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## Safeguarding Consumers: The Role of Industry and Trade Office in Countering Monopolistic Practices and Ensuring Business Protection

### Article

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### Abstract

The escalation and expansion of business activities in Indonesia should not be monopolized by a select few conglomerates, as this could lead to socio- economic disparities between small-to-medium enterprises, the informal sector, and these conglomerates. To ensure adherence to legal regulations surrounding business competition, there is a pressing need for an institution tasked with oversight of business entities. This body would act as a guard dog, intervening when practices infringing upon legal provisions emerge. This research investigates (1) the significance and function of the consumer protection and anti-monopoly division within the Industry and Trade Office in supporting business entities, and (2) the measures that the Industry and Trade Office should adopt moving forward to address regulatory needs, particularly concerning anti-monopoly and business competition, in Kendari. This study employs Conflict Theory and Symbolic Interaction Theory as its theoretical framework. The findings reveal that (1) the relevant division plays a crucial role in conducting Consumer Protection Socialization as a program managed by the Industry and Trade Office of Southeast Sulawesi Province, involving business entities, consumers, community members, and university students; (2) activities centered around consumer protection and anti-monopoly implemented by the relevant division are as described by the Head of the Consumer Protection and Trade Order Division: The Consumer Protection Monitoring System serves as a medium for consumer complaints and information related to consumer protection to be integrated into the system at the Provincial Office responsible for trade, aiming to enhance service to consumers in lodging complaints from those who feel wronged.

**Keywords:** *Consumer Protection; Monopoly; Social Consent.*

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## INTRODUCTION

As a nation on the path of development, Indonesia grapples with the fluctuating dynamics of corporate evolution<sup>1</sup>. Acknowledging the essential role that corporations play as societal agents, the country is accurately aware of the growing complexities of societal life. In the United States, the emergence of corporations as significant business entities dates back to the 1900s when they wielded substantial public influence. In response to the evolving landscape of business competition, the US established the Federal Trade Commission in 1914.<sup>2</sup> It is a world where enterprises must comprehend the existing regulations and actively discourage unfair competition.<sup>3</sup>

The escalating activities of business operators in Indonesia should not be monopolized by a select few conglomerates, as this could exacerbate the socio-economic disparity between small-to-medium enterprises, the informal sectors, and these conglomerates.<sup>4</sup> Monopolistic practices have, unfortunately, led to a state of pseudo-economic growth in Indonesia,<sup>5</sup> thereby triggering a monetary crisis<sup>6</sup>. As a nation governed by law (*rechtstaat*) and not merely power (*machstaat*), the economic democracy inscribed in Article 33 of the 1945 Constitution appears more as a ceremonial gesture rather than a commitment to action. Contrasting with the United States, a country characterized by individualism and liberalism that does not recognize the concept of cooperation, Indonesia has yet to practice the value of *Pancasila*, despite both nations sharing the concept of *Bhinneka Tunggal Ika* (Unity in Diversity). The United States has prioritized public interest by safeguarding small and medium enterprises from fraudulent practices by corporate giants, thereby fostering efficiency.

In the open market, it is imperative to prevent the concentration of power in the hands of a few business entities (monopoly and oligopoly) When the market is dominated by a select group of players, there exists a risk of market manipulation, leading to unilateral price setting which can be detrimental to consumers. These dominant entities may collude to dictate market areas, regulate the price, quality, and quantity of goods and services (cartel operations), all with the aim of maximizing profits in the shortest possible time. This can result in unfair competition among businesses, causing harm not only to consumers but also to the overall economy. Consequently, a legal framework that ensures the operation of a free market system legally and promotes fair competition is indispensable.

To enforce laws and regulations pertaining to business competition, it is essential to have a dedicated institution acting as a watchdog against any lawful practices by business entities. The establishment of Business Competition Supervisory Commission through Presidential Decree Number 75 of 1999 is a significant stride in this direction. The enactment of Law Number 8 of 1999, which prohibits monopolistic practices and unfair competition, is a crucial element of governmental policy symbolizing the manifestation of economic democracy.

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<sup>1</sup> Mahrus Ali, *Kejahatan Korporasi Kajian Relevansi Sanksi Tiindakan Bagi Penanggulangan Kejahatan Korporasi* (Yogyakarta: Arti Bumintaran, 2008).

<sup>2</sup> Marshall and Peter C. Yeager B. Clinrd, *Corporate Crime* (London: CollierMacmillan Publisher, 1983).

<sup>3</sup> Ashadi L. Diab, *Core Lecture of Consumer Protection* (Yogyakarta: Law Faculty of Gadjah Mada, 2005).

<sup>4</sup> Munir Fuady, *Hukum Perseroan Terbatas Dalam Pradigma Hukum Bisnis* (Bandung: Citra Aditya Bakti, 1994).

