

# IMPLEMENTATION OF BUSINESS COMPETITION COMPLIANCE PROGRAM TO PREVENT UNFAIR BUSINESS COMPETITION PRACTICES AGAINST BUSINESS ENTERPRISES

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**Abstract:** This research is motivated by the government's seriousness in realizing improvements in the community's economy, namely by creating a business competition compliance program to overcome or prevent unfair business competition practices among business people. The effectiveness and efficiency of the implementation of the program, it is still not fully realized, because there are still many companies that have not participated in the business competition compliance program. The legal issues in this research are: 1). Reviewing the supervisory role of KPPU on the effectiveness of the business competition compliance program in efforts to prevent unfair business competition. 2. Analyze the strategies for dealing with unfair business competition and implementing business competition compliance programs in society. This research is normative juridical. By using a statutory and conceptual approach. In this study, two sources of primary and secondary legal materials were used.. This institution has a very broad authority, namely being a supervisory institution, it also has authority in the judicial and legislative fields. One of the legislative powers issued is KPPU Regulation Number 1 of 2022 concerning the Business Competition Compliance Program. This program is expected to be a form of effort to prevent unfair business competition. In practice this program is still not effective. Therefore, it is necessary to revise Law Number 5 of 1999 so that it will provide a clear position for KPPU in carrying out its duties and be able to implement business competition compliance programs to the fullest. Second, regarding the strategy developed to create fair business competition, it can provide understanding for business actors to comply with and also build awareness independently to help implement the program and to be able to identify, assess and manage risks that will occur with the provision of mentoring.

**Keywords:** Implementation, Business Competition Compliance Program, KPPU, Business Players.

## I. INTRODUCTION

One of the forms of the role of law in Indonesia is to maintain and regulate economic activities between business actors so that these activities run in an orderly and balanced manner.

In this case, the business actor acts as a subject directly related to the program established by the government. It also aims to realize the ideals of the nation and state as stated in the fourth paragraph of the Preamble of the 1945 Constitution. This is because development in the economic sector is aimed at and oriented towards realizing people's welfare.

This form is evidenced by laws and regulations which have a role as supervisors for business actors and become legal certainty for all people in carrying out economic activities in Indonesia (Mantili et al., 2016). This is intended so that the goals of what is the ideal of the nation above can be realized and democracy in the economic field is able to provide equity for every business actor. So that all business actors are able to actively participate in the production and marketing of goods and or services in a healthy, efficient and effective manner. So that the program established by the government apart from providing supervision, is able to develop economic growth in Indonesia (Hartini, 2021).

In principle, business is a form of effort to get a profit or also known as profit as much as possible. And this action is a reasonable act and does not violate the law in Indonesia. However, it is a different matter if the actions in the business world create a person's behavior that causes monopolistic practices and unfair business competition. Because it cannot be denied that every business activity in doing business is inseparable from business competition. By taking into account the above circumstances, it is necessary to scrutinize efforts in managing business activities in Indonesia. This is intended so that the business world can grow and develop the economy in a healthy manner and avoid the concentration of economic power in a particular group. This act has also been based on international agreements that actually regulate international trade as contained in the World Trade Organization (WTO) agreement which has been ratified in a juridical basis in Indonesia, namely Law Number 7 of 1994 concerning Ratification of the Agreement Establishing the World Trade Organization (Althaf Vidaro et al., 2023).

Other external supporting factors apart from the law, to overcome problems regarding business competition in Indonesia, namely the government established an agency for the Supervision of Business Competition or commonly abbreviated as KPPU (Mantili et al., 2016:73). KPPU is a government institution that has complex tasks based on Presidential Decree Number 75 of 1999 which aims to maintain and maintain a conducive business environment and healthy business competition so that even large to small business actors have the opportunity to gain the same profit (profit) (Agustina, 2019).

