

## Legal Analysis of Shopee's Monopoly Practices concerning Business Competition in Indonesia

Rendy Dwi Syahputra<sup>1\*</sup>, Rosalinda Elsina Latumahina<sup>2</sup>, Amrit Kumar Shrestha<sup>3</sup>

<sup>1,2</sup>Universitas 17 Agustus 1945 Surabaya, Indonesia

<sup>3</sup>Tribhuvan University, Nepal

\*Corresponding Author: [rendysyahputra100710@gmail.com](mailto:rendysyahputra100710@gmail.com)

### Article History:

Submitted:

16-11-2024

Received:

22-11-2024

Accepted:

17-01-2025

### Keywords:

e-commerce;  
monopolistic  
practices; predatory  
pricing; digital market  
ecosystem

### Abstract

The rapid advancement of information and communication technology has profoundly influenced multiple facets of human life, including the trade sector, which has evolved into a digital platform commonly known as e-commerce. In Indonesia, e-commerce has transformed consumer behavior and created significant opportunities, especially for Micro, Small, and Medium Enterprises (MSMEs), enabling them to reach broader markets without extensive physical infrastructure. However, this rapid growth also introduces new challenges, particularly regarding monopolistic practices by dominant platforms such as Shopee. Through a vertical integration strategy, Shopee has expanded its reach into the logistics sector with Shopee Express, allowing it to control logistics processes directly. While this integration can enhance efficiency, it also presents competitive challenges for third-party logistics providers and has the potential to limit consumer choices. This study uses a normative legal research approach to examine alleged violations of Articles 19 and 25 of Indonesia's Law No. 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, specifically regarding Shopee's practices through Shopee Express. The findings indicate that Shopee's approach may restrict market access for other logistics providers, creating an environment that stifles competition and undermines consumer choice, the introduction of an integrity pact between Shopee and the Business Competition Supervisory Commission (KPPU) has been a crucial step towards addressing these competitive imbalances. The study concludes with recommendations for stronger regulatory oversight by the KPPU to enforce fair practices and an emphasis on raising consumer awareness.

## 1. Introduction

In the current era of technological advancement in the modern world, these developments have had a significant impact, driving technology to progress even further. One sector that has undergone substantial transformation is the trade sector, which has shifted drastically from conventional or traditional methods where transactions occurred directly between individuals to technology-based digital platforms known as e-commerce. This advanced system enables individuals to shop without directly meeting sellers, relying instead on online transactions. In Indonesia, this transformation has revolutionized the way people shop and conduct business. With increasingly widespread internet access reaching even remote areas, combined with the growing penetration of smartphones, e-commerce has

become a highly favored solution.<sup>1</sup> This shift has altered consumer behavior, emphasizing speed, convenience, and efficiency in transactions.<sup>2</sup>

The remarkable growth of e-commerce not only brings positive impacts to consumers but also creates significant opportunities for business actors, particularly Micro, Small, and Medium Enterprises (MSMEs). The emergence and development of e-commerce in Indonesia have greatly influenced the advancement of MSMEs by facilitating the marketing of their products, making them accessible and recognizable to communities across various regions. Initially limited to small-scale or localized markets, e-commerce has enabled MSMEs to expand comprehensively, reaching broader audiences and fostering overall growth. As one of the key drivers of Indonesia's economy, MSMEs have experienced significant benefits from the presence of e-commerce. Digital platforms provide them with opportunities to reach broader markets without requiring substantial investments in physical infrastructure. MSMEs that previously served only local markets can now easily offer their products to consumers across Indonesia, and even to global markets. E-commerce also enables MSMEs to streamline their production, marketing, and distribution processes through increasingly advanced technology, thereby significantly enhancing their competitiveness.<sup>3</sup> However, behind all the convenience and benefits offered by e-commerce, there are various challenges and serious issues that require attention. One of the most significant challenges arising from these conveniences is the issue of unfair business competition. In an increasingly competitive e-commerce ecosystem, some major platforms have begun to exhibit concerning dominance.<sup>4</sup> Shopee, for instance, as one of the largest players in Southeast Asia, including Indonesia, has introduced an internal logistics service called Shopee Express. This move represents a vertical integration strategy, whereby Shopee not only acts as an e-commerce platform but also controls the entire logistics process, from collecting goods from sellers to delivering them to consumers.<sup>5</sup>