<sup>5</sup> Arfian Setiantoro et al., "Urgensi Perlindungan Hukum Konsumen Dan Penyelesaian Sengketa E-Commerce Di Era Masyarakat Ekonomi Asean," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 7, no. 1 (2018), <https://doi.org/http://dx.doi.org/10.33331/rechtsvinding.v7i1.220>.

<sup>6</sup> Borrowing the opinion of W.Wilson who said that: *when beggers business destroys its weaker competitors by underpricing and making monopolistic mergers, government creates agencies And laws to establish fair competition*. See, <http://www.infoplease.com/boigrafi.var/wwoodrowwilson.html>

Given the aforementioned context, this study aims to address the following research questions: (1) What is the role and position of the consumer protection and anti-monopoly sector in the Industry and Trade Office in promoting fair practices among business entities in Southeast Sulawesi? (2) What proactive measures should the Industry and Trade Office take to address future regulatory requirements, particularly in the realm of anti-monopoly and business competition in Southeast Sulawesi?

## RESEARCH METHODOLOGY

The persistent issue of consumer disputes, largely due to overlooked local potential, forms the crux of this study, which delves into the role and efficacy of the Industry and Trade Office in addressing these disputes within Kendari City. Employing a qualitative research framework, our study incorporates an analytical descriptive approach. The study synthesizes data from both primary and secondary sources. Primary data were procured via interviews, while secondary data were gathered from documentation, newspapers (both print and digital), and pertinent literature reviews. The research process involved a combination of library research—sourcing and examining relevant materials—and field research, which facilitated the exploration of real-world data.

Data collection was achieved using a triad of methods: observation, interviews, and documentation, supplemented by relevant sampling techniques. Observations were made through direct involvement in court decision-making processes. Interview served as a means of information gathering, utilizing a question-answer format to meet research objectives. Documentation involved the collection of data in document form, which are records of past events and can include written materials, photographs, or significant works of an individual.

Data processing and analysis<sup>7</sup> encompasses the comprehensive efforts of working with data, organizing them, categorizing them into manageable units, examining patterns, discerning significant elements and making decisions on what should be communicated as research findings. Echoing the views of Sugiyono,<sup>8</sup> data analysis is defined as a systematic process that involves searching for and collating data derived from interviews and field notes. This process includes data organization into categories, breaking them down into units, synthesizing them, constructing patterns, determining what is crucial and what requires further analysis, and formulating conclusions that are comprehensible to both the researcher and others. Therefore, data analysis is an ongoing process that spans the entire duration of the study, and it is instrumental in drawing conclusions from the processed data. Once the data collection is completed, the subsequent step is data analysis. The techniques employed in data analysis encompass data reduction, data presentation, and conclusion drawing. Data reduction involves summarizing, prioritizing key points, focusing on significant elements, and identifying themes and patterns. Data presentation, on the other hand, can take various forms such as brief descriptions (in narrative form), charts, inter-category relationship, etc. The intent of data presentation is to organize and structure the data within a relationship pattern, thereby making it easily comprehensible and facilitating the drawing of conclusions.

<sup>7</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Universitas Indonesia Pres, 1984).

<sup>8</sup> Sugiono, *Metode Penelitian Kualitatif, Kuantitatif Dan R & D* (Bandung: Alfabeta, 2014).

## ANALYSIS AND DISCUSSION

### Preserving the State Budget

In order to uphold the 3 Kg LPG volume as mandated by the subsidy in the State Budget, it is crucial to enforce regulations pertinent to business competition law in Indonesia. Notably, two approaches are recognized in this context—the per se illegality approach and the rule of reason approach. These methodologies have been consistently employed in business competition law to evaluate if a business activity or agreement is in violation of—or has the potential to breach—the Antimonopoly Law. The origin of these approaches can be traced back to several amendments to the Sherman Act of 1980, the US Antitrust Act, and were first put into practice by the United States Supreme Court in 1899 (for per se illegality) and in 1911 (for the rule of reason) in rulings made on various antitrust cases. Being a pioneer in business competition, the strategies implemented in the US have also been adopted by other nations as a standard practice in the business competition domain. The per se illegality approach primarily centers its attention on the actions of business entities, without considering the wider socioeconomic implications. The key aspects to be established in this approach is the existence of a forbidden agreement. The evidence for this does not necessarily have to be a written contract—an oral agreement or an apparent inclination towards an agreement would suffice. Activities typically deemed as per se illegal usually comprise collusive price fixing of specific products and establishing resale prices.

The per se illegality approach stands distinct from the rule of reason approach, which necessitates an economic analysis to determine whether a particular action impedes or stimulates competition. Actions classified as per se illegal are those that almost invariably demonstrate anti-competitive behavior and seldom contribute any social benefits. From an administrative perspective, the per se illegality approach is generally more straightforward. This is primarily because it enables courts to bypass exhaustive investigations, which are typically time-consuming and costly, to ascertain facts about the relevant market.