This also encourages KPPU to carry out efficiency and effectiveness activities in the implementation of the business competition compliance program within the company (Lubis, A. F., Anggraini, A. maria T., Toha, K., Kagramanto, L. B., Hawin, M., Sirait, N. N., Prananingtyas, P., Sukarmi, Maarif, S., & Silalahi, 2017) And besides having the objectives previously described, KPPU also has the authority, namely investigative authority, enforcement authority, and litigating authority (Lubis, 2023). Apart from providing oversight of unfair business competition, the task of this institution has also been published in the guidelines for program implementation regulations, namely KPPU regulation Number 1 of 2022 concerning business competition compliance programs. If people look at the definition, this program is a series of activities to fulfill the

principles of fair business competition that are carried out and developed by business actors and then compiled in a written document in the Indonesian language (Usaha, 2022).

It is hoped that this program established by KPPU will become an integrated part with the aim of binding elements of all companies from the highest to the lowest levels. Because the purpose of this business competition compliance program is also to make an indicator for business actors in carrying out their respective business activities. This business competition compliance program is also a form of government intervention against entrepreneurs. This form of policy regarding programs issued by the government must not negatively distort or distort business actors which will result in unhealthy business practices and a business climate that will never be conducive (Hermansyah, 2009:18). So that ASEAN in this case forms an institution, namely the Asean Economic Community (AEC) which aims to increase the economic stability of countries in Southeast Asia. Another goal of the establishment of the AEC is besides stabilizing the economy, it also resolves various economic problems between countries.

Article 33 paragraph (4) of the 1945 Constitution states that "the national economy is organized based on the principles of economic democracy with the principles of togetherness, efficiency with justice, sustainability, environmental awareness, independence, and by maintaining a balance of progress and national unity". The prohibition of monopolistic practices and unfair business competition has been regulated in Law no. 5 of 1999 in article 2 explains that the prohibition of doing business in Indonesia must pay attention to the balance between the interests of business actors and the public interest. Article 4 further emphasizes that business actors are prohibited from entering into agreements with other business actors to jointly control the production and marketing of goods and services which result in the implementation of monopolistic practices and unfair business competition.

There have been several previous studies related to the enactment of Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Competition. For example by: Sriwanto Arruan Gege entitled (Sriwanto Arruan Gege, 2023) "Reconceptualization of Forms of Prevention of Monopolistic Practices as One of the Compliance Programs for Business Competition". This research raises issues related to the impact of losses arising from monopoly practices and forms of prevention of monopoly practices. From the results of Sriwanto's research it was found that first: the resulting impacts in monopoly practices are: (1) Harassment of the consumer's position where consumers are forced to accept existing goods even though they do not match their needs, (2) Gaps in income distribution where business actors those who monopolize the market get a higher number of profits compared to other business actors, (3) There is no competition that tends to violate the provisions or characteristics of a perfectly competitive market. The second concerns the forms of prevention that can be taken to minimize unfair business competition practices, namely by: (1) giving permission to business actors/companies/ individuals and others to create competition as a form of economic democracy, (2) adding price bids for goods with products that have something in common to fulfill consumers' right to choose, (3) setting lower prices (retail/wholesale) so that both large companies, medium companies and small companies alike will get income that tends to be balanced.

Research conducted by Justicia Marya Habibah A, Silvi Eka, Farizza Taralita AF (Justicia Marya Habibah Alfalmy et al., 2023), entitled "Effectiveness of Business Competition Compliance Programs in Preventing Business Monopolistic Practices (Case Study of Alleged Cooking Oil Cartel during Covid-19). The problem being studied is why the case of high cooking oil prices can be categorized as a cartel monopoly practice and the effectiveness of the business competition compliance program in cases of alleged cooking oil cartels during the Covid-19 pandemic. From the discussion of the results of the research, it shows that the increase in the price of cooking oil during the Covid-19 pandemic was due to alleged monopoly practices that violated Article 5, Article 11 and Article 19 letter c of Law no. 5 of 1999 can be controlled through preventive efforts by establishing a business competition compliance program as stipulated in KPPU regulation no. 1 Year 2022.

