

**UNOFFICIAL TRANSLATION**

LAW NO. 5/1999  
CONCERNING ON  
PROHIBITION AGAINST MONOPOLISTIC PRACTICES AND  
UNFAIR BUSINESS COMPETITION

BY THE GRACE OF THE ALMIGHTY GOD  
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Considering :

- a. That the development in the economic sector must be geared towards the realization of people's welfare on the basis of Pancasila and the Constitution of 1945.
- b. That democracy in the economic sector requires the availability of equal opportunities to every citizen to participate in a production process and marketing of goods and/or services, in a healthy, effective and efficient business climate, so that the economic growth and proper working of the market economy can be promoted.
- c. That everyone conducting a business in Indonesia must be in a situation in which competition is healthy and proper so that there shall be no concentration of economic power in particular business against, not regardless of the agreement given by the state of the Republic of Indonesia to international treaties.
- d. That to translate into reality those referred to in letters a, b and c, at the initiative proposed by the House of People's Representatives, it is necessary to establish the Law on a Prohibition against Monopolistic Practices and Unfair Business Competition.

In view of :

Article 5 sub-article (1), Article 21 sub-article (1), Article 27 sub-article (2) and Article 33 of the Constitution of 1945.

With the approval of  
THE HOUSE OF PEOPLE REPRESENTATIVES OF THE REPUBLIC OF INDONESIA

DECIDES

To Stipulate :

THE LAW ON A PROHIBITION AGAINST MONOPOLISTIC PRACTICES AND  
UNFAIR BUSINESS COMPETITION

CHAPTER I  
GENERAL PROVISIONS  
Article 1

Referred to in this law as :

1. Monopoly shall be control over production and/or marketing of goods and/or the use of certain services by one business agent or one group of business agents.
2. A monopolistic practice shall be the concentration of economic power by one or more business agents leading to the control over production and/or marketing of certain goods and/or services so that unfair business competition shall be brought about and public interest shall be harmed.
3. The concentration of economic power shall be actual control over a market concerned by one or more business agents so that the price of goods and/or services can be determined.
4. A dominant position shall be a condition in which a business agent does not have any significant competitors in the market concerned in connection with the market share controlled, or one in which a business agent occupies the highest position among the competitors in the market concerned in connection with financial capability, the capacity of access into supplies or sales and the capacity to adjust the supplies of or demand for certain goods or services.
5. A business agent shall be any individual or business enterprise, either in the form of statutory body or a non-statutory body, established and domiciled or conducting activities in the legal territory of the state of the Republic of Indonesia, either individually or separately through an agreement, conducting various business activities in the economic sector.
6. An unfair business competition shall be the competition between business agents in conducting production activities and/or marketing of goods and/or services in an unfair manner or in ways violating the law or hampering business competition.
7. An agreement shall be an act of one or more business agents to commit themselves to one or more other business agents under whatever name, either in writing or not in writing.
8. A business conspiracy shall be a form of cooperation pursued by a business agent with another business agent with a view to controlling the market concerned in the interest of the business agents involved in the conspiracy.
9. A market shall be an economic institution in which buyers and sellers, both directly and indirectly, can conduct the commercial transactions of goods and/or services.
10. The market concerned shall be a market concerned with a certain marketing scope or area on the part of a business agent in regard of the same or similar goods and/or services or the substitutions of the said goods and/or services.
11. A market structure shall be a market condition providing clues about the aspects with a significant influence over the behavior of business agents and market performance, namely, among others the number of sellers and buyers, the constraints in the market entry and exit, the diversity of products, the system of distribution and the control over market share.
12. Market behavior shall be the acts by a business agent in his capacity as a supplier or a buyer of goods and/or services in order to achieve the goal of the company, namely among others, profit achievement, the growth of assets, a sales target and the competition method adopted.
13. Market share shall be the percentage of the selling or buying value of certain goods or services controlled by a business agent in the market concerned in a particular calendar year.
14. Market price shall be the price paid in a transaction of goods and/or services in accordance with the agreement between the parties in the market concerned.

15. A consumer shall be everyone putting on or using goods and/or services, for the purpose of their own interest or other parties.
16. Goods shall be every object, tangible or otherwise and moveable or otherwise, which may be traded, put on, used or utilized by consumers or business agents.
17. Services shall be every service in the form of a job or achievement which is traded in the society in order to be utilized by consumers or business agents.
18. A supervisory commission on business competition shall be a commission set up to exercise supervision over business agents in conducting their business activities to ensure that they shall not resort to monopolistic practices and/or unfair business competition.
19. A district court shall be a court of law, as meant in the prevailing laws, where the business of a business agent is legally domiciled.