Conversely, the rule of reason approach is a tool used by business competition authorities to assess the implications of specific agreements or business activities, with the objective of discerning whether an action inhibits or promotes competition. This methodology permits courts to interpret laws by taking into consideration competitive factors and determining the appropriateness of trading barriers. It acknowledges that not all agreements or activities falling under the purview of the Antimonopoly Law necessarily result in monopolistic practices, unfair business competition, or societal harm. Conversely, these agreements and activities may stimulate the dynamics of fair business competition. Therefore, the rule of reason approach is employed as a sieve to ascertain if they incite monopolistic practices or unfair business competition.

### 1. Conflict Theory

Proposed by Marx,<sup>9</sup> the Conflict Theory was born out of his disillusionment with the capitalist economic structure, which he perceived as oppressive towards laborers. Marx conceptualized society as a battleground, with two adversarial factions—the bourgeoisie, who wield control over economic resources, and the proletariat, or laborers, subjugated by the bourgeoisie. The inherent friction between these groups is perpetual in nature. Marx envisioned societal evolution as a journey towards the resolution of this struggle, achievable only through confrontation.

<sup>9</sup> Franz Magnis suseno, *Pemikiran Karl Marx; Dari Sosialisme Utopis Ke Perselisuhan Revisionisme* (Jakarta: Gramedia Pustaka Utama, 2010).

## 2. Symbolic Interaction Theory

The Symbolic Interaction Theory is a product of intellectual traditions and stances that originated in 19th century Europe before migrating to America, particularly the Chicago region. Some scholars, however, contend that the theory, especially as formulated by George Herbert Mead,<sup>10</sup> first gained recognition within the broader realm of interpretive sociology as part of the social action theory (action theory) presented by esteemed philosopher and sociologist Max Weber.<sup>11</sup>

While the Symbolic Interaction Theory does not entirely adopt Weber's conceptualization, Weber's impact on the theory is undeniable. One of Weber's viewpoints deemed pertinent to Mead's philosophy is that social action possesses a profound significance, rooted in the subjective interpretation conferred by individuals. Such action takes into account the conduct of others, thereby becoming outwardly directed in nature.

### Upholding Consumer Rights: The Role of Law Enforcement in Countering Monopolistic Practices

The responsibility of enforcing competition law in Indonesia rests with the Business Competition Supervisory Commission. This institution serves as the sentinel for the application of competition policies, necessitating its role in operationalizing competition regulations alongside law enforcement agencies such as the police, the prosecutor's office, and the judiciary. The initial enforcement of competition law breaches should be undertaken by and within the Business Competition Supervisory Commission.<sup>12</sup> Subsequently, the investigation can be transferred to the police, and if the business entity refuses to comply with the Business Competition Supervisory Commission's decision, the matter can be escalated to the court.<sup>13</sup>

Law enforcement pertaining to business competition law is the exclusive domain of the police, the prosecutor's office, and the courts. The court, as a state-sanctioned dispute resolution forum, traditionally handles such cases. However, in the context of business competition law, the court is not the first port of call for dispute resolution between business entities. This departure from the norm is due to specialized nature of business competition law, which demands expertise in business mechanics. Consequently, the institutions enforcing business competition law should ideally comprise individuals with legal, economic, and business backgrounds. The rationale behind this requirement stems from the complex nature of business competition issues, which needs to be examined from not just a legal perspective, but also through the lens of economics and business. This viewpoint was expressed by one of the respondents as follows:

*The establishment of a dedicated institution to address cases of monopolistic practices and unfair business competition is essential to prevent such disputes from congesting our court system. Such an institution can serve as an alternative dispute resolution mechanism, providing out-of-court solutions for business competition issues.*  
(Interview)

<sup>10</sup> George Ritzer and Douglas J Goodman, *Teori Sosiologi Modern* (Jakarta: Kencana, 2001); See to Daud Rismana and Hariyanto Hariyanto, "Perspektif Teori Sistem Hukum Dalam Kebijakan Vaksinasi Di Tengah Pandemi Covid-19," *Jurnal IUS Kajian Hukum Dan Keadilan* 9, no. 3 (December 13, 2021), <https://doi.org/10.29303/IUS.V9I3.951>.

<sup>11</sup> Anthoni Gidden, *Kapitalis Dan Theory Social Modern* (Jakarta: Publisher UI-press, 1986).

<sup>12</sup> Ahmad Yani and Gunawan Widjaja, *Seri Hukum Bisnis. Anti Monopoli* (Jakarta: PT Raja Grafindo Persada, 2006).

<sup>13</sup> Mabarroh Azizah, "Peran Negara Dalam Perlindungan Konsumen Muslim Di Indonesia," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 4, no. 2 (November 12, 2021): 153–65, <https://doi.org/10.24090/VOLKSGEIST.V4I2.5738>.