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<sup>1</sup> John Baptist Walier Kabo-Bah and Richard Kwasi Bannor, "E-Commerce among Grain Traders and Its Impact on Marketing," *Sustainable Technology and Entrepreneurship* 4, no. 1 (2024), <https://doi.org/10.1016/j.stae.2024.100090>; Arturs Bernovskis A, Deniss Sceulovs A, and Agnis Stibe a b C, "Society 5.0: Shaping the Future of e-Commerce," *Journal of Open Innovation: Technology, Market, and Complexity* 10, no. 4 (2024), <https://doi.org/10.1016/j.joitmc.2024.100391>; Ying Zhang xingersinger@163.com · Shuja Iqbal shujaiqbal88@hotmail.com · Hongyun Tian Twfh7522@163.com · Shamim Akhtar, "Digitizing Success: Leveraging Digital Human Resource Practices for Transformative Productivity in Chinese SMEs" 10, no. 17 (2024), <https://doi.org/10.1016/j.heliyon.2024.e36853>.

<sup>2</sup> Basri Effendi, "Pengawasan Dan Penegakan Hukum Terhadap Bisnis Digital (E-Commerce) Oleh Komisi Pengawas Persaingan Usaha (KPPU) Dalam Praktek Persaingan Usaha Tidak Sehat," *Syiah Kuala Law Journal* 4, no. 1 (2020): 21-32, <https://doi.org/10.24815/sklj.v4i1.16228>.

<sup>3</sup> Wenjie YANG and Guorui FAN, "Neoliberalism and Educational Reform in China in the 1990-2010s: Market Mechanism and Inequality in the Institutional Transformation," *International Journal of Educational Research* 109 (2021), <https://doi.org/10.1016/j.ijer.2021.101809>.

<sup>4</sup> Feiqiong Wei A, Baiwei Xie B, and Mingyan Chen, "Digital Financial Inclusion, e-Commerce Development and Entrepreneurial Activity," *International Review of Financial Analysis* 97 (2024), <https://doi.org/10.1016/j.irfa.2024.103806>.

<sup>5</sup> Melisa Setiawan Hotana, "Industri E-Commerce Dalam Menciptakan Pasar Yang Kompetitif Berdasarkan Hukum Persaingan Usaha," *Jurnal Hukum Bisnis Bonum Commune* 1, no. 1 (2018): 28, <https://doi.org/10.30996/jhbhc.v0i0.1754>.

Vertical integration, on one hand, provides Shopee with greater efficiency and control in managing its delivery services. Shopee can offer faster, more reliable, and integrated services, which undoubtedly benefit consumers. However, on the other hand, this strategy raises serious concerns. By prioritizing Shopee Express within its ecosystem, Shopee has the potential to undermine third-party logistics partners that previously played a vital role in the e-commerce ecosystem. Such policies not only limit market access for independent logistics providers but also reduce consumer choices, create harmful dependencies, and disrupt the healthy competition that should exist in this sector.<sup>6</sup>

The use of predatory pricing strategies by large business actors such as Shopee introduces a more significant issue. Predatory pricing is a strategy in which the price of a product or service is set extremely low, even below production costs, to eliminate competitors from the market. While consumers may enjoy lower prices in the short term, the long-term consequences can be highly detrimental. Once competitors are driven out, the dominant company can easily raise prices and lower the quality of services without fear of losing customers due to the lack of available alternatives. Regulations under Articles 19 and 25 of Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition (hereinafter referred to as Law No. 5/1999) explicitly prohibit the abuse of dominant positions and practices that harm competition.<sup>7</sup> The Business Competition Supervisory Commission (Komisi Pengawas Persaingan Usaha, or KPPU) as a regulatory body bears significant responsibility in ensuring that competition in the e-commerce sector remains healthy and fair. The challenges faced by KPPU are substantial, given the technology-driven nature of e-commerce and its highly dynamic and complex landscape. KPPU must ensure that major platforms like Shopee do not abuse their dominant position to manipulate the market or disadvantage smaller competitors. Oversight of vertical integration and other business strategies employed by e-commerce platforms requires a careful and innovative approach. The regulations implemented must also be capable of adapting to technological advancements and the ever-evolving dynamics of the digital market.<sup>8</sup>

This research aims to provide an in-depth analysis of potential violations committed by Shopee and Shopee Express in the context of market dominance and unfair business competition. Furthermore, this study will evaluate the effectiveness of policies and measures undertaken by the KPPU in addressing these issues. Thus, this research is expected to contribute meaningfully to the development of fairer regulations that support the growth of e-commerce in Indonesia without compromising the principles of healthy competition. Additionally, this research is anticipated to offer valuable insights for stakeholders to create an inclusive, competitive, and sustainable digital ecosystem. Based on the research of TWK

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<sup>6</sup> Ratya Anindita and C. D. U. S. Sawitania, "Analisis Integrasi Pasar Vertikal Cabai Merah Besar (*Capsicum Annuum* L.) Di Jawa Timur," *Agrise* 13, no. 2 (2013): 126-38.

