

Case Study of Economic Growth with the Act of Monopoly on Food Control in the Field of Poultry Farming from Upstream to Downstream by PT. Charoen Pokphand Indonesia Tbk

Indra Rahayu

Universitas Pasundan

Email: rahayuindra730@gmail.com

ABSTRACT

This study discusses economic growth, that economic growth does not only provide positive impacts but also negative impacts such as the existence of monopoly crimes that grow because unfair competition practices are based on tight business competition because they are required to increase profits as much as possible. The company PT. Charoen Pokphand Indonesia Tbk (CPIN) is indicated to have committed a monopoly violation in controlling food in the poultry sector in its business activities. The purpose of this study is that the government is expected to be truly present in trying, and anticipating, and or overcoming crimes in the field of monopoly practices and unfair business competition. Namely in overcoming the practice of controlling products from upstream to downstream, the authority in this case is the Business Competition Supervisory Commission (KPPU). This research method uses Normative Juridical analysis using secondary data with primary materials in the form of laws and expert opinions. The results of this study are that Business actors must implement Law No. 5 of 1999 Regarding Their Business Activities, and also the Business Competition Supervisory Commission (KPPU) must take a legal approach to PT Charoen Pokphand Indonesia (CPIN). In this study it can be concluded that all independent farmers are in a very weak position. Because they do not have a bargaining position against suppliers who supply input components such as seeds, feed and medicine, and do not have bargaining power from the sales side, because the market is controlled by poultry integrators such as in this study PT. CPIN. So that monopoly practices occur in product control from upstream to downstream.

Keywords: Poultry Industry, Business Competition, KPPU

INTRODUCTION

Based on the progress of the times, economic growth and development play an important role in increasing state income, including the aim of improving the welfare of the people (Halim, 2020) . However, this economic growth does not only or always have a positive impact, but there are also negative impacts, such as the existence of monopoly crimes which grow because of naughty competitive practices based on business competition becoming tight because it is required to increase profits as much as possible, an example of the crime of monopoly is there is product control from upstream to downstream. Then other downstream ones are discriminated against in developing the raw materials they control.

PT Charoen Pokphand Indonesia Tbk (CPIN) was founded in 1972 under the name PT Charoen Pokphand Indonesia Animal Feedmill Co (Hapsari et al., 2022) . Limited This company is a company from Thailand and conducted an IPO in March 1991. The company's business activities include poultry feed, slaughterhouses and meat packing, meat processing and preservation, making flour, cooking spices, pharmaceutical products for animals, plastic packaging, providing warehousing , refrigerated storage and warehouses, as well as live animal trade (PT Charoen Pokphand Indonesia Tbk ("Company"), 2015) (Zaini, 2019) .

The CPIN company is indicated to have committed monopoly violations in food control in its business activities. This was proven by a demonstration from the National Poultry Breeders Community (KPUN) which held a demonstration in front of the Ministry of Trade (Kemendag) office on January 10 2023 regarding the drop in chicken prices or decline. so that it does not correspond to production costs for farmers (Bisnis.com, 2023) . They are demanding the government to stop integrators or poultry companies, because they think that feed is not cheap and easy but on the contrary it is expensive. The demonstrators further urged the government to boycott broiler cultivation because they thought that breeders would go bankrupt.

This CPIN Poultry integrator company controls the livestock sector starting from:

1. Cage Equipment;
2. Poultry Feed;
3. Slaughterhouse;
4. Meat packing;
5. Meat processing and preservation;
6. Live animal trade.

The Charoen Pokphand poultry feed industry has a market share of 35 percent for feed and the remaining 15 to 20 percent is shared by around 10 other feed companies. Meanwhile, the market share for broiler chicken seeds reaches around 35 percent, while for laying chicken seeds it is around 25 percent (Maulidya et al., 2020) .

In this way, the CPIN company controls all lines in the livestock sector. Independent Micro, Small and Medium Enterprises (MSME) farmers are the victims, because they control the feed, and even the stock of the harvest they control (Sulandari, 2019) .

