

**IMPLEMENTATION OF PRICE DETERMINATION IN DOWNLOAD MARKET
AND MARKET CODIMS RELATED TO THE LAW NO. 5 YEAR 1999
REGARDING MONOPOLY AND PRACTICAL LIMITS
BUSINESS COMPETITION IS NOT HEALTHY**

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ABSTRACT

Problems in the study of how the Implementation of pricing of basic foods in a down market and the market Kodim associated with Law No. 5, 1999, the causes of price discrimination in a down market and the market Kodim, and the legal consequences posed by the price setting. The aim of research to find out how the implementation of pricing of basic foods in a down market and the market Kodim associated with Law No. 5, 1999, the causes of price discrimination, and the legal consequences posed by the price setting. Methods to achieve the goal is to conduct research Sociological Law, ie see how the implementation of the law in society. The results showed the occurrence of discrimination that occurs in a down market with Kodim market for goods groceries. The factors that influence the price discrimination is due to the economic level, the goods are sold in a down market is the luxury goods and imported goods, goods sold in the market more fully below. The legal consequences posed by this discrimination is the effect of monopoly on the welfare of the community, because the monopoly creates injustice, production volume set monopolist is smaller than the volume of output is optimum, suggested to the government to amend this law because of the freedom of small businesses is detrimental to small ruler more. And if not amended advised to make regulations about the setting of this shocked the market.

Keywords: Monopoly, Shocked the Market, Price Discrimination

A. Introduction

In order to create a healthy business competition with the establishment of a conducive climate, the Government of Indonesia has issued Law Number 5 Year 1999 concerning Field of Monopolistic Practices and Unfair Business Competition (hereinafter abbreviated as Law Number 5 Year 1999).

Law Number 5 Year 1999 anticipates some unhealthy business actors behaviors perpetrated by business actors in creating market forces that tend to be anti-competitive. One form of anti-competitive action is price discrimination. Price discrimination is one form of agreement that can occur through different pricing made by a business actor for the same goods and or services of a manufacturer on the basis of certain criteria, or imposing different prices for different customers on a disproportionate increase above marginal cost or it could be interpreted as a non-linear pricing strategy that tries to gain more consumer surplus. (Lubis, Ershad, 2010). Article 6 of Law Number 5 Year 1999 states that "Business actors are prohibited from making agreements which result in one buyer having to pay at a price different from the price paid by other buyers for the same goods and / or services".

Based on the contents of the Article above, then there are two main elements, namely:

The existence of the agreement

The agreement here is not only the overt agreement (Tacit collusion) of therapy as well as the agreement made by simply signaling (Price signaling). This means that business actors simply by raising the price then the price increase will be followed by other business actors. Literally, the provision of Article 6 of Law Number 5 1999 is about price discrimination agreed upon by the buyer of a good or service. In this case, the beneficiary through the agreement is competitors from buyers. The beneficiaries and discriminated business actors must be in actual or potential business competition relationships.

Different prices for the same goods and / or services of discrimination are always based on the principle that something comparable is treated differently. For the same goods and / or

services billed different prices. In price discrimination agreements, various buyers pay a price, which is not the same for the same goods and / or services (Arie Siswanto, 2004). Therefore, it can be seen that the criteria of discrimination is always require unequal treatment of two buyers or sellers by business actors. Discriminating business actors should be in a favorable position in the competition, as otherwise do not allow any loss of competition.

Price discrimination also occurs among traders of traditional markets ie traders perumnas Kodim market with merchants Pasar Bawah.

Traditional Market is a market built and managed independently by the Government, Local Government, Private Parties as well as Regional-Owned Enterprises / Regional Companies or in the form of cooperation between local government and private parties, in the form of business premises in the form of shops, kiosks, stalls and tents owned / rented by small or medium-sized traders, community groups or cooperatives, with business transaction process conducted through bargaining process (Article 1 point 8 of Pekanbaru City Regulation No. 6 of 2012 on Retribution of Market Services).

Pasar Bawah is the only tourism market located in Pekanbaru City. This four-storey shopping area is an icon for Pekanbaru City. In addition, a number of shops around Pasar Bawah, supporting its existence as a shopping center for goods originating abroad.

A number of products, such as knick-knacks, household accessories, antiques, carpets, bags, to used electronic goods, can be found in the market located in Jalan Ahmad Yani, District Senapelan, Pekanbaru.

Similarly, the need for Nine basic commodities (sembako) is also fully sold by traders in Pasar Bawah. However, the price of this staple food is very expensive compared to the price of basic food in Kodim Market. In the case of Pasar Bawah and Pasar Kodim are both traditional markets.

If the price is different, the supplier is the same, which means the price of the groceries purchased from the supplier remains the same, but the merchant sells at different prices to the buyer (consumer), and both markets are traditional markets. This is contradictory to Article 6 of Law Number 5 Year 1999 stipulating that "Business actors are prohibited from making agreements which result in one buyer having to pay at a price different from the price paid by other buyers for the same goods and / or services".