<sup>7</sup> Muh. Afdal Yanuar, "Probabilitas Praktik Predatory Pricing Pada Kegiatan Usaha Dengan Menggunakan Hasil Kejahatan Sebagai Modal Usaha," *Jurnal Persaingan Usaha* 2, no. 1 (2022): 77-87, <https://doi.org/10.55869/kppu.v3i-.42>.

<sup>8</sup> Mashur Malaka, "Praktik Monopoli Dalam Usaha," *Praktik Monopoli Dalam Usaha* 15, no. 1 (2016): 165-75, <https://core.ac.uk/download/pdf/196255896.pdf>.

Widya Kurniasari and Arif Rahman<sup>9</sup>, Protection for MSME entrepreneurs against the abuse of dominant positions by digital platforms remains inadequate due to existing regulations that still contain loopholes exploitable by business actors, potentially harming small and medium-sized enterprises. Sopyan Hadi, Ari Rahmad Hakim, Diman Ade Mulada<sup>10</sup>, Legal protection for medium-sized enterprises (MSMEs) highlights the critical role of the government in addressing this issue, as many business actors continue to violate regulations, thereby disadvantaging small business operators. Rahmat<sup>11</sup>, the practice of market dominance by business actors can harm consumers by limiting their choices. Therefore, it is essential for the KPPU, as the competition oversight body, to implement stricter regulations and oversight in addressing such practices. The distinction or unique discussion in this study, compared to existing journals addressing market dominance violations in the e-commerce sector, lies in its scope. In addition to discussing market dominance, this study also examines the integrity pacts involved when business actors engaging in market dominance violations breach their commitments. This issue highlights the existing loopholes that can still be exploited. Therefore, this study also addresses the impact of integrity pacts and emphasizes the need for appropriate penalties and new regulations to address these concerns effectively.<sup>12</sup>

The criteria applied to Shopee and Shopee Express relate to the provisions of market dominance as stipulated in Article 19, as their actions include restricting competitors from competing in the market and engaging in discriminatory practices by prioritizing Shopee Express within the e-commerce ecosystem. This behavior limits market competition and affects both business operators and consumers in selecting their preferred services. Additionally, the violation also concerns Article 25 due to the abuse of dominant position exercised by Shopee as a key player in the e-commerce sector. This conduct adversely impacts competition because third-party logistics service providers may suffer losses as a result of vertical integration implemented by Shopee and Shopee Express. The Indonesia Competition Commission or KPPU applies the rule of reason principle, evaluating comprehensively whether Shopee and Shopee Express's actions negatively affect the market and fair business competition. However, the integrity pact enforced by KPPU on regulatory violators does not yield significant impact. This is because the integrity pact allows violators an opportunity to change their behavior without imposing stricter sanctions. Ideally, KPPU, as the supervisory authority for business competition, should impose more severe penalties, such as monetary fines, rather than merely monitoring violators and encouraging behavioral changes. The lack of such deterrents could lead other business actors to perceive that violations result only in

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<sup>9</sup> Tri Widya Kurniasari Kurniasari and Arif Rahman, "Perlindungan Hukum Bagi Pelaku Usaha Umkm Terhadap Penyalahgunaan Posisi Dominan Platform Digital : Marketplace Melalui Penetapan Harga Dan Penguasaan Pasar," *REUSAM: Jurnal Ilmu Hukum* 10, no. 2 (2023): 131, <https://doi.org/10.29103/reusam.v10i2.9577>.

<sup>10</sup> Sopyan Hadi, Ari Rahmad Hakim B.F., and Diman Ade Mulada, "Perlindungan Hukum Usaha Mikro Kecil Dan Menengah (UMKM) Terhadap Praktik Monopoli Dilihat Dari Perspektif Hukum Persaingan Usaha," *Commerce Law* 2, no. 1 (2022), <https://doi.org/10.29303/commercelaw.v2i1.1345>.

<sup>11</sup> Rahmat, "Tinjauan Hukum Terhadap Praktek Penguasaan Pasar," *Jurnal Hukum Non Diskriminatif (JHND)* 1, no. 1 (2022): 20-26, <https://doi.org/10.56854/jhnd.v1i1.42>.

