

INTEGRATION OF THE AUTHORITY OF THE BUSINESS COMPETITION SUPERVISORY COMMISSION IN HANDLING CRIMES IN THE ECONOMIC FIELD

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Article Info	Abstract
<p>Article History Received : 2024-09-03 Revised: 2024-09-05 Published: 2024-10-01</p> <p>Keywords: <i>KPPU, economic crimes, integration of authority.</i></p>	<p>This study discusses the importance of integrating the authority of the Business Competition Supervisory Commission (KPPU) in handling economic crimes in Indonesia. Currently, KPPU's authority is limited to administrative aspects, making it difficult to handle complex cases such as corruption and money laundering. It is necessary to expand KPPU's authority to investigate and prosecute perpetrators of economic violations that have an impact on business competition. Harmonization of regulations and increased coordination with institutions such as the Police and the KPK are also needed for more effective law enforcement. In addition, increasing the technical capacity and human resources of KPPU is expected to create a fair, conducive business environment that supports sustainable economic growth in Indonesia.</p>

I. INTRODUCTION

The KPPU's authority in handling economic crimes has important relevance to the economic perspective stated in the Indonesian Constitution. Article 33 of the 1945 Constitution outlines that the Indonesian economy must be based on the principle of family and aim for the greatest prosperity of the people. In this context, the KPPU plays a role in upholding the principles of a just economy and preventing unhealthy practices such as monopolies, cartels, or tender rigging that damage business competition. The KPPU ensures that branches of production that affect the livelihoods of many people are not controlled by certain groups for personal gain, but are managed for the common welfare. By maintaining healthy competition, the KPPU not only enforces the rules, but also realizes the constitutional mandate in creating people's welfare and ensuring that the economy is managed with the principles of justice and togetherness.

The Business Competition Supervisory Commission (KPPU) is an institution mandated to supervise and regulate business competition in Indonesia, with the aim of creating a healthy and fair economic environment for all business actors. Since its establishment based on Law Number 5 of 1999, KPPU has been actively handling business competition violations such as monopolies and cartels. However, the complexity of recent economic crimes, such as corruption, money laundering, and fraud, shows the need to expand the role of KPPU through the integration of its

authority with criminal law enforcement to address broader economic impacts and increase investor confidence. Money laundering, on the other hand, is an attempt to hide the origins of illegal funds through activities that appear legitimate. Cartel and fraudulent practices can also lead to unreasonable prices, reduce consumer choice, and hinder healthy market growth.

Economic crimes such as insider trading, embezzlement, market manipulation, cybercrime, and intellectual property violations demonstrate the need to integrate KPPU's authority with criminal law enforcement. KPPU currently only has the authority to handle unfair business competition, while other economic crimes are often outside its authority. Lack of coordination with institutions such as the Police, Prosecutors' Office, and KPK as well as non-integrated regulations make law enforcement less than optimal. Therefore, it is important for KPPU to have broader authority and improve coordination between law enforcement institutions.

KPPU needs to have the authority to investigate, prosecute, and impose sanctions on perpetrators of economic crimes that affect business competition, and work closely with other law enforcement agencies such as the Police, the Prosecutor's Office, and the Corruption Eradication Commission through efficient cooperation mechanisms and smooth information exchange. Regulations related to business competition and economic crimes must be

harmonized to eliminate overlaps, creating a more consistent legal path. To achieve this, KPPU must increase human and technical resource capacity, use advanced information technology and data analysis, and raise public awareness of the importance of healthy business competition.

This research has important implications for the development of legal theory and norms, especially in enriching the competition law literature by adding the perspective of integrating KPPU's authority in economic crimes. This can broaden the scope of competition law theory to include the interaction between business competition and economic crimes, and become the basis for developing new, more comprehensive and integrated legal norms. This research also contributes to increasing the effectiveness of law enforcement by identifying weaknesses in the current legal framework and providing recommendations for regulatory harmonization, increasing institutional capacity, and utilizing technology. The integration of KPPU's authority in handling economic crimes is expected to create a fairer, more transparent, and more conducive business environment for sustainable economic growth, while strengthening KPPU's role as a supervisor of business competition and building the foundation of a globally competitive national economy.

II. RESEARCH METHODS

This study uses a normative legal method that aims to analyze the laws and regulations related to the authority of the Business Competition Supervisory Commission (KPPU) in enforcing the law against economic crimes in Indonesia. With an approach that includes a review of legislation, case analysis, and a conceptual approach, this study focuses on Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, and its derivative regulations. This study examines how the existing legal framework supports or limits the authority of the KPPU, by collecting data from various legal documents and relevant case studies.

