

## Legal Protection for MSME Businesses and the Impact of Business Competition

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### ABSTRACT

The progress of MSME business actors in Indonesia is a huge effort from various parties, coupled with the increasingly rapid global market which provides freedom for monopoly activities to occur. The existence of monopolies and oligopolies in a company often occurs in every country. In the economic sector, this often occurs so that it continues, ultimately leading to the occurrence of monopolistic acts and unfair business competition from various other forms will hinder the growth of MSME businesses. In micro and small businesses; as well as medium-sized (MSMEs) which have a very important role improving the regional and national economy.in accordance with Provisions of law no. 2 of 2008 MSMEs are productive micro-enterprises owned by individuals and individual business entities fulfill the criteria for being a micro business as per still needed regulations. For MSME businesses in Indonesia, household business activities have been able to provide large employment opportunities. The large heavy responsibility faced by MSME business actors comes from the scope of the product market alone, however, as the market becomes wider, competition from having to compete with companies in large categories becomes inevitable, as well as within the market itself, it also influences, among other things, the difficulty of accessing credit and technology. as well as the existence of human resources. Likewise, there is pressure from both parties which results in the productivity of MSMEs make lower than that of large companies

## **INTRODUCTION**

The government is monitoring the development for MSMEs make the can defend them selves from the crisi. The government continues to work with various initiatives through in the ministry of cooperatives and small and medium enterprises to encourage more people to get involved in the business world through the establishment MSME businesses. With the Government's seriousness in empowering these MSMEs are a commitment to manage them seriously to improve welfare for the community. By increasing programs in the MSME sector, it shows that the Government is focused on progress. Although Indonesian government support is critical to the success as well as the progress of MSMEs, this is what is expected this can be done without facing obstacles. Legal protection for actors or companies is related to by going through legal procedures in the business. Complies with business law provisions is a standard that must be heeded and fulfilled by actors or companies.

The existence of MSME businesses are suitable have all the requirements in order to be competitive in global terms. This requirement creates problems because many business entities do not have commercial legal status. The obstacles vary, such as lack of funds to handle legal problems, difficulty in writing letters, lack of knowledge, and so on. The problems faced by parties who have a relationship with MSME businesses emphasize the need for legal protection for MSME business actors because they support the national economic sector so that it can well developed sector that is able to compete amidst market competition which continues to develop along with developments in time and technology. The provisions of the 1945 Constitution are that the existence of a national economic structure will be more balanced, advanced and just.

The meaning of MSMEs as defined by Law N0. 9 of 1999 has undergone a change as developments occur in accordance with Law N0.20 Article 1 of 2008 relating to Micro, Small and Medium Enterprises. The scope of MSMEs is as follows:

1. Micro businesses are businesses owned by individuals or business entities that have fulfilled the requirements as micro businesses as stated in the law.
2. Small business is an independent economic activity carried out by a company or entity and has no relationship with subsidiaries or branches, whether medium or large. The existence of a small business must meet the criteria as outlined in the Law. Examples of small businesses include individual land owners who manage agricultural businesses with workers, traders in wholesale markets (agents) and other collectors, food and beverage industries, wooden and rattan furniture industries, home in industrial equipment, ready-made clothing industries, handicrafts, chicken farming, duck farming, fisheries, and small-scale cooperatives.
3. As a medium-sized business, that is, one that has stand-alone productive activities carried out by individuals or business entities, whether it be a subsidiary or branch of a small or large business. This relationship takes the form of ownership rights, control and distribution, directly or

indirectly, through small and large businesses with their wealth based on annual sales proceeds as stipulated in the existing law.

4. Large Business refers to productive economic activities carried out by business entities with total net worth or annual sales revenue that exceeds Medium Business. This category includes national businesses, both state-owned and private, joint ventures, and foreign businesses involved in economic activities in Indonesia.
5. In the form of business, namely micro business, Small Enterprises, Medium Enterprises and Large Enterprises that are involved in economic activities in Indonesia and have a presence in the territory of Indonesia.

By considering their development, there are four categories of the MSME sector is :

1. Livelihood Activities, referring to towards the MSME sector are a source of work to earn a living, generally known as the informal sector, such as street vendors.
2. Micro Enterprise is an MSME it is a craftsman but does not yet show entrepreneurial characteristics.
3. Small Dynamic Enterprise, is an MSME that has adopted an entrepreneurial spirit and is able to accept subcontract assignments and be involved in export activities.
4. Fast Moving Enterprise, is an MSME that shows an entrepreneurial spirit and plans to undergo transformation into a Large Enterprise (UB). Understanding Market Competition Competition is a situation in which organizations compete or compete to achieve desired results or goals, such as getting consumers, market share, survey rankings, or required resources. Meanwhile, in economics, There is competition between sellers Taking to gain profits from the market, the volume of sales results.

