

# REALIZING FAIR BUSINESS COMPETITION IN THE INDONESIAN BUSINESS WORLD IN THE ERA OF GLOBALIZATION

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***Abstract--** The development of the global economy shows symptoms of unfair economic competition, especially the presence of monopoly efforts of the world economic power. This kind of phenomenon will certainly affect economic conditions including economic growth which will only be influenced by large corporations from super power countries. In Indonesia itself, there are indications of efforts to monopolize business by large corporations that will unconsciously erode the national economy at the macro level and the economy of small people. Hence, the problem lies on the way Indonesia prepares itself to overcome these things, especially in the development of the legal system that regulates the formal legal business competition. This article aims to describe the way the legal position and system in Indonesia should be formed to overcome the negative impacts of business competition and create fair business competition. The utilized method was the socio legal research approach which is intended to study and examine the interrelationship between the law with other institutions.*

***Keywords:** business competition, globalization, monopoly*

## I. INTRODUCTION

The signing of GATT agreement, the signing of NAFTA, the signing of APEC, the establishment of the WTO and the implementation of the Structural Adjustment Program by the World Bank are the signs that globalization is taking place (Ojiako, Marshall, Luke, & Chipulu, 2012; Rollings & Warlouzet, 2018). Even with the growth of regional triangles between countries and integrated growth zones of an industrial area that are free from government interference and integrated growth zones in various regions, the process of globalization has actually begun. The term globalization has been popularly used as a result of global relationship between economic centers (multipolarization of world economic power). (Hutabarat, 1999)

This global process and relationship are accelerated by rapid progress in the fields of communication, information and transformation technology (Hartono, 2000). The rapid advances in communication technology, information and transformation make the things occurring in one place are easily found out at the exact same time in other places that sometimes are thousands of miles apart

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(Kurjanska & Risse, 2008; Schaper, 2010). In the current era of globalization, competition is very tight because competition occurs not only between Indonesian business actors but also with foreign business actors or business actors from abroad. Globalization terminology can be recognized by two aspects, which are the globalization of production and the globalization of marketing (Ahmed & Braithwaite, 2005; Geradin & Katsifis, 2020). Globalization of production is the ability to place parts of the production process flow of manufacture of part assembly components (*sub assembly*) to final product assembly (*final assembly*) to the most profitable locations in the world, while still having the capability to control the entire production process as if the production centers are located in one place. As a consequence, the logistics channels of raw materials, components, sub-assemblies and final products increasingly cross the national borders (Hutabarat, 1999). This kind of conditions demands the readiness of the business community to enhance their competitiveness further by means of efficiency in production, increase of the quality standards of goods, and consistently competitive prices so that in turn, the business is able to compete in the international market. Increasing competitiveness must be carried out continuously by following the dynamics of technological advances so that our products can result in the quality desired by the market consistently and punctually at a low cost. (Aristeus, 2002)

In this era of globalization, competition is increasingly irrepressible because in the world of business/commerce, there are no more boundaries between one country and another. Competition is an absolute *condition (conditiosine qua non)* for the implementation of a market economy (Bahçe & Eres, 2013). The competition can be in the form of *fair competition* and unhealthy or *unfair competition*. The main purpose of competition law is to promote the competition process and make sure that markets function efficiently. Competition, however, does not seem to always work well in the financial system (Rahman & Ahamat, 2015). Business competition policy apparently affects the intensity of competition in the food processing industry as well, which means that it will also influence the national food security system (Dasril & Kusumastuti, 2014). Less competitive business units will certainly experience obstacles to developing. On the contrary, competitive businesses will be encouraged to develop nationally and even globally. The most likely thing to do for businesses that are not developing is to make an acquisition or merger process even though this, of course, must pay attention to regulations related to business monopoly (Santo, 2011).