Next is research by Nadia Feby Artharini with the title "Protection for MSMEs Against Unfair Business Competition" (Artharini, 2022). The issues raised are regarding the protection of MSMEs (Micro, Small and Medium Enterprises) against unfair business competition and how the protection is provided by KPPU. The results of research on Law No.5/1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition do not implicitly regulate companies that can be categorized as an abuse of bargaining position. Regarding the principles and objectives of business competition law, it is regulated in article 2 of Law no. 5 of 1999 by putting forward the principle of economic democracy for the sake of balance between the interests of business actors and the public interest (Prajatama, 2020).

In this case the author is interested in studying the urgency and effectiveness of the program established by KPPU, namely the business competition compliance program contained in PerKPPU No.1 of 2022 against Law No.5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition. Then the Legal Issues in this study are: 1). Reviewing the supervisory role of KPPU on the effectiveness of the business competition compliance program in efforts to prevent unfair business competition. 2). What is the strategy for dealing with unfair business competition and implementing business competition compliance programs in society

## **II. RESEARCH METHODS**

The method used in this research is normative juridical research. That is studying various problems related to business competition and the effectiveness of the business competition compliance program against unfair business competition. By using the statutory approach (Statue approach) and conceptual approach (Conceptual approach). In this study, two sources of legal material were used, namely primary and secondary sources of legal material. As for the source of primary legal materials, namely reviewing various laws and regulations and KPPU regulations governing business competition compliance programs. And secondary sources of legal materials, namely reviewing various studies of the literature read, articles, journals, books, theses. The technique of collecting legal materials is carried out by means of a literature study of all relevant regulations. And legal materials that have been obtained will be analyzed based on content analysis (analyzed based on substance).

### III. RESULTS AND DISCUSSION

#### **Assessing the Supervisory Role of KPPU on the Effectiveness of the Business Competition Compliance Program to Prevent Unfair Business Competition.**

Business competition law is a law that regulates how the law must be carried out among entrepreneurs. In this case, Cristopher Pass and Bryan Lowess provide a definition of competition law, which means that it is part of the legislation that clearly regulates all aspects of agreements, mergers and trade takeovers as well as restrictive monopolies and anti-competitive practices (Siswanto., 2004). When referring to Article 1 paragraph 6 of Law Number 5 of 1999, what is meant by unfair business competition is competition between business actors in carrying out marketing activities and the production of goods and or services that are carried out dishonestly or against the law or hinder competition. Business (Nugroho, 2014).

Therefore, in this case the government assigns duties and obligations to KPPU to supervise, enforce and maximize the implementation of the business competition compliance program. Before examining more deeply in this regard, it is necessary to know the principles and objectives of business actors in order to prevent unfair business competition. The principles applied in carrying out its business activities which are based on economic democracy, this principle provides an understanding, namely paying attention to the balance of the interests of business actors and also the public interest. And the objectives regarding the creation of a business competition compliance program when referring to statutory regulations are: (Novizas & Gunawan, 2021)

- a. Preventing monopolistic practices and unfair business competition that occurs between business actors
- b. The creation of efficiency and effectiveness in business activities carried out by inter-business actors.
- c. Maintain national economic stability and public interest as a form of effort to improve people's welfare in improving the economy.
- d. Creating an atmosphere of conducive business competition so as to guarantee legal certainty for business actors, both large business actors and small business actors.

With the realization of the above objectives, it is hoped that fair business competition will be created so as to enhance national development in the economic sector. And another impact that is felt is that the company will experience significant income so that business actors or employees indirectly improve their welfare (Usman., 2013:89). To support the expected goals to be achieved, the government has granted the authority contained in article 37 of Law Number 5 of 1999 which regulates the institutions that will carry out and enforce these regulations. And the institution appointed to oversee business competition is the Business Competition Supervisory Commission (KPPU). This institution is independent so that it cannot be influenced by government power and cannot be intervened by any institution.(Sumirat & Dirkareshza, 2021)

The KPPU institution is given full authority based on law as an institution that is expected to be able to implement the implementation of the program regulated in Law Number 5 of 1999 (Nugroho., 2014:542). So that with this authority, in addition to supervising business competition

between business actors, KPPU also has the task of maintaining as well as creating a profitable and conducive business environment. However, KPPU does not have the authority to adjudicate issues that arise either civil or criminal. Because this institution is an administrative justice institution so that it is able to provide sanctions in the form of administrative sanctions for business actors who are unhealthy or violate the law. This institution is given very broad authority, including covering the legislative, executive and judicial areas. So that in this case the author will analyze and examine more deeply related to the role and authority of the KPPU which is very broad (Pertiwi, N., & Burhan, 2023).

