

VIOLATION ANALYSIS ON COMPETITOR SLIDING PROGRAM IN THE CASE OF PT ARTA BOGA CEMERLANG (ABC BATTERY)

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ABSTRACT

Violations in the Competitor Sliding Program at PT Arta Boga Cemerlang refer to actions that are contrary to business rules and ethics, which aim to unlawfully defeat or harm competitors. The case of PT Arta Boga Cemerlang (ABC Battery) as the Reported Party can be a clear example of violation of the principle of fair business competition, as regulated in Law Number 5 Year 1999. This study employs a legal analysis method to investigate the violations committed by PT Arta Boga Cemerlang (ABC Battery) within the framework of competition law in Indonesia. In this case, PT Arta Boga Cemerlang is proven to have committed unfair business competition practices by entering into a closed agreement that discriminates against products from competitors through exclusive cooperation that provides special benefits to PT Arta Boga Cemerlang's partners. This practice violates Article 15 Paragraph 3 (Closed Agreement) and Article 19 letter (a) (Discrimination) in Law No. 5 Year 1999. Companies that have a dominant position can discriminate in providing services to customers or distributors. Discussing this case in a paper provides an opportunity to analyze how competition law is applied in the context of a market economy, as well as how violations like this can undermine a fair market ecosystem. In addition, the case is also relevant for understanding the challenges of enforcing fair competition principles in a simple and clear manner.

Keywords: *competition; infringement; market manipulation*

INTRODUCTION

Decision No. 06/KPPU-L/2004 issued by the Business Competition Supervisory Commission (KPPU) is one of the important cases in the context of business competition law enforcement in Indonesia (Jawani, 2021; Rahmi Yuniarti, 2021). The case involved PT Arta Boga Cemerlang, a company that distributes food and beverage products. The background of this paper covers several aspects that form the basis for further analysis and discussion of the decision. Indonesia's food and beverage distribution sector is experiencing rapid growth, increasing consumer demand, and the development of the food industry. PT Arta Boga Cemerlang, as one of the major players in this sector, has a significant position in the supply chain. However, with a dominant position comes the risk of abusive practices that can harm competitors and consumers. This case stems from allegations that PT Arta Boga Cemerlang has abused its dominant position in the food and beverage distribution market. The alleged practices involved closed agreements, discrimination in customer service services, and obstruction of market access for competitors. These allegations created attention from KPPU and the public, which prompted further investigation.

Indonesia has a legal framework that regulates business competition through Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition (Endarto et al., 2025; Indrawan et al., 2025; Jawani, 2021; Perdana et al., 2025; Rahmi Yuniarti, 2021). This law aims to create a climate of healthy competition, protect consumers, and encourage innovation. KPPU, as a supervisory institution, has an important role in enforcing this law and handling cases related to anti-competitive practices. KPPU is responsible for investigating and taking action against practices that harm competition. Decision No. 06/KPPU-L/2004 is a concrete example of KPPU's efforts in enforcing competition law (Elevenday, 2020; Sirait, 2020). Through this decision, KPPU demonstrated its commitment to maintaining market integrity and protecting consumer interests. This decision affects PT Arta Boga Cemerlang and has broader implications for the market and consumers. By cracking down on the practice of abuse of dominant position, KPPU seeks to create a more competitive environment

where consumers can enjoy fairer prices and better service quality. This is important to safeguard consumer welfare and promote healthy industry growth.

Healthy business competition is the foundation for maintaining market balance and fostering a fair economy (Di Fabio, 2022; Reif et al., 2022). In a free market system, every business actor is expected to compete fairly without engaging in practices that harm competitors or consumers (Di Fabio, 2017; Surur, 2017). One of the business competition cases that attracted public attention was KPPU Decision No. 06/KPPU-L/2004, involving PT Arta Boga Cemerlang (ABC Batteries) and PT Panasonic Gobel Indonesia (Panasonic Batteries). This case relates to alleged violations of the principle of fair business competition through closed agreements, discrimination against competitors, and abuse of dominant position by PT Arta Boga Cemerlang. This journal will describe the case's background, the legal analysis, and the verdict's impact.