The trade war between China and the United States is one indication of unfair business competition that will damage the world economy if it continues to occur. It turns out that the same condition also happens in the European Union (Beaver & Venkatachalam, 2003; Bhagat, 2017). The data shows that the current EU competition law enforcement system is ineffective. A systematic analysis by the authors of the United States competition law enforcement system shows that the mechanism of class-opt-out actions for competition law enforcement that is established in the United States allows effective competition law enforcement. (Pakamanis, 2016)

This article attempts to describe the way to build a fair business competition climate in Indonesia so as not to become a destroyer and even undamaged by global competition. The goal is indubitably that companies in Indonesia can develop on a global scale.

## II. METHOD

The next problems that arise and need to be resolved are: first, how does Indonesia face business competition in the era of globalization? and second, how does Indonesia realize fair business competition in this era of globalization? This study utilized a sociological method (*socio-legal research*) with qualitative approach. The *socio legal research* approach is intended to study and examine the interrelationship between law and other institutions. The author conducted a legal study as a social institution that becomes the guideline for the public in establishing, running and developing their business. The author attempted to place the law in the sociological function that regulates business competition and socially can be watched by the public.

## III. DISCUSSION

### *Indonesian Government's Policy in Facing Globalization*

The essence of globalization is deintegration, meaning that the things that are carried out integrately in one place or one country are spread to all corners of the world, in accordance with a pattern that as a whole provides optimum efficiency (Byun, Lee, & Park, 2018; Cohen & McDonough, 2007). Globalization has in fact also impacted a variety of human life, such as the rapid growth of multinational industries in various countries and often also the flow of migration between countries, including labor migration from developing countries towards more developed countries (Nasution, 2000). Therefore, it is not surprising that since the last two decades, migration flows of companies and business units from one country to another are increasing. Hence, there are multinational companies or Multinational Corporation (MNC). The presence of a number of multinational companies marks the increase in competition in the world market (Napitupulu, 2001). Multinational Corporation (MNC) is a company the operational area of which covers a number of countries and possess production and service facilities outside its own country (Anoraga, 1995).

From the description of the meaning of globalization above, it is distinct that economic policies, especially trade, cannot be separated from national policies in the fields of investment and production. As is known, since a few years ago, the government has adopted several policies to exploit the trend of globalization through a series of deregulation policies in the fields of licensing, investment, the establishment of private industrial estates, the imposition of import duty tariffs, and trade systems (Corradi, 2018). With the adoption of these policies, companies and business units that are looking for cheaper business locations will enter Indonesia easier. With this set of policies, on the one hand, the business environment is increasingly safer and more profitable for entrepreneurs, and on the other hand, Indonesia's position as production bases, especially for exports, is more stable and business competition also becomes tighter. (Hutabarat, 1999)

It is common knowledge that competition is a natural thing and is believed to be the best way to increase productivity and provide benefits at the same time. In business, a company or every business actor in general are eager to seek maximum profits and the company or business actor will usually do everything

for it. However, when the company or business actor deviates from the existing rules and causes very detrimental impacts to the other parties that damnify the competitors and primarily inflict a loss to consumers, the law will set certain limits. In other words, companies or business actors must play honestly, or compete fairly in running their business (de Gelder, de Vaal, Driessen, Sent, & Bloemer, 2019).

With globalization, world trade will no longer become a barrier to market entry. This can be observed from the establishment of a free trade area the aim of which is to increase competitiveness in each region. For example, AFTA (*ASEAN Free Trade Area*) was established in the Southeast Asia region, in which Indonesia took part; in the Asia region, the *Asia Pacific Economic's Cooperation* forum was also formed; in the North American region, NAFTA (*the North American Free Trade Area*) was initiated; in the Western European region, a European Union free market was formalized,(Silalahi, 2002) and in South America, FTAA (*Free Trade Area of the America*) was established as well.(Napitupulu, 2001)

As experience shows, the market economic system is the economic system of the highest efficiency among all economic systems that we know. The market economy, including competition between suppliers / producers and buyers, guarantees the best supply of consumer needs for goods as well as an increase in general public welfare. Competition results in the use of capital and other resources in the most productive places. On the other hand, competition forces producers to be flexible in implementing new technologies and continuously pay attention to the changes in consumer needs. With a competitive system and for the availability of free consumption choices, suppliers or producers are not the ones that determine which goods should be produced at what price, but the buyers are. In addition, competition will also encourage technological advances (Donleavy, 2019).