The data used in this study include primary legal materials such as laws and court decisions, as well as secondary legal materials from literature and legal journals. Data collection techniques are carried out through literature and documentation studies, which are then analyzed qualitatively with a descriptive-analytical approach. The analysis process includes data

description, identification of patterns and trends, and interpretation of results to provide policy recommendations that support the integration of KPPU's authority in handling economic crimes. The results of this study are expected to provide significant contributions to policy development and increasing the effectiveness of law enforcement in Indonesia.

III. RESULTS AND DISCUSSION

A. KPPU's Authority in Handling Economic Crime Cases

KPPU has the authority to handle and supervise business competition, in accordance with Article 2 of Presidential Decree No. 75 of 1999. The purpose of establishing KPPU is to supervise the implementation of Law No. 5 of 1999 concerning the prohibition of unfair business competition practices. KPPU has several important authorities regulated in the law, including conducting investigations, examinations, and imposing administrative sanctions on violators. However, this authority is limited to administrative aspects, and does not include criminal law enforcement. This is often a major obstacle in KPPU's efforts to take firm action against perpetrators of business competition violations that have a major impact.

One aspect of concern is the inability of the KPPU to conduct searches independently. In countries with common law systems such as the United States and Australia, competition supervisory bodies have broader authority, including the ability to conduct searches and confiscate evidence directly. This authority allows them to collect evidence more effectively and speed up the law enforcement process.

The limited authority of the KPPU to conduct searches and seizures is often a major weakness in the enforcement of competition law in Indonesia. The KPPU must rely on the assistance of the police to carry out these actions, which are not always quickly accessible. As a result, there is a risk that important evidence may be lost or manipulated before the KPPU can take the necessary action.

KPPU has an important role in handling business competition violations, but obstacles such as long and complex legal processes often reduce the effectiveness of law enforcement, especially when business actors exploit legal loopholes to avoid sanctions. Therefore, it is necessary to update the law that expands KPPU's authority, including the authority to conduct

searches and seizures independently, so that KPPU can act more quickly and effectively. In addition, strengthening coordination between KPPU and other law enforcement agencies with clear cooperation mechanisms and procedures is also needed to ensure that the law enforcement process runs more efficiently. These steps are expected to improve KPPU's ability to maintain healthy business competition in Indonesia and provide a stronger deterrent effect for violators.

A cartel is a type of economic crime involving an agreement between business actors to regulate prices, divide the market, or reduce production with the aim of controlling the market and harming consumers. Article 5 of Law No. 5 of 1999 explicitly prohibits agreements that set the price of certain goods and/or services that can result in unfair business competition. KPPU has the authority to investigate, examine, and impose sanctions on business actors who are proven to be involved in a cartel. Article 36 letter c stipulates that KPPU can conduct an investigation into this alleged violation.

The authority of the KPPU in handling economic crimes can be linked to the protection of trade secrets in the context of healthy business competition. The KPPU plays a role in ensuring that there are no monopolistic practices and unfair competition, as regulated in Law Number 5 of 1999. Trade secrets, as part of information with economic value, can be a component that is misused by business actors to gain unfair advantages, for example in collusion or tender rigging. The KPPU has the authority to take action against companies that use trade secrets illegally to suppress competitors, either by imposing administrative sanctions or reporting them to other law enforcement agencies. Thus, coordination between the KPPU and the protection of trade secrets is important to maintain market integrity and ensure that the use of information does not harm healthy business competition.

In the context of law enforcement, the KPPU's success in dealing with cartels is highly dependent on its ability to collect strong evidence. However, the KPPU's limited authority, such as the inability to conduct searches independently, is often an obstacle. The KPPU must work with the Police to access evidence that may be hidden by business actors, such as documents or internal communications that indicate collusion. Article 43 paragraph (2) gives the KPPU the right to request assistance from the Police in this action, but this

dependence can slow down the law enforcement process.

Monopoly occurs when one business actor controls the market for a particular product or service, thereby eliminating or inhibiting competition. Article 17 of Law No. 5 of 1999 prohibits monopolies and abuse of dominant positions that can harm consumers and inhibit business competition. KPPU has the authority to examine monopolistic practices carried out by business actors and can impose administrative sanctions if proven to be in violation. Article 25 paragraph (1) also prohibits abuse of dominant positions by business actors.

In prosecuting monopoly cases, the KPPU needs to conduct an in-depth market analysis to determine whether the business actor truly controls the market and whether there is any abuse of that position. The Law Enforcement Theory shows that without adequate law enforcement tools, such as the authority to conduct in-depth audits or compel the disclosure of relevant information, the KPPU may face difficulties in proving these monopoly cases. Article 36 letter d gives the KPPU the authority to examine the means of production and/or means of distribution that are suspected of being used to commit violations.

Bid rigging is a practice in which several business actors collude to manipulate the outcome of a tender process to benefit certain parties. Article 22 of Law No. 5 of 1999 prohibits business actors from colluding with other parties to arrange or determine the winner of a tender, which can result in unfair business competition. The KPPU has the authority to investigate and take action against this violation, including summoning witnesses and requesting related documents to prove the existence of a conspiracy.