However, in practice, business competition often encounters challenges in the form of violations of fair competition principles. Some businesses abuse their dominant market position or engage in cooperation that stifles competition. Practices such as monopolies, discrimination, and price fixing harm other businesses and jeopardize consumer welfare and overall market stability. Therefore, competition law, governed by Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, is a crucial tool for monitoring and addressing such violations (Andani & Indarta, 2023; Ardiansyah & Pura, 2021). One case that attracted public attention regarding violations of fair business competition principles was KPPU Decision No. 06/KPPU-L/2004, involving PT Arta Boga Cemerlang (ABC) and PT Panasonic Gobel Indonesia (PGI). This case focused on the alleged practice of closed agreements, discrimination against competitors (PGI), and the purported abuse of its dominant position as a market leader, where PT Arta Boga Cemerlang allegedly imposed a Competitor Shift Program agreement on its key distributor and other distributors within the market ecosystem. This practice violates the principle of fair business competition as it creates an unfair disadvantage for competitors with similar products and hinders competition in the consumer goods market. This journal aims to outline the background of the case, analyze it from a competition law perspective, and evaluate the KPPU's decision's impact on businesses, consumers, and the market as a whole. Thus, this discussion is expected to provide a deeper understanding of maintaining healthy business competition as a key pillar in creating a fair and sustainable economy.

RESULTS AND DISCUSSION

Case Background

Companies often use closed agreements to control the market and limit the freedom of their business partners. This can create unhealthy conditions for competition, where small players or new competitors find it difficult to enter the market. PT Arta Poga Cemerlang, one of the large companies, is suspected of engaging in this practice, which can potentially harm competitors and consumers. In addition, large companies often abuse their dominant position to strengthen their control over the market. This abuse can include price discrimination, blocking market access for competitors, and setting unfair terms for business partners. In this case, KPPU found that PT Arta Boga Cemerlang's practices could damage the healthy competition climate and, in turn, harm consumers.

Parties Involved

- A. PT Arta Boga Cemerlang (ABC Battery): PT Arta Boga Cemerlang is a company that distributes consumer products, particularly in the food and beverage sector. The company is known as a large distributor in Indonesia and has an extensive distribution network. PT Arta Boga Cemerlang is one of the market leaders and the largest distribution company in Indonesia, having been operating since 1985. The company is known as the sole distributor of Orang Tua Group (OT), which markets a variety of food, beverage, and personal care products. With an extensive distribution network, PT Arta Boga Cemerlang serves traditional to modern markets throughout Indonesia.
- B. PT Panasonic Gobel Indonesia (Panasonic Battery): PT Panasonic Gobel Indonesia is a leading electronics company in Indonesia. It is part of Panasonic Corporation, Japan. The company was founded in the 1960s through a partnership between Panasonic Corporation and the Gobel Group. PT Panasonic Gobel Indonesia manufactures and distributes a wide range of electronic products, including home appliances, audiovisual devices, and energy solutions. The company is one of the major players in the electronics industry and battery products in Indonesia.

Alleged Violations

In Case Number 06/KPPU-L/2004, PT Arta Boga Cemerlang allegedly violated several provisions of Law Number 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition. The alleged violations that are the focus of this case include:

A. Exclusive Dealing

PT Arta Boga Cemerlang is suspected of entering a closed-deal practice with its business partners. This practice involves a tying arrangement in which business partners must sell only certain products from PT Arta Boga Cemerlang, thus inhibiting competitors' access to the market.

B. Discrimination against competitors

PT Panasonic Gobel Indonesia feels aggrieved because it is not given the same opportunity to compete fairly in marketing its products. This practice is considered unfair and hampers competition among drivers.

C. Abuse of Dominant Position

PT Arta Boga Cemerlang allegedly used its dominant position to hamper business competition. One form of abuse is through promotional programs incentivizing business partners not to sell competitors' products. This creates barriers for other business actors to compete fairly in the market. Programs such as the "Competitor Shift Program" (PGK) were highlighted in this case. This program provides additional discounts to business partners who provide exclusive display space for PT Arta Boga Cemerlang products, thereby reducing competitors' access to the market.

Case Chronology

Partnership The chronology of the PT Arta Boga Cemerlang case that led to the verdict 06/KPPU-L/2004 involved a series of events that demonstrated business practices detrimental to competition. The following is the relevant sequence of events in this case:

A. Initial Information Gathering (2002-2003)

Case Background: Since 2002, KPPU began receiving reports on alleged unfair business practices committed by PT Arta Boga Cemerlang. These reports came from various parties, including competitors and distributors, who felt aggrieved. Preliminary Investigation: KPPU conducted a preliminary investigation to gather evidence and information related to PT Arta Boga Cemerlang's distribution practices, especially those related to closed agreements and its dominant position in the market.