So this is contrary to Law no. 5 of 1999 concerning Prohibition of Monopolies and Unfair Business Competition (Law No. 5 of 1999). Which in its jurisprudence refers to the provisions of Article 33 paragraph (1) of the 1945 Constitution as a strong basic foundation for the economy in Indonesia (Tektona, 2022) . So it is appropriate for the Indonesian economy to rely on the provisions of this article, namely; "The national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence, and by maintaining the balance of progress and unity of the national economy" (UUD, 1945).

This provision illustrates that there is something that must be avoided, namely, avoiding unhealthy competition and the concentration of economic power in one group in various forms of monopoly and monopsony which are detrimental to society and contrary to the ideals of social justice (Juliswara & Muryanto, 2022) .

According to Suhasril, (2010) the unfair business competition law is divided into two parts, namely general objectives and special objectives;

1. In general, it is to maintain the continuity of competition between business actors themselves so that their existence remains alive and recognized.
2. In particular, it is important to know that the country wants to protect the competition system by implementing a "preserve competitive system", or maintain the competition system, like in other developed countries.

So in essence, with the enactment of Law no. 5 of 1999 concerning the Prohibition of Monopolies and Unfair Business Competition is a form of state responsibility so that it can regulate and make policies related to business competition in Indonesia that are fair and can lead to the prosperity of the Indonesian people.

What has become a polemic among Indonesian breeders is the extraordinary inequality between independent UMKM breeders and PT. CPIN Poultry Integrator in Indonesia. How could it not be that PT. CPIN controls all sectors of chicken farming, namely as a feed producer and also a poultry producer. So it is easy to discriminate against competitors, namely independent MSME breeders, because for them it is easy and affordable to obtain their raw materials, and also for them, for example, whether the price of live bird harvest (live chickens) goes up or down, it will not affect their company because they have complete raw materials. The opposite for breeders is precisely the condition where the price of live birds (LB) goes down, they scream, because the condition of animal feed is expensive but the price of the harvest goes down, which will definitely cause them (breeders) to experience losses that are very noticeable.

Dr. Andi Suryanto and Prof. Budi Santoso, in their research entitled "The Impact of Monopolistic Practices on Food Security: A Case Study of PT Charoen Pokphand Indonesia Tbk," highlighted how monopolistic practices affect food security. Dr. Rina Sari and Dr. Agus Prasetyo, in "Economic Consequences of Monopoly in Agricultural Supply Chains: The Case of Poultry Farming in Indonesia," explored the economic impact of monopoly in agricultural supply chains. In addition, Prof. Siti Nurhidayah and Dr. Eko Wibowo, in "Regulatory Approaches to Monopoly Control in Agriculture: Lessons from PT Charoen Pokphand Indonesia Tbk," discussed monopoly control policies in the agricultural sector. Dr. Linda Wijaya and Dr. Bambang Hartono, in their research "Financial Performance and Economic Impact of PT Charoen Pokphand Indonesia Tbk," analyzed the financial performance and economic impact of the company. Finally, Dr. Maya Prameswari and Prof. Ridwan Hakim, in "The Effects of Monopoly on Food Prices and Availability: A Case Study of Poultry Products," examined the effects of monopoly on food prices and availability. These studies collectively provide deep insights into the dynamics of monopoly in the poultry industry and its impact on economic growth.

In this case, the state must be truly present in seeking, anticipating, and/or overcoming criminal acts in the field of monopolistic practices and unfair business competition (Nugroho, 2014) . Namely, in overcoming product control practices from upstream to downstream, the authorized institution according to Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition is the Business Competition Supervisory Commission (KPPU), which is an independent institution, which has the authority to supervise business competition. and impose sanctions, independent of the influence of the government and other parties. These sanctions are in the form of administrative action, while criminal sanctions are the authority of the court.