Delving into the rationale behind the creation of the Business Competition Supervisory Commission, it is underpinned by both philosophical and sociological considerations.<sup>14</sup> The philosophical motivation originates from the idea that the oversight of legal implementation necessitates an authoritative institution, sanctioned by the state (including government and citizenry). With such state-endorsed authority, it is envisaged that this watchdog institution can optimally perform its duties and functions while maintaining a high level of independence. Sociologically, the Commission's establishment was prompted by diminishing reputation of the courts in handling and adjudicating cases, compounded by an escalating caseload. Additionally, the business sector craves swift resolutions and confidential investigative processes. Hence, there is a demand for a specialized institution staffed by individuals with economic and legal expertise. Such a body would expedite the resolution process and foster legal certainty, catering to the needs of the business community.<sup>15</sup>

In light of the rapid technological advancements, the government is compelled to take an active role in the creation, adaptation, and supervision of prevailing regulations, particularly with the aim of achieving comprehensive standardization and certification.<sup>16</sup> The government's commitment to safeguarding consumers from harmful products can be operationalized by regulating, supervising, and controlling the production and distribution of products, thereby ensuring consumers are protected from health or financial harms.

Grounded in the targeted outcomes and the policies to be executed, the government's actions should adhere to the principles of development stipulating that both the community and the government are jointly responsible for its development. Hence, through meticulous regulation and control, the government can facilitate the achievement of national development objectives. This was articulated by an informant as follows:

*The Department Industry and Trade collaborates with relevant entities to provide legal certainty to stakeholders, including those within the department itself. The Southeast Sulawesi Regional Police's Criminal Investigation Unit implements various forms of consumer protection, underscoring the importance of legal certainty in protecting consumers. The necessity and purpose of consumer protection primarily stem from the fundamental need to safeguard consumers. (Interview)*

Product registration and evaluation are pivotal actions undertaken to ascertain the quality standards of a product in compliance with government regulations. Production supervision entails diligent observation of production stages to ensure their alignment with the Indonesian National Standard. In addition, the government supervises the distribution of certified products to guarantee their safety for consumer use.<sup>17</sup> In its role of nurturing and expanding businesses, the government provides insightful discourse to business entities, aiding them in their development. This approach, in turn, empowers consumers with a wider variety of product choices, aligning with their rights as outlined in the Consumer Protection Law. The government also emphasizes the enhancement and expansion of infrastructure and personnel to facilitate efficient product distribution to consumers.

As highlighted in Law no. 8 of 1999 concerning Consumer Protection, Chapter VII, Article 29, paragraph 1: "The government is tasked with fostering the implementation of consumer protection,

<sup>14</sup> M Sofyan Lubis, *Mengenal Hak Konsumen Dan Pasien* (Yogyakarta: Pustaka Yustisia, 2009).

<sup>15</sup> Celina Tri Siwi Kristiyanti, *Hukum Perlindungan Konsumen* (Jakarta: Sinar Grafika, 2009).

<sup>16</sup> Gde Made Swardhana and Suwiat Jenvitchuwong, "The Participation within Indigenous Land Management: Developments and Challenges of Indigenous Communities Protection," *Journal of Human Rights, Culture and Legal System* 3, no. 2 (June 22, 2023): 308–27, <https://doi.org/10.53955/JHCLS.V3I1.72>.

<sup>17</sup> Roberto M Unger, *Teori Hukum Kritis* (Bandung: Nusa Media, 2008).

ensuring the rights of consumers and business entities are respected, and their obligations are fulfilled.” Further, the General Explanatory Note to Government Regulation Number 58 of 2001 concerning Guidance and Supervision of the Implementation of Consumer Protection clarifies that:

*The government’s commitment to developing consumer protection is aimed at ensuring that both consumers and business entities can exercise their rights and fulfill their respective obligations, in alignment with principles of fairness and balance of interests. The responsibility of facilitating the implementation of consumer protection falls under the purview of the relevant minister or technical ministers.*

Consequently, the Minister takes a leading role in coordinating the implementation of consumer protection. This is further articulated in Government Regulation Number 58 of 2001 concerning Guidance and Supervision of the Implementation of Consumer Protection, specifically Article 6:

In a bid to enhance human resource quality and boost research and development activities within the consumer protection field, the Minister collaborates with pertinent technical ministers on the following aspects:

- a. Enhancing the competencies of civil servant investigators specializing in consumer protection;
- b. Boosting the expertise of goods and/or services researchers and testers;
- c. Fostering the development and empowerment of goods quality testing institutions; and
- d. Promoting research and development of testing technology, quality standards for goods and/or services, and their application.<sup>18</sup>

### **The Advocacy Role of the Consumer Protection and Anti-Monopoly Sector within the Industry and Trade Office for Business Entities**

The implementation of consumer protection in Indonesia, as outlined in Law Number 8 of 1999 concerning Consumer Protection, is designed to balance the interests of both consumers and business entities. This is achieved through the provision of legal certainty, securing the rights and obligations of consumers and business entities alike. With the expansion of the domestic market offering a wide array of goods for the public, consumer protection efforts have significantly advanced. However, this also exposes consumers to potential risks of bearing losses due to producers’ default, often linked to the substandard quality of goods in circulation.