Since the enactment of Law Number 5 of 1999, KPPU has judicial authority, namely as an institution that carries out investigative functions, examines and also decides to impose administrative penalties on sanctions to be given. But basically, if we look at it in principle that this institution is actually a supervisory body for the implementation of the Law and the KPPU is not a law enforcement officer such as a prosecutor or judge and others as having the authority to forcibly bring suspects to court. However, it cannot be denied that the understanding in Article 36 of Law Number 5 of 1999 which explains the KPPU's powers, and one of its powers is to carry out investigations and investigations. So this is the basis for KPPU having the authority judicially to seek or find material truth. And then KPPU is also given the authority to make a decision if a violation is proven and the decision is final and binding (Agustina, 2019).

If people look at the implementation, the offender has the right to file legal action object to the decision to the District Court. So often the decisions given by the KPPU are annulled by the District Court, and then the business actor who violates is free from the violation that has been committed. So according to the author, it can draw a red thread, even though the KPPU's decision is final and binding, but often when the violator submits an objection to the District Court. And when the Judge grants it, it is inseparable from the weaknesses in regulations or Law number 5 of 1999. And from another point of view there are also differences in paradigms in the enforcement of business competition law between the ranks of the courts and the KPPU commission (Beghin, 2016).

The legislative roles and authorities that have supervisory and regulatory functions, KPPU has the duties and authorities, one of which is to create regulations that are both binding internally and externally to the public, for example, such as procedures for submitting reports and handling cases. And then the results of the KPPU on its legislative authority, one example is the procedure for submitting case handling reports which are submitted to the commission. (Simbolon, 2018) So with this decision, this institution received a lot of input regarding the settlement of business competition cases against business actors. And then the first regulation issued by KPPU was to issue a regulation, namely Regulation Number 1 of 2006 concerning Procedures for Handling Cases which revoked the validity of SK Number 5 of 2000 (Andi Fahmi Lubis, 2017).

In this case, in order to form regulations which become the legal umbrella for business actors, the regulations issued by the KPPU aim to guarantee legal certainty. So that law enforcement which is one of the efforts to carry out the ideas or concepts that have been outlined in the regulation can be realized and implemented. And there needs to be participation in

implementing this regulation, as for several aspects that will influence law enforcement, including legal culture, legal facilities and infrastructure and law enforcement officials. The other legislative functions of KPPU, namely as an independent supervisory institution for business competition, which as mentioned above is regulated in a regulation, namely the Commission regulation concerning Procedures for Handling Business Competition Cases at KPPU.

The regulations above that have been established by KPPU as a manifestation of the aim to create a fair business competition environment. As for other regulations that have been established by KPPU, namely Regulation Number 1 of 2022 concerning business competition compliance programs. This regulation was formed as a form of effort to support the realization of the goal of implementing fair business competition as referred to in Article 3 of Law Number 5 of 1999. It cannot be denied that the business world is a world of competition that is created between business actors. Therefore, with the formation of the two regulations above, this institution is expected to maximize its role as a supervisory agency so that the implementation of business competition creates unhealthy practices.

The business competition compliance program, at the definition that refers to article 1 of PerKPPU Number 1 of 2022, explains that "this program is a series of activities that demonstrate compliance with the Principles of Fair Business Competition, implemented and developed by business actors and compiled in a written document in the Indonesian language". This program is a form of commitment and active attitude of business actors so that the actions of business actors are able to implement business competition law in a fair manner and do not violate the provisions of the law. However, in this implementation, at the participation of business actors regarding this program, very few have registered with the commission, so that the problem in this case is the KPPU's non-obligation in its implementation, therefore the business competition compliance program has become ineffective.