KPPU's law enforcement in cases of tender rigging and price discrimination emphasizes the importance of transparency and access to information. KPPU must identify patterns of collusion, such as suspicious bids, and use its authority under Article 36 to request information and examine evidence. In addition, price discrimination is prohibited by Article 6 of Law No. 5 of 1999, and KPPU is tasked with investigating violations that harm consumers. Article 36 also regulates KPPU's authority to collect evidence and take action against such violations.

Corporate crimes, such as cartels, monopolies, and bid rigging, are types of non-violent crimes that have a major impact on the

economy and society. These crimes are often committed by large corporations that have significant economic power, allowing them to dominate the market and harm fair competition. In addition to undermining economic stability, these practices also lower moral standards because they involve the abuse of power for illegitimate gain. However, challenges such as the difficulty of holding corporations criminally accountable and inconsistent regulations require integrative efforts. Penal and non-penal approaches, including administrative sanctions, regulatory reform, and integration of enforcement actions, are needed to provide an effective deterrent effect and maintain market integrity. Therefore, the authority of the KPPU is relevant to prosecute and prevent unfair economic practices, ensure that corporations do not abuse their power, and maintain fair and transparent business competition for the sake of market integrity and economic welfare.

Extraterritoriality in the enforcement of competition law becomes important as the Indonesian economy becomes more integrated with the global economy. KPPU, as the implementer of Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, plays a role in various trade cooperation negotiations with countries such as Japan, Australia, New Zealand, and international organizations such as ASEAN and OPEC. Law enforcement shows that KPPU's current authority, which is limited to administrative aspects based on Law No. 5 of 1999, is still inadequate to handle complex economic crimes. Article 36 only provides the authority for administrative sanctions without criminal action, so close cooperation is needed with other law enforcement agencies such as the Police and the Prosecutor's Office. Article 44 allows KPPU to refer cases to law enforcement if there are criminal elements, but poor coordination often hinders law enforcement. Reforms to strengthen KPPU's authority and improve coordination between institutions are needed so that law enforcement against economic violations becomes more effective and faster.

B. Forms of Authority Relations Between State Institutions in Handling Economic Crimes

The relationship of authority between state institutions in handling economic crimes is highly dependent on effective synergy and coordination. In the context of handling anti-dumping, the

involvement of several institutions such as the Ministry of Finance, the Ministry of Trade, and the Indonesian Anti-Dumping Committee (KADI) shows the importance of cross-institutional collaboration. These institutions work together to identify and take action against dumping practices that are detrimental to the domestic industry, ensuring effective implementation of regulations. The same thing also happens in handling economic violations by the KPPU, where coordination is needed with law enforcement agencies such as the Police and the Prosecutor's Office so that law enforcement can run optimally. Thus, synergy between these state institutions is needed to ensure that economic crimes can be handled comprehensively and effectively, protecting the national economy from the negative impacts of unfair trade practices.

In the context of economic crimes, the Police, as a law enforcement agency, have the authority to conduct investigations and inquiries into economic crimes. The KPK has special authority in handling corruption, including corruption that occurs in the economic sector, as data from 33 cases handled by the KPK in 2005, as many as 24 cases or around 77% were corruption related to government procurement of goods and services, both at the Central Government and Regional Government levels.

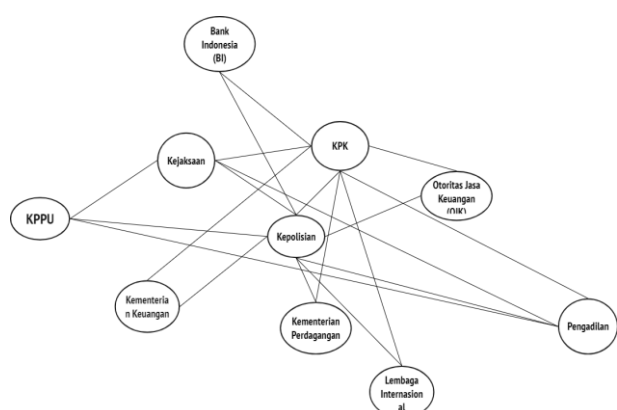
KPPU, on the other hand, has an important role in overseeing healthy business competition and preventing monopolistic practices and cartels. One of them can be seen in Chapter V of Perkom No. 2/2010, which states that if tender collusion involves civil servants or state administrators, KPPU can report it to the superiors of the employees or law enforcement agencies such as the Prosecutor's Office and the Corruption Eradication Commission (KPK). This shows that tender collusion handled by KPPU can also be related to corruption crimes under the authority of the KPK. KPPU will process the perpetrators of the conspiracy and can impose administrative sanctions on the corporations involved. However, if government officials are involved in arranging the tender process or accepting bribes/gratifications, the KPK can prosecute them in the corruption criminal justice system. However, the success of law enforcement does not only depend on KPPU and the Prosecutor's Office, but also on the role of the Court in ensuring that justice is upheld.