Despite these efforts, consumer protection in Indonesia remains a challenging issue yet to be effectively and efficiently resolved.<sup>19</sup> This is evidenced by numerous unresolved consumer dispute cases, not to mention those unreported due to lack of consumer awareness about their rights and obligations. The state plays a pivotal role in empowering consumers, who are often disadvantaged and unable to advocate for their interests. Business entities, driven by the principle of maximizing profits and minimizing costs, could potentially harm consumers, either directly or indirectly.<sup>20</sup>

The Industry and Trade Office of Southeast Sulawesi Province recently conducted the first phase of Consumer Protection Socialization in 2020. The event, which involved business entities, consumers, and students, was proven by Juliyanti, the event coordinator. She outlined the primary objectives of the socialization, which included:

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<sup>18</sup> Noor Aini Pratitah, “Pengaruh Penerapan Promosidan Demosi Terhadap Prestasi Kerja Karyawan,” *Media Informasi Manajemen* 1, no. 1 (2013): 1–20.

<sup>19</sup> Reni Budi Setianingrum and Muhammad Hawin, “The Urgency of Leniency Program Against Cartels in Indonesia: Lesson Learned from Singapore Competition Law,” *Jurnal Media Hukum* 28, no. 2 (2021), <https://doi.org/https://doi.org/10.18196/jmh.v28i2.11650>.

<sup>20</sup> Rachmadi Usman, *Hukum Persaingan Usaha Di Indonesia, First Printing* (Jakarta: Gramedia Pustaka Utama, 2004).

- a. Enhancing consumer awareness and comprehension of consumer protection to empower them to safeguard themselves, their families, and the community from the harmful effects of misusing goods and services that are not compliant with regulations.
- b. Providing students with knowledge and understanding of consumer protection, enabling them to identify and comprehend their rights and obligations as consumers.
- c. Ensuring consumers understand the importance of engaging with products that adhere to existing regulations, thus preventing them from being disadvantaged in both conventional and online transactions.
- d. Preventing the widespread market circulation of goods that do not meet standards or requirements, such as labels and manual cards.

On separate occasions, the Industry and Trade Office has taken actions related to consumer protection and law enforcement concerning the distribution of 3 Kg LPG, which often runs short in the market. The activity committee reported,<sup>21</sup> “We always supervise and enforce law on the distribution of 3 kg LPG Gas, in collaboration with the Southeast Sulawesi Energy and Mineral Resources Service, and PT. Pertamina (Persero).”

During the interview, several follow-up measures were discussed to address the feedback received, such as<sup>22</sup> (1) increasing supply, (2) extending the operating hours of LPG filling stations until 3 a.m., (3) operating on Sundays if required, and (4) adding new LPG cylinders to the current inventory.

Furthermore, several initiatives have been implemented to support these activities. These include monitoring and enforcing rules at the retail level, promulgating regional regulations for restaurants and MSMEs that use subsidized LPG, ensuring the smooth and reliable supply in specific areas, and advocating for the usage of Bright 5 kg LPG by those who are not considered poor.

Moreover, the following details were provided:

*Regarding the regulation of gas stations, criminal penalties and corrective measures include issuing dismissal letters to involved operators and supervisors. The RE Martad Talase gas station, for instance, received a warning letter from Pertamina. A restriction on one type of fuel was imposed for the entire month of January 2019. Law enforcement beyond the immediate vicinity of gas stations necessitates the joint efforts and coordination of all stakeholders. Certain restrictions apply to the sale of diesel oil, which is not permissible for consumers involved in micro businesses, fishing, agriculture, and motorized water transportation, as well as public services, unless they possess a recommendation letter from authorized agencies. These agencies include the Cleaning and Landscaping Office and the Agriculture Office. (Interview)*

Increasing consumer awareness and understanding of consumer protection is critical. It empowers individuals to safeguard themselves, their families, and their communities from the negative impacts associated with the misuse or exploitation of goods and/or services available in the market that are not regulated appropriately. For this reason, the information disseminated and the guidance provided in our socialization and activities include the following<sup>23</sup>:

- a. Findings from supervision efforts and information from the Regional Government indicate that there have been instances of misuse of 3 Kg LPG by consumer groups for whom it

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<sup>21</sup> Interview with the organizing committee for activities 1/9/2021

<sup>22</sup> Interview with Mrs. Loli in the field of consumer and commerce on 1/9/2021