<sup>12</sup> Jinglin Xiang, "Market Disputes and Government Intervention: An Explanatory Framework of Risk Transformation," *The Journal of Chinese Sociology* 7, no. 3 (2020), <https://doi.org/10.1186/s40711-020-0115-z>.

supervisory measures and behavioral corrections, without any financial repercussions. Consequently, this fails to create a strong deterrent effect.

## 2. Methods

The type of research employed in this legal study is normative legal research. Normative legal research aims to identify the legal rules governing the authority of the KPPU in addressing market dominance practices. In this study, the normative approach is utilized to seek solutions to the legal issues at hand. The results of this research provide recommendations regarding the formulated problems, namely whether the market dominance practices by Shopee Express and Shopee violate the provisions of Articles 19 and 25 of Law No. 5/1999, as amended by Law No. 6/2023, and what actions KPPU should take in response to this case. As explained by Peter Mahmud Marzuki, normative legal research is conducted through a process of identifying laws, legal principles, or doctrines that are relevant in resolving or addressing the legal issues being discussed.

## 3. Results and Discussion

### 3.1. Analysis of Violations of Articles 19 and 25 Law No. 5/1999 by Shopee and Shopee Express

The emergence of e-commerce platforms such as Shopee in Indonesia has introduced complex challenges concerning fair business competition. Shopee, recognized as one of the largest players in the industry, has strengthened its position by launching an internal logistics service known as Shopee Express. This move signifies the implementation of a vertical integration strategy, where Shopee functions not only as a digital commerce platform but also as a provider of delivery services. This integration grants Shopee full control over the supply chain, from product orders to doorstep delivery. Theoretically, this enhances operational efficiency; however, in practice, such vertical integration can create significant barriers to competition.<sup>13</sup>

The rapid growth of e-commerce in Indonesia, dominated by major platforms such as Shopee, has significantly transformed consumption patterns and the logistics business in the country. Shopee, through its internal logistics service, Shopee Express, employs a vertical integration strategy that allows it to control the entire supply chain from product orders to delivery to consumers. While this integration offers operational efficiency, it poses substantial challenges to fair business competition and raises potential violations of Articles 19 and 25 of Law No. 5/1999. Article 19 of Law No. 5/1999 prohibits actions that obstruct other business actors from conducting their activities. In this case, Shopee's policies that prioritize Shopee Express in various aspects of its e-commerce ecosystem appear to create an imbalance in market access. Several policies implemented by Shopee, such as offering exclusive services to sellers who use Shopee Express, providing special incentives, and adjusting algorithms to encourage consumers to select Shopee Express as the primary option, create barriers for independent logistics partners to compete effectively.<sup>14</sup> In a fair ecosystem, third-party logistics partners should have equal access and opportunities to compete fairly. However,

<sup>13</sup> Ahmad Safril Mubah et al., "Problem Dasar Kesenjangan Digital Di Asia Tenggara," *Jurnal Global & Strategis* 10, no. 2 (2017): 204, <https://doi.org/10.20473/jgs.10.2.2016.204-220>.

<sup>14</sup> Anna Marina, "Kebijakan Monopoli Dalam Perekonomian Indonesia," *Universitas Muhammadiyah Surabaya* 15, no. 1 (2017): 56-73.

with the preferential treatment given to Shopee Express, Shopee risks creating a monopoly over logistics services within its platform<sup>15</sup>. This not only disadvantages smaller logistics providers, who lose the opportunity to participate on equal terms, but also negatively impacts consumer choices, which become limited to a single service provider. Such vertical integration strategies are often employed by large companies to control market access, resulting in the elimination of smaller competitors. If not properly regulated, these practices can distort the market, leaving only large companies with abundant resources able to survive.<sup>16</sup>

Article 25 of Law No. 5/1999 explicitly prohibits the abuse of a dominant position by business actors. Such violations include but are not limited to, the imposition of unfair pricing, reduction in service quality, or restricting access for other business actors to compete. Shopee, with its dominance in the e-commerce sector and Shopee Express in the logistics sector, leverages its position to attract consumers in ways that diminish competitive opportunities. One tactic employed is predatory pricing, where Shopee offers delivery rates significantly below market prices to attract consumers and sellers away from independent logistics services.<sup>17</sup> While predatory pricing can benefit consumers in the short term through lower costs, this strategy poses serious long-term risks. Once smaller logistics competitors are driven out of the market, Shopee gains the freedom to raise prices without the threat of competition, ultimately harming consumers with uncontrolled price increases. Strong market dominance often stifles innovation, as large companies lose the incentive to continuously improve their services when competition diminishes. In Shopee's context, the dominance of Shopee Express may hinder the development of innovative solutions in the logistics sector by independent logistics providers who lack the same access and support.<sup>18</sup>