Sellers excel in terms price value, production output, distribution and promotions. Kotler and Parter are of the opinion that competition is a problem that occurs when the company is still actively operating so that it is able to produce good products or services as the owner, there are no standard rules, all of this is in an effort to attract consumers. Meanwhile, according to Porter, competition can arise between several groups of competitors who not only compete in similar products or services, but also in substitute products or services, as well as in the production and distribution stages.

The development MSME actors in Indonesia is due to receiving support from the Government, especially during the New Order era, especially when market competition was very unhealthy, due to monopolistic activities. Monopolies and oligopolies in certain large companies, which are often called conglomerates, occur very often in almost every country. economic sector, and this is likely to continue until now with the implementation of monopolistic practices and unfair business competition in various other forms which hamper improve MSMEs.

The high pressure faced not for MSMEs only come from the product market side, namely the difficulty increase market share because it is unable to compete with large companies, but also comes from input factors from the market side, especially difficulties in accessing credit, technology and the quality of human resource technology. Pressure from both parties means that the productivity level of MSMEs are relatively small than that of large companies. Low productivity inevitably means that the income of MSME entrepreneurs and workers is also equally low. Indonesia's mission to become the as the fourth largest country by 2045 inevitably requires all sectors to compete to achieve perfection.

This economic growth must be supported by the development of the industrial economy in Indonesia. In this mission, Indonesia must prepare itself, including developing superior human resources and courage to be able to compete. Indonesia is the country with the the largest economy in Southeast Asia and is one of the developing market economies in the world and Indonesia is also a member of the G-20 large economies and is classified as a newly industrialized country. In this ever-developing era, a country's economy has become a determining factor in determining whether a country is considered advanced. Micro, small and medium enterprises (MSMEs) have a big role in improving the national economy. As per Law N0. 20 of 2008 that MSMEs are productive micro-enterprises owned by individuals and business entities that have met the criteria for being a micro-enterprise which are regulated in law. Legal protection is very important in order to obtain honor and dignity for someone as a citizen. For this reason, the State is present to provide guarantees and protection of their rights as citizens. Regarding legal protection, it is regulated in Article 28D paragraph 1 of the 1945 Constitution: It states that every citizen has the right to guarantees, protection and fair legal certainty. For this reason, the government as a state apparatus refers to Article 1 paragraph 3 of the 1945 Constitution which states that Indonesia is a legal state which guarantees legal protection as well as human rights.

The government's enthusiasm provide better business competition conditions among entrepreneurs is real and continues until finally enactment of regulation no. 5 of 1999 regarding the prohibition of monopolistic practices and unfair business competition. Very there is tough business competition occurs nowadays to meet the economic needs of society. There are two types of business competition that we currently know, namely perfect competition and imperfect competition or you could say unhealthy business competition. MSMEs are of concern to the government because they have quite important contributions related to national economic development. Those who are able to survive amidst the economic crisis as proof of the existence of MSMEs are strong industrial sectors.

Currently, Own MSMEs become a separate economic phenomenon when food and fuel prices increase so that many large businesses experience difficulties in their business. The existence of MSMEs is able to maintain their business in the economic crisis. The role of The existence of MSMEs is often linked to the Government's goal of minimizing unemployment, including poverty and equalizing income. For this reason, the policy direction for MSME businesses is still happening with the aim of providing job opportunities. With the development of the MSME sector in Indonesia, through law no. 20 of 2008 regarding micro, small and medium enterprises, which is called the MSME Law, which was stipulated on July 4 2008, is more complete if the quote from the old Law is Law no. 9 of 1995 is limited to the definition of small businesses.

Healthy business competition (in healthy competition) can have a positive impact on business actors, this will encourage the will to progress as a business in increasing productivity, efficiency, innovation and the quality of their products. Apart from being profitable for business actors, of course consumers benefit from healthy business competition, namely a reduction in prices, more choices, and an increase in product quality. On the other hand, If unfair business competition arises between business actors, this will have an adverse impact on business actors and consumers, but will also have a negative influence on the national economy. Business actors are subjects that cannot be separated from business competition itself.