B. Formal Investigation KPPU (2003)

In-depth Investigation: In 2003, KPPU continued the investigation by exploring PT Arta Boga Cemerlang's distribution practices and agreements. During the investigation, KPPU collected information from various parties, including distributors, retailers, and consumers. Evidence of Violation Found: KPPU found that PT Arta Boga Cemerlang has implemented closed agreements with distributors and retailers that prohibit them from selling competing products, including PT Panasonic Gobel Indonesia products. This practice harms competition and hinders market access for competitors.

C. Giving Somasi and KPPU Hearing (2004)

Somasi: After gathering enough evidence, KPPU summoned PT Arta Boga Cemerlang to clarify the alleged violations. KPPU Hearing: In 2004, KPPU initiated a hearing to discuss the case. PT Arta Boga Cemerlang was invited to explain and defend itself against the allegations. Decision 06/KPPU-L/2004: On March 25, 2004, KPPU issued an official decision with number 06/KPPU-L/2004. In the decision, KPPU stated that PT Arta Boga Cemerlang was proven to have violated the closed agreement, discriminated against, and abused the dominant position. Sanctions: KPPU imposed administrative sanctions on PT Arta Boga Cemerlang, which included fines and orders to stop practices that harm competition. KPPU also recommended that PT Arta Boga Cemerlang improve its distribution policy to comply with competition law and not repeat agreements that may harm fair business competition.

D. Post-Verdict Impact

Reactions from Related Parties: This ruling received widespread attention from businesses and the public. Many see it as a positive step toward maintaining fair competition in the market. Policy Changes: PT Arta Boga Cemerlang is expected to change its distribution practices to prevent the recurrence of similar cases in the future.

Legal Analysis

Article Violated

The case of PT Arta Boga Cemerlang, which was tried by the Business Competition Supervisory Commission (KPPU) in Decision No. 06/KPPU-L/2004, is one of the important cases in the context of business competition law in Indonesia. The following is a legal analysis related to the violations committed by PT Arta Boga Cemerlang.

A. Article 15 paragraph (3) letter (b) - Law No. 5 Year 1999:

1. business actors from entering into agreements with other parties that aim to purchase similar or similar goods/products from other business actors who are competitors of the supplying business actor.
2. In this case, PT Arta Boga Cemerlang is considered to have committed unfair business competition practices through a closed agreement called the "Perjanjian Geser Kompetitor" (PGK). This article prohibits business actors from entering into agreements with other parties to control production and marketing or prevent other business actors from competing. In this case, PT Arta Boga Cemerlang is considered to have violated this article through exclusive cooperation with wholesale and semi-wholesale distributors.
3. Exclusive Cooperation: PT Arta Boga Cemerlang implements closed agreements with distributors and retailers that prohibit them from selling competitors' products, including those of PT Panasonic Gobel Indonesia. This practice clearly hinders competitors' opportunities to enter the market and compete fairly.
4. Effect on Competition: By prohibiting distributors from selling competing products, consumers are deprived of the choice of products that would otherwise be available in the market. This may result in higher prices and lower-quality products.

B. Article 19 letter (a) and letter (b) - Law No. 5 Year 1999:

1. Prohibit business actors from engaging in discriminatory practices by preventing other business actors from competing in the same market.
2. Prohibiting consumers (wholesale distributors and semi-wholesale distributors) from conducting business relationships with competing business actors.
3. PT Arta Boga Cemerlang has proven to impose requirements on wholesale distributors and semi-wholesale distributors so that competing business actors cannot enter the market. This prevents competitors' products from entering the market. In addition, through exclusive agreements, wholesale distributors and semi-wholesale distributors cannot conduct business relations with competing business actors.
4. This article prohibits business actors from engaging in discriminatory practices that cause other business actors to be unable to compete in the same market.
5. Discrimination against Competing Business Actors: PT Arta Boga Cemerlang is proven to impose certain conditions on wholesale and semi-wholesale distributors, providing special discounts on the condition that they do not take products from competing business actors. This caused competing business actors to experience a significant decrease in sales, which caused them to be economically disadvantaged.
6. Violation of the Principle of Non-Discrimination: This practice violates the principle of non-discrimination, which is the basis of fair business competition, by creating injustice among business actors who should have the same opportunity to compete.