CHAPTER II  
PRINCIPLE AND PURPOSE  
Article 2

In conducting their business activities, business agents in Indonesia will adhere to the principle of economic democracy and take into account the balance between the interest of business agents and those of the public.

Article 3

The purpose of the establishment of this law shall be as follows :

1. to maintain public interest and promote national economic efficiency as one of the efforts to promote people's welfare.
2. to translate into reality a conducive business climate through the regulation of fair business competition so that there shall be a guarantee for certainty in equal business opportunities to major business agents, medium-scale business agents and small-scale business agents.
3. to prevent business agents from resorting to monopolistic practices and/or unfair business competition, and
4. to create effectiveness and efficiency in business activities.

CHAPTER III  
PROHIBITED AGREEMENTS

First Part  
Oligopoly  
Article 4

1. A business agent shall be prohibited to draw up an agreement with another business agent to jointly control the production and/or marketing of goods and/or services which lead to monopolistic practices and/or unfair business competition.
2. Business agents should be assumed or considered as jointly controlling the production and/or marketing of goods and/or services as meant in sub-article (1) if 2 (two) or 3 (three) business agents or groups of business agents control over 75% (seventy-five percent) of the market share of one particular kind of product or service.

Second Part  
Price Setting  
Article 5

1. A business agent shall be prohibited to draw up an agreement with his business competitor to set the price of a particular goods or services which must be paid by consumers or customers in the same market concerned.
2. The stipulation as meant in sub-article (1) shall not apply in the event of :
  - a. an agreement drawn up in a joint-venture business undertaking, or
  - b. an agreement based of the prevailing law.

Article 6

A business agent shall be prohibited to draw up an agreement which shall result in one buyer having to pay a different price from the price which must be paid by another buyer for the same goods or services.

Article 7

A business agent shall be prohibited to draw up an agreement with his business competitor to set a price below the market share, an act leading to unfair business competition.

Article 8

A business agent shall be prohibited to draw up with another business agent an agreement containing a condition that the recipient of goods or services shall not re-sell or re-supply the goods or services already received at a price lower that that already agreed upon so that this may lead to unfair business competition.

Third Part  
Area Division  
Article 9

A business agent shall be prohibited to draw up an agreement with his business competitor with a view to dividing marketing areas or market allocation with respect to certain goods and/or services so that this may lead to monopolistic practices and/or unfair business competition.

Fourth Part  
Boycotting  
Article 10

1. A business agent shall be prohibited to draw up with his business competitor an agreement which may prevent another business agent from conducting the same business, with either the domestic or foreign market as the target.
2. A business agent shall be prohibited to draw up an agreement with his business competitor to refuse to sell any goods or services from another business agent so that this act :
  - a. shall disadvantage or may be assumed to disadvantage another business agent, or

- b. shall restrict another business agent in selling or purchasing any goods or services from the market concerned.

Fifth Part  
Cartels  
Article 11

A business agent shall be prohibited to draw up an agreement with his business competitor with a view to influencing prices by regulating the production and/or marketing of a particular kind of goods or services so that this may lead to monopolistic practices and/or unfair business competition.

Sixth Part  
Trust  
Article 12

A business agent shall be prohibited to draw up an agreement with another business agent to establish cooperation by means of setting up a larger association of companies or partnership while at the same time maintaining the existence of each member company or partnership, with a view to controlling the production and/or marketing of goods and/or services so that this may lead to monopolistic practices and unfair business competition.

Seventh Part  
Oligomonopsony  
Article 13

1. A business agent shall be prohibited to draw up an agreement with another business agent with a view to jointly controlling the purchase or receipt of supplies so that they may control the prices of the goods and/or services in the market concerned, an act which may lead to monopolistic practices and/or unfair business competition.
2. A business agent should be assumed or considered as jointly controlling the purchase or receipt of supplies as meant in sub-article (1) if 2 (two) or 3 (three) business agents or groups of business agents control over 75% (seventy-five percent) of the market share of one particular kind of product or service.

Eight Part  
Vertical Integration  
Article 14

A business agent shall be prohibited to draw up an agreement with another business agent with a view to controlling the production of a number of products included in a series of production of a particular kinds of goods or services with each production series being the result of further processing, either in a direct series or otherwise, so that this may result in unfair business competition and/or may disadvantage the community.

Ninth Part  
Closed Agreement  
Article 15

1. A business agent shall be prohibited to draw up with another business agent an agreement containing a condition that the party receiving the goods and/or services shall only re-supply the said goods and/or services to certain parties and/or at certain places.
2. A business agent shall be prohibited to draw up with another party an agreement containing a condition that the party receiving certain goods and/or services must be willing to purchase other goods and/or services from the supplier business agent.