The largest number of business actors at the grassroots are towards micro and small businesses; and medium (MSME). For MSMEs it is legally obliged to receive protection from the government. It is hoped that the existence of Law Number 5 of 1999 can provide a legal umbrella for protection and guaranteed legal certainty for MSME business actors. One With the enactment of the anti-monopoly law in Article 3 letter (b) of the anti-monopoly law, the aim is to create conducive business conditions through healthy business competition rules, thereby ensuring legal certainty and equal opportunity for business actors, both large and small. The problem in this article is to examine the implications of this exception for small business actors, what violations could potentially be committed by MSME actors in terms of business competition.

## **LITERATURE REVIEW**

Legal regulations for MSME (Micro, The small and medium business sector is a business actor competition can involve protection policies, special regulations and incentives. This aims to create a fair business environment, increasing the development for MSMEs, efforts to distance themselves unhealthy trade practices in business competition. Legal regulation refers to the process of creating, interpreting and implementing laws in a legal system. This includes legislation, policies, and mechanisms that regulate community behavior and establish sanctions for violations of the law. When the formation the existence of Law no. 5 of 199 through provisions regarding business competition regulations has the aim of ensuring the same corporate certainty for large, medium and small business actors.

*There are 2 types of legal protection, namely:*

1. Preventive legal protection, is as protection for the Government's provision, the aim of which is to prevent violations contained in statutory regulations which are intended to provide signs or limitations in implementation and obligations, the instruments used are in the form of rules.
2. The form of repressive protection is through fines, imprisonment and additional penalties given when disputes arise or violations occur. In general, what differentiates form of preventive and repressive legal protection as a necessary goal and instrument.

In repressive legal protection, the instruments used are sanctions or in the form of law. create business conditions that can support the development of small businesses cannot be separated from the government's role as a decision or policy maker. This is in line with the definition of business climate as stipulated in the provisions of Article 1 number 4 of Law no. 9 of 1995 concerning Small Businesses with the provisions of the business climate being a situation faced by the Government strives for in the form of establishing legal regulations and policies in various aspects of economic life so that small businesses obtain certainty, equal opportunities, as well as the most extensive possible business support, so that it develops into strong effort and independence. For MSME players get protection provided by Law No. 5 of 1999 is a manifestation of the implementation of economic democracy, which contains elements and principles of justice. This of course provides opportunities for businesses specifically for MSMEs so they can progress and develop advance their business activities, and can encourage the creation of a healthy business climate. So that the economy created by actors can create an economy that is equitable to all sectors and levels of society.

It can also be interpreted that Law No. 5 of 1999 is actually in favor of for MSMEs, the main goal is to receive legal protection so that they can compete competitively with large business actors. Legal protection from the Government for the development of MSME businesses are very important amidst the challenges of economic liberalization and increasingly greater global competition. The definition of MSMEs as explained above refers to the provisions of Article 35 PP No. 7 of 2021. In order to maintain healthy business competition between business there are perpetrators in Indonesia, based on Articles 30 to Article 37, Provisions of regulation no. 5 of 1999 ordered that it not be commissioned with the task and authority to ensure business competition runs in a healthy manner, called The Business Preparation Supervisory Commission (KPPU) is independent in accordance with Presidential Decree Number related to 75 of 1999 regarding the Business Competition Supervisory Commission in accordance with Presidential Decree no. 75 of 1999. As an institution tasked with supervising for business competition, the KPPU has the authority to resolve business cases competition cases. From these duties and functions, the KPPU has multifunctional authority.

In implementing its authority, the KPPU can have the function of a consultative institution (consultative function), investigation (investigator function), up to its function as an adjudication institution. Often face a number of obstacles, including difficulties in obtaining funds for business capital, challenges in managing finances, and intense competition in the market. Additionally, adoption of technology and innovation can be an obstacle, along with difficulty recruiting and retaining quality employees. Large production costs will affect business profitability. MSME businesses often face difficulties with government regulations that make it difficult to access new markets. With economic uncertainty, changes occurring in consumers, and also the challenge of ineffective marketing strategies will hamper MSME businesses. It is very important that the existence of MSMEs will take action provide protection and ease in entering the formal sector by obtaining ease of formation, licensing and guidance.

Considering the importance of this, with the Job Creation Law there are benefits for business actors and MSME businesses, namely:

- a. Obtaining convenience and certainty in licensing at the risk of applying standards. in their work activities
- b. Obtain incentives and conveniences such as fiscal incentives and service certainty in the investment sector.
- c. A large space can be used for activities, thus investment refers to creativity as a basic priority for the Government.
- d. For sanctions, if there is an administrative violation, it will be imposed on the violator, whereas if the violation results in K3L or safety, environmental security, criminal sanctions will be imposed. The role of government includes various functions to ensure stability, justice and welfare of society.