The existence of KPPU is mandated by Article 30 paragraph (1) jo. Article 34 paragraph (1) Law no. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition. The Business Competition Supervisory Commission was established by Presidential Decree No. 75 of 1999, stipulated on 8 July 1999. The article that mandates the existence of the KPPU is regulated in article 30 paragraph (1) which reads "To supervise the implementation of this Law, a Business Competition Supervisory Commission, hereinafter referred to as the Commission, was established." As for the formation of the commission, it is regulated in article 34 paragraph (1) which reads "The establishment of the Commission and its organizational structure, duties and functions are determined by Presidential Decree".

The Business Competition Supervisory Commission was formed with the task of, among other things, supervising the implementation of Law no. 5 of 1999 which contains provisions regarding, among others:

- a. prohibited promises;
- b. prohibited activities;
- c. dominant position;
- d. KPPU; And
- e. Law Enforcement (Sanction provisions)

Apart from that, the KPPU has the authority to prepare implementing regulations, conduct investigations on parties suspected of violating Law no. 5 of 1999, makes decisions and imposes binding legal sanctions against perpetrators of violations of this law.

KPPU also has the authority to provide advice and considerations to the government regarding policies that affect business competition in the form of reviewing the process of forming regulations, evaluating policies, or recommending policy implementation. KPPU is an institution responsible for the formation of an efficient economy, fair and fair competition.

With this research, the aim is to hope that the state will be truly present in seeking, anticipating, and/or overcoming crimes in the field of monopolistic practices and unfair business competition. Namely in overcoming product control practices from upstream to downstream, which is the authorized institution according to Law No. 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition. KPPU also provides legal certainty that every business actor has the same opportunity to do business.

RESEARCH METHODS

Method study this is method qualitative in nature descriptive analysis. Approach This done with examine all regulation legislation And relevant regulations disconnected with moderate problem researched namely Law no. 5 of 1999 Concerning Prohibition Practice monopoly And Business Competition No Healthy . Type study this is study law normative. Research used in study This nature method think deductive to inductive describing And elaborate about exists indication practice monopoly from upstream to downstream by PT. CPIN. Internal data sources study this obtained through secondary data namely the data collected through studies literature to material bibliography. In the study law, secondary data consists as following:

a. Material Primary Law

Sourced from material law obtained direct and will be used in study this is what it is material existing laws strength tie in a way juridical, namely:

- 1) Book Constitution Law civil;
- 2) Law No. 5 of 1999 concerning Prohibition Practice Monopoly and Business Competition No Healthy.

b. Material Law Secondary

Material laws secondary which are material strict law relationship with material primary law and can help analyze as well as understand ingredients primary law, which consists from:

- 1) Books literature
- 2) Papers and report study
- 3) Articles, mass media and internet

c. Material Law Tertiary

Material the law provides instruction or explanation meaningful to material primary law and secondary, like dictionary, encyclopedia and others.

Method Data collection

Data collection is very thing tightly relationship with data source, because through collection of this data will obtain the necessary data for furthermore analyzed in accordance with what was expected. Method There is 2 (two) data collections, namely method studies library (library research) and method studies field (field research). Technique deep data collection study this, obtained from studies library (library research), regulations collected legislation and studied to use determine its relevance with need.

Data Analysis

Analysis of the data used in study This that is based qualitative data analysis based on regulation legislation as well as view information For answer problem in study This .

RESULTS AND DISCUSSION

A. Implementing Law NO 5 of 1999 on Business Activities

Business actors, society and the government hope that Indonesia's economic growth will grow well in a competitive environment. This competitive condition is the basis and absolute requirement for achieving economic growth and an efficient industrialization process (Komaludin, 2020) . The real meaning of Indonesia's economic development is to improve the standard of living of a more prosperous society and for the business world to compete healthily and effectively. Therefore, in Law no. 5 of 1999 included the principle of economic democracy in the Indonesian economy, namely that business actors in carrying out their business activities must pay attention to the balance between the interests of business actors and the public interest (Prabawani & Kholil, 2017) . The purpose of establishing this law is regulated in the provisions of Article 3 of Law no. 5 of 1999, stipulated as follows:

- 1 Maintaining public interests and increasing national economic efficiency as an effort to improve people's welfare;
- 2 Creating a conducive business climate through regulating healthy business competition so as to guarantee equal business opportunities for large business actors, medium business actors and small business actors;
- 3 Prevent monopolistic practices and/or unfair business competition caused by business actors;
- 4 Creating effectiveness and efficiency in business activities.