Shopee Express, while offering faster delivery and lower costs, creates a dependency that makes consumers vulnerable to future price manipulation. Over time, the lack of competitive delivery service alternatives can reduce consumer flexibility, depriving them of the ability to tailor logistics services to their needs. This contravenes the principles of fair competition as stipulated in Law No. 5/1999, which aims to protect consumers and ensure they have broad access to affordable and high-quality service options. For small business operators, particularly independent logistics partners, Shopee's vertical integration poses a serious threat to the sustainability of their businesses. The loss of opportunities to compete fairly places small logistics companies at risk of being excluded from the market, ultimately reducing the diversity of logistics service providers and lowering the overall quality of services within the e-commerce ecosystem. Dependency on a single dominant provider, such as Shopee

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<sup>15</sup> Peicheng Wu, Charlie Xiao-chuan Weng, and Sally-Ann Joseph, "Crossing the Rubicon? The Implications of RCEP on Anti-monopoly Enforcement on Dominant E-commerce Platforms in China," *Computer Law & Security Review* 42 (September 2021): 105608, <https://doi.org/10.1016/j.clsr.2021.105608>.

<sup>16</sup> Eris Joni Alviansyah, "Perjanjian Tertutup Dan Penguasaan Pasar Dalam Prespektif Hukum Persaingan Usaha (Studi Perkara Putusan 22/KPPU-I/2016)," *Jurist-Diction* 3, no. 5 (2020): 1663, <https://doi.org/10.20473/jd.v3i5.21972>.

<sup>17</sup> Eka Junila Saragih, "Konsep Monopoli Dalam Tinjauan Bisnis Islam Eka Junila Saragih Fakultas Syariah Dan Ekonomi Islam IAIN Pontianak," *Al Maslahah* 13, no. 2 (2017): 267-84.

<sup>18</sup> Effendi, "Pengawasan Dan Penegakan Hukum Terhadap Bisnis Digital (E-Commerce) Oleh Komisi Pengawas Persaingan Usaha (KPPU) Dalam Praktek Persaingan Usaha Tidak Sehat."

Express, also threatens the long-term stability of Indonesia's logistics sector, which could lose the innovation and operational efficiency typically driven by healthy competition.<sup>19</sup>

On one hand, consumers may enjoy the benefits of low shipping costs and fast delivery offered by Shopee Express. However, the dependency formed on a single dominant entity poses long-term disadvantages.<sup>20</sup> As Shopee Express begins to dominate the market, consumer choices become increasingly limited, potentially forcing them to use logistics services priced and controlled by the dominant entity. This creates a risk of future price increases or a decline in service quality. The Competition Dynamics in the E-Commerce Era highlight that healthy competition is essential to ensure that prices remain affordable and services maintain high quality.<sup>21</sup> For these reasons, the KPPU should adopt stricter and more decisive measures against business actors who violate competition laws. If left unchecked, such practices could result in significant harm to consumers, perpetrated by businesses deliberately seeking to dominate the market.<sup>22</sup> By enforcing stricter regulations, KPPU can minimize violations by businesses and protect consumers from the adverse effects of market domination by unscrupulous companies or enterprises. For small business operators, particularly independent logistics partners, this situation poses a significant threat. They lose the opportunity to compete fairly, which undermines the stability and sustainability of their businesses and diminishes their motivation to innovate. Consequently, innovation in the logistics sector risks stagnation, as smaller players lack the incentive to improve their services in a market dominated by a single major player.<sup>23</sup>

To maintain fair business competition in the e-commerce and logistics sectors, several measures should be undertaken:

1. Monitoring by KPPU, the KPPU must take decisive steps to monitor and investigate alleged monopolistic practices by Shopee and Shopee Express. Comprehensive audits should be conducted to ensure that no discriminatory policies hinder market access for small business operators.
2. Regulation of Vertical Integration, the government should strengthen regulations on vertical integration to restrict large companies from exclusively prioritizing their internal services. These regulations could include obligations to ensure that access to the logistics market is fairly open to all players, without granting undue advantages to internal services.
3. Consumer Education, raising consumer awareness about the impact of market dominance is essential. Consumers need to understand that their choices can influence

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<sup>19</sup> Dewi Pertiwi, "Penguji Efisiensi Pasar Dan Tingkat Konvergensi Harga Komoditas Kopi Arabika Dan Kopi Robusta (Studi Kasus Pada Pasar Komoditas Berjangka Di Indonesia)," *Jurnal Manajemen Pemasaran* 9, no. 2 (2016): 43-53, <https://doi.org/10.9744/pemasaran.9.2.43-53>.