This involves formulating policies, regulations, as well as providing public services. The government is also responsible for maintaining security, running the justice system, and managing the national economy. This role can vary from fiscal and monetary policy making to public sector oversight and human rights protection. The implicit and explicit content of the Government's policy to empower the existence of MSMEs in principle has the aim of pursuing high economic growth, absorbing labor, increasing competitiveness and getting out of poverty.

There for, the six insecticide pillars of MSME development policy are aimed at realizing these four things, namely:

1. Fostering a conducive business climate
2. Increase access to financial resources
3. Increasing market access
4. Encourage entrepreneurship and skills micro, small businesses and medium (MSME)
5. Empower micro scale businesses
6. Improving the quality of cooperative institutions.

In the development of the existence of MSMEs is realized by the Government's effective and maximum role as a facilitator and playing an active role in facilitating MSMEs so that they achieve their development goals. The facilities that the government provides are in the form of money or subsidies for goods or services if there are weaknesses in the production sector, the facilitator's job is to provide MSME capabilities in various forms, including training. Another thing is that if MSMEs included terms of funds, it can be used as an incentive to generate capital. Second, privileges, whether in the form of relief or strength in cross-legal matters. Third, separate wisdom.

The facilities provided by the government can occur depending on how the government views the existence of MSMEs that will be provided with facilities, first, the government is antipathetic or displeased with the existence of MSMEs. Second, the government is apathetic or does not want to know about the development of MSMEs. Third, the government is neutral, which means the government applies MSMEs the same as other business entities, there are no special regulations for MSMEs. MSMEs must compete with other business entities. Fourth, the government is sympathetic by providing guidance to MSMEs or encouraging motivation to protect MSMEs in making regulations. b. The role of the government as a regulator The role of the government as a regulator is to create policies to make it easier for MSMEs to develop their businesses. As a regulator, the government functions to ensure that the business environment remains conducive to making investments by regulating the Bank Indonesia Interest Rate (SBI) and making policies regarding business competition rules.

The government is the party that is able to implement rules so that life can run well and dynamically. In carrying out the regulatory function, the government divides its policy-making authority into two, namely the authority of the central government and the authority of regional governments. Like the function of the central government, regional governments also have a regulatory function for for the community in their regions. c. The role of government as that is added to a reaction with the aim of increasing the speed of the reaction. Based on this, the role of local government as a catalyst for the development of MSMEs is to accelerate the process of developing MSMEs into fast moving enterprises. Fast moving enterprises are MSMEs that already have an entrepreneurial spirit and will transform into large businesses. To achieve fast moving enterprise development, like a catalyst, local governments are sometimes involved in the process but are not involved in managing the entire change process.

The involvement of local governments in the entire change process should not be carried out because too much government involvement Economic activity can cause economic inefficiency because market demand is not able to move naturally. In order to function again as a catalyst, the Government is making all its efforts, including empowering the creative community to be productive in a consumptive manner, rewards for MSME actors, intellectual infrastructure for MSMEs that provides protection of intellectual property rights) and in terms of capital, including venture capital or rotating capital.

In order to anticipate unhealthy business competition, micro and small business actors; and medium-sized (MSMEs), then government involvement must be carried out :

1. **Strict Regulation:** Establishing and enforcing regulations that prohibit unhealthy business practices, such as monopoly, fraud or counterfeiting.
2. **Law Enforcement:** Its implementation must create justice and be effective of the law to crack down on violations in business competition, providing strict sanctions for business actors who do not comply.
3. **Education and Consultation:** Providing education and consultation programs to MSMEs regarding their rights and obligations, as well as providing the latest information regarding healthy business practices.
4. **Access to Financing:** Providing easy access to financial resources, such as low-interest loans or financial assistance, provide assistance to MSMEs on how to complete it challenges in business competition.
5. **Capacity Strengthening:** Providing training and technical support to improve management skills and competitiveness of MSMEs.
6. **Market Development:** Encourage market expansion for MSMEs, both locally and internationally, by providing promotional support and access to marketing platforms.

