healthy business

⁴⁵ Noer Yasin, "The Authority Rationalization Philosophy of the Indonesia Competition Commission: The Due Process of Law and Maqashid Sharia Perspectives," *Jurisdictie: Jurnal Hukum Dan Syaria* 13, no. 1 (2022): 121.

⁴⁶ Umut Can Asil, "Unveiling Dominance: Abusive Practices in Digital Markets-An Analysis of the Market Platforms' Dominant Position and the EU's Regulatory Countermeasures," (2023).

⁴⁷ Setiawan et al., "The relationship between business competition," 308876. See also, Setianingrum, and Annas, "E-commerce platform market share measurement," 88.

competition.⁴⁸ Enforcement is not only repressive but also preventive and corrective, reflecting a multidimensional governance model that seeks to balance deterrence with education.

At the center of this framework is the Business Competition Supervisory Commission (KPPU), an independent body mandated to enforce Law Number 5 of 1999. The KPPU holds authority to investigate, examine alleged violations, adjudicate cases, and impose administrative sanctions such as fines, orders to cease unlawful activities, or recommendations for business dissolution.⁴⁹ In practice, the KPPU functions as both supervisory and quasi-judicial institution, ensuring that competition law is applied consistently across diverse industries. Its dual role allows it to act as regulator and adjudicator, though this concentration of authority also requires strong checks and balances to maintain legitimacy and public trust.

Sanctions remain one of the primary enforcement instruments. Administrative fines, cancellation of agreements, and dissolution of companies are designed to deter anti-competitive behavior. Yet, effectiveness is debated, as large corporations often absorb fines without altering conduct.⁵⁰ This highlights the need for sanctions to be proportionate, enforceable, and accompanied by reputational consequences, ensuring deterrence across different scales of business actors.

Coordination with other agencies is essential. The KPPU collaborates with the police in evidence gathering, witness summoning, and handling uncooperative parties.⁵¹ Such cooperation is particularly critical in cartel cases, which are secretive and difficult to prove directly. Judicial oversight further complements enforcement, with courts reassessing facts, evidence, and legal reasoning used by the KPPU. This ensures due process and legal certainty, though inconsistencies between KPPU and court decisions remain a persistent challenge.

Preventive mechanisms have gained prominence. Compliance programs encourage voluntary adherence to fair competition principles, shifting enforcement toward education and prevention.⁵² This reflects a paradigm shift from punitive

⁴⁸ Israhadi, "Social distrust impact analysis," 2417. See also, Sapitri, "Kewenangan Komisi Pengawas Persaingan Usaha," 274.

⁴⁹ Siti Anisah, and Sahid Hadi, "The human right to a fair trial in competition law enforcement procedures: A rising issue in Indonesian experiences," *Laws* 12, no. 3 (2023): 54. See also, Ramadhan et al., "Prohibition of monopolistic practices in business trials," 177.

⁵⁰ Ronald G. Burns et al., "Sanctioning corporate crime: Fines received by the 50 top revenue generating companies in the US: Sanctioning corporate crime: Fines received by the 50 top revenue generating companies in the US: RG Burns et al," *Crime, Law & Social Change* 82, no. 5 (2024): 1135. See also, Simbolon, "Prevention of monopolistic practices," 1.

⁵¹ Hari Sutra Disemadi, and Kholis Roisah, "The enforcement of business competition law by the police: An Indonesian experience," *Lentera Hukum* 6, no. 2 (2019): 207. See also, Prananingtyas et al., "The Indonesian Business Competition Law," 109.

⁵² Mohammad Reza et al., "Business Competition Compliance Program as an Effort to Build A Culture of Obeying the Law," *Corporate Law & Governance Review* 7, no. 3 (2025): 42.

enforcement to proactive governance, fostering a culture of compliance among business actors. Leniency programs and the use of indirect evidence also strengthen enforcement. In cartel cases, whistleblower incentives and reliance on circumstantial evidence provide practical tools to uncover hidden practices.⁵³ These innovations align Indonesia with global enforcement trends, where leniency and indirect evidence are widely recognized as effective.

From a jurisdictional perspective, Law Number 5 of 1999 adopts the effects doctrine, allowing application to foreign business actors whose actions significantly impact the Indonesian market. However, the absence of explicit extraterritorial enforcement regulations limits effectiveness in addressing cross-border monopolistic practices.⁵⁴ In an era of globalization, this gap is increasingly problematic, as multinational corporations and digital platforms operate seamlessly across borders. Strengthening extraterritorial jurisdiction is thus a key reform priority.

Challenges remain significant. Limited investigative authority, particularly regarding search and seizure powers, hampers the KPPU's ability to uncover covert monopolistic practices.⁵⁵ Weak inter-agency coordination slows case handling, while inconsistencies between KPPU and court rulings undermine legal certainty. Moreover, sanctions often fail to deter large corporations, exposing an implementation gap between legal norms and enforcement realities.

Reform proposals emphasize institutional strengthening. Expanding KPPU's investigative powers, including search and seizure authority, would enhance evidence collection. Strengthening extraterritorial jurisdiction would address global competition challenges, while harmonizing regulations with international standards would improve enforcement consistency.⁵⁶ Preventive mechanisms also require reinforcement. Compliance programs and leniency systems should be institutionalized to reduce reliance on punitive measures and foster voluntary adherence to fair competition principles.⁵⁷

The digital economy introduces new enforcement complexities. Dominance in digital markets often arises from control over data, network effects, and algorithmic power, which traditional indicators such as market share fail to capture. Enforcement must adapt by developing new analytical tools, such as quality-based

⁵³ Kagramanto, and Anggriawan, "Legal Strategy for Exposing Covert Cartel Agreements," 336.