In addition to the economic aspects above, competition has important social goals. Competition decentralizes decision-making processes and transfers them to various groups of economic participants, opposes excessive economic concentration and guarantees citizens' freedom by placing economic power within the framework of statutory provisions. Considering the tendency of economic participants to always try to eliminate or inhibit disruptive competition, the protection of competition by the state is required. On the other hand, the state itself faces the same temptation when it plays a role as a business actor. Therefore, an effective antitrust law must also cover the state activities in the economy (Ducci & Trebilcock, 2019).

In the practice of competing in the business world, there are several phenomena that possess the opportunity or possibility for unfair competition.(Hutabarat, 1999). *First*, it deals with the price component. In competition, the amount of production costs will greatly affect the advantages of other competitors. The opportunity to avoid some of these costs, even though they can reduce production costs, refers to a dishonest business practice. The possible forms of this kind of practices are for example the producer does not provide workers' basic rights, the producer does not meet the provisions on environmental management or the producer does not meet the provisions of consumer protection. To avoid various frauds in the price component, it is necessary to regulate the provisions in relation to the prohibition of trading products that are produced by ignoring workers' basic rights, violating environmental management provisions, and violating provisions of consumer protection (Suparno, 2019).

*Second*, it is connected to the predatory dumping. Dumping is the sale of a product at a price below the normal value. Predatory dumping is carried out as a way to seize the market in the export destination

country from the share of its competitors. In assessing whether dumping is considered an unfair trade practice, the highlight is usually focused on the problem of price discrimination. Although dumping practices temporarily benefit consumers since they can buy goods at low prices, but in the long run after local producers go bankrupt due to the losses they suffer, the dumpers will be able to play a role in determining the price level. This practice will ultimately harm consumers (Gane, 2020).

*Third*, it is about subsidies. The fall in prices is not only due to the actions of producers, but the governments of producing countries can help reduce prices through the provision of subsidies, for example, capital credit interest relief, tax relief or other forms of subsidies. The practice of price reduction in this way is a fraud that can result in the elimination of competitors through dishonest means. Therefore, it needs to be prevented.

*Fourth*, it is related to deviations in the implementation of tenders. Dishonest competition can occur in the implementation of tenders for the procurement of goods for government or state-owned enterprises (SOEs) that deviate from existing provisions.

*Fifth*, it deals with the violation of Intellectual Property Rights (IPR). Payment of royalties or licenses to IPR holders is one component of production costs. The price of products manufactured through violations of IPR can be cheaper than similar products produced by paying royalties or licenses to IPR owners.

*Sixth*, it is connected to the misleading trade practices. Misleading trade practices such as providing incorrect information about the nature, essence, characteristics, quality or raw materials of a product constitute fraud that needs to be prevented because they will be very detrimental to consumers. The right to information is a fundamental principle. Information to consumers must not only be true, but also be as complete as possible. In addition, incorrect information can be detrimental to other producers that produce similar goods.

*Seventh*, it is related to the government bureaucracy. Excessive government bureaucracy can result in protracted trade-related matters, which causes material and time losses for trade actors, and the consequences will also be detrimental to the final consumers because the loss of traders will definitely be calculated as a component of product prices.

The aforementioned phenomena encourage developed countries to suppress so that developing countries which are targeted in the production and marketing of developed countries do not perform things that result in unfair competition. Likewise, Indonesia is required to prepare a variety of hardware and software devices, including adequate legal tools, which have the capability to protect the entire nation safely (Hartono, 2000). Therefore, the whole countries are required to have Antitrust Laws and establish efficient business competition watchdogs.