By involving itself in these ways, the government can create an environment that supports MSMEs and protects them from unhealthy business practices in business competition, especially in Micro, Small and Medium Enterprises (MSMEs). In order to maximize the function of MSMEs at the national level, the government is also making efforts so that micro, small and medium enterprises can continue to develop in the free market era. The KPPU institution provides recommendations so that policies and procedures include location procedures, spatial planning, legality, social environment and operational hours so that they are perfected and as effective as possible. Likewise, the KPPU urges the Government to immediately provide guidance for micro and small entrepreneurs so that they have stronger competitiveness so that able to co-exist with stronger entrepreneurs who have a large scale.

## **METHODOLOGY**

### ***Research Methods***

**Approach** The method used in this research is a normative juridical approach. The normative juridical (doctrinary) approach is an approach that uses literature or document studies and expert opinions relating to Law (UU) Number 20 of 2008 concerning Micro, Small and Medium Enterprises. Researchers will use library data as secondary data. **Data Collection Techniques** To obtain objective results that can be verified and can be accounted for, the following data collection tools are used : Library Research. This study was carried out by collecting secondary data which includes primary legal materials, secondary legal materials , and tertiary legal materials.

## **RESULTS**

Legal Protection for Micro, Small and Medium Business Actors Amidst Growing Market Competition in Indonesia One of the national targets contained in the fourth dialenea of the Preamble to the 1945 Constitution of the Republic of Indonesia is to safeguard and protect all Indonesian citizens as well as all Indonesian descendants. When this goal is achieved, it is essential for our country to provide legal protection for for micro, small and medium enterprises (MSMEs) as the main priority pillars of the people's economy. In the context of legal protection, Van Kan defines law as a series of regulations that aim to protect individual interests in a community of life. In the Big Indonesian Dictionary, the meaning of law is regulatory law and the like that are used to regulate people's behavior.

Based on this concept, Satjipto Rahardjo provided an explanation of the scope of legal protection to protect human rights that are disturbed so that they can enjoy the rights guaranteed by law. In the explanation referred to legal protection for micro, small and medium enterprises (MSMEs) all binding regulations to protect and support the sustainability of MSMEs in the face of ongoing market developments. The MSME sector has contributed 60% to the Indonesian economy. Therefore, The existence of MSMEs in Indonesia has a very important role in increasing the country's foreign exchange.

Many of the products produced by the existence of MSMEs has strong values and attractive characters. However, due to the lack of adequate attention and protection for MSME actors in Indonesia, according to Ahmad Buchori's opinion the Financial Development Task Force sharia and the Financial Services Authority (OJK) MSME Ecosystem, around 84.20% of the existence of MSMEs in Indonesia experienced a decline in income. Moreover, in the midst of market competition and technology that continues to develop, there are many obstacles in advancing and prospering MSME players, such as the difficulty of increasing market demand due to they are unable to compete with large companies, but also come from input factors from the market, especially the difficulty of accessing credit, technology and the quality of human resource technology.

Pressure from both parties means that the productivity level of conditions of MSMEs lower than that of large companies. Low productivity inevitably means that the income of MSME entrepreneurs and workers is also equally low. Law Number 20 of 2008 concerning MSMEs strictly regulates public authority in the context of MSMEs. These details are provided because it is hoped that public authorities can ensure and advance the MSME sector. In line with this, this regulation is further strengthened by the enactment of Government Regulation (PP) Number 7 of 2021 concerning Facilitation, Protection and Empowerment of Cooperatives and Micro, Small and Medium Enterprises. The main priority of the regulations issued by the Government is related to responsibility for all components as a form of collaboration to realize progress in the MSME sector. This includes providing all the necessities needed by MSMEs to participate in merchandise acquisition and administration programs held by public agencies.the existence of MSMEs including.

Aspects of legal protection for MSMEs between the two of an open and global market and MSMEs in free market competition and continuing to develop. Legal protection is a crucial aspect for MSMEs, especially considering the increasing competition in the economic sector. Legal protection for small business actors is reflected explanation of Law no. 5 of 1999 regarding the prohibition of monopolistic practices and unfair business competition, which reflects the application of economic principles that emphasize equality and justice. The current situation provides opportunities for small-scale entrepreneurs to encourage their business activities and increase business opportunities for all Indonesian people in the context of healthy competition. This aims to prevent the centralization of economic power only in certain groups of entrepreneurs.

Economic democracy cannot be realized without healthy business competition. This is due to the fact that healthy business competition encourages innovation progress, increased product quality and variety, as well as more competitive pricing. On the other hand, unhealthy business competition can result in the emergence of monopolies. The definition of monopoly from an economic perspective is a market structure where there is only one producer or seller, which can have a negative impact on the level of consumer welfare. Its existence can cause exploitation of consumers and workers, as well as be detrimental to national and global macroeconomic conditions. The emergence of e-commerce is a positive impact of technological developments, because it can make it easier for people to shop because only through the internet what can people order and buy an item they want without buying directly.