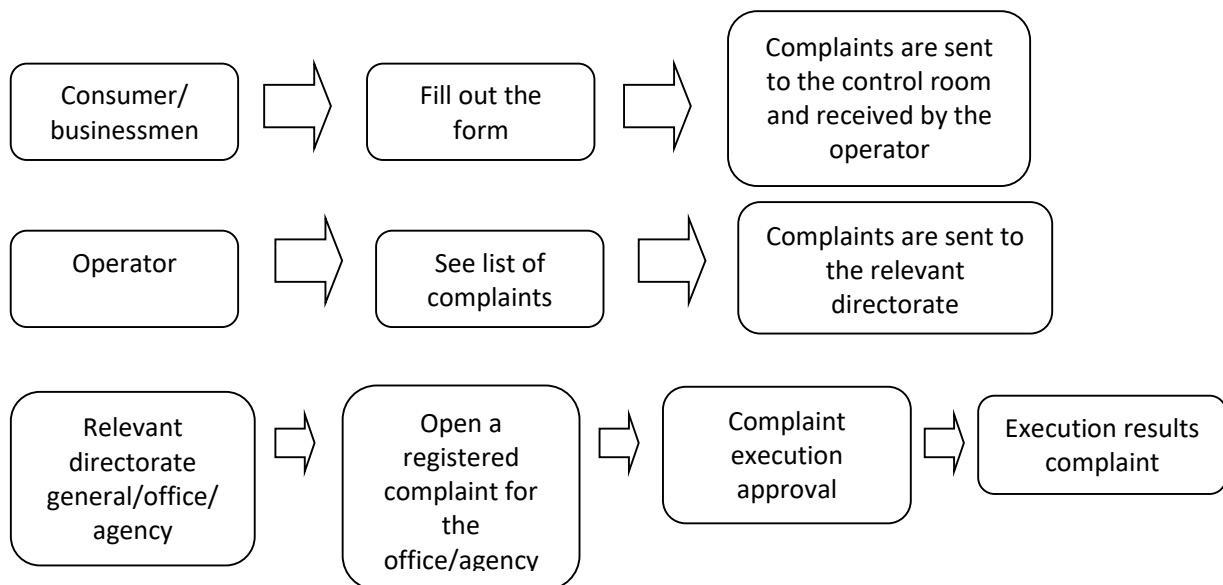
<sup>23</sup> Interview with Mrs. Indri in the PKTN field on 1/9/2021



was not intended. These groups include batik manufacturers, animal breeders, farmers, laundry business owners, and large restaurant owners. This misuse has led to an increase in subsidy costs and a significant rise in the consumption of subsidized 3 Kg LPG.

- b. To manage the usage of 3 Kg LPG effectively, it is imperative that consumers, including those from restaurants, livestock businesses, agricultural businesses, batik businesses, laundry businesses, welding service businesses, and tobacco farming businesses, refrain from using subsidized 3 Kg LPG.
- c. Lastly, we anticipate the support of the Regional Government in supervising the intended use of 3 Kg LPG, through proper regulatory monitoring. (Interview)

Below is a chart illustrating the **Procedure for Submitting Consumer Complaints, based on Data from the Industry and Trade Office**



### 1. Program Achievement Indicators

This system excels in terms of data updating, which can be performed as frequently as necessary in response to changes in on-the-ground complaint conditions. As one informant revealed:

*The Industry and Trade Office of Southeast Sulawesi Province typically receives complaints verbally. These complaints often arise during our personal shopping visits to supermarkets and malls. However, we also directly receive complaints through the Consumer Dispute Resolution Agency of Kendari City.<sup>24</sup> (Interview)*

Business operators serve as vital indicators in monitoring the flow of goods and services. This importance is due to the trade turnover generated by these operators' transactions. Consequently, it is crucial for business operators to have a thorough understanding of trading rules and procedures. Such knowledge ensures that the goods and services they trade are in compliance with the applicable regulations.

<sup>24</sup> Interview regarding submission of consumer reporting progress data 1/10/2021

## 2. The Impact of Excessive Privileges Granted to Certain Business Entities.

The government's practice of granting special privileges can be likened to creating artificial barriers in the form of regulated commerce, overseen exports, or issuing exclusive licenses to specific business entities.<sup>25</sup> This practice results in these entities gaining control over product and market share, leading to monopolies and monopolies as other businesses are excluded from participating in the pertinent market. Consequently, fair competition is stifled under the guise of a trade system. A case in point is the provision of tax and excise incentives to PT. Timor Putra Nusantara, and the allowance for unrestricted importation of Timor-branded cars from South Korea, as per Presidential Decree No. 42 of 1996 and Presidential Instruction No. 2 of 1996. PT. Timor Putra Nusantara was granted exemption from import duties on imported components that were not domestically produced.<sup>26</sup>

The Industry and Trade Office's oversight results are detailed as follows:

*The Surya supermarket's issue involved the circulation of Samyang noodles alleged to contain lard. Upon investigation, we discovered that the noodles were labeled with a Halal logo. This prompted questions about the rise in news regarding packaged food containing lard, such as "How can we discern it?" and "What actions should be taken if it is discovered?" Surveillance was also conducted at the Lippo Hypermart, focusing on ready-to-eat food products including nuggets and sausages. The supervision results showed that these products complied with BPOM standards. (Interview)*

### Addressing Regulatory Needs: Steps Taken by the Industry and Trade Office, with a Special Focus on Antitrust and Business Competition

Consumer protection remains an unresolved issue in Indonesia, with the inability to address it effectively and efficiently. This is evidenced by the numerous unresolved consumer disputes to date, coupled with various unreported issues due to consumers' lack of awareness about their rights and responsibilities. The state has a significant role to play in empowering consumers, who are often the disadvantaged party and unable to advocate for their interests.<sup>27</sup> As conveyed by a representative from the Industry and Trade Office, "Business entities operate on the principle of maximizing profit while minimizing cost, a practice that has the potential to harm consumers directly or indirectly."<sup>28</sup> (Data from the Industry and Trade Office)

Consumer protection measures by the Industry and Trade Office focusing on cosmetics, drugs, and food include:

1. The regulation of drugs, food, and hazardous substances, and other pharmaceutical products is a comprehensive and complex task. It involves a wide range of commodities and extends to the distribution areas within the controlled community.
2. Quality control and standardization are crucial in improving competitiveness production efficiency. They also ensure product quality, thereby safeguarding consumers and the general public in terms of security, safety, and health, as stipulated by the applicable laws and regulations.

<sup>25</sup> Hariyanto Hariyanto, "Risk-Based Business License and Problems Arising After The Job Creation ACT," *Jurnal IUS Kajian Hukum Dan Keadilan* 10, no. 2 (August 23, 2022): 354–66, <https://doi.org/10.29303/IUS.V10I2.1082>.

<sup>26</sup> Data on Consumer Protection and Trade Order, Industry and Trade Office of Southeast Sulawesi Province

<sup>27</sup> Arvie Johan, "Justifikasi Hukum Islam Atas Pajak Dalam Perspektif Hukum Dan Ekonomika," *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 18, no. 1 (2018), <https://doi.org/https://doi.org/10.18326/ijtihad.v18i1.1-16>.

<sup>28</sup> Data on Consumer Protection and Trade Order, Industry and Trade Office of Southeast Sulawesi Province.

3. The Indonesian Food and Drug Authority enforces supervision through three main pillars: Manufacturers, Consumers, and the Government.
4. Policies for drug and food control encompass various aspects. These include quality, safety, and efficacy/benefit evaluation, supervision of production and distribution units, certification for export and import, monitoring of side effects and laboratory testing, oversight of advertising, and law enforcement product promotion.

A monopoly, the birthplace of unfair business competition, in an economic context, is a market structure dominated by a single producer or seller.<sup>29</sup> From a communal perspective, a monopoly exists when a single producer or seller has the power to control the traded goods or services market. Essentially, a monopoly is characterized by the following aspects:<sup>30</sup> (1) the existence of only one producer or seller, (2) the lack of alternative products that can adequately replace those offered by the monopolistic entity, and (3) the presence of obstacle, whether natural, technical, or legal. When such situations arise, the concerned authorities conduct dialogues with the business entities or the market to issue warnings. As Mindar, a representative from Industry and Trade Office, shared:

*The office organizes Consumer Protection Socialization programs in Southeast Sulawesi Province. These initiatives involve business entities, consumers, local communities, and university students. The implementation of the Consumer Protection Monitoring System serves as a platform for lodging consumer complaints and sharing information related to consumer protection. This system, managed by the Provincial Office in charge of trade, aims to improve service delivery to consumers, particularly those who feel they have been disadvantaged.*

Our representative further elaborated:

*Every month, we schedule field visits to assess the current market conditions. We aim to ensure that the transactional processes are running smoothly. Whenever we receive reports of potential issues, we make it a priority to investigate the situation firsthand.” (Interview)*

This office works in tandem with relevant parties to establish a legal framework for entities involved in the Industry and Trade Office. The structure of the investigative team for consumer protection-related crimes at the Southeast Sulawesi Regional Police’s Criminal Investigation Unit includes:

- a. Ensuring legal certainty through consumer protection, which aims to shield consumers from unfair practices (Article 1 of Consumer Protection Law).
- b. Highlighting the primary reasons why consumer protection is necessary.
- c. Outlining the objectives of Consumer Protection. (Interview)

Consumer protection operates on five fundamental principles:

1. ***The principle of benefit:*** All actions taken to implement consumer protection should maximize the benefits for consumers and business entities alike.
2. ***The principle of justice:*** This principle ensures fair opportunities for consumers to obtain their rights and fulfill their obligations.
3. ***The principle of balance:*** It seeks to strike a balance between the interests of consumers, Public Works, and the government, both materially and spiritually.