⁵⁴ Muhammad Rifky Wicaksono et al., "Implementing the Extraterritoriality Principle to Strengthen Competition Law Enforcement in Indonesia in the AEC Era: A Comparative Study," *Indon. L. Rev.* 9, no. 6 (2019): 28. See also, Sukarmi et al., "The Qualified Effects Doctrine," 198.

⁵⁵ Achmad, "Influence of educational games," 1649.

⁵⁶ Nico Krisch, "Jurisdiction unbound:(extra) territorial regulation as global governance," *European Journal of International Law* 33, no. 2 (2022): 496.

⁵⁷ Mohammad Reza et al., "Business Competition Compliance Program," 42.

tests (SSNDQ), and by integrating digital market expertise into KPPU's institutional framework. Without such adaptation, enforcement risks lagging behind evolving market structures.⁵⁸

In comparative perspective, Indonesia's enforcement framework shares similarities with global practices but remains constrained by institutional and regulatory limitations. While the KPPU's quasi-judicial role is unique, its limited authority reduces effectiveness. Strengthening institutional capacity, enhancing inter-agency cooperation, and aligning with international enforcement standards are crucial steps toward more effective competition law governance.⁵⁹

Concrete examples illustrate these challenges. In several cartel cases involving procurement and construction sectors, the KPPU imposed significant fines, yet subsequent judicial reviews reduced penalties or overturned decisions, weakening deterrence.⁶⁰ Similarly, in digital platform cases, difficulties in proving abuse of dominance highlight the need for specialized expertise and updated legal instruments.⁶¹ These examples show that enforcement is not only about authority but also about credibility, consistency, and adaptability. Beyond enforcement, the KPPU also plays an educational role. Through seminars, guidelines, and outreach programs, it seeks to raise awareness among businesses and consumers about fair competition principles. This soft approach complements hard enforcement, building a culture of compliance that reduces violations in the long term. Such initiatives are vital in Indonesia, where many small and medium enterprises may lack awareness of competition law obligations.

Overall, the enforcement mechanism under Law Number 5 of 1999 represents a comprehensive yet evolving framework. It combines sanctions, compliance programs, judicial oversight, and inter-agency cooperation, aiming to balance strict enforcement with due process. However, effectiveness remains contingent on institutional strengthening, regulatory harmonization, and responsiveness to digital and global market dynamics. Reform efforts must therefore focus on expanding KPPU's authority, enhancing preventive mechanisms, and adapting enforcement tools to the realities of globalization and digitalization. Only through such measures can Indonesia's competition law enforcement system achieve its objectives of

⁵⁸ Fitriana, "Reconstruction of Competition Law," 2. See also, Setianingrum, and Annas, "E-commerce platform market share measurement," 88.

⁵⁹ Francisco Beneke, and Shazana Eliza Rohr, "Transnational competition law rules: a political economy perspective," *Cambridge International Law Journal* 14, no. 1 (2025): 93.

⁶⁰ Udin Silalahi, "Tender conspiracy under kppu decision and prohibition of monopolistic practices act," *Srimijaya Law Review* 15, no. 1 (2020): 38.

⁶¹ Friso Bostoën, "The General Court's Google Shopping Judgment Finetuning the Legal Qualifications and Tests for Platform Abuse," *Journal of European Competition Law & Practice* 13, no. 2 (2022): 82.

safeguarding consumer welfare, promoting economic efficiency, and ensuring fair competition in an increasingly complex market environment.

4. Conclusion

This study concludes that Indonesian competition law, as regulated under Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, has established a comprehensive normative framework for preventing monopolistic practices and the abuse of dominant positions. The law provides the principal legal basis for maintaining fair competition through provisions governing prohibited conduct, dominant positions, sanctions, and enforcement mechanisms. Although market dominance is not explicitly defined in a single provision, it is operationalized through indicators such as market share, control over essential facilities, barriers to entry, exclusionary conduct, and the ability of business actors to act independently of competitive pressures. Consequently, Indonesian competition law adopts a rule-of-reason approach that focuses on the abuse of dominance rather than dominance itself.

The findings further indicate that the KPPU plays a central role in enforcing competition law through supervisory, investigative, adjudicative, and sanctioning functions. Yet enforcement effectiveness remains constrained by limited investigative authority, challenges in obtaining economic evidence, and inconsistencies resulting from judicial review. Moreover, the rapid development of the digital economy has created new challenges in measuring market dominance, as market power is increasingly determined by data ownership, network effects, and platform ecosystems.

From a theoretical perspective, this study contributes to competition law scholarship by integrating legal substance, the concept of market dominance, and enforcement mechanisms within a single analytical framework. From a practical perspective, the findings provide guidance for policymakers and competition authorities. Therefore, this study recommends revising Law Number 5 of 1999 to accommodate digital market developments, strengthening KPPU authority and inter-agency coordination, and optimizing preventive instruments such as compliance programs and leniency mechanisms. Two concrete priorities are crucial: establishing specialized digital market units within KPPU and enhancing cross-border cooperation agreements with foreign competition authorities. These measures would support more effective and adaptive competition law enforcement in Indonesia.

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