Then the question arises whether e-commerce is a factor in decreasing MSME income plus related to the viral news in September 2023 regarding the closure of the basic tiktok shop. After the platform was closed, traders responded with requests that other e-commerce be closed by banning TikTok shops. Trade Through Electronic Systems and Trading Services at the Directorate General of Domestic Trade at the Ministry of Trade, that the government will not close all e-commerce in Indonesia because it is part of business activities and a trading facility that is beneficial for business actors. The government will continue to regulate the implementation of e-commerce so that it can run synergistically, facilitating both offline and online traders. However, it needs to be acknowledged that many MSME players currently also rely on e-commerce services. Minister of Trade issued regulations regarding trade via electronic media systems. These regulations are regulated in Minister of Trade Regulation (Permendag) number 31 of 2023 which is effective from 26 September 2023.

This regulation is an improvement on Minister of Trade Regulation number 50 of 2020 which covers business permits, advertising, guidance and supervision of business actors in trading via electronic systems. The issuance of this regulation by Zulkifli Hasan aims to increase protection for for MSMEs, and domestic buyers and entrepreneurs, in order to overcome unhealthy business competition. As a rule of law, the government is expected to formulate basic concepts appropriate the next stage is the Government. This includes the establishment of legal guidelines that can coordinate changes to national

economic law. The existence of MSMEs in Indonesia does not receive protection, so it will be difficult for them to develop and are often misunderstood by the government, business world and society. Limited capital, human resource capabilities and lack of technical skills are not considered a shortcoming of MSME businesses, but are a big responsibility. There is no adequate protection or empowerment. Everyone now realizes that decisions in microeconomics The government does not achieve targets and there is no appropriate protection for micro businesses from the aspect of business competition.

The Government's Role in Supporting Efforts to Protect For micro, small and medium businesses amidst increasingly complex market competition. The creation of conditions that support and develop MSMEs is very dependent on the role of the government which has authority in decision making. To maximize the role of MSMEs in the national economy, the government is trying to encourage micro, small and medium enterprises to continue to increase their productivity amidst ever-growing market competition. The total number of MSMEs in Indonesia is 64.13 million MSMEs that operate in the information sector and therefore need encouragement towards the formal sector. Indonesia is faced with the problem of procedures regarding permits that are still difficult with provisions that still overlap at the center and regional levels. Therefore, the government responded to this problem by ratifying the Job Creation Law in 2020.

One of the aspects regulated is regarding comfort, protection and empowerment of MSMEs. The government hopes that with support from the Job Creation Law, MSMEs can continue to grow and become more competitive. The development of MSMEs in Indonesia has not yet reached its full potential due to various obstacles. Based on various studies, it can be concluded that the main factors influencing the development of MSMEs include capital, marketing, government policy and production systems. These four factors are interrelated in influencing the development of MSMEs in Indonesia. Capital, for example, has close relationships with financial institutions in Indonesia that provide loans to MSMEs.

In accordance with the provisions of Republic of Indonesia Regulation No. 17 of 2013 regarding Implementation of Law no. 20 of 2008 regarding Micro, small and medium enterprises in the second part of Article 30 that the central and regional governments have the authority to manage : The Indonesian Government, through Regulation no. 17 of 2013 regarding the implementation of Law no. 20 of 2008 regarding micro, small and medium enterprises.

*Part Two article 30:*

1. Large Businesses to establish partnerships with Micro Businesses, Small Businesses and Medium Businesses
2. Medium Enterprises to establish partnerships with Micro Enterprises and Small Enterprises.

In carrying out their roles, the Government and Regional Governments

*Have the obligation to :*

- a. Providing data and information regarding Micro Business, Small Business and Medium Business actors who are ready to establish partnerships;
- b. Develop partnership pilot projects;
- c. Providing facilitation of policy support;
- d. Coordinating in the preparation of implementation policies and programs, as well as monitoring, evaluating and general control over the implementation of the partnership.

Regional governments have a responsibility to maintain the stability of the MSME climate, which requires a stable business environment for its growth and development. One strategy to promote business stability is to provide various types of capital assistance to MSME entrepreneurs. The success of a productive business in a community group is greatly influenced by the availability of capital assistance. Capital subsidies have a positive and significant impact on entrepreneurs' income. Without adequate capital support, companies face difficulties in developing their business and increasing revenue. With the help of capital, MSMEs can achieve stability in their business activities. Therefore, the role of local governments as stabilization agents is crucial in providing various types of capital assistance to MSMEs in their development efforts.