The main purpose of anti-monopoly law and business competition as stipulated in Law no. 5 of 1999 is to provide equal opportunity to business actors to conduct business without any price discrimination from business actors against consumer. But that is not achieved because of the price discrimination against the same goods that apply to consumers differently.

B. Literature Review

Research conducted by previous researchers only provides early understanding with regard to research problems and initial concepts related to the theme of research. Thus the researcher has wide space to study, discrimination of car sale price at PT Agung Automall Pekanbaru Branch. There are several past studies conducted in Indonesia that examine some of the problems prevailing in the commercial world due to price discrimination in business competition.

Ida Bagus Abhimantara discusses the issue of price discrimination in the monopoly market. However, he limited his research on the discrimination of electricity prices by the State Electricity Company. Similarly, Corry Permatasari discusses alleged monopoly violations with price discrimination, but is limited to the pharmaceutical industry.

Novi Mulyani conducts research on price discrimination and focuses on Discrimination Analysis of Room Rates for Local Companies and Foreign Companies At Aston Sudirman Hotel. Yetti has also examined price discrimination in traditional markets with shock markets in Rumbai District.

Understanding price discrimination

Price discrimination is to increase profits by selling the same goods at different prices to different consumers on the basis of non-cost related reasons. (William A. McEACHERN: 2001: 149).

The main purpose of business actors to discriminate the price is to obtain higher profits and higher profits are obtained by seizing a consumer surplus. Consumer surplus is the highest price difference that consumers are willing to pay at a price that is actually paid by the consumer.

Price discrimination is based on the fact that consumers are actually willing to pay higher, then the company will try to seize the consumer surplus by way of price discrimination.

Price discrimination is regulated in Article 6 of Law no. 5/1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, which reads: "Business actors are prohibited from entering into agreements which result in one buyer having to pay at a price different from the price paid by other buyers for the same goods and / or services" .

Based on the contents of the Article above, then there are two main elements, namely:

1. The existence of the agreement

Literally, the provisions of Article 6 of Law. 5/1999 is regarding price discrimination agreed upon by the buyer of a good or service. In this case, the beneficiary through the agreement is the competitor of the buyer. The beneficiary and the discriminated business actor must be in an actual business competition relationship or potential.

2. Different prices for goods and / or the same services.

Discrimination is always based on the principle that something comparable is treated differently. For the same goods and / or services billed different prices. In price discrimination agreements, various buyers pay a price, which is not the same for the same goods and / or services.

According to Article 6 price discrimination is the ability of business actors to determine the price on the same goods and services on a quality actually willing to pay higher, then the company will try to seize the consumer surplus by way of price discrimination.

Price Discrimination According to Law

Price discrimination is regulated in Article 6 of Law no. 5/1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, which reads: "Business actors are prohibited from entering into agreements which result in one buyer having to pay at a price different from the price paid by other buyers for the same goods and / or services" .

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According to Article 6 price discrimination is the ability of business actors to determine the price on the same goods and services on the same quality to different consumers.

To make it easier to recognize price discrimination, the price-cost ratio must be considered, no longer just paying attention to the price. So price can not be seen as the only indicator of the existence of price discrimination practices.

Cost differences can justify price discrimination. However, if price discrimination is already in place then the more important role is elastistas demand rather than cost. For companies whose cost structures have common cost components such as production, distribution and advertising) of significant value, price discrimination can be used as an optimal strategy to allocate such joint costs.

Another factor that can justify the practice of price discrimination is the efforts of business actors in the face of competition (meeting the competition). For that reason, business actors are enabled to conduct competitive price discrimination without anticompetitive effects.

As to the extent to which price discrimination is prohibited under Article 6 is different pricing for goods and services equal to the same quality and quantity to different buyers, whether at a price level discrimination of one, two or three, conducted on the basis of:

1. Agreements made by business actors, and not unilaterally.

2. Vertical relationship

There is no significant cost difference in preparing products and services until they are ready for use by both end customers and manufacturers.

Destructive of business competition and disadvantage of consumers (Guidelines for the implementation of Article 6)

C. Research Methods

This type of research is a sociological legal research that explains the prevalence of positive law in society, namely Business Competition Policy Based on Price Discrimination Between Kodim Market and Under Market Is Related to Business Competition Law. The location of this research in Pekanbaru by taking samples of Senapelan District Pekanbaru City.

The reason for choosing this location is that the very prominent price difference between Kodim Market and Pasar Bawah is very harmful to society. Moreover, the Lower Market is used as tourism market Pekanbaru City. Population and Sample, Head of Market Office, Chairman of Indonesian Market Merchants Association (APPSI), Commission II of DPRD, Chairman of Pasar Bawah merchant group. Data Sources: Primary data, secondary data, Observation Data Collection Techniques, Interviews and Library Review.