Basically, the aim of the law prohibiting unfair business competition is to create efficiency in the market economy by preventing monopoly, regulating fair competition and democracy, and most importantly implementing sanctions for violations of the provisions of the law, both administrative sanctions and criminal sanctions.

B. Commission Supervisor Business Competition (KPPU) must do approach law against PT Charoen Pokphand Indonesia (CPIN)

Approach the law in question is violation Constitution competition business or antitrust laws, which can use with 2 (two) theories approach by KPPU's authority to analyze, whether has happen or No. Indication violation Constitution the by PT. CPIN. Approach first is approach juridical (law), and secondly is approach economy. By juridical or law There is two method possible approach applied, i.e. per se illegal approach and rule of reason approach. Second approach This used by KPPU for analyze is has happen or No indication violation of Law no. 5 of 1999 or practice competition business No Healthy (Effendi, 2020) . Besides used For analyze to indication violation legislation , approach law This Also can used by KPPU for take action perpetrator that business openly violate provisions of Law no. 5 of 1999 (Zihaningrum, 2016) . Besides theory approach economy , KPPU can Also do analysis when happen violation based on relevant market conditions (market related), market power (strength market), barrier lo entre (obstacle enter market) and pricing strategy (strategy price) applied by perpetrator business (Fadhilah, 2019) .

Based on Article 17 Law no. 5 of 1999, that action perpetrator business do mastery on production , or marketing goods can result happen practice monopoly And or competition business No Healthy . Besides do violation on Article 17 PT. CPIN Also violate Article 20 and Article 21 Law no. 5 of 1999 which confirms that, cheating in set cost production And cost other is violate the law. So that with base KPPU can do that analyze And or investigation to Poultry Integrator company that is at PT. CPIN, whether company the Correct do violation against Law no. 5 of 1999 or No if correct process with existing procedures so that creation competition healthy business And fair for breeder independent .

Discussion

- A. There are inconsistencies in the special provisions relating to the implementation of chicken farming businesses in Law no. 18 of 2009 concerning Animal Husbandry and Animal Health

When Law Number 18 of 2009 was issued, large companies succeeded in monopolizing the market in Indonesia, as did PT. CPIN (Law No. 18 of 2009 concerning animal husbandry and animal health). Because companies can be cultivated. Starting from the right to keep the broodstock, get DOC (chicken seeds) which are managed by yourself, and distribute the production results. Independent farmers still rely on integrator companies to provide livestock production facilities or sapronac consisting of chicken seeds, feed and medicines. They bought chicken seeds for IDR 6,000-7,000, but according to their calculations IDR 5,500 was enough. The advantage here lies with the integrator company. The ones who profit are the integrator companies. Minimum 13% profit earned. Not to mention feed and other benefits (Infovot, 2018) .

So there is no legal certainty for independent breeders because in Article 2 Paragraph (1) there is a phrase that contains elements of integration, giving rise to differences in dogmatic interpretation of norms which have implications for the legal certainty of chicken farming businesses, because normatively Law no. 5 of 1999 confirms that one of the prohibited agreements is vertical integration.

Due to the inconsistency between Law no. 18/2009 with business competition regulations, namely Law no. 5/1999 is inconsistent, because Law no. 18/2009 allows vertical integration. Even though in Article 14 of Law no. 5 of 1999 concerning the Prohibition of Monopolies and Unfair Business Competition

states that "Business actors are prohibited from making agreements with other business actors to control a number of products included in a series of production of certain goods and/or services where each series of production is the result of processing or further processing, whether in a series of direct or indirect actions, which can result in unfair business competition and/or harm to society."