## **DISCUSSION**

There is legal protection for MSME business actors when business ventures are unhealthy in accordance with Article 1 number 1 and numbers 2 and 3 with Article 6 of Law no. 20 of 2008 regarding micro, small and medium enterprises mentioned in Law no. 20 of 2008 with the definition of micro, small and medium enterprises as productive economic enterprises owned by individuals that provide access to employment opportunities from various business sectors. So it is from this function that MSMEs are said to have an important role in the national economy. To maximize the role of MSMEs in the national economy, the government is making efforts so that small, micro and medium businesses can continue to develop in the free market era. The form of empowerment of MSMEs by the government and regional governments is in accordance with their authority based on Article 2 PP No. 17 of 2012 concerning the Implementation of Law no. 20 of 2008 concerning Micro, Small and Medium Enterprises, which consists of business development, partnerships, licensing and coordination and control.

One of the government's efforts to develop MSMEs is through business partnerships with the foster father program. The implementation of the large business actor program provides motivation for MSMEs to progress by expanding the market by establishing partner relationships. In this partnership, the aim is that there is a relationship of mutual benefit between MSMEs and large businesses, providing guaranteed certainty regarding the same business for large businesses and MSMEs and preventing market domination which results in harm to MSMEs. In partnerships in accordance with Article 1 paragraph 13 of Law no. 20 of 2008, namely in the form of cooperation, there are business relationships, both direct and indirect, in accordance with the principles of

mutual giving, trust, strengthening and providing the same benefits by involving micro, small, medium and large businesses. Implementation of partnerships can be carried out between MSMEs and partnerships between MSMEs and large businesses.

Article 36 paragraph (1) Law no. 20 of 2008 determines that the legal position of the parties is equal, which means that the relationship between large businesses and small and medium businesses implementing partnerships is a horizontal relationship, not a vertical one. Therefore, business actors who run partnerships must pay attention to the partnership aspects contained in Article 11 of Law no. 20 of 2008, including mutually beneficial relationships in the implementation of business transactions between MSMEs and large businesses, the formation of a market structure to ensure healthy business competition and protect consumers. Apart from regulating the meaning and aspects that business actors must pay attention to when implementing partnerships, Law no. 20 of 2008 also regulates prohibited forms of partnership implementation as regulated in Article 35 paragraph (1) and paragraph 2 of Law no. 2 of 2008 means that large and medium businesses are prohibited from controlling MSMEs as business partners as partnerships.

For this reason, Article 36 paragraph 2 of Law no. 20 years explains that the implementation of partnerships is supervised by institutions formed and tasked with supervising matters of business competition regulated in law implicitly by the Business Competition Supervisory Commission (KPPU) as the institution that supervises the implementation of partnerships. For the protection of MSMEs, Article 50 letter h of Law no. 5 of 1999 that small business actors will be exempt from these legislative regulations. Special treatment is given regarding the relatively small capital and assets of MSMEs, the ability of MSMEs to monopolize the market and emphasizes the criteria for MSMEs with this treatment in accordance with Law No. 20 of 2008.

The definition of small business actors is explained in Article 50 letter h that business actors who are classified as small businesses are as stated in Law No. 9 of 1995. However, Law No. 9 of 1995 has been revoked and replaced by Law No. 20 of 1995. 2008 small business specifications need to be protected in accordance with Article 6 paragraph 2 of Law no. 20 of 2008, namely:

- a. Have a net worth of more than IDR 50 million to a maximum of IDR 500 million, excluding land and buildings as a place of business.
- b. Have annual sales of more than IDR 300 million to a maximum of IDR 2.5 billion. For micro and small businesses in accordance with Article 2 paragraph 2 of Law no. 20 of 2008 is defined as a business whose owner is an individual who stands alone and is not a branch or subsidiary that is controlled or is a direct or indirect part of a larger business that fulfills these criteria, namely micro business, small business.