Eventually, as a response, Indonesia has enacted Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition. With the presence of this Law, it is expected that the government, business actors and the general public will be able to face globalization that embraces this market liberalization. Fair business competition in the business world will be successful if in facing competition, the government does not provide subsidies that have an impact on unfair competition, cause deviations in the implementation of tenders and does not create a bureaucratic convulsion (Golding, 2009).

The participation of business actors to create fair business competition among which is by not doing dumping, not violating workers' rights, not violating provisions on environmental management, not violating out IPR provisions, and not providing misleading information. The general public, in facing this free competition, should not become direct or indirect supporters of fraudulent acts committed by business actors, such as the existence of IPR violations, consumer violations and others, either. Therefore, whether the Antitrust Prohibition and Unfair Competition Laws will be successful or effective or not are greatly influenced by the government, business actors and the public itself. The presence of these Laws is also to answer the encountered challenges for globalization itself is a challenge which has several impacts that must be faced and solved simultaneously, i.e. economic challenges, technological challenges and challenges of science and education.(Hartono, 2000)

#### *Regulation of Business Competition in Indonesia*

It is widely known that the Indonesian economy adheres to the market system. In this type of economic system, an individual is given a large space to develop his business. Freedom is the natural right of every individual as long as that freedom is not abused and does not conflict with applicable laws and regulations and moral norms (Silalahi, 2002). One of the central elements of market economy is the implementation of fair competition that ensures the efficiency of the economic process. Hence, a law that prohibits monopoly practice and the existence of fair competition are the absolute requirements for the running of a market economy.

Article 33 of the 1945 Constitution has laid the basic joints of the national economy as a reaction to liberalism in the economic field. Therefore, the State Policy Guidelines some time ago have determined that Free Fight Liberalism and monopolistic practices should be avoided. Thus, the 1945 Constitution has provided a basis for the regulation of competition in Indonesia. The ideals of the law are further elaborated in the legal instruments or national legislation.

The importance of competition law in principle is intended to create a fair and effective competition system in the context of carrying out business activities, by prohibiting restrictive trade practices, such as monopolies and fraudulent or misleading practices. In regulating this affair, Indonesia issued Law number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition.

The establishment of Law Number 5 of 1999 is intended to:

- 1) safeguarding the public interest and increasing national economic efficiency as an effort to improve people's welfare;
- 2) creating a conducive business climate through the regulation of fair business competition so as to ensure the certainty of equal business opportunities for large business actors, medium business actors, and small business actors;
- 3) preventing monopolistic practices and / or unfair business competition arising from business actors; and
- 4) creating effectiveness and efficiency in business activities.

The law generally regulates the prohibition of monopolistic practices and unfair business competition. In this law, there is the interpretation / definition of “monopoly”, “monopolistic practices” and “unfair business competition”, while “fair business competition” is not explained. The meaning of monopoly is explained in Article 1 number 1 stating that monopoly is a control over the production and / or marketing of goods and / or on the use of certain services by one business actor or a group of business actors (Grewal, Chakravarty, & Saini, 2010).

If a business actor does not have any competitors, then the business actor becomes the sole competitor who controls the relevant market which constitutes a monopoly in the most basic form. In everyday reality, this kind of monopoly is the same as absolute / perfect competition. Furthermore, it is generally assumed that monopolistic structures exist if the market is controlled by a competitor, the market share of whom is far greater than the market share of competitors or other competitor groups so that the party concerned is able to dominate the market due to the large market share. Then, what is meant by monopolistic practices as described in Article 1 number 2 of Law no. 5 of 1999 are the concentration of economic power by one or more business actors which results in the control of the production and / or marketing of certain goods and / or services so as to cause unfair business competition and may harm the public interest (Hayashi & Arai, 2019).