D. Research Results and Discussion

Determination of price discrimination for sellers in the sale of basic necessities in Kodim and Pasar Bawah Markets is not in accordance with Article 6 of Law no. 5 Year 1999, because in the Bottom Market the seller raises the profit by selling the same goods at different prices to different consumers on the basis different prices are charged differently but do not reflect the proportional price difference. Example; the price of mineral water of the brand A 220 ml glass size is Rp 600.00 (six hundred rupiahs) While the size of 600 ml bottle is Rp 2,500,00 (two thousand five hundred rupiah). Of that price, the price of water per ml of two products is different.

3. Location pricing discrimination. The product is the same, but because the place is different then the price becomes different. For example, if the concert tickets are different ticket prices for VVIP, VIP and usual classes. Marine ships apply no economy class, class III, class II, class I and VIP.

4. Time-based discrimination (pricing) is different for different times eg hotels charge more expensive on weekends and holidays than on weekdays.

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D. Research Results and Discussion

Determination of price discrimination for sellers in the sale of basic necessities in Kodim and Pasar Bawah Markets is not in accordance with Article 6 of Law no. 5 Year 1999, because in the Bottom Market the seller raises the profit by selling the same goods at different prices to different consumers on the basis of reasons unrelated to production costs, although not all price differences reflect price discrimination.

While at Kodim Market the pricing is similar to other traditional markets. This pricing is contrary to Article 6 of the Anti-monopoly Law which aims to provide equal business opportunity to every business actor. Given this different pricing, the business opportunity for the Kodim Market traders is far less than that of lower market merchants.

The results of interviews conducted with the chairman of the Association of Indonesian Market Traders (APPSI), there is a significant difference in the price of basic foodstuffs between the price of basic needs at the Pasar Bawah with the price of food in Kodim Market because there is a public opinion that the quality of the price of basic needs offered in the Bottom Market is better than the market other markets. Actually the quality of goods sold in the Market Bawah is also the same as the price offered in other traditional markets there are good and some are less good. But the assumption from consumers that goods sembako in Pasar Bawah is good quality.

. Factors causing price discrimination at Kodim Market with Pasar Bawah are:

a. High economic level

In general, shopping at the Bottom Market is the mothers who have middle to upper income, which is usually dominated by the wives of officials and consumers are more established. The state of the economy greatly affects the prevailing market price levels. So there were reactions from the business community. The spontaneous reaction to the decision is an increase in the prices of goods, in particular the rise in prices of luxury goods, imported goods and goods made with materials or components from abroad which, when compared to prices in the Kodim Market.

Similarly, delivered by DPRD Commission II Pekanbaru that the tendency of consumers who have a better level of economy prefer shopping in places of shopping that quality is considered good (interview with Mr. Ali Suseno Taggal December 18, 2016)

b. Competition

The selling price of some goods is often influenced by the existing competitive circumstances. In this competition a large number of sellers, active against many buyers. So with the large number of sellers and buyers make it difficult sellers at Kodim Market to sell at a higher price.

c. Luxury goods and expensive imported goods triggered nine basic necessities.

The presence of luxury goods and imported goods such as ceramics, crystals, clothes and other accessories will affect the increase in the price of basic foods, where the seller will read the minds of consumers that consumers will think the goods sold in the Bottom Market is the goods of quality .

d. The Lower Market offers more complete goods from the Kodim Market.

If consumers are shopping to meet their daily needs are more diverse, of course will choose a place to shop in the market than to shop at the stalls nearby. With more details of the items required at the Bottom Market surely the seller will raise the price, because the seller is sure if the price is more expensive the buyer or consumer will still buy at the Bottom Market.

e. Under Market as a Tourism Market.

Every tourist who comes to Pekanbaru generally take the time to shop to Pasar Bawah. The seller thinks that the name of the tourists must have prepared the money to shop for souvenirs and souvenirs. monopolist can increase profits and customer satisfaction.

Based on interviews conducted with representatives of Pasar Kodim traders, namely Mar (rice seller) and Linda selling wheat flour, about the existence of Pasar Bawah they felt very disadvantaged by the existence of Pasar Bawah. However, they do not know the procedure to submit a report in this violation. While KPPU that should be pro-active to find out this problem does not exist in Riau Province. They should be able to complain to the KPPU in Tanjung Pinang, but in the absence of fees for transportation and take a long time, they let this problem continue continuously, who do not know when this dilemma will expire. (interview with Mar and Linda representatives of Kodim Market traders dated 19 January 2017).

D. Suggestions

1. Disperindag to supervise different pricing between Kodim Market and Pasar Bawah.
2. Government in this case Disperindag arrange the distribution of goods luxury and import goods not only accumulate in the Bottom Market, but also distribute it in traditional markets so that the buyer's interest can already directed to other markets
3. Determine the price standards in the Bottom Market, especially related prices with luxury goods and imported goods.

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