<sup>20</sup> <https://doi.org/10.1016/j.econlet.2024.111901>

<sup>21</sup> 'ainul Imronah, "Struktur Pasar dan Persaingan Harga Pasar Persaingan Sempurna (Tinjauan Ekonomi Islam)," *J-EBI: Jurnal Ekonomi Bisnis Islam* 1, no. 01 (2022): 26-35, <https://doi.org/10.57210/j-ebi.v1i01.116>.

<sup>22</sup> Gang Li and Yongan Jiang, "Market Competition and Firm Behavior: A Comprehensive Study on the Impact of Antimonopoly Law," *Finance Research Letters* 67 (2024), <https://doi.org/10.1016/j.frl.2024.105842>.

<sup>23</sup> Erwin Asmadi, "Aspects of Legal Protection for Consumers in the Use of Electronic Payment Applications," *Doktrina: Journal of Law* 1, no. 2 (2018): 90-103, <http://ojs.uma.ac.id/index.php/doktrina>.

market competition. With sufficient information, consumers can support companies that promote fair competition and make more informed decisions when selecting logistics services. This, in turn, exerts pressure on large companies to maintain fair pricing and high service quality.<sup>24</sup>

PT Shopee International Indonesia (Shopee) and PT Nusantara Ekspres Kilat (Shopee Express), as Respondent I and Respondent II, are considered to have violated Article 19 of Law No. 5/1999 in relation to courier service delivery on the Shopee platform. The violations committed by Shopee and Shopee Express pertain to discriminatory practices and abuse of a dominant position in courier services. Article 19(d) of Law No. 5/1999 prohibits business actors from engaging in activities that may result in unfair business competition. According to the KPPU, buyers on the Shopee Indonesia platform, after selecting a product, should have the option to choose a courier service freely. However, KPPU investigators found that the subsidiary of Sea Ltd had implemented an algorithm that prioritizes certain courier services, such as SPX Express and J&T, for the delivery of purchased goods, over other courier service options. Through these measures, it is hoped that Indonesia's e-commerce ecosystem can develop inclusively and sustainably, providing equitable benefits to all business actors and consumers in the market.

### 3.2. Actions That Can Be Taken

To maintain fair business competition and prevent monopolistic practices by large companies such as Shopee through Shopee Express, various measures must be taken, particularly by the KPPU as the supervisory authority. These steps are crucial not only to ensure the sustainability of a competitive market but also to protect consumers and small business operators within Indonesia's e-commerce and logistics ecosystem. Strengthening Oversight by the KPPU as the regulatory body overseeing business competition, KPPU plays a vital role in monitoring business activities that may hinder fair competition. KPPU must intensify its oversight of Shopee's vertical integration practices. This can be achieved by conducting comprehensive audits of Shopee's policies, particularly those that prioritize Shopee Express on its platform, such as special incentives or algorithm adjustments that may disproportionately benefit its internal logistics services.

If evidence of violations of Articles 19 and 25 of Law No. 5/1999 is found, KPPU should impose strict sanctions on Shopee to deter similar actions in the future. Additionally, KPPU must enhance its monitoring capabilities through collaboration with other ministries and agencies to ensure that all practices by major companies align with the principles of fair competition and do not harm small business operators.<sup>25</sup> Development of Specific Regulations for Managing Vertical Integration in E-commerce. The government needs to develop more specific regulations to address vertical integration practices within the e-commerce sector. These regulations should be designed to limit monopolistic actions by large companies through their internal services, such as Shopee Express, which leverages market power to hinder access for small business operators. Regulations governing vertical integration in the

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<sup>24</sup> alberto Abadie, Joshua Angrist, and Guido Imbens, "NoTitle" 19, no. 11 (1999): 1649-54.