There are many reasons why the business competition Compliance Program does not occur or is ineffective, one of which is due to the lack of massive business activities in various fields resulting in a lack of modification in strategies to compete with competitors. And another thing that caused this to happen was the development and increase in the activities of business actors in Indonesia which were dominated by conglomerates during the Soeharto era which caused a lot of economic and social problems from small entrepreneurs to conglomerates. So that in this case, monopolistic practices and unfair business competition arose which positioned Indonesia at that time to make economic growth artificial.

Another factor causing the ineffectiveness of the business competition compliance program is the failure to clearly state business actors regarding the obligation to carry out this compliance program. So in this case the author draws a common thread that business actors wishing to register for the business competition compliance program only voluntarily. This is the problem and ineffectiveness in the program because there are no rules or legal certainty regarding the obligation to implement this compliance program. In other words, KPPU, with its legislative authority, needs to make amends for weaknesses that have not yet firmly regulated business competition compliance program obligations to business actors, because by regulating obligations if a company

does not participate in this program, it also regulates what sanctions will be given. if a company or business actor does not register a business competition compliance program.

Because the formation of KPPU regulation No. 1 of 2022 is expected to be one form of effort in overcoming unfair business competition that occurs between business actors and increasing compliance with business actors to participate in the program that has been made by KPPU, namely the business competition compliance program. so that business actors participating in this program are able to increase understanding of business competition law and minimize violations so that efficiency and innovation between business actors becomes an environment of fair business competition. This program will also consolidate the policies formed within the company to connect all parties in the company from superiors to subordinates. And also this program is a guideline for companies if they want to establish relationships with other parties, for example, suppliers of goods or services and consumers based on fair business competition (Pratiwi et al., 2022).

The benefits arising from the implementation of the business competition compliance program which serves as a guideline for business actors, include among others:

- a. If business actors participate in implementing the business competition compliance program, it will maintain the good reputation of the company;
- b. Maintain compliance in order to create standard procedures within the company;
- c. Avoid violations that occur in accordance with the law;
- d. Maintain healthy business competition.

According to the author's view, KPPU has very broad duties and authorities and with the independence of the institution, KPPU moves more freely and cannot be regulated in its nature. And KPPU has also implemented its legislative authority by making regulation Number 1 of 2006 concerning Procedures for Handling Cases which revokes the validity of Decree Number 5 of 2000 and also regulation Number 1 of 2022 concerning the Business Competition Compliance Program. However, this program is still considered ineffective because in its implementation business actors are not required to take part in the business competition compliance program the KPPU's judicial role or authority, it is necessary to revise Law Number 5 of 1999 in order to provide a strong legal basis for KPPU which has nature as an independent institution to carry out its duties. So that in this case KPPU is expected to become a supervisory institution in order to realize an advanced Indonesian economy and the business climate that occurs between business actors creates fair business competition.(Alfalmy, J. M. H., Yuniarti, S. E., & Fachrezzi, 2023)

### **Strategy in dealing with unfair business competition and implementing business competition compliance programs in society.**

Business competition according to Hermansyah is a legal regulation that regulates all aspects related to business competition with the scope of things that are prohibited from being carried out by companies or business actors. If viewed from the terminology of business



competition, it is used for business competition law such as anti-monopoly, fair business competition, and anti-trust. The United States of America first regulated the boundaries of fair business competition in 1890 in the Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies which was last amended in 1936 by the Robinson Patman Act. Likewise with the Sakura country, namely Japan, which was the first to regulate this matter as outlined in Shiteki Dokusen ni Kinshi Oyobi Kosei Torihiki ni Kansuru Horitsu which has undergone several changes. Regulations on business competition and the prohibition of monopolistic practices in Germany are contained in the Act to Unfair Competition in 1909. Meanwhile, countries that are members of the European community automatically follow the rules related to business competition and the prohibition of monopolistic practices which are regulated jointly in the Treaty on the European Union, while Indonesia itself was implemented in 1999 when Law No. 5 of 1999 was passed.