<sup>29</sup> Atik Krustiyati and Gita Venolita Valentina Gea, “The Paradox of Downstream Mining Industry Development in Indonesia: Analysis and Challenges,” *Sriwijaya Law Review* 7, no. 2 (July 31, 2023): 335–49, <https://doi.org/10.28946/SLREV.VOL7.ISS2.2734.PP335-349>.

<sup>30</sup> Made Sarjana, “Penegakan Hukum Persaingan Usaha Dalam Sistem Peradilan Di Indonesia,” 2020, [fh.wisnuwardhana.ac.id, index.php.html](http://fh.wisnuwardhana.ac.id/index.php.html).

4. ***The principle of consumer security & safety***: This ensures that guarantees are guaranteed security and safety in the usage of goods and/or services.
5. ***The principle of legal certainty***: This principle mandates that both business entities and consumers abide by the law, and that the state guarantees legal certainty in the implementation of consumer protection.<sup>31</sup>

Consumer protection policies encompass several key elements, including: a) The Regional Government Law, which outlines the authority for implementation, b) The jurisdiction for consumer protection, which falls under the provincial government as dictated by Article 49, paragraph (1) of the Consumer Protection Law,<sup>32</sup> and c) The identified need for regulatory updates pertaining to the Consumer Dispute Resolution Agency, prompting the release of the Minister of Trade Regulation 72 of 2020.

The transfer of authority of Consumer Dispute Resolution Agency brings several benefits. These include harmonization in budgeting process, increased efficiency in human resources development within the agency, and streamlined monitoring and evaluation procedures for the agency's performance. In enforcing these rules, it was conveyed to informants that:

*In the course of enforcing these regulations, stakeholders reported that the chairman of the Consumer Dispute Resolution Agency is responsible for delivering reports to the Governor through the provincial trade affairs agency, with copies forwarded to the Minister through the Director General. These reports, submitted semiannually and annually, aims to enhance consumer awareness and understanding of consumer protection. This increased knowledge empowers consumers to safeguard themselves, their families, and their communities against the potential negative impacts of goods and/or services in the market that may not comply with regulations.<sup>33</sup>*

The Industry and Trade Office further underscored the following:

*Based on the monitoring results of various business entities, it is evident that considerable attention has been given to the proper labeling of expiration date, adherence to the Indonesian National Standard, and inclusion of labels and MKG for products such as children's toys, switches, sockets, fans, tires, and helmets. We have undertaken efforts to educate consumers and businesses about the significance of these labels, the Indonesian National Standard, and MKG on products to guarantee consumer safety. Business entities found to be non-compliant in selling products not in line with the established rules and regulations will receive a warning via a formal letter. Conversely, businesses that adhere to these standards will be acknowledged and appreciated for their compliance."*

In essence, the Anti-Monopoly Law was crafted to rectify the behaviors of economic groups wielding substantial market control. Such dominant positions can potentially be exploited for various self-serving interests. The enactment of the Anti-Monopoly Law has established legal parameters to ensure fair business competition and prevent misuse of market power by these actors.

## CONCLUSION

In striving to uphold consumer rights and prevent monopolistic practices, the Industry and Trade Office of Southeast Sulawesi has implemented various legislative measures. Legislative policies, defined as strategic blueprints crafted by lawmakers to address specific issues, play a crucial role in this context. The Consumer Protection Law serves as a noteworthy example of such

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<sup>31</sup> Made Sarjana.

<sup>32</sup> Interview with employees of Consumer Protection and Trade Order at the Industry and Trade Office, Mrs. Indri 7/10/2021

<sup>33</sup> Domestic trade data

a policy. The essence of consumer rights revolves around the safeguarding of consumer life, safety, and health, which directly correlates with product usage. To further this objective, the Industry and Trade Office of Southeast Sulawesi Province has initiated a Consumer Protection Education Program, involving stakeholders such as business entities, consumers, local communities, and university students. The Consumer Protection Monitoring System has been instituted as a platform for lodging consumer complaints and disseminating information pertinent to consumer rights. This system, managed by the Provincial Trade Office, aims to enhance the ease of filing complaints for consumers who have suffered injustices. Criminal law also significantly contributes to the enforcement of consumer protection regulations. Various provisions within and outside the Criminal Code, including the Health Law, address the criminal aspects of consumer rights and monopoly. The legislation particularly emphasizes the protection of consumers from products detrimental to health. Consumers are legally entitled to hold business operators accountable for products that adversely affect their health and psychological wellbeing. To ensure the safety of food, beverage, and drug products, the law prescribes criminal sanctions such as imprisonment, fines, and supplementary penalties (compensation payments). These sanctions apply to both individual and corporate business operators and serve a dual purpose: to deter potential violators and caution others against similar misconduct.

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