<sup>25</sup> Reka Dewantara and Sukarmi, "Potential Vulnerability To Corruption in Government Procurement: Prospects for Fair Competition," *Jurnal Persaingan Usaha* 4, no. 1 (2024): 71-76, <https://doi.org/10.55869/kppu.v4i1.149>.



e-commerce sector, including Shopee, must encompass provisions ensuring transparency, fairness, and sustainability. Transparency should be a primary obligation, requiring companies like Shopee to disclose their policies, particularly those related to algorithms that may prioritize their internal services. Furthermore, regulations must prohibit service discrimination that grants exclusive benefits to major companies, thereby preventing restrictions on access for third-party logistics providers. Such measures are essential to fostering a more equitable competitive environment within the e-commerce logistics ecosystem. Equally critical is the oversight of predatory pricing practices. Governments must ensure that companies do not set prices excessively low with the intent to eliminate competitors. For example, Shopee Express should be prevented from offering unreasonably low shipping rates that threaten the viability of independent logistics providers. By implementing these regulations, governments can balance the interests of various stakeholders, including consumers, large corporations, and small business actors, while preserving the integrity of the e-commerce and logistics markets in Indonesia.

### 3.3. Integrity Pact Between KPPU and Shopee

To ensure fair business competition and prevent potential abuse of a dominant position by Shopee<sup>26</sup>, the KPPU may consider adopting an approach through the establishment of an Integrity Pact. This integrity pact would serve as a binding agreement between KPPU and Shopee, aiming to ensure that Shopee adheres to the principles of fair competition as mandated by Law No. 5/1999. The integrity pact is intended to enhance Shopee's transparency and accountability in its business practices, particularly concerning its Shopee Express service. Through this pact, Shopee would commit to refraining from policies or actions that could hinder business competition, block market access for small business operators, or limit consumer choices. An integrity pact offers significant benefits in promoting fair competition and accountability in the e-commerce sector, particularly concerning Shopee's business practices. One key advantage is the prevention of abuse of a dominant position. By committing to this pact, Shopee is expected to refrain from engaging in anti-competitive practices such as predatory pricing or discriminatory actions that disadvantage independent logistics providers.<sup>27</sup> This agreement serves as a safeguard against policies that could harm market competitors. Additionally, the integrity pact enhances operational transparency by requiring Shopee to submit regular reports to the KPPU. These reports would detail policies involving special incentives, exclusive promotions, or algorithms designed to favor Shopee Express, enabling KPPU to closely monitor and assess the competitive implications of Shopee's activities. Moreover, the integrity pact strengthens KPPU's capacity for oversight and enforcement. With this framework in place, KPPU gains a robust mechanism to hold Shopee accountable and impose sanctions for breaches of the agreed-upon commitments.

A fundamental component of the integrity pact is Shopee's explicit obligation to adhere to Articles 19 and 25 of Law No. 5/1999. Article 19 Law No. 5/1999 prohibits business entities from engaging in conduct that restricts or impedes the access of competitors to the market,

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<sup>26</sup> Gaby Romauli Simarmata et al., "The Analysis of Predator Pricing at Shopee Based on Business Competition Law," *Formosa Journal of Science and Technology* 2, no. 6 (June 30, 2023): 1609–16, <https://doi.org/10.55927/fjst.v2i6.4313>.

<sup>27</sup> Simarmata et al.

while Article 25 Law No. 5/1999 prohibits the abuse of a dominant position. By committing to these statutory obligations, Shopee undertakes to ensure that its commercial practices do not marginalize smaller competitors or logistics providers. This commitment is instrumental in promoting a marketplace characterized by competitive neutrality and economic inclusivity.<sup>28</sup> The pact further addresses the issue of predatory pricing, a pernicious practice wherein prices are artificially suppressed to eliminate competition. Shopee is expressly prohibited from engaging in pricing strategies designed to distort market equilibrium or jeopardize the viability of independent logistics providers. By eschewing such anti-competitive practices, Shopee contributes to the establishment of a stable and predictable market environment. This ensures that price-setting mechanisms remain governed by legitimate market forces rather than being subverted by strategic undercutting. Non-discrimination emerges as another critical tenet of the pact. Shopee is prohibited from implementing policies or practices that confer undue preference upon Shopee Express, its proprietary logistics service, to the detriment of other logistics providers. This includes refraining from algorithmic manipulation that would divert consumers disproportionately toward Shopee Express. The prohibition on such discriminatory practices seeks to uphold the principle of equal treatment, ensuring that all logistics providers operate under conditions of competitive parity. By safeguarding these principles, the pact mitigates risks of monopolistic behavior and reinforces the integrity of the market. The requirement of periodic reporting and operational transparency is a cornerstone of the integrity pact's enforcement framework. Shopee is mandated to submit regular reports to KPPU detailing its logistics-related policies and practices. These reports enable KPPU to scrutinize Shopee's compliance with the pact's stipulations and identify any deviations from fair competition principles. The emphasis on transparency serves to reinforce accountability and facilitates regulatory oversight, thereby fostering a culture of compliance within the e-commerce sector. To ensure the pact's enforceability, robust mechanisms for addressing breaches have been instituted. In the event of non-compliance, KPPU is vested with the authority to impose administrative sanctions, including pecuniary penalties, in accordance with prevailing legal frameworks. Furthermore, KPPU may issue cease-and-desist orders or other remedial directives aimed at curtailing anti-competitive practices. In instances of egregious or recurrent violations that materially disrupt market dynamics, KPPU retains the discretion to recommend more severe measures, such as restricting Shopee's operations within the logistics sector. These enforcement provisions serve as a deterrent against non-compliance, ensuring adherence to the principles enshrined in the pact. The anticipated impact of the integrity pact on the broader e-commerce ecosystem is substantial. By embedding the principles of fair competition into its operational framework, the pact enhances market transparency and bolsters consumer trust. Consumers are poised to benefit from an expanded array of choices, competitive pricing, and improved service quality. Concurrently, market participants, including smaller logistics providers, gain a more level playing field, enabling them to compete on merit rather than being undermined by inequitable practices. Moreover, the pact serves as a precedent for regulatory intervention in addressing structural imbalances