The prohibition of monopoly practices has been regulated since 1999, namely in Law no. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. For a long time, the regulations that have been the ideals of business people related to the prohibition of monopolistic practices comprehensively regulate fair business competition. In addition, the procurement of rules regarding the prohibition of unfair business competition and monopolistic practices is an *ius constituendum* of the 1945 Constitution which is formulated in Article 33 Paragraph (4) which reads "The national economy is organized based on economic democracy with the principles of togetherness, fair efficiency, sustainability, insight into environment, self-sufficiency, and by maintaining a balance of progress and national economic unity" which has been realized through Law no. 5 of 1999. Apart from the demands of the constitution, the existence of this law also creates legal limitations in international business relations. In the world of economy, Indonesia adheres to a system of economic democracy which basically rejects monopoly practices that are detrimental to the people (Lubis, 2023b).

Many experts say that the condition of business competition in the domestic market is something that needs attention, so it really needs a public policy that is specific to regulate it from a business perspective. Therefore the aim of the national competition policy is to create and protect the concept of competition so that it can be implemented within a pluralistic economic framework. In the world of business competition, the European Economic Community, as written by Rachmadi Usman in his book entitled "The Law of Business Competition in Indonesia" says that the European Economic Community (EC) is still developing what is called the "Minimum Competition Policy Requirements Within the Framework of the GATT". ASEAN countries without neglecting the divergence of economic, political and social institutional structures, experts have started to think about the need for development in addition to national competition law and harmonization of commercial regulations, including business competition law among the ASEAN community (Majelis Permusyawaratan Rakyat, 2000).

Countries that have implemented rules regarding Business Competition and the Prohibition of Monopolistic Practices such as the People's Republic of China, and the Russian Federation, which in fact is a communist country and all economic activities are regulated by the state centrally (economic centralization) have reformed their regulations regarding their economy towards an

economy that is oriented on market mechanisms. Antitrust discourse has been discussed since the 1970s because at that time the economy needed legislation that could prevent this practice. At that time, the government was ambitious in terms of the production of goods that should have been imported but attempted to be produced domestically. As a result of this policy which only paid attention to growth which resulted in the emergence of large companies and the use of protective measures, the Indonesian conglomerate was born at that time. This concept can be categorized as ersatz capitalism or pseudo capitalism (Gege, n.d.).

Case in Singapore on February 22 2023, the State Court, at the request of the Competition and Commission of Singapore (CCCS) issued a decision against a company called TLM and its sole director and shareholder who had carried out unfair business competition practices based on the CPFTA by making false and misleading claims. consumers regarding water filtration systems and maintenance service packages. The result of this decision is, by ordering TLM to stop being involved in these actions and ordering TJH to stop abetting, assisting, permitting or ordering TLM to do the same thing. In Singapore, in terms of enforcing the Business Competition Law, it is the authority of the CCCS institution which is almost the same as in Indonesia, namely the KPPU institution. However, there are significant differences in law enforcement. The CCCS institution in its investigations when there are allegations of Business Competition violations has a broad legal scope. Its investigative powers include the authority to enter premises for inspection with or without a warrant, carry out early morning raids, request certain documents and information and request explanations of documents from directors, employees or managers of the parent company (Gledhill, 2023).

This means that enforcing business competition law in Singapore is not too long-winded and can also prevent cases of unfair business competition. The CCCS institution also provides a relief program by publishing Guidelines on Lenient Treatment for Undertakings Coming Forward with Information on Cartel Activity (The Leniency Guidelines). This program is available for certain violations only, such as core cartels involving price fixing, output restrictions, bid rigging, market sharing and sharing of forward-looking price information. Enforcement of business competition law in Singapore does not appear to be monotonous and Indonesia should be able to enforce it like Singapore (Silalahi, 2022).

The Leniency Program system or Leniency policy in the form of reducing sanctions/fines is only applied to business actors who voluntarily report a cartel practice along with the evidence to the competent authority. This system is a policy that was originally discovered in 1973 and was initiated by the United States to deal with cartel practices. Countries that have adopted this policy are Brazil, Mexico, Russia, Japan and Singapore. In research conducted by Jenifer Sevilla and Galuh Nur, it was stated that, "The cartel approach used in the leniency program is a form of reaction method, which is carried out on the basis of several external conditions that occurred before there were allegations of cartel practices, namely that an investigation or investigation into an economic activity." (Jenifer Sevilla & Galuh Nur Hasanah, 2023:24-25).