*Several types of monopoly.*

*The first* is natural monopoly. Natural monopoly takes place if economics of scale makes it very difficult or impossible to enter the market at all so that the monopoly in the hand of one business actor is the most efficient solution. Generally, natural monopoly includes infrastructure or public service industry sectors related to electricity networks or grids, water, roads, railroads, seaports and airports.

*The second* is monopoly according to the law. This monopoly usually benefits the state. Law No. 5 of 1999 also includes the possibility of establishing such monopolies.

*The third* is private monopoly, the basis of which is on intellectual property rights (including patents). After registering the protected right, the holder can prevent any other competitor from using the protected right for a certain period of time.

After that, unfair business competition is explained in Article 1 number 6 of Law No. 5 of 1999 which states that unfair business competition is a competition between business actors in carrying out production and / or marketing activities of goods and / or services carried out in a way that is not honest or against the law or inhibits business competition. Thus, it can be said that fair business competition occurs if the production and / or marketing activities of goods and / or services are conducted in an honest manner, not against the law and do not hamper business competition.

The law clearly regulates the prohibition on monopoly and unfair business competition in the application of which, business actors are prohibited from making certain agreements and doing certain actions, and using a dominant position.

Agreements that are prohibited by the Antitrust Law so in order not to cause monopoly and / or unfair competition are regulated in Chapter III Article 4 to Article 16, i.e.:

- 1) Oligopoly agreement;

In this type of agreement, business actors are prohibited from entering into agreements with other business actors to jointly control the production and / or marketing of goods and / or services that may result in monopolistic practices and / or unfair business competition.

2) Price fixing agreement;

In the case of this agreement, business actors are prohibited from having an agreement with their business competitors to determine the price of goods and / or services that must be paid by consumers or customers in the same relevant market. Business actors are prohibited from entering into agreements with business competitors to set prices below market prices, which can result in unfair business competition. Business actors are prohibited from entering into agreements with other business actors that contain requirements that the recipient of goods and / or services will not sell or re-supply the goods and / or services they receive at the prices lower than the agreed price so as to result in unfair business competition.

3) Territorial division agreement;

Territorial division agreements are prohibited as mentioned in Article 9 which states that business actors are prohibited from making agreements with their business competitors to divide marketing areas or market allocations of goods and / or services so as to result in monopolistic practices and / or unfair competition.

4) Boycott Agreement;

An agreement to boycott is prohibited as referred to in Article 10 which states that: “(1) Business actors are prohibited from entering into agreements with business competitors that can prevent other business actors from conducting the same business, both for domestic and foreign markets. (2) Business actors are prohibited from entering into agreements with business competitors to refuse to sell any goods and / or services from other business actors so that the action: a. harms or can be suspected to be detrimental to other business actors; or b. limit other business actors in selling or buying any goods and / or services from the relevant market”.

5) Cartel agreement;

Cartel agreements are prohibited as stated in Article 11 which states that business actors are prohibited from entering into agreements with their business competitors that is intended to influence prices by regulating the production and / or marketing of goods and / or services, which may result in monopolistic practices and / or unfair business competition.

6) Trust agreement;

Trust agreements are prohibited. This is an agreement where one business actor cooperates with other business actors by forming a joint company or a larger company, while safeguarding and maintaining the viability of each company or its member companies, which aims to control production and / or marketing on goods and / or services, so that it can result in monopolistic practices and / or unfair business competition.

7) Oligopsonistic agreement;

An oligopsonistic agreement is an agreement in which one business actor makes an agreement with other business actors the objective of which is to jointly control the purchase or admission of supply



in order to control the price of goods and / or services in the relevant market, which may result in monopolistic practices and / or unfair competition.

8) Vertical integration agreement;

Vertical integration agreements are prohibited in Article 14 which states that business actors are prohibited from entering into agreements with other business actors that aim to control the production of a number of products included in certain series of goods and / or services in which each series of production is the result of further processing or process, both in a direct and indirect series which can lead to unfair business competition and / or harm the community.