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<sup>28</sup> Zulvia Makka, "Bentuk Perlindungan Hukum Pelaku Usaha Pesaing Terhadap Posisi Dominan Dalam Penerapan Rule of Reason," *Jurnal Persaingan Usaha* 1, no. 2 (2021): 5-14, <https://doi.org/10.55869/kppu.v2i.30>.

within emerging sectors. It underscores the pivotal role of legal and regulatory instruments in curbing monopolistic tendencies and fostering market pluralism. By addressing systemic issues such as predatory pricing, discriminatory practices, and opacity, the pact contributes to the realization of a more equitable and sustainable economic framework.

The integrity pact is expected to have positive impacts on Indonesia's e-commerce and logistics ecosystem. Shopee's commitment to adhering to fair competition principles is anticipated to create a more balanced market environment. Independent logistics providers will be able to compete fairly, which in turn encourages innovation and improves the quality of services offered to consumers. Additionally, Shopee's operational transparency assures that consumers will have access to a diverse range of services at competitive prices.<sup>29</sup> This integrity pact is not only a significant step in preventing anti-competitive practices by Shopee but also sets a precedent for other major companies to conduct their businesses in line with the principles of fair competition. It is expected to foster the growth of a sustainable, inclusive, and mutually beneficial digital ecosystem.

However, the establishment of an integrity pact alone does not guarantee that business actors will refrain from engaging in unlawful conduct, as such violations have occurred repeatedly. Therefore, KPPU, as the regulatory authority for business competition, should adopt stricter measures to address this issue. For instance, imposing fines on business actors who commit violations before entering into an integrity pact with KPPU. Such an approach is expected to deter business actors from engaging in unlawful practices that violate existing regulations and ensure compliance with the principles of fair competition.

#### 4. Conclusions

This study examines the impact of Shopee's vertical integration strategy through Shopee Express on business competition in Indonesia. Shopee, as one of the largest e-commerce platforms, leverages its control over the logistics chain to enhance its efficiency and competitiveness. However, this practice poses risks to fair competition, particularly by limiting access for independent logistics providers and reducing consumer choices, potentially violating Articles 19 and 25 of Law No. 5/1999. Through stricter oversight by the KPPU and the implementation of an integrity pact between KPPU and Shopee, these issues can be mitigated. The integrity pact serves as an agreement for Shopee to adhere to fair competition principles and enhance transparency. Furthermore, specific regulations are needed to oversee vertical integration in this sector, along with consumer education and support for small business operators to remain competitive. With these measures, a fairer and more sustainable e-commerce ecosystem is expected to emerge, benefiting all stakeholders involved.

#### 5. Acknowledgments

The author extends gratitude to the Universitas 17 Agustus 1945 Surabaya, particularly to my supervisor, Mrs. Rosalinda Elsin Latumahina, for her guidance and the knowledge imparted to me throughout this process. With this support, the author hopes that this academic work can contribute positively to the development of knowledge, especially in the

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<sup>29</sup> Rohmat, "Urgensi Pembentukan Undang-Undang Pasar Digital Sebagai Instrumen Pengawasan Persaingan Usaha Di Era Digital," *Jurnal Persaingan Usaha* 2, no. 2 (2022): 118-26, <https://doi.org/10.55869/kppu.v2i2.76>.

field of law, and serve as a resource to assist the KPPU in addressing business competition issues as a regulatory enforcement institution.

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