Unfair business competition practices are categorized as behavior that violates common sense and honest business agreements, where fair business competition can enhance national

development. With fair business competition, it can increase the company's income and can also improve welfare. With increased income, the number of savings that can be a source of investment for financial institutions. Article 37 Law no. 5 of 1999 explains that the Commission for the Supervision of Business Competition (hereinafter referred to as KPPU) will enforce the Law. In other words, KPPU has full authority in terms of supervising business competition in Indonesia and enforcing Law no. 5 of 1999. In order to supervise business competition for business actors, KPPU issued Guidelines regarding procedures for submitting reports on handling cases submitted to the commission through Commission Decree Number 05/KPPU/Kep/IX/2000 concerning Procedures for Submitting Reports on Handling Alleged Violations Against Law on Prohibition of Monopoly and Unfair Business Competition. With this decision, Regulation No. 01 of 2006 (Mappuji, M. R., & Wardana, 2023).

According to Jimly Asshidique regarding KPPU as a legislature, article 35 of Law no. 5 of 1999 only allows KPPU to make work instructions or "manuals" containing rules that cannot be called regulations in a legal sense. According to legal theory, policies are simply called "rules of trust" or "political rules". KPPU has also issued Regulation No. 1 of 2022 concerning the Business Competition Compliance Program on the basis of the purpose for which Law no. 5 of 1999 as stipulated in article 3. The purpose of establishing the program is to improve people's welfare, increase fair business competition, ensure equal distribution of business opportunities for large, medium and small entrepreneurs, prevent monopolistic practices, and create productivity and efficiency in the business world and economy (Simbolon, 2018).

The business compliance program is basically given to business actors. Business actors themselves are defined as any individual or business entity that is a legal entity or is not established and is domiciled in Indonesia or carries out activities under the law. The business compliance program was issued for the first time in a commission meeting on December 7, 2022 at the KPPU's head office where the stipulations that have been given to BUMN and the private sector are valid for 5 (five) years since the KPPU enacted these regulations (Marpol & Erinaldo, 2022; Sumirat & Dirkareshza, 2021).

This program involves all business actors to participate in the implementation of the program, starting from the registration of the program registered by business actors submitted in writing to the commission by the management who has the authority to represent the company. This program consists of a code of ethics, compliance guidelines and the implementation of outreach, counseling, training and/or other activities in the context of implementing a compliance program in the company. This program can also be developed by business actors according to their individual needs. In terms of reporting the implementation of the compliance program is reported to the commission and evaluation is carried out by the commission on programs prepared by companies and business actors. If there are deficiencies in the drafting program, they will be returned and the commission will provide instructions for improvement.

The advantage for business actors who register in this program is to get relief from the fines described in Article 5 paragraph (4) when business actors have been proven to have violated the law. The authority to impose sanctions by the KPPU on business actors who do not comply with the rules is regulated in Article 36 and Article 47 letter I of Law no. 5 of 1999, where in the

imposition of sanctions the determination of the amount calculated from the sales value and the determination of the basic value of the fine, adjustments to the amount of the KPPU's fine are considered from rights that can make the fine heavier or lighter, the amount of the fine cannot be more than 25 billion rupiahs, and the ability to pay fines becomes a consideration when a business actor who violates the law does not have the ability to pay the fine due to bankruptcy (Azalia, 2023; Matompo, 2018; Sabirin, 2022).

Administrative sanctions are procured to provide a deterrent effect for business actors who violate the law and also prevent business actors from doing anything that violates the law. (Przybyciński, 2018) Fines against business actors who engage in unfair business competition and monopolistic practices are regulated in Government Regulation no. 44 of 2021 which is the implementing regulation of the Law on the Prohibition of Monopolistic Practices and Business Competition is stated explicitly in Article 12 paragraph (1) which states that the fine is a maximum of 50% of the net profit earned. The amount of the fine is regulated in Article 14 depending on the existence of a violation, the period of the violation, mitigating circumstances, aggravating circumstances and or the solvency of the entrepreneur (Sumirat & Dirkareshza, 2021).