C. Article 25 paragraph 1 letter (a) - Law No. 5 Year 1999:

1. For the application of the abuse of dominant position, it is necessary to pay attention to Article 25 paragraph (2) in Law No. 5 Year 1999 first before determining the action, where paragraph (2) is first to determine whether the Reported Party is a dominant business actor by using the requirements listed in letters (a) and (b); namely market share above 50% (alone or market share above 75% (if carried out jointly).
2. In this case, according to the evidence conducted by KPPU, PT Arta Boga Cemerlang has a large market share, 88.73%, so it can be said that PT Arta Boga Cemerlang is the dominant market actor.
3. Then, back to paragraph (1), which prohibits business actors from abusing their position as dominant business actors either directly or indirectly in the market.

4. PT Arta Boga Cemerlang has been proven to have abused its dominant position directly by imposing requirements on wholesale and semi-wholesale distributors, with the aim of preventing or hindering consumers from obtaining goods from competing business actors.

This article prohibits business actors from abusing a dominant position that prevents consumers from obtaining products from competing businesses.

- D. Abuse of Dominant Position: PT Arta Boga Cemerlang, as a market leader, imposes certain conditions on wholesale distributors and semi-wholesale distributors, with the aim that consumers cannot obtain products from PT Panasonic Global Indonesia. This can cause harm to consumers both in terms of price, quality, and product innovation.
- E. Violation of the principle of fair business competition: This practice creates barriers for new competitors to enter the market, thereby reducing fair competition. Competitors wishing to offer their products are hindered in their efforts to access the necessary distribution channels.

Principles Violated

A. Principle of Fair Competition

PT Arta Boga Cemerlang's discriminatory practices violate the principle of fair competition, which aims to create a competitive and fair market for all business actors. Barriers to Competition: By providing discounts to distributors under certain conditions, PT Arta Boga Cemerlang creates obstacles for PT Panasonic Gobel Indonesia to compete equally. This contradicts the spirit of Law No. 5 Year 1999, which aims to prevent practices that harm competition. This discriminatory practice violates the principle of fair competition, as it prevents other business actors (PT Panasonic Gobel Indonesia) from competing fairly in obtaining orders.

B. Principle of Fairness

The principle of fairness in business competition requires that all business actors have equal opportunities to compete in the market. Injustice to Competing Business Actors: PT Panasonic Gobel Indonesia was deprived of a fair opportunity to market its products, even though it used a good marketing strategy (Single Pack Display). This shows an imbalance that harms one party, which is contrary to the principle of fairness in business competition. Independent drivers are deprived of a fair opportunity to compete with PT Arta Boga Cemerlang, even though they are in the same market.

CONCLUSION

The case between PT Arta Boga Cemerlang and PT Panasonic Gobel Indonesia illustrates the harmful effects of discriminatory practices in business competition, highlighting the necessity for principles of fair competition. The Indonesian Competition Supervisory Commission (KPPU) found PT Arta Boga Cemerlang guilty of abusing its dominant market position through unfair practices, specifically the "Competitor Sliding Agreement," which harmed PT Panasonic Gobel Indonesia. This ruling underscore the critical role of law enforcement in maintaining equitable market conditions and protecting consumer interests. KPPU's decision shows that while operational efficiency may be a stated objective, the negative impacts on competition can far outweigh any benefits, reinforcing the need for strict adherence to competition laws.

The "Competitor Sliding Agreement" was a structured mechanism that incentivized distributors to prioritize PT Arta Boga Cemerlang's products while excluding competitors, particularly PT Panasonic Gobel Indonesia. This agreement involved preferential treatment through financial incentives, such as additional discounts and marketing support, in exchange for product exclusivity at key retail locations. KPPU's decision effectively dismantled this system, promoting a more competitive landscape. The KPPU decision played a crucial role in restoring fair competition. Dismantling exclusive agreements improved market accessibility for competitors, ensuring they could distribute their products without unfair restrictions. Increased regulatory oversight also emerged, preventing similar anti-competitive agreements in other industries. Consumers benefited from more product choices and fairer prices, reinforcing the importance of competition laws in maintaining a balanced market.

To prevent future violations, periodic audits of dominant market players and stricter transparency in distributor agreements are recommended. Regulatory bodies should enforce stronger compliance measures while promoting awareness of ethical business competition. This case sets an important precedent for ensuring fair market practices, protecting consumer rights, and maintaining a competitive business environment in Indonesia.

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