Based on its authority, KPPU can only impose administrative sanctions. For business actors who are proven to have committed

violations related to criminal sanctions, KPPU can only provide recommendations or report the case to other agencies, such as the Police, KPK, or the Prosecutor's Office, to be followed up separately. KPPU also has the authority to refer the case to the authorized law enforcement agency.

The relationship of authority between state institutions in handling economic crimes needs to be supported by good coordination, information exchange, and collaboration, including with international institutions for cases involving multinational companies. The main challenge is the difference in procedures and priorities between institutions, which can be overcome by forming a forum or task force to improve coordination. This relationship is important to ensure effective, fair, and consistent law enforcement for the sake of economic stability and protection of public interests.

Diagram. Form of Authority Relationship Between State Institutions in Handling Economic Crimes



The relationship of authority between state institutions in handling economic crimes in Indonesia is regulated by several laws, such as the Criminal Procedure Code (Law No. 8 of 1981), the Corruption Eradication Commission Law (Law No. 30 of 2002 revised by Law No. 19 of 2019), and the Law on the Prohibition of Monopolistic Practices (Law No. 5 of 1999). These legal norms provide a framework for the Police, the KPK, and the KPPU in carrying out their respective functions. The Police are tasked with conducting investigations and inquiries into criminal acts, the KPK has special authority to handle corruption related to economic crimes, while the KPPU supervises business competition and takes action against violations that are detrimental to the

economy, while continuing to cooperate with other law enforcement agencies.

The relationship of authority between the KPPU and the police in enforcing competition law is known that first, the role of the Police Investigators in enforcing competition law is still not fully integrated with the KPPU, because there are still differences in interpretation and understanding in the application of provisions. Second, the integration between the KPPU and the Police Investigators is realized through an MoU followed by cooperation in the formation of a Working Group to handle competition cases. Both institutions carry out their duties and authorities in accordance with applicable laws and regulations and are guided by the SOP that has been mutually agreed upon to prevent overlapping authorities.¹

The relationship of authority between these institutions is also regulated through norms contained in more specific laws and regulations, such as government regulations and presidential decrees that determine the duties and functions of inter-institutional coordination forums. This includes the formation of special teams or task forces involving various institutions to handle certain cases that require an integrated approach. These legal norms are important because they provide a formal basis that allows these institutions to work together effectively, avoid overlapping authorities, and ensure that handling of economic crimes is carried out in an integrated and holistic manner.

The relationship of authority between state institutions in handling economic crimes involves legal norms that underlie the operationalization of authority and relevant law enforcement theories. Laws such as the Criminal Procedure Code provide a formal framework for the authority of institutions such as the Police, while the KPK, KPPU, and the Prosecutor's Office work together to handle complex aspects of crime. This form of authority relationship is not only hierarchical but also horizontal, emphasizing the importance of coordination between institutions to avoid overlapping authority and conflict. The combination of legal norms and law enforcement theories allows for effective and collaborative handling of economic crimes.

IV. CONCLUSIONS AND RECOMMENDATIONS

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The Business Competition Supervisory Commission (KPPU) has the authority stipulated in Law No. 5 of 1999 to maintain healthy business competition in Indonesia, with a focus on investigations, examinations, and the imposition of administrative sanctions on violators of monopolistic practices, cartels, and bid rigging. Although the KPPU has an important role in enforcing competition rules, its authority is limited to administrative aspects and does not include criminal law actions, which often become obstacles in dealing with serious violations. In other countries, such as the United States and Australia, similar supervisory institutions have broader authority, including independent searches and seizures, which increase the effectiveness of law enforcement. In Indonesia, the KPPU must cooperate with the Police for similar actions, which often slows down the process. Although the KPPU can submit the results of its investigations to law enforcement officials, ineffective coordination often hampers the legal process. Therefore, legal reforms that expand the KPPU's authority and strengthen coordination between institutions are urgently needed to ensure fast, fair, and effective law enforcement in dealing with economic crimes in Indonesia.

The relationship of authority between state institutions in handling economic crimes in Indonesia involves close coordination between various institutions such as the Police, KPK, KPPU, Prosecutor's Office, Courts, BI, and OJK. Each institution has specific authority regulated by law, such as the Criminal Procedure Code for the Police, the KPK Law, and the KPPU Law, which form the legal framework for their interaction. In practice, this coordination is strengthened through MoUs and the formation of task forces to handle complex cases in an integrated manner. The main challenge in this relationship is the difference in procedures and priorities between institutions, which requires collaborative efforts based on legal norms and law enforcement theory to ensure effective, fair, and consistent handling of economic crimes.

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