The business competition compliance program has principles of effectiveness in its application which can be measured when there is a provision regarding the obligation of business actors in Indonesia to register their compliance program with the commission. (Sükösd, 2022) Which means, this rule is forcing business actors to register their compliance program with the commission so that more and more companies or other business actors implement compliance programs in order to create healthy business competition in Indonesia and do not violate existing laws and regulations. However, for the application of administrative sanctions in the form of fines, the implementation encountered a problem. Precisely with the relief of these fines, the aim is for business actors to get a deterrent effect, on the contrary, business actors will benefit and not cause a deterrent effect. So that the objective of preventing unfair business competition violations is not achieved (Lachnit, 2014; Thépot, 2016).

Some of the effective strategies based on competition compliance toolkits are as follows;

1. An understanding of the role of competition authorities, in which it is necessary to balance the role of law enforcer, prioritize targets in unfair business competition and the need to cultivate a culture in the form of increasing awareness of compliance in business competition through guidelines that have been established in order to encourage business actors not to do things that are perverted.
2. Understand the role of business actors, in relation to this it is necessary to build a culture of business competition through identification of compliance and control of business actors so that they can get motivation, especially in all structures within the company or other business actors, to recognize risks related to the impact of unfair business competition. In addition to all that, there is a need for adjustments in the application of business compliance program strategies to the characteristics of business actors or companies, the formation of policies that are consistent and measurable and the need for training.
3. Build awareness and understanding of business actors through surveys or independent measurements.

4. Identification, assessment in managing the risks that will occur with the procurement of mentoring.

Strategies for addressing unhealthy business competition encompass the implementation of regulations and the application of supervision by regulatory entities. These entities bear the responsibility of preventing detrimental conduct and enforcing legislation against monopolistic practices and unfair competition. They possess the authority to levy fines and impose sanctions on enterprises that contravene these laws, serving as a deterrent to other participants in the market. Furthermore, businesses have the capacity to adopt marketing strategies that conform to ethical and legal standards, such as offering products of high quality, setting prices that are affordable, and engaging in promotions through appropriate channels. It is crucial for businesses to ensure that their operations are in accordance with Islamic sharia or other pertinent ethical frameworks. Additionally, addressing the adverse effects of tax competition necessitates a focus on curtailing incentives for aggressive tax planning and strategies aimed at diverting profits, which could potentially be achieved through the introduction of a Common Consolidated Corporate Tax Base. All in all, efficacious strategies for grappling with unhealthy business competition entail regulatory supervision, ethical marketing practices, and the resolution of tax-related matters (Freeman & Sindall, 2019; Paramesta & Masruchin, 2021).

#### IV. CONCLUSION

Based on the discussion of research results, it can be concluded that the role of KPPU as an independent institution overseeing the implementation of the business competition compliance program to prevent unfair business competition between business actors. This institution has a very broad authority, in addition to being a supervisory agency. This institution also has authority in the judicial and legislative fields. One of the legislative powers is to enact KPPU Regulation Number 1 of 2022 concerning the Business Competition Compliance Program. With the issuance of regulations on business competition compliance programs, it is hoped that this will become a form of effort to prevent unfair business competition from occurring. The participation of business actors regarding this program, very few have registered with the commission, so that the problem is that there is no obligation from KPPU to implement it, then the business competition compliance program will be ineffective. Therefore, it is necessary to revise Law Number 5 of 1999 in order to provide a clear position for KPPU in carrying out its duties and to be able to implement the business competition compliance program optimally. This needs to be regulated so that it has binding legal certainty and compels all business actors to implement a business competition compliance program. The strategy developed to realize fair business competition is able to provide understanding for business actors to comply with and also build awareness independently to help implement the program and to be able to identify, assess and manage risks that will occur with the provision of mentoring.

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