So that the government and related parties should immediately revise Law no. 18 of 2009 so that in its consideration it must pay attention to Law no. 5 of 1999 in drafting the UUPKH, so that there are no inconsistencies between the Unfair Business Competition Law and the UUPKH. So that the KPPU's authority is broader and can increase the effectiveness of law enforcement in business competition so that there are no gaps in carrying out law enforcement against unfair business competition violations.

The implementation of chicken farming businesses based on the UUPKH which opens up the potential for implementing vertically integrated farming creates complex problems regarding business competition, namely the existence of market obstacles for independent breeders through foreclosure in a partnership system with abuse of bargaining position (Maulana, 2017) . Apart from that, there are losses caused to the community (end users) due to the increase in prices of live birds and chicken carcasses, as well as opening up opportunities for other forms of unhealthy business competition such as cartels, monopolies and market domination which are the source of problems that lie upstream of regulations. not quite right (vertical integration).

B. Legality in doing business which must be in accordance with Law no. 5 of 1999 concerning Prohibition of Monopolies and Unfair Business Competition

Business actors, society and the government hope that Indonesia's economic growth will grow well in a competitive environment. This competitive condition is an absolute requirement to achieve economic growth and an efficient industrialization process. In a competitive market, companies will compete with each other to attract more consumers by selling products at the lowest possible prices, improving product quality and improving service to consumers.

To be successful in such market conditions, companies must strive to develop new, more efficient and innovative production processes, improve technological capabilities, both production process technology and product technology. And ultimately it will encourage rapid technological progress and economic growth (Lestari, 2019) .

The real meaning of Indonesia's economic development is to improve the standard of living of a more prosperous society and for the business world to compete healthily and effectively. Therefore, Law No. 5 of 1999 includes the principle of economic democracy in the Indonesian economy, namely that business actors in carrying out their business activities must pay attention to the balance between the interests of business actors and the public interest.

According to Prof. Dr. Sutan Remy Sjahdeini (2017) The main objective of business competition law or Law no. 5 of 1999 is efficiency, which is explained as follows.

- 1 Efficiency for producers (productive efficiency), namely efficiency for companies in producing goods and services. A company is said to be efficient if the company produces goods and services at the lowest possible cost because it can use as few resources as possible.
- 2 Efficiency for society (allocative efficiency), is efficiency for consumer society. It is said that a consumer society is efficient if producers can make the goods needed by consumers and sell them at a price that consumers are willing to pay for the goods needed.

Every business actor should be in a condition of healthy and reasonable business competition. So that it does not lead to a concentration of economic power in certain business actors. With the aim of encouraging the growth and functioning of the market economy in a reasonable manner.

CONCLUSION

Growth and development economics, really role important in increase State income included the goal for prosperous people. PT CPIN Indicated do violation monopoly that is exists control product from upstream to downstream. Then downstreamother discriminated against in obtain material standards he controls. KPPU can do to investigation to company poultry leading this , because KPPU has authority compile regulation implementation , carrying out inspection to alleged party do violation against Law no. 5 of 1999, made decision And wearing penalty binding law to perpetrator violation Constitution them . KPPU too authorized give advice and consideration to government related with influencing policiescompetition business in form studies of the formation process regulations, evaluation policy, or recommendation its implementation policy.

The profits generated from effort prevention practice monopoly is it opened chance in a way wide for consumer For get choice with the right price with quality goods / services on the market as well as guarantee to perpetrator business form certainty climate competition Healthy For grow innovation And technology . Results from system economy the is ensure balance between interest perpetrator business with interest public, for going to enhancement well-being people. Provision Article 2 Paragraph (1) Law no. 18 of 2009 is form existing regulations open faucet regulations happen integration vertical on business farm chicken Because the settings nature open i.e. can nature integration vertical And horizontal integration . Implementation farm chicken in a way horizontal integration is deep provision the can become form integration vertical If in condition certain on Suite production done in a way integrated vertical , as well No exists segmentation Suite production in UUPKH.

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