9) Closed agreement;

A closed agreement that is prohibited is an agreement between business actors that contains a requirement that the party receiving goods and / or services will only supply or not re-supply the goods and / or services to certain parties and / or at certain places. Business actors are also prohibited from entering into agreements in which the other parties who receive certain goods and / or services must be willing to buy other goods and / or services from the suppliers. Business actors are also prohibited from entering into agreements regarding certain prices or price discounts on goods and / or services. Business actors are also prohibited from entering into agreements that contain the requirements that business actors who receive goods and / or services from the suppliers:

a) Must be willing to buy other goods and / or services from the suppliers.

b) Will not buy the same or similar goods and / or services from other business actors who are competitors of the suppliers.

10) Agreements with foreign parties.

Agreements with a foreign party are prohibited if the agreements contain provisions that may result in the occurrence of monopolistic practices and / or unfair business competition.

These agreements are prohibited because if they are carried out, it will result in monopolistic practices and unfair competition.

The next is the actions of business actors prohibited by Law Number 5 of 1999, which are regulated in Chapter IV Article 17 to Article 24, as the following:

1) Monopoly activities;

Monopoly is a control over the production and / or marketing of goods and / or the use of certain services by one business actor or a group of business actors (Article 1 number 1).

Monopolistic practice / activity is the concentration of economic power by one or more business actors which results in the control of the production and / or marketing of goods and / or services so as to cause unfair business competition and may harm the public interest.

2) Monopsony activities;

Monopsony activities are activities carried out by a person or a business group that controls a large market share to buy a product which results in a single buyer.

3) Market share control;

Market share control, according to the opinion of UNCTAD (*United Nations Conference on Trade and Development*), is closely related to the ownership of a dominant position, existence of

whom is always suspected. The term market share control law is made synonymous with the legal term of dominant position.

4) Collusion.

Collusion is a “business conspiracy”, which is a form of trade cooperation between business actors with an intention of controlling the relevant market for the interests of the conspiring business actors.

From the provisions regarding collusion in Articles 22 to 24 of Law Number 5 of 1999, it is noted that there are prohibited types of collusion, which are:(Fuady, 1999)

- (1) Collusion to set the winning bidder;
- (2) Collusion to obtain company secrets;
- (3) Collusion to inhibit product supply.

Then, dominant position is prohibited by the Antitrust Law as regulated in Chapter V from Article 25 to Article 29, i.e.:

1) Abuse of a dominant position;

A business actor has a dominant position if:

- a. One business actor or a group of business actors controls 50% (fifty percent) or more of a particular type of goods or service market share; or
- b. Two or three business actors or groups of business actors control 75% (seventy-five percent) or more of the market share of one particular type of goods or services.

2) Prohibited multiple positions;

Having multiple positions in several companies also has the potential for monopoly or unfair competition. As a consequence, having multiple positions is prohibited.

3) Prohibited share ownership;

Business actors are prohibited from owning minority shares in several similar companies that carry out business activities in the same field in the same relevant market, or establish several companies that have the same business activities in the same relevant market if such ownership results in:

- a. one business actor or one business group controls more than 50% (fifty percent) of the market share of certain types of goods or services;
- b. two or three business actors or groups of business actors control more than 75% (seventy-five percent) of the market share of certain types of goods or services.

4) Merger, acquisition and consolidation.

In order to protect the interests of the public at large against the effects of mergers, consolidations and acquisitions, Article 104 of the Limited Liability Companies Act determines as follows:

- (1) The legal acts of merger, consolidation and acquisition of a limited liability company must pay attention to:

- a. The interests of the company, minority shareholders and company employees,  
and

b. The public interests and fair competition in doing business.

(2) The merger, consolidation and acquisition of the company does not reduce the rights of minority shareholders to sell their shares at a fair price.