For this reason, if micro and small businesses meet the MSME provisions in accordance with Article 6 of UU No. 20 of 2008 but the provisions of Article 1 paragraph 2 of Law no. 20 of 2008 which is not included in Article 50 letter h of Law no. 5 of 1997. The form of protection for MSMEs in implementing partnerships is implicitly regulated by Law No. 5 of 1999, meaning that in

implementing partnerships, MSMEs and large businesses have the same business opportunities, so the bargaining position of large businesses is higher than that of MSMEs, so this should not result in business competition. health emerges. Exceptions for MSMEs with limited capital and assets are also regulated in Law no. 5 of 1999. Article 31 paragraph (1) Government Regulation no. 17 of 2013 concerning Implementation of Law no. 8 of 2008 concerning Micro, Small and Medium Enterprises, hereinafter referred to as PP No. 17 of 2013 clearly states that the KPPU is the institution that has the authority to supervise the implementation of partnerships. Furthermore, in Article 31 paragraph 3 PP no. 17 of 2013 gives the KPPU the authority to issue regulations to regulate procedures for monitoring partnerships. In 2015, KPPU issued KPPU Regulation no. 1 of 2015 concerning Procedures for Handling Partnership Implementation Cases.

Supervision of the implementation of partnerships aims to prevent abuse of bargaining position which causes a decline in the ability of MSMEs to compete and prevent exploitation of MSMEs which is used to reduce the level of competition in the product market. Even though it has the function of enforcing business competition law, KPPU is not a legal institution, especially business competition law. Therefore, the sanctions that can be imposed by the KPPU are only administrative sanctions, not civil or criminal sanctions. Because of its position as an administrative institution, its authority is only limited to administrative authority. In order to increase the duties of the business competition supervisory commission in its supervisory duties towards partnerships, the business competition supervisory commission has established a new unit in order to supervise the activities of business partnerships, namely the partnership supervisory directorate, which previously only had two work units, namely the study, policy and advocacy directorate and the directorate mergers.

Business Competition Supervisory Commission Regulation No. 5 of 2016 regarding changes to the business competition commission regulations, hereinafter referred to as Perkom No. 5 of 2016 Article 68A states that the partnership supervision directorate has the function of coordinating activities to supervise the implementation of partnerships. At that time, in accordance with the provisions of Article 68C of Perkom no. 5 of 2016, the Business Competition Supervisory Commission has formed regional task forces to supervise the implementation of partnerships between MSMEs and large businesses. The task of the partnership supervisory directorate is to monitor whether the principle of mutual need is running well between large businesses and MSMEs in implementing partnerships and as a center for monitoring, research and database management for MSMEs and large businesses so as to improve the bargaining position of MSMEs in implementing partnerships with businesses big.

## CONCLUSIONS AND RECOMMENDATIONS

1. Legal protection against monopolistic practices and unfair business competition in Indonesia is regulated in Law Number 5 of 1999 which aims to create a democratic and fair business climate and provide guarantees of equality towards business actors. Digest of Law no. 8 of 1995, anti-monopoly and unfair business competition, with the enactment of Law no. 6 of 1999. The law protects small businesses so that they can survive and develop side by side with large companies. These laws are closely related, providing legal protection for business actors to guarantee healthy competition.
2. The government has taken the decision to help MSME business actors so that their businesses can develop quickly by providing all kinds of conveniences. In essence, the direction of government policy in developing MSMEs is. Aimed at pursuing high economic growth, employment, increasing competitiveness and alleviating poverty. So the role of the government must be to help MSME entrepreneurs so that they can accelerate their movement in developing a business. There are various ways to do this, namely support in the form of regulations, taxes, smooth licensing, wide market access and funding with low interest.
3. Article 3 Law No. 5 of 1999 regarding the prohibition of monopolistic practices and unfair business competition in Indonesia, the aim of business competition law in Indonesia can be simplified by providing equal opportunities for every business actor by creating a healthy business climate, conducive and competitive, as well as to improve consumer welfare (public interest).

If a business actor carries out unfair (fraudulent) trading practices, he can be punished under Article 382 of Law no. 5 of 1999, as well as competitors who feel disadvantaged due to unhealthy trading can sue civilly according to Article 1365 of the Civil Code.

## FURTHER STUDY

1. It is hoped that MSME business actors will be able to know and participate in socialization regarding legal regulations and also legal protection relating to monopolistic practices in for business competition given to MSMEs. That way, MSMEs can afford it develop and compete in a healthy and fair manner.
2. With the hope that the Government will make things easier. There are various means of convenience provided by the government to MSME business actors, namely support in the form of regulations, taxes, smooth licensing, wide market access distances and funding with low interest. So that MSME business actors continue to develop and can also help the economy in Indonesia.
3. It is hoped that MSME business actors can make complete shipping permits so that fraud does not occur in the future and also know the existing regulations in accordance with applicable laws and regulations, the business actors can carry out business competition in a healthy and fair manner.

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