Based on the aforementioned provisions, it can also be stated that the action of merger, consolidation and acquisition, which is a legal act, contains aspects of civil law and comprehensive aspects of public law (Hartono, 2000). From the aspect of civil law, the actions of merger, consolidation and acquisition are also regulated in the Law on Prohibition of Monopolistic Practices and Unfair Business Competition which among others regulates that business actors are prohibited from merging, or consolidating business entities which may result in monopolistic practices and / or unfair business competition. In addition, business actors are also prohibited from taking over shares of other companies if such actions can result in monopolistic practices and / or unfair business competition.

With various provisions both concerning the prohibition of making agreements and carrying out activities or dominant positions above, it is expected that business competition in this era of globalization will not cause unfair (unhealthy) competition in the business world because if these provisions are not obeyed, then it will lead to the existence of monopoly and unfair competition which will ultimately harm consumers or the public. The provisions in Law Number 5 of 1999 can also be employed as an anticipation of the presence of large foreign companies that invest their capital in Indonesia.

#### *Realizing Fair Business Competition in the Era of Globalization*

The definition of fair business competition is not formulated in Law Number 5 of 1999. The definition, however, is negatively formulated since the law explains about the definition of unfair business competition, which is a competition between business actors in carrying out production and / or marketing activities of goods and / or services that is performed in a dishonest manner or against the law or hampers business competition. By referring to this definition, it can be said that “fair business competition” is a competition between business actors in carrying out production and / or marketing activities of goods and / or services that is performed in an honest manner, not against the law and does not hamper business competition.

Actions taken by companies abroad can affect a country’s domestic market. Whether a business actor has violated the Prohibition of Monopolistic Practices Act or not can be observed from 2 approaches (Rajagukguk, 2000).

1) “Per-se rule” approach. The burden of proof for the plaintiff is lighter by showing a conspiracy, without the necessity to explain whether the conspiracy actually affects the market.

2) “Rule of reason” approach. The evidence must show that business actors have influenced competition in the market.

What is meant by per se theory / approach is that the implementation of any prohibited action will be contrary to applicable law, while the rule of reason theory / approach means that if the action is carried out, it still requires a consideration to what extent the action will constitute a monopoly or will result in a restraint of market competition. Consequently, by using the rule of reason theory, the actions are not automatically prohibited. In order to realize or implement the provisions concerning the prohibition of

monopolistic practices and unfair business competition, a body the main task of which is to supervise the implementation of these provisions is required. In connection with this issue, Law No. 5 of 1999 has formed a Commission for the Supervision of Business Competition. This commission is directly responsible to the President of the Republic of Indonesia.

The obligations of the Commission for the Supervision of Business Competition are regulated in Article 35, while the authority is regulated in Article 36 of Law No. 5 of 1999. From the breakdown of the obligations and authority of the supervisory commission, it appears that the authority of the supervisory commission is limited merely to administrative authority. Although some authority is similar to that of investigating bodies, prosecutors, and even adjudicating bodies, it is solely for the purpose of imposing administrative penalties.

In this era of globalization, a monopolistic practice or unfair business competition will also be affected by the performance of the Supervisory Commission. Therefore, the Supervisory Commission must really be able to carry out its duties properly and truly. Likewise, the authority granted by the regulations in force must be applied properly.

#### **IV. CONCLUSION**

The Government of Indonesia, in facing the era of globalization, which among others is marked by the existence of very fierce business competition, has issued regulations in the form of Laws namely Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. The presence of the Act is aimed at realizing a conducive business climate, preventing monopolistic practices, and / or unfair business competition and supporting the creation of effectiveness and efficiency in a business activity. Fair business competition will be realized if it is supported by the entire parties, including the government, business actors and the public. These three components are very influential in helping to create a fair business competition in this era of globalization. The suggestion that can be proposed for the creation of fair business competition, a conducive business climate and the creation of effectiveness and efficiency in business activities is that the parties related to the Act obey the existing regulations with total awareness.

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